

# **Town of North Attleborough**

## **Charter Commission Preliminary Charter Report**

**May 9, 2018**



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## North Attleborough Charter Commission Report on Preliminary Charter

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## **I INTRODUCTION**

The nine members of your elected Charter Commission enthusiastically present this Draft Charter Proposal for your review and comment.

This document is the culmination of 14 months of meetings, hearings, discussions, research, and deliberations, and has been unanimously approved by the Charter Commission, by a vote of 9 to 0, for presentation to the public.

Over the course of its proceedings the commission gathered direct input from residents through public meetings, hearings, and surveys. The commission also personally invited over 210 elected and appointed officials to meet with it, held extensive discussions with representatives of the Massachusetts Municipal Managers Association's Form of Government Sub-Committee and secured legal advice from counsel with specific subject-matter expertise in municipal law.

This document was developed and is being presented pursuant to the requirements of Massachusetts General Law Chapter 43B.

## **II CHARTER COMMISSION MISSION**

The Commission was seated in April 2017 by a vote of the registered voters of the Town with the mission of developing a new Home-Rule Charter. If adopted, the Charter will become the governing document of the Town of North Attleborough, and all bylaws, rules and regulations adopted by the Town thereafter will need to be consistent with the Charter.

As directed by Massachusetts law, the commission has 18 months to complete a three-step process:

1. Develop a Preliminary Charter Proposal
2. Gather comments and feedback on the proposed
3. Develop a Final Charter Proposal

This document represents the completion of the first of these three steps.

The Final Charter Proposal will be voted upon by the registered voters of the Town as a binding ballot question in the April 2019 Town Election.

## **III METHODOLOGY & PROCESS**

The Commission's approach to its mission followed a deliberate sequence of gathering input and data, followed by analysis and deliberation, and subsequent development of this Preliminary Charter Proposal.

This Preliminary Charter Proposal is the result of 14 months of work that included 44 public meetings and hearings that generated substantive input from:

- Residents of the town
- Current elected officials
- Members of Representative Town Meeting (“RTM”)
- Appointed officials
- Municipal department heads
- Members of the Massachusetts Municipal Managers Association
- Members of previous Charter Commissions

The commission also conducted a government reform survey, examined past and existing Town government practices, and reviewed over 20 charters from other municipalities in the Commonwealth considered to have varying characteristics directly or indirectly comparable to North Attleborough.

The legal aspects of the commission’s work in developing the formal Preliminary Charter proposal was guided by expert advice from KP Law, one of the leading law firms in the practice of Commonwealth of Massachusetts municipal law.

#### **IV CORE ISSUES**

As a result of its initial phase of work gathering input, data, and research, the Commission was able to establish 12 central points reflecting the input it gathered that a new Charter for North Attleborough should address:

##### **1. Assets and Positive Attributes of the Town that Should be Retained**

- *Community involvement in boards and committees*
- *Volunteerism by the public*
- *Voluntary collaboration between departments and people*
- *People have proven through this process that they have the ability and desire to make change.*
- *Deliver and maintain sound infrastructure and related services.*
- *Maintain the title and atmosphere of Town*

##### **2. Lack of Accountability and Central Authority**

*The mission and responsibility of many elected and appointed officials and government bodies are not properly spelled out and there is no central position or government body that has the authority to hold the various elected and appointed officials and government bodies accountable on a day-to-day basis.*

##### **3. Budget Process is cumbersome and too difficult to deal with and understand**

*There are too many layers of approval and opportunities for amendment so that no one ends up having ownership of the budget. This results in a problematic short-term development process and the perception that it is*



*inadequate to foster long-term financial planning. This creates further confusion and frustration in relaying information and affecting the participants' ability to adequately perform a budget review.*

#### **4. Lack of Centralization**

*Our form of government, with many independent departments, gives the residents the feeling that it is challenging to deal with their municipal government. Best practices are difficult to migrate from one department to another and it is very difficult to develop and implement a cohesive and an integrated course of action throughout the various government entities.*

#### **5. The Difficulty in dealing with municipal processes**

*While many of our departments voluntarily work cooperatively to assist people in dealing with municipal processes, there are no codified assurances this approach will be followed in the future.*

