



**EDWARD J. COLLINS, JR. CENTER FOR PUBLIC MANAGEMENT**  
JOHN W. McCORMACK GRADUATE SCHOOL OF POLICY AND GLOBAL STUDIES  
UNIVERSITY OF MASSACHUSETTS BOSTON

100 Morrissey Boulevard  
Boston, MA 02125-3393  
P: 617.287.4824  
F: 617.287.5566  
[mccormack.umb.edu/centers/cpm](http://mccormack.umb.edu/centers/cpm)  
[collins.center@umb.edu](mailto:collins.center@umb.edu)

## Memorandum

**TO:** Amesbury Charter Review Commission  
**CC:** Cassandra Gove, Mayor, City of Amesbury  
**FROM:** Collins Center Charter Project Team  
**DATE:** June 25, 2020  
**RE:** Preliminary review of Amesbury's charter

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### Project Overview

At the request of the Mayor, and as part of the Collins Center's agreement to provide technical assistance to Amesbury for its charter review, the Center charter project team is pleased to provide the following assessment the City's current charter. This assessment focused on two items: (1) technical clean-ups and non-controversial edits, and (2) potential subjects for in-depth substantive policy discussion.

The Collins Center was established by the Commonwealth to assist public institutions in Massachusetts. The Center has a particular focus on municipal governance and management and has unmatched experience helping cities and towns across the Commonwealth review, revise, and write charters.

### About Charters Generally

Just as Massachusetts and the United States have constitutions, a charter is in some ways like the "constitution" of a city or town government. The National Civic League (NCL) defines a charter as "the basic law that defines the organization, powers, functions and essential procedures for the municipal...government. It is comparable to the state constitution and to the constitution of the United States."<sup>1</sup> The Massachusetts General Laws have a slightly more technical definition that also reflects some issues specific to the Commonwealth.<sup>2</sup>

Undertaking a revision of a city charter is therefore an opportunity to have a significant impact on the municipality for years or even decades to come. However, it is also an extraordinarily challenging endeavor – statutorily, logistically, and politically.

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<sup>1</sup> National Civic League, *Guide for Charter Commissions, Fifth Edition*, (Denver: National Civic League, 1991), p. 3

<sup>2</sup> "'Charter', when used in connection with the operation of city and town government shall include a written instrument adopted, amended or revised pursuant to the provisions of chapter forty-three B which establishes and defines the structure of city and town government for a particular community and which may create local offices, and distribute powers, duties and responsibilities among local offices and which may establish and define certain procedures to be followed by the city or town government. Special laws enacted by the general court applicable only to one city or town shall be deemed to have the force of a charter and may be amended, repealed and revised in accordance with the provisions of chapter forty-three B unless any such special law contains a specific prohibition against such action." MGL, Chapter 4, Section 7: <http://www.mass.gov/legis/laws/mgl/4/4-7.htm>

To understand why charters are so important, it is useful to understand what types of provisions a charter typically contains. The NCL identifies five broad categories of provision in a charter nationally:

1. The powers of the city, including corporate, proprietary, and governmental powers;
2. Organizational provisions covering the local elected officials: mayor and legislature or council; executive and administrative organization, including the manager, heads of departments and agencies; essential principles of organization within departments; and organizational relations among all;
3. Certain basic procedures or safeguards for such activities as council and board proceedings, adoption of ordinances, protection against conflicts of interest, and, in some cases, granting of franchises, tax assessment and collection, licensing, eminent domain, and special assessments;
4. Modern administrative practices including budgeting, central financial management and accounting and adequate reporting, and, in some cases, personnel and planning procedures;
5. Popular controls over the government, including elections, charter amendments, and, in some cases, redistricting procedures and the initiative and referendum.<sup>3</sup>

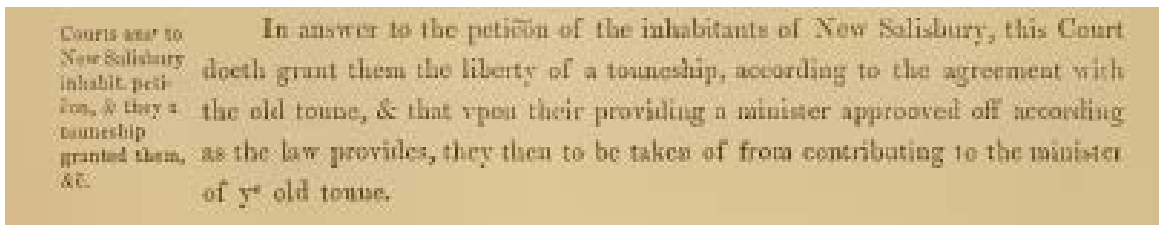
Some charters will contain more than these provisions; others will contain less. Whatever the case, each municipality's charter establishes the basic structure, procedures, and rules for the local government. It is important to be aware, however, of the following caveats:

1. Massachusetts is a "limited home rule" state, and thus certain areas of state law are the exclusive province of the state (e.g., conduct of elections);
2. The state's Home Rule Amendment provides that the state legislature may enact "uniform state laws" applicable to "all cities, all towns, or all cities and towns alike."<sup>4</sup>

The Center can advise the Commission if any proposal is potentially in conflict with either of these requirements.

