

# Charter Commission Final Report

September 24, 2018

# Commission members

Elected Members	Appointed members
David Goldberg	Edward (Ned) Kitchel
William Lunt, III	Sean Mahoney
David McConnell	Mary Nelson
Richard Olson	
Rachel Reed	
Karen Farber	

# Summary of proposed changes

- 1) Clearer articulation of the qualifications of both town councilors and school board members and define when elected terms begin and conclude;
- 2) Make consistent, between council and school board, sections related to the election/term, qualifications, induction to office, and the handling of vacancies for each body's respective members;
- 3) Update timeframes related to budget submittal (both town and school department) to meet current election requirements and common practice;
- 4) Increase of financial limits placed on certain expenditures within the charter
- 5) Exempt emergency and waste water appropriations and refinancing of existing bonds from the requirement to seek voter approval regardless of the amount; and
- 6) Increase number of petition signatures required to recall an elected official to 20% (the percentage necessary prior to 2008).

### ITEM – 1

**Sec. 201. Number, election, term.** The Town Council shall be composed of 7 members, each of whom shall be elected by the registered voters of the entire Town. Each member shall be elected for a term of 3 years, ~~and until a successor is elected and qualified.~~ The term of each member shall begin immediately after being sworn to the faithful discharge of his/her duties by the Town Clerk or his/her designee. The conclusion of the term of each member shall occur either when he/she resigns from office, is disqualified from office or at the end of the term of office which shall be upon swearing in of a new councilor-elect at the meeting required and explained in Sec. 206. No member of the Council shall be eligible for re-election for more than two consecutive terms. For purposes of this section, election is to an unexpired term of less than 18 months shall not be considered a term.

**Summary:** Section 201 is amended to clearly define the beginning and end of a Town Councilor's term of office. Section 201 is further amended to be consistent with the amendments in Section 401 defining the beginning and end of a School Board member's term of office.

**Charter Commission Vote:** 8 in favor, 0 against; and (1 Commissioner absent)

# Item 1

## ITEM – 2

**Sec. 202. Qualifications.** Councilors shall be qualified electors of the Town and shall have their principal place of residence in the Town during their terms of office. No Councilor shall hold any paid office or position of employment with the Town, [School Department, or Falmouth Memorial Library](#), ~~except for on-call, non-ranking employees of the Fire/EMS Department and members of the Fire Police~~. If a Councilor shall cease to possess any of these qualifications or shall be convicted of [a what the Council deems a serious crime including but not limited to a crime involving fraud or dishonesty, or serious injury to or death of another, moral turpitude,](#) ~~then~~ the Council shall, by resolution, declare the office of that Councilor vacant.

The office of Councilor shall become vacant upon resignation, death, recall, failure to qualify for the office within 10 days after written demand by the Council, forfeiture of office or failure of the Town to elect a person to the office. The Council shall, by resolution, declare the office of that Councilor vacant.

**Summary:** Section 202 is amended to clarify that neither a School Department employee nor an employee of the Falmouth Memorial Library is eligible to serve as a Town Councilor; this amendment is consistent with the amendment in Section 402 governing restrictions on qualifications of School Board members. Section 202 is further amended to eliminate the exception allowing Fire/EMS Department employees to be eligible to serve as a Town Councilor. Fire/EMS Department employees were historically volunteers but are now part time paid “call” employees. Finally, Section 202 is further amended to clarify the types of crimes that could disqualify a person from serving as a Town Councilor; this amendment is consistent with the amendment in Section 402 clarifying the types of crimes that could disqualify a person from serving as a School Board member.

**Charter Commission Vote:** 7 in favor; 1 against (William Lunt); and (1 Commissioner absent)

## Item 2

#### ITEM – 4

**Sec. 206. Induction of Council into office.** The Town Council shall meet at the usual place for holding meetings at 87 P.M. on the 3rd Monday in June following the regular Town election or at such other time or day during that same week as the Town Clerk may choose for convenience of the Town Council, upon adequate notice to the public. At said meeting Councilors-elect shall be sworn to the faithful discharge of their duties by ~~a notary public or by~~ the Town Clerk or his/her designee. Councilors-elect who are elected into office at the regular municipal election in June and not filling a partial term, shall not be eligible to be sworn to their faithful discharge of their duties until the meeting described in this section.

**Summary:** Section 206 is amended to change the time of the annual meeting following the regular Town elections and to clarify when a newly elected Town Councilor is to be sworn into office.