#### **6. Perceived Conflict of Interest with elected and appointed officials serving in the Legislative Body**

*Some residents have expressed a perception that elected and appointed officials should not serve on the Town's legislative body because they may have difficulty in separating the needs of their individual departments from decisions relative to the overall good of the Town.*

#### **7. Lack of Economic Development**

*The financial stability of the Town is dependent on maintaining a healthy balance between the tax burden placed on the residents and commercial and industrial properties. This means that there must be a balance between all of these areas. The Town requires a growth in its tax base that offsets the inflationary push on the Town's operating expenses and allows for proper maintenance of facilities and infrastructure. Unfortunately, these goals are not being met.*

#### **8. The challenge of potentially not having qualified candidates for critical elected positions**

*The Town should not take the risk of hoping that qualified candidates will volunteer to wage a political campaign for critical positions that should be filled by personnel with certified qualifications.*

#### **9. Factionalism and lacking a unified Town Vision**

*Our silo form of government breeds divergent interests that develop a lack of coordinated goals and inconsistent prioritization of activities, resulting in too many unsynchronized agendas and priorities.*

#### **10. Lack of government flexibility and ability to deal with issues in a timely manner**

*Our structure of government inhibits its ability to properly respond to the non-emergency needs of its residents in a timely, effective and efficient manner or address changing needs as the future develops new challenges.*

#### **11. Legislative Body and Process**

*The structure of and process established and followed by the RTM is cumbersome, overly time consuming and often makes it difficult to properly educate the body on ongoing municipal issues on which they must vote.*

#### **12. Voter/Resident Apathy**

*Over the past 10 years, only 44% of the elections for various boards, commissions and positions (not including RTM) have had contested races. On seven separate occasions there were not enough candidates to fill the number of open seats. During that 10-year period, RTM seats were only filled through the election process 62% of the time. The lack of contested races may be a contributing factor to the low voter turnout the Town has been experiencing.*

### **V SUMMARY OF DRAFT CHARTER PROPOSAL**

Since it was seated in April 2017, your Charter Commission has focused on thoroughly understanding both the fundamentals and the nuances of our current form of government. It has listened to all of the suggestions concerning what is working in the Town and for possible changes to improve Town functioning in terms of governance and delivery of services to its residents.

The Commission has sought to propose a Charter that improves the ability of our local government to make decisions and enact policy effectively and efficiently while maintaining appropriate level of checks and balances; increases government visibility and accountability; and makes our government more responsive to residents and others who do business with the Town.

The Commission is committed to a Charter that is consistent with feedback received, easy to understand, and provides a framework suitable for alterations as necessary for generations to come. It has also been the goal of the Commission to present a recommendation that was “Budget Neutral.”

As the Commission listened, read, researched, debated and discussed, we recognized that any proposed Charter will be, by default, a somewhat imperfect document. Variations on suggestions, feedback, past ballot questions, and other data make it clear it is not possible to satisfy all opinions expressed and thus, there is no perfect Charter to propose.

This Preliminary Charter Proposal does, though, reflect the sincere consideration of all views expressed and input received. It also represents the diligent work of the Charter Commission to provide you with a proposal of how your Town government should be structured in order to work best for all of its residents in a form that will be acceptable to a majority of voters. It is also important to note that, despite some differences of opinion during its deliberation, your elected Charter Commission unanimously approved this Preliminary Charter.

To that end, here is a brief outline of the major recommendations in the Draft Charter Proposal:

(Note: The annotated articles in parentheses indicate where the topic is addressed within the preliminary Charter):

#### **EXECUTIVE BRANCH (See Article IV)**

- Replace the BOS with a Town Manager (eliminate Town Administrator) – Appointed by Town Council

#### **LEGISLATIVE BRANCH (See Article II)**

- Replace RTM with a nine (9) member Town Council
  - All members elected At-Large
  - Two (2) year concurrent terms
  - Town Council appoints Independent Auditor
  - Highest person receiving votes is Council President
    - Will be recognized as the highest elected position in Town
    - Sets the Town Council Agenda and appoints all Council Sub-Committees
    - Will be the official head of the Town for ceremonial purposes
    - Will be recognized as the official head of the Town by the courts for purposes of serving civil process
    - He/she or his/her designee will be a non-voting member of the School Committee
  - Second highest person receiving votes is Council Vice-President