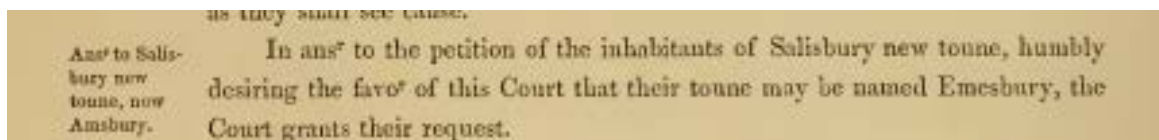
## **Background and History of Amesbury's Charter**

The history of Amesbury as a government begins in 1666 when the general court of the Colony of the Massachusetts Bay granted the inhabitants of "New Salisbury" status as township.



Accessed on June 9, 2020 from: [https://archives.lib.state.ma.us/bitstream/handle/2452/802285/ocm3522063\\_vol4-part2.pdf?sequence=5&isAllowed=y](https://archives.lib.state.ma.us/bitstream/handle/2452/802285/ocm3522063_vol4-part2.pdf?sequence=5&isAllowed=y) (page 300)

Two years later, the Town of Emesbury [sic] was incorporated, after a petition by residents of New Salisbury. (The full pages of text including these sections are included in the appendix.)



Accessed on June 9, 2020 from: [https://archives.lib.state.ma.us/bitstream/handle/2452/802285/ocm3522063\\_vol4-part2.pdf?sequence=5&isAllowed=y](https://archives.lib.state.ma.us/bitstream/handle/2452/802285/ocm3522063_vol4-part2.pdf?sequence=5&isAllowed=y) (page 376)

<sup>3</sup> NCL Guide, p. 28

<sup>4</sup> Section 8 of Article LXXXIX of the Amendments to the state's constitution. Available at: <https://malegislature.gov/Laws/Constitution>

The Town enacted its first modern charter in 1980, creating a board of selectmen-town manager-open town meeting form of government. Amesbury changed from a town form of government to a city form of government when it enacted a new charter in 1996. This charter is the basis for the current charter, although it was revised in 2011 by special act of the state legislature. At that time, the name of the municipality was changed from the Town of Amesbury to the City of Amesbury. The current charter is available online at: <https://www.amesburyma.gov/city-council/files/amesbury-town-charter-2011>

## **Technical Review**

The Center project team has reviewed the charter for technical clean-ups and non-controversial improvements. These include the following types of issues:

1. Format and syntax;
2. Consistent use of terms;
3. Gender neutrality of terms;
4. The need to incorporate special acts of the legislature enacted for the municipality;
5. Provisions now in conflict with state law due to changes occurring after charter adoption or most recent revision; and
6. Outdated references to state law citations.

Every charter contains at least a few of these items. Some may be due to changes in laws, technology, or customs since the charter was originally drafted or subsequently revised. Others may be due to inconsistencies introduced by earlier rounds of revisions or could have been unforeseen in the original charter itself. Whatever their origin, fixing these issues will help improve the charter and the overall functioning of the City.

The issues that the Center project team believes the Commission should consider reviewing follow.

## **Overarching Comments**

Navigation of the charter would be improved with the inclusion of a table of contents.

The articles of the charter are labeled “Parts,” in comparison with the majority of municipal charters in Massachusetts, which use the term “Articles.”

There are several instances of inconsistent grammar throughout the charter that should be addressed to improve readability. This includes inconsistent comma use, capitalization of certain words such as Commonwealth and City Council, and the spelling out of numbers. The state legislative drafting manual provides guidance on certain matters such as the spelling out of numbers and is often used to guide such decisions for documents such as municipal charters.<sup>5</sup>

Although gender pronouns have been mostly removed from the charter (and where they are included both are used in all places except one), the Commission may wish to consider removing pronouns entirely.

The Commission may also wish to consider adding blanket language for electronic publication of documents and posting of meetings. This could be done by adding language to the definitions section or to the general provisions section, or by changing the references as they appear throughout the document. (The project team has flagged incidences where publication or posting are referenced throughout the charter.) It is best not to make the language too specific, given the speed of challenges in use of electronic platforms and media. The project team can provide examples of text from other charters if requested.

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<sup>5</sup> Available at: <https://malegislature.gov/Content/Documents/General/LegislativeDraftingManual.pdf>

## Part I

As the most technical and legalistic article of most charters, Part 1 is often confusing to lay readers. Amesbury's charter adds to the confusion through a few inconsistencies.

Section 1-2 Short Title: This section states that the charter "shall be cited and known as the Amesbury Home Rule Charter," but on the cover page of the charter, it is called "City of Amesbury City Charter" and at the top of the first page, it is titled: "City of Amesbury Charter." These are all appropriate possible titles, but consistency would be useful to readers.

Section 1-3 Division of Powers and Section 1-5 Form of Government: These sections are potentially redundant. Section 1-5 states what Section 1-3 has already constructed and is probably unnecessary. If retained, it might be useful for readers if it were directly before or after Section 1-3, given the topic is the same (whereas Section 1-4 is a different topic).

## Part II

The order of the charter's parts does not matter substantively, but it is interesting that Part 2 of Amesbury's charter is the executive branch, whereas for the majority of charters in Massachusetts, the first non-technical article is typically the legislative branch.

Section 2-1 Office of the Mayor (c) Compensation: This references the municipal council, which seems to be holdover text from the pre-2011 charter, given that all other references in the document are to the "city council."

