



COLUMN

# Watch closely as government changes

Last month, after approximately 17 percent of registered voters in Amherst voted in favor of the new charter, and 12 percent voted against (with over 70 percent not participating), Amherst residents became the owners of a new form of government, a council system, to replace the Town Meeting/Select Board structure that has operated for many years.

What happens next? The new government is not a simple plug-and-play system, as some setup is required. The initial Town Council, which will serve a three-year term rather than the two-year term of subsequent councils, is to take office late this year or early next.

Until then, Town Meeting and the Select Board remain in place. For all other elected bodies, including School Committee and library trustees, the first election under this charter won't take place until November 2019, so the current office holders will serve until the start of 2020.

It should come as no surprise that there will be challenges during this transition. Following are two issues that have already arisen and deserve public attention.

The first involves the election calendar. The charter provides two potential timelines for the election of the initial Town Council. The drafters' preferred choice calls for holding the vote on Nov. 6, the date of state and federal elections, with the council taking office on Dec. 3. However, that requires a special act of the state Legislature which must be requested by Town Meeting. So the charter provides a fallback option under which the Town Council would be elected on Jan. 24, 2019, and take office on Feb. 4.

The problem with the first option is that it unconstitutionally disenfranchises student residents. In order to hold the council election in November, the charter provides for a preliminary election at the time of the state primary in September that would serve to reduce the field of candidates to no



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more than twice the number of seats available. Although a preliminary election might not be needed, the calendar has to allow for it. That timetable requires candidates to collect signatures and file nomination papers between June 1 and August 1, right in the middle of the university and colleges' summer break.

This undermines students' voting rights under the federal Constitution, as well as their "equal right to elect officers, and to be elected" established in the Massachusetts Constitution. It also contradicts long-established policy in Amherst, dating back to litigation in the 1970s, to schedule elections so that all registered voters have an opportunity to participate.

Although Town Meeting members who vote against sending this special act to the Legislature can expect to be attacked for "going against the will of the voters," such a vote is the proper choice. With all due respect to the 3,502 individuals who voted in favor of the charter, neither they, nor Town Meeting, nor the Legislature of Massachusetts, can ignore the Constitution.

The second issue involves interim governance: How will Amherst be managed in the eight or 10 months until the council is seated? Clearly someone needs to run things, right?

One might expect that those who led the effort that spent thousands of dollars making the argument that Amherst needs "year-round government" would be

strong advocates for active government now, but that does not appear to be the case. Instead, leaders of the successful charter campaign have begun making the argument that most decisions should be put on hold for close to a year based on one imprecise sentence in the new charter.

The clause states that between the adoption of the charter and the seating of the council, "the Select Board, Town Manager, and Town Meeting shall limit their respective actions during this transition period to those matters essential and necessary to the current operations of the Town, such as the annual budget, taking no actions contrary to, or that frustrate the purpose of, this Charter."

Rather than reading the first half of the sentence as simply a counter to the second, indicating that these entities should continue to manage the normal operations of the town but not undermine the charter, it is being argued that much of what Town Meeting and Select Board have historically done may not be "matters essential and necessary" and should thus be deferred.

The idea that we should call an eight-to 10-month timeout on addressing critical zoning issues or other concerns of community members, such as regulating unlawful noise or responding to climate change, is unreasonable and irresponsible.

Town Meeting and the Select Board should resist these urgings, and Amherst voters, especially those who supported the charter change, should pay close attention to the arguments being made in their name.

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