### **ELECTED BOARDS, COMMISSIONS, and COMMITTEES (See Article III)**

- Remaining Elected: (Terms remain the same)
  - Board of Electric Commissioners (increase number of members from three (3) to five (5))
  - Board of Public Works (increase number of members from three (3) to five (5))
  - Park & Recreation Commission
  - School Committee
- Being Changed from Elected to Appointed by the Town Manager, with Town Council confirmation: (Terms remain the same)
  - Board of Assessors
  - Board of Health
  - Board of Library Trustees (Increase members from six (6) to seven (7))
  - Housing Authority
  - Planning Board
  - Town Clerk (no term)
  - Treasurer/Collector (no term)

### **APPOINTING AUTHORITY (See Article IV)**

- All Department Heads will be appointed by the Town Manager with Town Council confirmation. The NAED General Manager and Superintendent of Schools will be appointed by the respective board or commission.
- All non-elected multiple-member boards, committees and commissions will be appointed by the Town Manager with Town Council confirmation

### **CITIZEN PARTICIPATION MECHANISM (See Article VIII)**

- ***Citizen or Free Petition*** to Town Council, low signature requirements to allow 25 or more voters to have opportunity to present matters to Town Council for hearing
- ***Public participation*** periods at Town Council Meetings
- ***Initiative Petition*** process to propose adoption of measures by all voters of the Town at an election
- ***Referendum Petition*** to stay action of Town Council and instead present matter to all voters of the Town at an election

### **OTHER CHANGES**

- Town Moderator – position eliminated as it is no longer necessary
- Preliminary Elections - eliminated
- By-Law Study Committee replaced by a Charter Review Committee (See Article IX, Section 1, (b))
- Town Counsel title changed to Town Attorney (See Article V, Section 12)
- Structured more efficient Budget Process (See Article VI)



## **VI KEY RECOMMENDATION & RATIONALE**

The depth and detail of our research and deliberations looked at myriad issues. Below is a summary of our rationale and thought process in developing key, foundational Charter recommendations:

### **1. PRIMARY OBJECTIVES**

This document represents your Charter Commission's best efforts at addressing THE 12 core issues previously outlined. It also provides a framework that positions the community to have, to every extent possible, the most qualified, capable and dedicated people serving the Town, whether as an elected or, appointed official, or as an employee.

### **2. Legislative Body – The Town Council (See Article II)**

Feedback gathered via all the means referenced earlier in this document was overwhelmingly clear as it relates to the form of the legislative body we are proposing. The current legislative body is the RTM. A full 75% of those commenting on the preferred legislative body for a proposed new form of government indicated a preference FOR A Council form of government. Input and comments to the Commission representative of this view include, but are not limited to:

- It will be easier to distribute more information to a smaller legislative body to assist them in become thoroughly informed and prepared
- The legislative body needs to be more nimble and have more frequent meetings.
- The budget process could be smoother with a smaller legislative body.
- Having a legislative body of nine members will substantially increases the likelihood of contested races for seats on the Town Council.
- The People's direct and immediate access to our legislative body through the frequent and regularly scheduled public meetings without the constraints or the complexities of representative town meeting protocols.
- The People's voice through Town Council has greater influence and proactive involvement in the selection and review of the Chief Operations Officer a/k/a Town Manager.
- The people's voice through the Legislative body proactive involvement in the town's mission, vision of government through the management of financial systems and practices through the extensive budget review, capital improvement plan, the establishment of reasonable standards relating to the management of financial systems, and the enactment of town by-laws.
- The People's choice for a pivotal role in the execution of town operations through the election of the Town Council President and Vice President.

On this basis, the Commission recommends a Town Council as the Town's legislative body and leadership representing all of the Town and its residents and, not just geographical or political segments.

