CHARTER REVIEW COMMITTEE

FINAL REPORT

Proposed Amendments to the Home Rule Charter

FEBRUARY 4, 2015

Patricia Fallender, Chairman
Charles Ketchuck, Vice-Chairman
Anne Carron, Clerk
John Crawford
Susan Christie
Carolyn Kennedy
Francis Moran
CHARTER REVIEW COMMITTEE 2014 – 2015

GUIDING PRINCIPLES

The Committee adopted the same guiding principles as the original Charter Commission:

- To preserve the best of the past, that is, the best of traditional town government

- To provide a local government that would enhance coordination and facilitate effective management

- To ensure accountability throughout the town's governmental structure. Elected officials will be subject to recall; appointed officials will be given a larger measure of supervision.

- To provide improvements in management and administration; budget making and budget administration; municipal and fiscal planning.

- To promote citizen participation. The Charter Commission realizes that much of what is good in Orleans local government has been the result of volunteer efforts. The charter includes several features designed to continue this tradition.

And added one additional principle:

- To promote transparency in government, that is, providing information to citizens about what their government is doing, at all levels, and providing the rationale for its decisions.
CHARTER REVIEW COMMITTEE TIMELINE AND PROCESS

- Meetings began in June 2014 and so far, all 17 meetings have been televised live on Ch. 18
- CRC members were assigned Charter chapters and reviewed all sections to identify any areas of concern
- Asked for and received input from Board of Selectmen, Town Administrator, Town Moderator, Finance Committee, Town Clerk, Town Counsel, Director of Finance
- Outreach to Town Staff and community members through survey, letters, press releases and provided an email address to the public
- Received input regarding concerns from community members via email, phone calls and at our meetings at Public Comment
- Interim Report presented to the Board of Selectmen at its Nov 19, 2014 meeting
- A Public Hearing was held on January 12, 2015 to present proposed Charter Amendments
- All issues have been discussed and voted on to bring us to this final report. Input from the public hearing was considered by the CRC before finalizing its recommendations to the Board of Selectmen. Advice from Town Counsel has been most helpful throughout the process.
- Final Report with recommendations for proposed Charter changes is presented to the Board of Selectmen on Feb 4, 2015
- Charter Amendments will be presented as articles on the Warrant at the Annual Town Meeting May 11, 2015
Charter Review Committee 2014 - 2015

List of proposed Charter amendments

January 29, 2015

Chapter 1:  none

Chapter 2:  2-5-2 articles with appropriation of funds
            2-7-2 consent calendar
            2-7-5 termination of debate
            2-7-8 reconsideration of articles only in same session

Chapter 3:  3-1-4 honorarium
            3-5-3 inter-municipal agreements

Chapter 4:  4-4-1 change titles to “Director of Public Works and Natural Resources” and
            4-7-1 “Director of Municipal Finance”

Chapter 5:  none

Chapter 6:  6-1-1 term limits for appointed multi-member bodies
            6-1-12 (NEW) non-resident taxpayers eligible for appointment to MMBs
            6-8-2 appointments of Board of Water and Sewer Commissioners

Chapter 7:  none

Chapter 8:  8-2-3 add “Director of Municipal Finance” to title as in clause 4-7-1
            8-3-2 public hearings on budget
            8-5-1 thru 8-5-4 Capital Improvements Plan
            8-6-1 publication and public hearing on CIP
            8-7-1 action at Town Meeting on CIP

Chapter 9:  none

Chapter 10: none

Proposed Change to Home Rule Charter

(Articles with appropriation of funds)

REvised:01/05/15

Clause

2-5-2 Articles calling for appropriation of funds may be considered at any Town Meeting, but only after review and comment by both the Board of Selectmen and the Finance Committee, acting separately at separate meetings. Except for the insertion of subjects in the Town Meeting Warrant by written request of registered voters pursuant to M.G.L. c39 sect.10, articles that authorize capital expenditure or borrowing shall be in the printed Warrant only if a cost estimate and appropriate supporting data is included.

Underlined language added.