Section 2-2 Executive Powers of the Mayor: The final sentence of this section is awkwardly worded and could lead to confusion: "The mayor may appoint one or more qualified assistants to aid in the performance of the official duties, fix their salaries, and define their duties." Adding the word "may" could help to make it clearer (bolded and underlined for emphasis): "The mayor may appoint one or more qualified assistants to aid in the performance of the official duties, **may** fix their salaries, and **may** define their duties."

Section 2-3 Appointments by the Mayor: There are two minor questions regarding the appointment of the library director: "The mayor shall appoint the head librarian, but only from the candidates recommended by the board of library trustees." First, is "head librarian" the official title of the position? This seems like it may be an antiquated title and is inconsistent with Section 4-5(b). Second, does the pool of candidates need to contain more than one option? The plural "candidates" implies it, but it may be useful to clarify.

Section 2-5 Removal of Officials: This section contains a variety of grammatical and clarity issues. The second sentence (i.e., "A copy of which shall be delivered...") is not a sentence and is also awkwardly phrased. In the third sentence, the charter uses "effect" when it should use "affect." The final sentence seems intended to refer to "people appointed by the school committee" and not the school committee itself. The switch from persons to offices is also somewhat confusing. The project team provides the following alternative example below.

### **Original:**

The mayor may remove any person appointed by the mayor by filing a written statement with the city clerk setting forth in detail the specific reasons therefore. A copy of which shall be delivered or mailed to the person thus removed, who may make a written reply, which, if the person thus removed desires, may be filed with the city clerk. Such reply shall not effect the action taken unless the mayor so determines. This section shall not apply to the school committee, or persons appointed by state officials, nor offices subject to provisions of civil service.

**Alternative:**

The mayor may remove any person appointed by the mayor by filing a written statement with the city clerk setting forth in detail the specific reasons therefore. A copy of ~~which~~ **this statement** shall be delivered or mailed to the person thus removed, who may make a written reply, ~~which, if~~. **If** the person thus removed desires, **the reply** may be filed with the city clerk. Such reply shall not ~~effect~~ **affect** the action taken unless the mayor so determines. This section shall not apply to **persons appointed by** the school committee, ~~or~~ persons appointed by state officials, ~~nor~~ **persons in** offices subject to provisions of civil service.

There are two other alternatives the Commission could consider to address this section. First, the Commission could consider changing the last sentence to remove the references to school committee or those appointed by state officials, since their exclusion is implied by the paragraph's first sentence stating that the paragraph is only applicable to those appointed by the Mayor, which is not the case for those. The civil service piece would still need to be included. Second, the Commission consider deleting this piece entirely, since removal for most positions is covered by state law, collective bargaining, civil service, etc.

Section 2-6 Temporary Appointments: The project team presumes the charter's intent here is that the Council does *not* have the ability to reject a temporary appointment, given the need to fill a position quickly and given the cap on the length of term for a temporary appointment. It may be worth adding some language explicitly stating this. Additionally, it is unclear whether the cap on the length of a temporary appointment applies to a single individual appointed temporarily or to the temporary appointment status generally. It may be worth clarifying this.

Section 2-7 Communications to the City Council; Special Meetings of the City Council (b) Call for Special Meetings of the City Council: This is another place where the Commission could consider updating this to provide for some form of electronic communication or to allow the city council to do so at its discretion.

Additionally, one piece of this section appears to be somewhat inconsistent with a later section (Section 3-5(c)).

Section 2-7(b):

The mayor may at any time, call a special meeting of the city council by causing a notice of such meeting specifying the matters which the mayor desires to be considered to be left at the usual place of residence or business of each council person, or given to such councillors in hand. Such notice shall, except in an emergency of which the mayor shall be the sole judge, be delivered at least forty-eight hours in advance of the time set for such meeting and shall specify the purpose or purposes for which the meeting is to be held.

Section 3-5(c) (fifth sentence):

Special meetings of the city council may be held on the call of the mayor, the council president, or on the call of any three members, by written notice delivered to the city clerk at least forty-eight hours in advance of the time set.

The Commission may want to consider making these two sections consistent.

Section 2-8 Approval of/or Veto by the Mayor: The title of this section appears to contain a typo. It reads "Approval of Veto by the Mayor." It seems likely that the intent was to read "Approval **or** Veto by the Mayor".

Additionally, the structure of the first sentence of this section is difficult to follow. The project team provides the following alternative example below:

**Original:**

Every measure relative to the affairs of the city adopted by the city council, except:

- (a) measures relating to the internal affairs of the city council
  - (b) memorial or other resolutions
  - (c) emergency measures passed in accordance with provisions of this charter
  - (d) the budget for the operation of city government
- shall be presented to the mayor for approval.

**Alternative:**

Every measure relative to the affairs of the city adopted by the city council shall be presented to the mayor for approval, with the exception of the following:

- (a) measures relating to the internal affairs of the city council
- (b) memorial or other resolutions
- (c) emergency measures passed in accordance with provisions of this charter
- (d) the budget for the operation of city government.

Section 2-10 Vacancy in the Office of the Mayor: This section refers to the “municipal election.” Throughout the text, the charter goes back and forth between “municipal election” and “city election.” Either is fine, but for the sake of consistency, it is probably best to use one or the other throughout the document.

Additionally, the language of the last sentence of the first paragraph is unclear: “Should the council president be unwilling or unable to serve, the council shall elect from among its members one member to serve as mayor until the next scheduled municipal election.” The use of “scheduled municipal election” is different from the language of the previous sentence, which refers back to the election that the city council will be scheduling as “such election.” For clarity, the Commission may want to consider changing “scheduled municipal election” to “such election” or something similar.