### **3. Executive Branch – The Town Manager (See Article IV)**

Feedback gathered via all the means referenced earlier in this document was also clear as it relates to the executive branch we are proposing. The current executive branch is the Board of Selectmen. As with the legislative branch, a full 75% of those offering input on the executive branch indicated a preference for eliminating the Board of Selectmen. As to other executive branch forms of government:

- 55% preferred a Manager
- 27% preferred a Mayor
- 8% preferred a Weak Mayor with a Manager
- 2% indicated they would be satisfied with either a Manager or a Mayor
- 4% wanted to keep a Town Administrator
- One person appearing before the commission indicated that he/she did not care if it was a Mayor, Manager, or Town Administrator so long as he/she is elected by the voters.

Your Charter Commission spent considerable time and effort discussing and evaluating the options of strong Mayor, weak Mayor and Town Manager. Our recommendation is a balance between all input received including citizen survey findings, the results of prior non-binding ballot questions and other data. This balance enhances our Town's ability to attract and retain the most qualified people serving in the Executive Branch.

As a result, the Charter Commission is recommending a strong President of the Town Council, elected directly by the voters of the Town. This position will: be held by the person running for Town Council receiving the greatest number of votes; be the highest-ranking elected Town official; have the authority to set agendas and provide policy leadership for the Council through appointment of Council committees and otherwise; and serve as the ceremonial head of the Town. With the leadership of the Council President, elected by the people, the Town Council will hire a qualified Town Manager.

The Charter Commission felt the following were advantages of a Council President/Town Manager over a Mayor:

- The President of the Town Council will be the person elected by the voters to ensure the agenda of the Town Council reflects the will of the people,
- Having a Manager instead of Mayor will increase the pool of qualified candidates,
- Hiring a Manager should ensure that the individual in charge has the rights skills and experience to do the job, and
- The Town Manager can be removed more expeditiously for poor performance than could an elected Mayor or Board of Selectmen.

In addition, some of the primary reasons the Commission is recommending a Manager form of government are:

- A Town Manager will lessen the factionalism we are now experiencing between departments, boards and commissions,
- More centralized authority,
- It could allow for better cross training and utilization of personnel,
- It should improve accountability and provide for a more coordinated budget process since most department heads will report to the Manager,
- It should provide increased flexibility and an improved ability to deal with issues in a timely manner due to the greater centralization of authority,
- This structure should improve the coordination of common government goals and objectives and allow greater success in reach such goals,
- It creates a single central accountable full-time position for the executive tasked to enact policy,
- Combined with the Town Council it will streamline the budget process,
- It will be a central source to investigate and recommend further potential efficiencies that could be implemented, and opportunities for economic development, and
- Empowered to hire boards and/or department heads, there will be a central person accountable to track their performance and if necessary recommend changes.

By providing a structure where by the legislative body and the leader of that body are elected directly by the people and that this elected body will hire the Town Manager, there will be a basis for a much more conducive, beneficial and responsive relationship between the executive and legislative branches than if they were both independently elected. Further, by designating the highest vote-getter in the Town Council elections as the Council president, the proposed Charter satisfies the expressed interest of some voters to have a singular, highest elected official to represent and answerable to them and the Town. The proposed Charter also allows for a dedicated, trained professional Town Manager to be responsible for day-to-day activities within the Town.

#### **4. Relationship between Elected and Appointed Boards, Department Heads, and the Town Manager**

The Charter Commission is making various recommendations in the proposed Charter to establish a more centralized authority and responsibility in the day-to-day operation of the Town. To that end, the Commission proposes to delineate in the Draft Charter Proposal an operational relationship and respective authority between the Town Manager, department heads, and multiple member bodies (boards, commissions and committees).

The Town Manager will appoint all department heads with the exception of the Electric Department General Manager and the Superintendent of Schools. The Town Manager will appoint all members of all appointed town boards, committees and commissions,

except those serving as sub-committees to the Town Council, but subject to the confirmation of the Town Council.

The Town Manager will have day-to-day supervisory authority with respect to such personnel, including, for example, authority to ensure that persons are working their set hours, that offices are open for the required number of hours, that personnel comply with other policies of general application such as use of computers and technology, non-discrimination and harassment, proper use of sick and vacation time, and so forth. The substantive matters over which a board or committee has jurisdiction would not, however, fall within the Town Manager's authority under the Charter. Thus, for example, the Conservation Agent would still take direction from the Conservation Commission with respect to wetlands protection; the Health Agent would still take direction from the Board of Health with respect to health regulations, and so forth.