Rationale:

It has been the policy of the Board of Selectmen to provide a cost estimate and as much supporting data as possible when asking voters to decide on Warrant articles that include an appropriation of funds. There have been instances where the information has not been available until just before Town Meeting. This situation is not helpful to voters or to the Finance Committee which also needs to review and comment on each Warrant article that appropriates funds. By inserting this requirement, articles cannot appear in the printed Warrant without supporting data. This requires the Town Administrator and Board of Selectmen to create a timeline that would provide them with all cost estimates and data much sooner in the process.

Proposed Change to Home Rule Charter

(Consent Calendar)

CLAUSE

2-7-2 The order of consideration of the articles as printed in the Warrant may be changed only by a two-thirds vote of the Town Meeting. In preparing the Warrant under Clause 2-4-1, the Board of Selectmen may include in it a Consent Calendar listing articles which that Board deems non-controversial. In the event such a Consent Calendar is so included, a written request by five registered voters before the commencement of Town Meeting, or, afterward, an oral request by five registered voters prior to consideration of the Consent Calendar, shall remove a particular article from it. All remaining articles in the Consent Calendar shall then be voted upon by a single vote without debate. Removed articles shall be considered and acted upon immediately after consideration of the Consent Calendar, and in the order of their listing in the Consent Calendar.

Underlined language added.

RATIONALE

The added language proposes a “Consent Calendar” which is intended to make the Town Meeting more time efficient by consolidating voting on articles that are considered to be noncontroversial. Consent Calendars are common in town government and among legislative bodies.

JANUARY 5, 2015

Proposed Change to Home Rule Charter

(Termination of Debate)

CLAUSE

2-7-5 No person shall speak twice on the same question until all those wishing to speak thereon have done so, nor shall any person speak for more than five minutes at one time, except by permission of the Town Meeting Moderator, provided, however, that the restrictions shall apply neither to those persons required to be in attendance under provisions of 2-7-3, nor to those persons making the original motion or amendments thereto under the article. A motion to terminate debate requires a second, is not debatable and shall require a 4/5 2/3 majority to prevail.

Underlined language added.

RATIONALE

The Moderator is the person who is elected to conduct the Town Meeting and should be the one to control the time for each speaker. The Orleans Town Code indicates that a 2/3 vote is needed to terminate debate and the Charter should reflect the same requirement.

January 5, 2015

Proposed Change to Home Rule Charter

(Reconsideration must be voted at Same Session)

CLAUSE

2-7-8  No motion, the effect of which would be to dissolve the Town Meeting, shall be in order until every article in the Warrant has been duly considered and acted upon. This requirement shall not preclude the postponement of consideration of any article to an adjournment of the meeting to a stated time and place. Provided further, however, that any reconsideration of all matters must be voted on at the same session at which the original action was taken, the intent being to make these matters final at the same session regardless of whether the Town Meeting is later adjourned for a lack of quorum or other circumstance.

Underlined language added.

RATIONALE

The added language is intended to provide finality to the articles and matters voted on at Town Meeting, regardless of an adjournment for lack of quorum or other circumstance. Any motion for reconsideration must be taken up at the session at which the matter is originally considered, providing finality to that matter despite any adjournment to another date and time. This procedure is common in the charters and by-laws of many towns for the same reason it is being proposed here.

JANUARY 5, 2015

Proposed Change to Home Rule Charter

(Honorarium for Board of Selectmen)

CLAUSE

3-1-4 Members of the Board shall each receive an annual honorarium not to exceed two thousand dollars three thousand dollars ($3000), and shall receive actual and necessary expenses incurred in the performance of their duties of office, as provided by general law and the vote of the Town. The Chairperson shall receive an additional amount not to exceed five hundred ($500) annually as provided by vote of the Town.

Underlined language added.

RATIONALE

The Charter Review Committee recommends this new honorarium amount after a survey of other Towns on the Cape indicated that the Orleans Board of Selectmen members were being compensated at the lower end of the scale of such stipends.

January 5, 2015

Proposed Change to Home Rule Charter

(Inter-municipal Agreements)

CLAUSE

3-5-3 Any contract or formal agreement establishing such cooperation which requires an appropriation of Town funds in excess of $50,000 $500,000 or entails a commitment by the Town in excess of three five years, shall require the approval of Town Meeting.