### **Part III**

Section 3-1 Composition; Eligibility; Election and Term (b) Eligibility: The first three sentences of the second paragraph are somewhat awkwardly worded and could be clearer in the form of “If...then...” statements. For example, “If a district councillor moves from one district to another within the first twelve months of the term of office for which such councillor was elected, the office shall be considered vacant.”

Section 3-1 Composition; Eligibility; Election and Term (c) Election and Term: This section about the city council’s term of office uses slightly different language from the mayor’s term of office, when they should probably be consistent. Below are the relevant sections for mayor and council. Either one would work, but the project team recommends making them the same.

**Language for the mayor:**

**(b) Term of Office**

The mayor shall be elected for a term of two years beginning on the first city business day in January following the biennial election and until a successor is qualified.

**Language for the council:**

**(c) Election and Term**

The term of office of city council members shall be for two years beginning on the first business day of January following the regular municipal election, and continuing until their successors are qualified.

Section 3-3 General Powers and Duties: The second sentence repeats the last clause of the first sentence. The project team provides the following alternative example below.

**Original:**

Section 3-3 General Powers and Duties

Except as otherwise provided by general law or by this charter, all powers of the city shall be vested in the city council, which shall provide for their exercise and for the performance of all duties and obligations imposed upon the city by law. The council shall provide for their exercise and for the performance of all duties and obligations imposed on the city by law.

**Alternative:**

Section 3-3 General Powers and Duties

Except as otherwise provided by general law or by this charter, all powers of the city shall be vested in the city council, ~~which shall provide for their exercise and for the performance of all duties and obligations imposed upon the city by law.~~ The council shall provide for their exercise and for the performance of all duties and obligations imposed on the city by law.

Section 3-5 Exercise of Powers; Quorum; Rules of Procedure (c) Rules of Procedure: This is a relatively long single-paragraph section containing multiple topics that might be easier to follow if broken into multiple paragraphs or sections. There are also several other places this section could be clearer.

The first sentence may be easier to read as two sentences. The project team provides the following alternative example below.

**Original:**

The city council shall within the first four months of taking office and from time to time thereafter establish and adopt written rules for its procedures and make public those proposed rules thirty days before adoption.

**Alternative:**

The city council shall, within the first four months of taking office and from time to time thereafter, establish and adopt written rules for its procedures. **The council shall** ~~and~~ make public those proposed rules thirty days before adoption.

There is a typo on the third sentence of this paragraph: "Regular meetings of the city council shall be held at a time and place fixed by ordinance but shall be not less frequent that once monthly." Presumably, it should be "than" and not "that."

There is a typo in the fourth sentence of this paragraph: "However, the council president may suspend meetings during the month of July or August." It should be "months" and not "month."

As noted earlier, beyond these potential clarifying edits, there also appears a lack of consistency between this section (section 3-5(c)) and section 2-7(b).

Finally, the section also includes reference to use of "the city bulletin board." This is another place where the Commission may want to consider reference to electronic means of posting.

Section 3-7 Measures; Objection; Publication of Measures (a) In General: Presumably the first sentence is referring to emergency measures. If that is the case, it should probably point directly to Section 3-7(b), whose subject is emergency measures. The wording of this sentence is also a bit awkward and would benefit from a re-write.

Section 3-7 Measures; Objection; Publication of Measures (b) Emergency Measures: There is a typo in the first sentence of this section (bolded and underlined): "An emergency measure shall be introduced in the form and manner prescribed for measures generally except that it shall be plainly designated as an emergency measure and

shall contain statements after the enacting clause declaring that an emergency exists and describing its scope and nature in clear and specific terms.” Presumably, the intended word was “exists.”

Additionally, the third sentence is a somewhat awkward and may benefit from a re-write: “No measure making a grant, renewal or extension, whatever its kind or nature, or a franchise or special privilege shall be passed as an emergency measure and except as provided by the laws of the Commonwealth, no such grant, renewal or extension shall be made otherwise than by ordinance.”

Section 3-7 Measures; Objection; Publication of Measures (d) Publication of Measures: This is another place where the Commission may want to consider updating the charter to reference electronic methods of publication.

Section 3-8 Inquiries and Investigations: The first sentence of this section is awkwardly written and may benefit from some edits. The second sentence is also awkwardly written and may benefit from being re-written and split into two sentences.

**Original:**

The city council shall give at least five days written notice of the scope of the inquiry, which is to be made to any person the city council, shall be require to appear before the city council or its subcommittee under this section.

**Alternative:**

The city council shall give at least five days’ written notice to any person the city council shall require to appear before it or its subcommittee under this section. This notice shall include the scope of the inquiry which is to be made.

Section 3-10 Prohibitions: Unless the intent of this is to block *all* membership, the Commission may want to consider rephrasing the first sentence to ensure that the council may appoint or allow a councilor to become a member of or a non-voting liaison to a board, committee, or commission where council participation would be useful (e.g., ad hoc committees).

Additionally, if the Commission does not decide to move the entire document toward gender neutrality by removing pronouns, then the second sentence should be changed from “his” to “his or her.”

## **Part IV**

Section 4-1 Elected Officers in General: The language surrounding terms for elected officers should also align with the language for mayor and council.

Section 4-3 School Committee (a) Composition; Term of Office: The third sentence is awkwardly written. The project team provides the following alternative example below.

**Original:**

The term of office of six school committee members elected to the school committee shall be for four years.

