

**From:** Michael Ford <mike@fordandfordattorneys.com>

**Sent:** Monday, August 1, 2022 1:56 PM

**To:** pfallender@msn.com; gmlavin@outlook.com

**Cc:** John Kelly <jkelly@town.orleans.ma.us>; Molly Bates <mbates@town.orleans.ma.us>; Michael Ford <mike@fordandfordattorneys.com>

**Subject:** 080122 Town Counsel Response re Community Preservation Cttee to CPC

Hi Pat/Gail,

I agree the proposed language is a bit awkward.

Both the statute and the bylaw (see below) are clear that the referenced members are from the referenced committee(s).

Accordingly I would recommend that the charter amendment parrot the bylaw "...one member from the Conservation Commission as designated annually by the Conservation Commission..." and so on for each member.

Mike

## Statute

The committee shall consist of not less than five nor more than nine members. The ordinance or by-law shall determine the composition of the committee, the length of its term and the method of selecting its members, whether by election or appointment or by a combination thereof. The committee shall include, but not be limited to, one member of the conservation commission established under section 8C of chapter 40 as designated by the commission, one member of the historical commission established under section 8D of said chapter 40 as designated by the commission, one member of the planning board established under section 81A of chapter 41 as designated by the board, one member of the board of park commissioners established under section 2 of chapter 45 as designated by the board and one member of the housing authority established under section 3 of chapter 121B as designated by the authority, or persons, as determined by the ordinance or by-law, acting in the capacity of or performing like duties of the commissions, board or authority if they have not been established in the city or town. If there are no persons acting in the capacity of or performing like duties of any such commission, board or authority, the ordinance or by-law shall designate those persons.

## bylaw

A Community Preservation Committee shall be established consisting of nine members. The membership of the committee shall include the following: one member of the Conservation Commission as designated annually by the Conservation Commission, one member of the Historical Commission as designated annually by the Historical Commission, one member of the Planning Board as designated annually by the Planning Board, one member of the Park Commissioners as designated annually by the Park Commissioners, Committee as designated annually by the Open Space Committee, and one member of the Housing Authority as designated annually by the Housing Authority. The three remaining members shall be appointed by the Board of Selectmen as follows: initially, one member shall be appointed for a one year term, one member for a two year term and one member for a three year term. Thereafter, each member appointed by the Board of Selectmen shall be appointed for a three year term.

DRAFT ARTICLE F - CPC LANGUAGE CLARIFICATION 6-11-1 A Community Preservation Committee of nine members serving three-year overlapping terms shall be appointed as follows: three members by the Select Board; one member by and of the Park Commissioners; one member by and of the Planning Board; one member by and of the Conservation Commission; one member by and of the Historical Commission; one member by and of the Housing Authority; and one member by and of the Open Space Committee. RATIONALE: Inserting "and of" after the word "by" makes the intent explicit that each multimember body shall appoint one of its own members to the CPC. DRAFT  
-----Original Message-----

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**Subject:** Question after CRC Public Hearing on Proposed Charter Amendments for Oct 17

Hi Mike,

I contacted Molly Bates at the Town Administrator's office and she said I should email you directly as a follow-up to our previous review of the Charter work.

At our Charter Review Public Hearing on July 25<sup>th</sup>, a question was asked about the language in Draft Article F that deals with 6-11-1 Community Preservation Committee. You had asked that the word "by" be changed to "of" so that it conforms to the Town By-law that established the CPC.

The question is: does saying "of" clearly mean that the appointing authority is done by the corresponding board, commission, or authority?

The CRC decided it would be more explicit if it said "by and of" the said board, etc. Attached is the document that has **all** the CRC proposed Article amendments that we plan to present to the Select Board on Aug 10.

Please scroll to the Draft Article F and let me know asap if this is ok or needs to be reconsidered at the CRC meeting on next Monday Aug 1<sup>st</sup>.

Would this Charter change to "by and of" necessitate a change to the Town By-law that exists? What is the process for that, if needed?

Thank you for your time and consideration.  
Patricia Fallender, Vice Chair, Charter Review Committee