_Underlined language added._

RATIONALE

With advice from the Board of Selectmen and Town staff, it is recommended that the funds amount and time commitment be increased to allow the Town to participate in inter-municipal agreements that will benefit the Town and its citizens. In the past, the Town has not been able to be part of some projects because the Town Meeting vote was needed and the timing of the project did not meet the requirements to participate. It is anticipated that future projects will have regional aspects and that the Town needs to be ready to take appropriate action in the best interests of the Town.

JANUARY 5, 2015
Charter Review Committee 2014 – 2015

Proposed Change to Home Rule Charter

(Title changes for Town Staff members)

CLAUSE

4-4-1 Subject to the approval of the board of selectmen, the town administrator shall appoint and, on the basis of merit and fitness alone, and except as otherwise is provided by general law, charter, or personnel by-laws, may suspend or remove: a town clerk; a town collector-treasurer; a surveyor of highways; a full-time professional assessor who shall not be a member of the Board of Assessors; and a water superintendent Director of Public Works and Natural Resources. A town engineer and town planner may also be appointed by the town administrator, subject to the availability of funds.

4-7-1 Warrants or vouchers for the payment of town funds, prepared and signed by the town accountant/Director of Municipal Finance in accordance with general law procedures, shall be submitted to the town administrator, and his approval thereof shall be sufficient authorization for payment by the treasurer, provided, however, that at least three selectmen shall approve all warrants in the town administrator’s absence or in the event of a vacancy in his/her office.

8-2-3 On or before the first day of October of each year, the town administrator shall request and receive from the collector-treasurer, the town accountant/Director of Municipal Finance, the board of selectmen, and the assessors the estimated revenues for the ensuing fiscal year.

RATIONALE

Since the Town of Orleans now has a Department of Public Works, the title of Director is now needed in the Charter. Also, the Town Accountant is also the Director of Municipal Finance and the title needs to be consistent throughout the Charter.

JANUARY 5, 2015

Proposed Change to Home Rule Charter

(Term Limits for Appointed Members, Multi-Member Bodies)

CLAUSE

6-1-1 Members of all appointed multi-member bodies, whether appointed by the Board of Selectmen, Town Moderator, or by any other appointing authority, shall serve on a particular multi-member body no longer than two consecutive three-year terms as a full or regular member. A one-time exception to extend a member’s term for one year may be made when the appointing authority determines to its satisfaction that extended service is in the best interests of the Town. When the member has filled an unexpired term for a period not to exceed two years immediately prior to his or her regular three-year terms that time is not counted against this limit. Once an appointee has been off a particular multi-member body for at least one year, that person may be appointed again to that multi-member body. Provided further, that any current member of an appointed multi-member body at the time this Charter provision is adopted shall be “grandfathered” and allowed to remain in office for the full term of his or her appointment. Vacancies on appointed multi-member bodies shall be advertised as provided in clause 7-2-1.

Underlined language added.

RATIONALE

The above change implements term limits for all appointed positions under Chapter 6, and Chapter 3, Section 10. The term limit applies to only full or regular members of committees and not Associate Members. The term limit is two consecutive three-year terms. If a member has filled an unexpired term for two years or less, that time is not counted. A one-time extension for one year may be made in an individual case when the appointing authority determines that extended service is in the best interests of the Town.

This change to the Charter would essentially adopt the essence of Board of Selectmen Policy B-7 that has been in existence for a number of years. The Charter Review Committee (CRC) studied and discussed this change in depth. It conducted a survey which was sent to all appointed and elected members of multi-member bodies concerning term limits and considered respondents’ views. An analysis of the longevity of members of multi-member bodies was also conducted. The analysis showed that approximately 30% of all Board of Selectmen appointees (including first term appointees in the number) exceeded two three-year terms.
The CRC is cognizant of the fact that there are many talented and experienced board members who exceed this term limit, yet continue to provide the Town with the benefit of their volunteerism. TheCRC also considered the suggestion by some that term limits would make it more difficult to find volunteers to staff committees, and that some committees benefit from longevity of members due to the complexity of relevant regulations.

However, the CRC believes these factors are overcome by the need to provide a way to foster increased interest by a wider range and diversity of citizens in participating on boards and committees, creating more opportunities to serve. There is a need for stricter adherence to the Board of Selectmen Policy. Greater effort can be applied to recruit good volunteers from our populace, and currently there is professional staff to help with the intricacies of many committees.