**Alternative:**

The term of office of the six elected school committee members ~~elected to the school committee~~ shall be ~~for~~ four years.



Section 4-3 School Committee (b) Powers and Duties: The second sentence is a bit awkward and could be edited for clarity. The project team provides the following alternative example below.

**Original:**

The school committee shall have the power to select and to terminate a superintendent of schools, establish educational goals and policies for the schools consistent with the requirements of the laws of the commonwealth and standards established by the commonwealth.

**Alternative:**

The school committee shall have the power to select and to terminate a superintendent of schools **and to** establish educational goals and policies for the schools consistent with the laws and standards of the commonwealth.

Section 4-4 Planning Board (b) Powers and Duties: The first sentence in this section has rather broad and vague for the focus of the planning board's work: "The planning board shall make studies and prepare plans concerning the resources, possibilities and needs of the city." It might be worth providing more specificity or direction in this language.

Section 4-7 Vacancies in Elected Offices Other Than Mayor and City Council: The second sentence of the second paragraph should include "or committee" to ensure consistency with the rest of the section: "Said vacancy shall be posted for a minimum of thirty days, and the council and the affected board **or committee**..." The same is true for the next sentence: "At the same meeting, or the next following meeting, the council and the affected board **or committee** shall vote to fill the vacancy from among the announced candidates."

There is also a typo in the third sentence of the third paragraph of this section: "If a vacancy is filled under this section, the term of office of which ~~shall~~ **continues** beyond the next regular election..."

## **Part V**

5-1 Budget Policy: The first sentence is awkwardly written. The project team provides the following alternative example below.

**Original:**

The mayor after consultation with the members of the city council, school committee, and others deemed appropriate by the mayor, shall call a meeting of the city council prior to the commencement of the budget process to review the financial condition of the city, revenue and expenditure forecasts and other relevant information.

**Alternative:**

Prior to the commencement of the budget process, and after consultation with members of the City Council, School Committee, and others deemed appropriate by the Mayor, the Mayor shall call a meeting of the city council to review the financial condition of the city, revenue and expenditure forecasts, and other relevant information.

Section 5-3 Action of the Budget (a) Public Hearing: This is another place in the charter where language for electronic posting might be added to the existing text. There is also a typo in the first sentence: "...the times and places where copies if **of** the recommended operating budget..."

Section 5-4 Financial Planning (a) Financial Planning Practices: The phrasing of this sub-section is a bit awkward.

**Original:**

The chief financial officer established in accordance with Section 6-3, shall assist the mayor in financial planning and shall annually prepare a capital improvements program and a financial forecast. The capital improvements program and a financial forecast shall be prepared under the direction of the mayor, and shall be submitted to the city council and shall be available to the public for inspection.

Alternative:

The chief financial officer, whose position was established in accordance with Section 6-3, shall assist the mayor in financial planning and shall annually prepare a capital improvements program and a financial forecast. ~~The capital improvements program and a financial forecast shall be prepared under the direction of the mayor, and,~~ which shall be submitted to the city council and shall be available to the public for inspection.

Section 5-4 Financial Planning (b) Capital Improvements Program: There is a typo in the second sentence: “supporting date” ought to be “supporting data.” Also in that sentence, the CIP is supposed to include “estimated effect of such plan on the tax rate.” This would be very challenging to model after the first year of the plan. It may be worth considering different language that still demands information but in a way that will be more feasible and effective.

Section 5-4 Financial Planning (c): There appears to be a typo in the second sentence: “potential resources of new or expanded revenues” should be “potential sources.”

Additionally, the text in (b) and (c) include redundant references with (a). It may be worth considering collapsing all three into a single section.

Section 5-5 Annual Audit: This is another place in the charter where language for electronic publication might be added to the existing text. There is also a typo in the final sentence: “The city council shall publish in at least one newspaper of general circulation in the city...” (“east” should be “least”)

Section 5-6 Public Access to Financial Documents: This is another place in the charter where language for electronic publication might be added to the existing text.

## **Part VI**

Section 6-1 Administrative Organization (a) Organization of City Agencies (1) Organization by Ordinance: The first sentence in this section is awkward and could use minor rewording: “The city council may by ordinance ~~reorganize~~ passed by two-thirds of the full city council membership reorganize...”

Section 6-1 Administrative Organization (a) Organization of City Agencies (2) Executive Reorganization Plans: Often there is language included in this section in other charters that explicitly prohibits the city council from amending a proposed administrative code (restricting them to an up or down vote). That is implicit here, but it might be worth making it clearer.

Section 6-3 Department of Administration and Finance (b) Responsibilities of the Chief Financial Officer: There is a typo in the first sentence of the second paragraph: “The chief financial officer shall supervise the offices and functions of the auditing; treasury, and collecting.” The Commission may want to consider either removing “the” before auditing or adding “departments” at the end of the sentence.

## **Part VII**

Section 7-1 City Elections; General and Preliminary: The text here is not quite as precise as it could be, given what the purpose of the section is. A proposed alternative is below.

Original

On the seventh Tuesday preceding every regular city election, there shall be held a preliminary election for the purpose of nominating candidates, if necessary, to assure that no more than twice the number of candidates for the available offices appear on the regular municipal election ballot.

Alternative

On the seventh Tuesday preceding every regular city election, there shall be held a preliminary election for the purpose of nominating candidates, if necessary, to assure that no more than twice the number of candidates for each the available offices appears on the regular municipal election ballot.