**Charter Commission Vote:** 8 in favor, 0 against; and (1 Commissioner absent)

Item 4

## ITEM – 12

**Sec. 401. Board of Education – Number, Election and Term.** The Department of Education shall be administered by a board of education hereafter referred to as the School Board which shall consist of seven (7) duly qualified electors of the Town of Falmouth who shall be nominated and elected by the registered voters of the entire Town according to the provisions of Article VIII of this Charter. Members shall be elected for a term of 3 years ~~and shall serve until their successors are elected and qualified.~~ The term of each member shall begin immediately after being sworn to the faithful discharge of his/her duties by the Town Clerk or his/her designee. The conclusion of the term for each member shall occur either when he/she resigns from office, is disqualified from office or at the end of the term of office which shall be upon the swearing in of a new member-elect at the meeting required and explained in Sec 404.

No member of the School Board shall be eligible for re-election for more than two consecutive terms. For purposes of this section, election to an unexpired term of less than 18 months shall not be considered a term. To insure continuity of service on the School Board, no fewer than two and no more than three members shall be elected annually for a full term. Except as otherwise provided by this Charter, the provisions of the statutes of the State of Maine relating to School Committee Members shall apply.

**Summary:** Section 401 is amended to clearly define the beginning and end of a School Board member's term of office. Section 401 is further amended to be consistent with the amendments in Section 201 defining the beginning and end of a Town Councilor's term of office.

**Charter Commission Vote:** 8 in favor, 0 against; and (1 Commissioner absent)

# Item 12



### ITEM – 13

**Sec. 402. Qualifications.** Members of the School Board shall be qualified electors of the Town and shall have their principal place of residence in the Town during their terms of office. No School Board member shall hold any paid office or position of employment with the School Department, [Town, or Falmouth Memorial Library](#). If a member of the School Board ceases to possess any of these qualifications or shall be convicted of [what the School Board deems a serious crime including but not limited to a crime involving fraud or dishonesty, or serious injury to or death of another, involving moral turpitude, then the office of that School Board member shall immediately become vacant.](#)~~Council~~[School Board shall, by resolution, declare the office of that Board member vacant.](#)

The office of a member of the School Board shall also become vacant upon resignation, death, recall, failure to qualify for the office within 10 days after written demand by the Council, forfeiture of office or failure of the municipality to elect a person to the office. [The ~~Council~~School Board shall, by resolution, declare the office of that Board member vacant.](#)

**Summary:** Section 402 is amended to exclude any Town or Falmouth Memorial Library employee from serving as a School Board Member; this amendment is consistent with the amendment in Section 202 governing restrictions on qualifications of Town Councilors. Section 402 is further amended to clarify the types of crimes that would disqualify a person from serving as a School Board member; this amendment is consistent with the amendment in Section 202 clarifying the types of crimes that could disqualify a person from serving as a Town Councilor

**Charter Commission Vote:** 8 in favor, 0 against; and (1 Commissioner absent)

# Item 13



## ITEM – 14

**Sec. 403. Vacancy.** If a seat on the School Board becomes vacant, the vacancy shall be filled for the unexpired term at the next regular municipal or state election, provided that said election is at least 60 days from the date that the vacancy occurred. In the event that the vacancy occurs within 60 days of the next regular municipal or state election, the vacancy shall be filled for the unexpired term at the next regular municipal or state election after the election that is within 60 days, or, at the option request of the School Board, by a special election, the warrant for which shall, upon the vote of the Town Council, be issued by a member of the Town Council, by vote designated for that duty.

~~If a seat on the School Board becomes vacant for any reason more than 90 days prior to the next regularly scheduled municipal election, it shall be filled until the next municipal election by a majority vote of the Council.~~

**Summary:** Section 403 is amended to clarify that a vacancy on the School Board will normally be filled at the next regular municipal or state election. Section 403 is further amended to allow the School Board, in the event a seat on the Board becomes vacant within 60 days of the next regular Town election, to request that the Town Council have a special election to fill a vacancy in the office of the School Board. These amendments in Section 403 are consistent with the amendments in Section 211 governing the filling of vacancies on the Town Council.

**Charter Commission Vote:** 8 in favor, 0 against; and (1 Commissioner absent)

# Item 14

## ITEM – 15

**Sec. 404. Organizational Meeting and Induction of School Board into office; ~~qualifications; quorum.~~** The ~~members of the~~ School Board shall meet ~~for organization~~ within fourteen days from the date of the election of new Board members which date ordinarily shall be the regular municipal election in June. ~~their election.~~—At said meeting. ~~T~~he members-elect shall be sworn to the faithful discharge of their duties by the Town Clerk or his/her designee. ~~a notary public or by the Town Clerk, and record made thereof.~~ The members-elect that who are elected into office at the regular municipal election in June and not filling a partial term, shall not be eligible to be sworn to their faithful discharge of their duties until the meeting described in this section. ~~The majority of the whole number of the School Board shall be a quorum and they shall elect their own chairperson.~~

**Summary:** Section 404 is amended to clarify when a School Board Member is to be sworn into office. Section 404 is further amended to remove language governing what constitutes a quorum of the School Board, which language has been proposed to be moved into a new Section 405 of the Charter.