The benefits of this type of management system are multifold. Such a system ensures that all personnel are treated alike and held to the same standards with respect to workplace issues, reducing friction between employees of different departments.

Further, the employee knows who to go to for assistance with workplace-related matters or problems, and further ensures that that matters concerning employment are handled by professionals that are trained for such purposes.

Similarly, this type of approach ensures that the multiple-member boards and committees have the support of the administration with respect to personnel matters, which, in turn, allows such bodies to more appropriately focus on the broad policy matters, and in some cases, quasi-adjudicatory matters, assigned to them under the General Laws. It also avoids the potential for liability that can arise from the mishandling of personnel matters, both directly by ensuring that such matters are handled in a consistent manner with the benefit of up-to-date understanding of this ever-changing area of law, and indirectly by avoiding potential Open Meeting, Conflict of Interest, and Public Records Law issues.

## **5. Elected vs. Appointed Boards, Committees, and Commissions**

The Commission used a specific set of criteria in determining which boards, committees, and commissions is proposed remain elected and those which should be appointed. These include, but are not limited to the following:

- Responsibility of the Public Body
  - In addition to the Town Counsel, the Commission is recommending four other boards and commission remain elected: **(See Article III)**;
    - School Committee is required to be elected under state law;
    - NAED and DPW are significant rate setting bodies with funding from town ratepayers – citizens should have added input in these areas;



- Park & Recreation involves thousands of our children. Citizen input is critical;
    - Further, seats on Park Commission were also found to be among the most competitive in town election over the past decade-plus. This indicates both a citizen interest in determining who represents them, and a candidate interest in being that representative.
- Importance of Qualifications
  - Town will have a better opportunity to get members with experience or skill that can be used in specific areas if they are appointed rather than elected.
  - Evidence suggests that the election process limits the number of Town Residents willing to seek the position.
  - This is of particular note in the following bodies and officers which the Commission recommends now be appointed: **(See Article V)**
    - Board of Assessors
    - Board of Health
    - Planning Board
    - Town Clerk
    - Treasurer/Collector
- History of Candidacies & Contested Races
  - The Commission's review of the number of citizens seeking to run for office over the past 10-plus years showed several currently elected boards, committees, and commission often lack candidates, and even more so, lack competitive races.
  - For instance:
    - Housing Authority has never had a contested election race. On four different occasions it did not have enough candidates to fill the open positions
    - Board of Library Trustees has only had contested races for open positions for 10% of the elections. On four different occasions they did not have enough candidates to fill the open positions.
  - When asked, current members of elected bodies indicated they would still volunteer to serve in the position if the position was no longer elected.

## VII NEXT STEPS

Your Charter Commission will take the next few months to receive your comments on this draft and make changes accordingly. In that effort, it will hold public hearings as well as accept written comments. Then, no later than August 1<sup>st</sup>, the Commission will submit to the Massachusetts Attorney General for review of the final version of the Preliminary Charter Proposal. Public meetings are currently scheduled for Wednesday 5/23, 5/30, 6/13, 6/20 and 6/27 at 6:00 PM in the community meeting room at the North

Attleboro police station. The meetings of June 13<sup>th</sup> and 20<sup>th</sup> are geared for citizen input. Written comments can be submitted via e-mail to [charter@nattleboro.com](mailto:charter@nattleboro.com).

The final document is expected back from the Attorney General on or around October 1. It is important that you understand that once the document is returned from the Attorney General, it is unlikely that significant changes would be made other than to respond to concerns raised by the Attorney General.

Within one month following the Attorney General's response, the Commission will present the Final Charter Proposal to the Board of Selectmen, requesting that the question of adopting the Charter be placed on the ballot of the April, 2019 Annual Town Election and further that copies of the Final Charter Proposal be delivered to the residents of the Town in preparation for that vote.

During the six months between October 1, 2018 the 2019 Annual Election, your Charter Commission will hold many information sessions about the recommended Charter.

We want to thank you, the voters for the honor of having been elected to serve the Town in this important capacity.