Section 7-2 Preliminary Elections: The “shall be not less than” formulation of signature requirements is somewhat awkward. The project team suggests something like the following: “To place the name of a candidate on the official ballot to be used at a preliminary election, at least 50 signatures shall be required for the offices of mayor, councilor-at-large... [and so on]; for the office of district councilor, the signature requirement at least 25 signatures from said district.”

## Part VIII

Section 8-1 Free Petition: The text describing notification in this section is different than that used in other sections of the charter: “Notice, by publication, of all such hearings shall be at public expense.” The Commission may want to consider making this consistent with other sections and to include reference to electronic posting, if an overarching reference is not included elsewhere.

Section 8-2 Citizen Initiative Measures (a) Commencement of Proceedings: There is a typo in the third paragraph: “...the registrars of voters shall ascertain by what number of voters the petition is signed...” (It should be “voters” not votes.”)

Section 8-8 Recall of Elected Officials (b) Recall Requests: The first sentence is somewhat long and could be split into several sentences. Additionally, the word “requests” throughout this section does not need to be capitalized.

## Part IX

Section 9-3 Rules of Interpretation (b) Number and Gender: If the Commission does not decide to remove gender references throughout the document, another alternative is to add to this section that “words imparting the feminine shall also include the masculine.”

Section 9-4 Definitions: This would be one place where an electronic posting reference could be included.

Section 9-5 Board, Committees or Commissions (b) Uniform Procedures Applicable to Boards, Commissions and Committees: There is a typo in the second sentence: “Special meetings of any board, commission ~~nor~~ committee shall be held on the call of the chair...” (“nor” should be “or.”) There is also a typo the third paragraph: “...based on his or her own investigation, of which a public record shall be kept, whether to retain said member or to declare the seat vacant and to fill the vacancy.”

Finally, the language related to quorum in this section is no longer consistent with MGL (Chapter 30A, Sections 18-25). In particular, this sentence needs to be updated: “A majority of the members of a board, commission or committee shall constitute a quorum, but a smaller number may meet and adjourn from time to time.” A smaller number than a quorum may not meet, so that part of the sentence should be removed.

Section 9-8 Code of Ethics: While this section may not have much substantive value, given the state ethics law (MGL Chapter 268A), if it is important to retain for symbolic purposes, the Commission may want to consider revising it slightly. Presuming that the code was written and submitted at some point, this section might be better phrased as a prescription to periodically review and revise the code.

## **Part X**

Sections 10-2 through 10-5: There are holdover references to “town” throughout sections 2 through 5 of the Transition Provisions section that should be changed to “city.”

## **Potential Subjects for In-Depth Policy Discussion**

Beyond the smaller and more technical changes addressed in the previous section, the Center project team also reviewed the charter for more substantive issues. These may relate more to places where Amesbury’s current charter is no longer in line with modern common practices or “best practices” as generally observed by the Center’s team of experts in Massachusetts municipal governance. Examples of more substantive changes that some charter revisions address include:

1. Creation of a new position or alteration of the role and responsibilities of an existing position;
2. Creation a new department or consolidation of existing departments;
3. Conversion of officers, boards, committees, or commissions from elected to appointed (or vice-versa);
4. Creation or revision of financial management provisions regarding the budget process, capital planning process, and/or a financial forecast; and
5. Creation or revision of “citizen participation mechanisms” like initiative petition, referendum, and/or recall.

It is important to note that items included here are topics the Commission **may** want to consider including in discussions. ***The topics here are not intended to be exhaustive or prescriptive.*** In the Center project team’s experience, those on the ground have a much greater sense of what the most important issues are in each particular municipality, and the team looks forward to hearing about the Commission’s priorities during its meetings.

In the meantime, the issues that the Center project team believes could be reviewed include the following.

## **Part II**

Section 2-1(b): There are 47 mayors in Massachusetts. Of those, 22 have four-year terms and 25 have two-year terms. Within those numbers, it is also worth noting that all three “Plan E” cities that have “weak” mayors (i.e., Cambridge, Lowell, and Worcester) have 2-year terms. Removing them from consideration, there are the same number of 4-year and 2-year terms among Massachusetts mayors. However, the trend in recent years has been for cities to increase the term of office of the mayor from two years to four years in order to allow the mayor more time to govern without the demands of campaigning and to encourage longer-term planning.

Regarding Part II more generally, the charter does not appear to include a prohibition on a former mayor holding a compensated position with the City for at least a year after departure, as is the case for all other elected officials.

### **Part III**

Section 3-1(c): Although there has been less movement around city council terms than mayoral terms, there are some places that have increased the length of some or all council terms to four years or (in those few cities which have spring elections) three years. Barnstable and Greenfield have 4-year terms for all councilors, while Framingham has a 4-year term for the at large councilors, and Winthrop has a 4-year term for all councilors except the council president, who is separately elected to 2-year terms. (Palmer has spring elections and a 3-year term for councilors.)

Section 3-2: While the charter does provide that the council president and vice president serve “at the discretion of the city council,” which provides some recourse if a president or vice president no longer retains the confidence of the council, some charters are more explicit in setting term length for the positions.

Section 3-4: There are pros and cons to the approach of determining that the “unelected candidate receiving the highest votes in the same election...provided that candidate received at least thirty percent of the vote for that office” fills a vacancy, which could lead to a councilor whom a majority of the voters explicitly rejected, versus the options of holding a special election, which may be costly and have low turnout, or simply having the council fill the seat directly, which could be seen to disenfranchise the voters. Given these options, it may be worth reviewing the history of council elections in Amesbury to understand what has happened during vacancies or what would have happened in hypothetical vacancies.