Overall, the CRC believes the adoption of term limits for committee members appointed under Chapter 6 and Chapter 3, Section 10 of the Charter will, in the long run, be of great benefit to the Town of Orleans.

JANUARY 5, 2015

Proposed Change to Home Rule Charter

(Non-Residents Eligible as Members of Appointed Multi-Member Bodies)

CLAUSE

6-1-12 (New) A non-resident who owns real property in the Town of Orleans shall be eligible to be appointed as a member of a multi-member body under this Chapter.

RATIONALE

In an effort to expand the pool of interested volunteer citizens who wish to become involved in the management of town government, the change to the Charter clarifies that non-residents who are taxpayers may be appointed to Multi-Member Bodies under Chapter 6 of the Home Rule Charter. This would include owners of business property.

JANUARY 5, 2015
Charter Review Committee 2014 – 2015

Proposed Change to Home Rule Charter

(Appointments of Board of Water and Sewer Commissioners)

REVISED: 01/29/15

CLAUSE:

6-8-2 The Board of Selectmen shall appoint three members and two associate members to of the Board of Water and Sewer Commissioners for three-year overlapping terms. The Board of Health and the Planning Board shall each appoint one member to of the Board of Water and Sewer Commissioners for three-year overlapping terms.

Rationale:

In order to make this clause consistent with clauses 5-7-3 and 9-1-5 of the Charter, the word “to” needs to be changed to “of” in each sentence. This allows for the appointment of members to the Board of Water and Sewer Commissioners by the Board of Health and Planning Board who may be members of these boards or other individuals qualified under the Charter to serve on appointed boards and committees.
Charter Review Committee

Proposed Change to Home Rule Charter

(Joint Public Hearing on Proposed Budget)

Revised: 01/05/15

CLAUSE

8-3-2 On or before March 15 of each year, the Finance Committee and the Board of Selectmen shall conduct a joint public hearing on the proposed budget. The hearing agenda shall be established by the Finance Committee in consultation with the Board of Selectman and the Town Administrator. Subsequent budget changes may be made by the Board of Selectman prior to the publication of the Annual Town Meeting Warrant provided a second joint hearing is similarly conducted. Subsequent to the publication of the Annual Town Meeting Warrant, further budget changes to be proposed to the Town Meeting by the Board of Selectmen shall, to the extent that time allows, be the subject of a similarly conducted public hearing at least seven (7) days prior to the commencement of the Annual Town Meeting.

Section 8-3-2 would read as follows:

On or before March 15 of each year, the Finance Committee and the Board of Selectman shall conduct a joint public hearing on the proposed budget. The hearing agenda shall be established by the Finance Committee in consultation with the Board of Selectman and the Town Administrator.

Rationale

The Orleans Home Rule Charter encourages public participation in the budget process. Under subsections 8-2-5 and 8-6-1, public hearings are held to solicit public priorities in upcoming fiscal years and on the Capital Improvements Plan. After a review and discussion with the Finance Committee on Subsection 8-3-2, it was agreed that one hearing on the proposed budget, prior to Town Meeting, was sufficient to gain input on the overall budget.
Charter Review Committee 2014 – 2015

Proposed Change to Home Rule Charter

(Capital Improvement Plan, Public Hearing and Action at Town Meeting)

REvised: 1/29/15

CLAUSE  (The current Charter sections 8-5, 8-6 and 8-7 will be replaced)

8-5-1 The Town Administrator shall prepare a five year Capital Improvements Plan (CIP) and an annual Capital Budget which shall be designed to deal with unmet long range needs of the Town and to implement the goals and objectives of the Orleans Comprehensive Plan as it may be amended from time to time. The CIP shall include land acquisitions, buildings and improvements, machinery and equipment, vehicles, and infrastructure including roads, water mains, storm drainage and other publicly owned utilities. The Board of Selectmen may establish more detailed policies relating to the refinement and implementation of the CIP.

8-5-2 The Capital Improvements Plan (CIP) shall include proposed expenditures for all town activities and departments for the capital improvements defined in Section 8-5-1. Proposed capital improvements for the regional school and other regional entities shall be included in the CIP provided that such inclusion is consistent with the regional or inter-municipal agreements establishing such entities. In addition, the CIP shall include regional, county, state and federal grants that may be used to support and finance capital improvements, facilities and equipment through grants, loans or inter-municipal agreements.