**Charter Commission Vote:** 8 in favor, 0 against; and (1 Commissioner absent)

# Item 15

# Item 23

## ITEM – 23

### Sec. 901.2 Petition for initiative or overrule of action of Council.

Orders or resolves authorizing general obligation bonds ~~issues~~ and/or appropriations in excess of \$200,000 for a single capital improvement, including: buildings; infrastructure improvements or expansion; major equipment; and land; excluding, however any such order or resolve adopted with respect to a declared public emergency under Section 213.1 hereof;

If, within 60 days after the enactment of any such ordinance, order or ~~r~~ resolve, a petition signed by not less than 10% of the registered voters of the Town of Falmouth is filed with the Town Clerk requesting its reference to a referendum, the Council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the Town Clerk, and shall within 30 days after said public hearing call a special Town election for the purpose of submitting to a referendum vote the question of adopting such ordinance, order or resolve. Pending action by the voters of the Town, the referred ordinance, order or resolve shall be suspended from operation until it has received a vote of the majority of the voters voting on said question.

**Summary:** Section 901.2 is amended to restrict petitions on bonds to those that are general obligation bonds. This section is further amended to increase the limit of what expenditures are subject to a petition from \$200,000 to \$500,000. Finally, this section is amended to exclude any expenditure from a petition if it is for the purpose of a declared emergency under section 213.1.

**Charter Commission Vote:** 8 in favor, 0 against; and (1 Commissioner absent)

# Item 24

## ITEM – 24\*

**Sec. 903. Referendum on Certain Expenditures.** The Town Council shall submit any order or resolve appropriating \$1,000,000 or more of funds raised pursuant to the Town's power of taxation for a single capital improvement or for a single item of equipment, except any such order or resolve for appropriations (a) associated with the treatment and collection of wastewater and (b) associated with respect to a declared public emergency under Section 213.1 hereof. The Town Council shall submit ~~and any an~~ order or, resolve ~~or ordinance~~ authorizing general obligation bonds ~~issues~~ of \$1,000,000 or more for a single capital improvements or for a single item of equipment, except any such order or resolve authorizing general obligation bonds (a) adopted with respect to a declared public emergency under Section 213.1 hereof, (b) issuance-associated with the treatment and collection of wastewater, or (c) authorizing the refunding of the Town's outstanding bonds, to the voters at a regular or special election following at least one public hearing. These provisions shall apply whether or not payment for the capital improvements or single item of equipment is to be made in more than one fiscal year. The question shall be submitted to the voters at the next regular municipal election held not less than 30 days after the order or, resolve ~~or ordinance~~ is passed; or the Council may order that the question be submitted to the voters at a special election to be held not less than 30 days from the date of the order or, resolve ~~or ordinance~~. In order for the question to be passed, a majority of votes cast must favor passage and the total number of votes cast for and against the question must equal or exceed 10% of registered voters.

**Summary:** Section 903 is amended to exempt any expenditure or bond, regardless of the amount, from requiring a referendum, so long as the expenditure is related to the treatment and collection of wastewater or with respect to a declared emergency under Section 213.1. Section 903 is further amended to exempt bonds from going to referendum if they are simply being refinanced.

**Charter Commission Vote:** 6 in favor; 2 against (Dave Goldberg, Mary Nelson); and (1 Commissioner absent)

**ITEM – 25\***

**Sec. 903. Referendum on Certain Expenditures.** Additional changes to Section 903 will be set forth as a separate referendum question and is summarized below.

**Summary:** Section 903 is amended to raise from \$1,000,000 to \$2,000,000 the threshold amount for single item expenditures and for bonding which must be submitted to referendum (this amendment would apply to Section 903 in its current form or as amended by Item 24).

**Charter Commission Vote:** 7 in favor; 1 against (William Lunt); and (1 Commissioner absent)

Item 25

# Referendum Questions

Question 1	26 proposed changes that the Commission and the Town Attorney respectfully suggest the Council submit to the public in summary form.
Question 2	Whether to increase the expenditure amount for which a referendum is required for a single capital improvement or for a single item of equipment from the current \$1,000,000 to \$2,000,000.

Questions