### **Part IV**

Section 4-1: While elected planning boards, housing authorities, and library trustees are common in town forms of government, they are rare in city forms of government. They are much more commonly appointed by the Mayor. (School committees are elected in all cities other than Boston.)

Section 4-7: The issues discussed above regarding the filling of council vacancies are also applicable here.

### **Part VI**

Section 6-1(a)(1) Organization by Ordinance: Many of the recent charters enacted in Massachusetts do not provide an option for reorganization that originates in the council. All reorganizations start with the executive and need council approval (usually in the form of up-or-down votes, without the possibility of amendment). One recent charter (Framingham) in fact explicitly prohibits legislatively-driven reorganization: “No organization plan may originate with the council.” The logic is that the executive is better positioned to develop an organization that is most effective for the management of municipal operations and will be held responsible for the success or failure of those operations.

Section 6-2: This section establishes a human resources “system,” but not a department. There could potentially be consideration of making the intent more explicit here.

Section 6-3: The department created here is titled “Department of Administration and Finance,” but the description is really more of a Finance Department. It may be worth reviewing this inconsistency.

Regarding Part VI more generally, some recent charters have included sections on hiring and promotions. For example, the recent Amherst charter includes the following:

#### **SECTION 6.2: PRINCIPLES IN APPOINTING AND PROMOTIONS**

(a) All appointments and promotions of Town officers and employees shall be made on the basis of merit demonstrated by examination, past performance, or by other evidence of competence. Each person appointed to fill an office or position shall be a person especially fitted by education, training, and previous work experience to perform the duties of the office or position. All appointments and promotions of personnel shall be subject to applicable provisions of state and federal law, collective bargaining agreements, and Town personnel bylaws and policies and shall further be subject to the limits imposed by existing appropriations.

(b) Whenever a vacancy occurs, or is about to occur, in any Town office or Town employment, the appointing authority shall immediately cause public notice of the vacancy, or impending vacancy, to be published on the Town bulletin board for a period of not less than 14 days. No permanent appointment to fill a vacancy in an office or employment shall be effective until at least 14 days have elapsed following the publication.

(c) The Town shall establish policies and practices to actively encourage a diverse pool of applicants for Town positions.

## Part VII

Section 7-4 Districts: The Commission may want to consider adding to this section details on updating the districts after the decennial census. Some charters include details on processes, while other simply mandate the districts review. Here are two sample sections for how other charters handle this topic:

Bridgewater (bold and underline added):

### SECTION 7-4. DISTRICTS

The territory of the town shall be divided into 7 districts so established as to consist of as nearly 25 an equal number of inhabitants as it is possible to achieve based on compact and contiguous 26 territory, bounded insofar as possible by the center line of known streets or ways or by other well 27 defined limits. Each such district shall be composed of 1 or more voting precincts established in 28 accordance with general laws. **The town council shall from time to time, but at least once in each 10 years, review such districts to insure their uniformity in number of inhabitants.**

Amherst (bold and underline added):

### SECTION 7.4: DISTRICTS

The territory of Amherst shall be divided into 5 districts based on compact and contiguous territory, bounded insofar as possible by the center line of known streets or ways or by other well defined limits. Each of the 5 districts shall consist of as nearly an equal number of inhabitants as it is possible to achieve and shall, to the extent possible, cluster together centers of common interest or neighborhoods, considering, but not limited to, places where people live, congregate, recreate, worship, shop, and learn. Each such district shall be composed of voting precincts established in accordance with general laws. **Every 10 years, upon receipt of the final results of the decennial federal census, the Town Council shall appoint a Districting Advisory Board composed of 9 members from diverse geographical areas of the Town, plus the Town Clerk or the Town Clerk's designee as a nonvoting member ex officio, to review such districts and propose changes if necessary to such districts to ensure their uniformity in number of inhabitants and conformity with state and federal law.**

1666.

23 May.

The committee  
to take y<sup>e</sup>  
Treasurers ac-  
count.

belong, w<sup>th</sup> a copie of the oath of freemen, as it is now stated, that they may there take their oaths, &c.

It is ordered, that Capt Thomas Clarke, Capt Francis Norton, Mr Edward Collins, & Mr Anthony Stoddard are appointed & impowered as a committee to take the Treasurers accounts, as formerly they were desired, as soon as the Treasurer shall be ready for the same, & make returne to the next session of this Court.

Ans<sup>r</sup> to Peter  
Platts petition.

In answer to the petition of Peter Platts, humbly desiring the favour of this Court to remitt or abate, as they shall see meet, the fine of forty pounds, for selling rume to y<sup>e</sup> Indians ignorantly by his wife in his absence, the Court judgeth it meete to order the petitioner to pay only twenty pounds, there being five quarts of y<sup>e</sup> liequo<sup>r</sup> sold returned to y<sup>e</sup> petitioner, & the money to y<sup>e</sup> Indians, & not being willing to vndoe y<sup>e</sup> petitioner.

Nath. Salton-  
stall cap<sup>t</sup>, &c.

In answer to the petition of the inhabitants of Haverill, the Court judgeth it meet to allow & confirme their choice of Mr Nathaniel Saltonstall to be their captaine, & George Broune to be their ensigne.