8-5-3 The Capital Improvements Plan (CIP) shall include: (a) A clear summary of its contents; (b) A list of all capital expenditures proposed for all categories of items listed in 8-5-1 above for the next five fiscal years and projects to be included in the proposed Capital Budget for the next fiscal year, together with all supporting data; (c) cost estimates, proposed methods of financing, sources of funds and terms of debt repayment along with a recommended time schedule for each capital expenditure to be financed over a period of more than one year; and (d) the estimated annual cost of operating and maintaining the facilities and/or equipment to be constructed, improved or acquired.

The information in the CIP shall be updated at least annually and submitted to and approved by the annual or special town meetings as appropriate. In the case of multi-year projects, it shall be adjusted to insure that the CIP accurately reflects the projected annual costs of all capital projects.

8-5-4 The Town Administrator shall transmit the Capital Improvements Plan (CIP) and the proposed annual Capital Budget to the Board of Selectmen no later than January 15 of each year. The Board of Selectmen shall, within 30 days, act on the CIP and Capital Budget, with or without amendments, and submit the documents to the Finance Committee for its review and comment. The Board of Selectmen and the Finance Committee, after the public hearing held under Section 8-6-1 below, shall report their recommendations to the Town Meeting.
8-6-1 The Board of Selectmen shall publish, in one or more newspapers of general circulation in town, the general summary of the proposed Capital Improvements Plan (CIP) and Capital Budget and a notice stating: (a) the times and places where copies of the complete CIP and Capital Budget are available for inspection; and (b) the date, time and place, not less than seven days following such publication, where the Board of Selectmen and the Finance Committee will conduct a public hearing on said plan to be chaired by the Finance Committee. The joint hearing shall be held no later than March 1 of each year in order to allow the Board of Selectmen and the Finance Committee to include their respective positions on the CIP and the Capital Budget to be printed in the Warrant for the Town Meeting.

8-7-1 The Town Meeting shall act on the five year Capital Improvements Plan (CIP) and the annual Capital Budget, provided all proposed projects included in the Capital Budget have been included in the CIP in the prior fiscal year. The Capital Budget may consist of more than one article in the Warrant for the Town Meeting. Any articles for capital improvements not in compliance with 8-5-1 shall require a three-fourths (3/4) majority vote of the Town Meeting.

Rationale:

The CRC, after receiving input from both the public and The Finance Committee, reviewed Chapter 8, Section 5, "Capital Improvements Plan" (CIP); Chapter 8, Section 6, "Notice of Public Hearing on CIP" and Chapter 8, Section 7, "Action of Town Meeting" to clarify in greater detail the CIP process and its development. Because the Sections are intertwined, it was deemed reasonable to incorporate the Rationale(s) into one explanation.

8-5-1 comprehensively defines the types of expenditures and assets to be included in the CIP. The proposed compilation of items inserted into 8-5-1 was developed from the Town's audit, the Town's insurance coverage, other capital plans and a State document on the capital planning process. The Board of Selectmen may set the threshold for amount and time of useful life for inclusion in the CIP.

8-5-2 revision is to substitute the word, "exclude" with the word, "include" so to require the inclusion of all regional capital expenditures, including the regional schools, and, in addition, include any grants the town may receive. The purpose is to insure the voters are aware of all requests for funding and the budget.

8-5-3 was silent on the development of the Capital Budget; with the new language, the requirement is now clearly outlined. In addition, 8-5-3 permits flexibility in updating the Capital Improvements Plan (CIP).

8-5-4 and 8-6-1 revisions have been broadened and further clarify the need for the Board of Selectmen and the Finance Committee to hold the Public Hearing while also allowing adequate time to print the Warrant for Town Meeting.

8-7-1 Expects yearly or annual updates to the CIP that would eliminate the requirement to obtain a three-fourths (3/4) vote on expenditures that are not in compliance with the current 8-5-1 or the estimate of cost that is in excess of a ten percent (10%) increase. However, to deal with emergency situations, a three-fourths (3/4) is included to allow for Town Meeting action. Separate articles for the Capital Budget allow for flexibility to present individual capital projects to the voters.