Ans<sup>r</sup> to Colo-  
nell Crounes  
peti.

In answer to the petition of Colonel W<sup>m</sup> Croune, it is ordered, that the petitioner have a hearing of his case mentioned in his petition at the next sessions of this Court, the petitioner giving the parties concerned timely notice thereof.

[\*566.]

Committee about  
Woburne &  
Billirrikeys  
bounds.

\*In answer to a motion made to this Court by Mr Humphry Davy, in the behalfe of Billirrikey, that the bounds may be settled betweene them & Woburne, it is ordered, that Mr Edward Collins, Capt Timothy Wheeler, & Left Richard Beers do repaire to the place where the ground of the difference doe arise, and according to what shall appeare to be the right of each place by grant from this Court, & not otherwise determined by the mutuall concession of the grantees or their assignes, to settle the lines betweene the sajd townes, beinge authorized & impowred as a committee for that end; and what they shall doe herein to be a finall issue of that controuersy, & returne it to this Court to be recorded.

Committee to  
runne Haverill  
bounds.

It is ordered, that Left Thomas Noyes, of Sudbury, John Parker, of Billirrikey, & Left Challice, of Salisbury new towne, shall & hereby are appointed a committee to runn the bounds of the towne of Haverill, & make returne thereof to the next session of this Court.

Courts ans<sup>r</sup> to  
New Salisbury  
inhabit. peti-  
tion, & they a  
township  
granted them,  
&c.

In answer to the petition of the inhabitants of New Salisbury, this Court doeth grant them the liberty of a township, according to the agreement with the old towne, & that vpon their providing a minister approved off according as the law provides, they then to be taken of from contributing to the minister of y<sup>e</sup> old towne.

1668.

27 May.  
Courts judgm<sup>t</sup>  
in Boulsters  
case, . 51 6 1  
Costs &  
dam., 29 1 9  
Hearing  
case, 5 0 0  
89 7 10

Courts thanks  
to M<sup>r</sup> Stough-  
ton, &c.

Francis Pe-  
body left at  
Topsfield.

Courts ans<sup>r</sup> to  
Jas Westcarr  
petition.

In the case of Nathaniell Boulter, plaintiff, ag<sup>t</sup> Cap<sup>t</sup> James Pendleton, agent & attorney ffor Cap<sup>t</sup> Brian Pendleton, defendt, coming to this Court by petition, after the Court had heard the evidences in the case produced they found for the plaintiff the some of fifty five pounds sixe shillings one penny damage, being the reuersion of the judgment of the Court of Asistants, fifth of March, 1667, w<sup>th</sup> costs of Courts, & damage, & hearing of the case, in all thirty fower pounds one shillings & nine pence.

It is ordered, that the thanks of this Court be given to M<sup>r</sup> Stoughton for his sermon on the day of election, & that he be desired to prepare it for the press, w<sup>ch</sup> was donne by the honor<sup>d</sup> Governor.

This Court doeth allowe & approve of Francis Pebody to be leiftennant of the military company at Topsfield.

In ans<sup>r</sup> to the petition of Jn<sup>r</sup> Westcarr, of Hadley, humbly desiring the favor of this Court to remitt the fine imposed on him for selling liquors to the Indians, &c, the Court judgeth it meet to referr the peti<sup>c</sup>oner to the judgment of the County Court in Hampshire to make abatement of the fine imposed as they shall see cause.

In ans<sup>r</sup> to the ffreemen & inhabitants of Haverill, the Court, considering the remotenes of Haverill from any magistrate, judge meet to authorize & impower Cap<sup>t</sup> Nathaniel Saltonstall to joyne persons in marriage, hauing legally proceeded, & to take acknowledgment of deeds.

[\*607.]

Ans<sup>r</sup> to George  
Rugby peti<sup>c</sup>on.

\*In ans<sup>r</sup> to the peti<sup>c</sup>on of George Rugles, the Court judgeth it meet to grant him a hearing of his case men<sup>c</sup>oned in his petition on the first second day in the afternoone, next sessions.

Ans<sup>r</sup> to M<sup>r</sup>  
Bradstreets  
peti<sup>c</sup>on.

In ans<sup>r</sup> to the peti<sup>c</sup>on of M<sup>r</sup> Symon Broadstreet, the Court judgeth it meete to grant him a hearing of the case between himself & James Euerell, at the next sessions of this Court, on the first Wednesday after the begining of y<sup>e</sup> session, & notice to be given to the defendant accordingly.

Ans<sup>r</sup> to Jn<sup>r</sup>  
Lewis peti<sup>c</sup>on.

In ans<sup>r</sup> to the peti<sup>c</sup>on of Jn<sup>r</sup> Lewis, the Court judgeth it meete to referr the peti<sup>c</sup>oner to the County Court at Boston to remitt or abate his fine imposed as they shall see cause.

Ans<sup>r</sup> to Salis-  
bury new  
toun, now  
Ambsbury.

In ans<sup>r</sup> to the petition of the inhabitants of Salisbury new toun, humbly desiring the favo<sup>r</sup> of this Court that their toun may be named Emesbury, the Court grants their request.

W<sup>th</sup> liberty of a  
ferry there.

In a farther answer to their request to haue liberty granted them to keepe a ferry ouer Merremack Riuer, about M<sup>r</sup> Goodins house, the Court judgeth it meet to grant that there shall be a ferry kept as is desired, & leaue it to the next Court of that county to appoint both the person that is to keepe it & also to appoint the price.