



## Charter Review Committee

### Town of Falmouth

59 Town Hall Square  
Falmouth, MA 02540

*F. Bradley Stumcke Jr., Chairman*  
*Catherine O'Brien Bumpus, Vice Chairman*  
*Joan N. Boyer*  
*Paul C. Dreyer*  
*Judith Fenwick*  
*Ralph E. Herbst*  
*Michael C. Palmer*  
*Frank K. Duffy Jr., Ex-officio*

Mr. Kevin Murphy  
Chairman, Board of Selectmen  
Town of Falmouth  
59 Town Hall Square  
Falmouth, MA 02540

November 29, 2012

Dear Mr. Murphy,

On behalf of the Charter Review Committee, I am pleased to submit the Final Report and Recommendations prepared by the Charter Review Committee. The recommendations were the result of 39 open meetings during a twelve month period with interviews of the Board of Selectmen, Town employees, previous Charter Committee members, various other Town board, commission and committee members, two public hearings and the general public. In addition the Committee conducted a Town Meeting Questionnaire and a Public Survey.

A total of 15 recommended Charter improvements were presented to the Selectmen on September 17, 2012 and subsequently to Town Meeting on November 13, 2012. All 15 proposed Charter improvements were approved by Town Meeting and will be forwarded to the State for approval prior to being placed on the ballot for the general election in May 2013.

This Final Report and Recommendations summarizes the detailed work of the Committee. All information from the Committee deliberations including the minutes of all meetings has been posted by the Committee on its Town website. The Final Report also includes Additional Suggestions for the Board of Selectmen which were not included in the proposed Charter changes but, in our opinion, should be considered for adoption by the Board of Selectmen to improve the operation of Town government.

On behalf of all members of the Committee, I would like to personally thank all the citizens of the community who participated in this effort. I will be available to respond to any additional questions from the Board of Selectmen. Thank you.

Sincerely,

F. Bradley Stumcke, Jr., Chairman

Cc: Board of Selectmen

Mr. Julian Suso, Town Manager  
Members of the Charter Review Committee  
Attached: Charter Review Committee Final Report and Recommendations



**CHARTER REVIEW COMMITTEE  
TOWN OF FALMOUTH**

**FINAL REPORT AND RECOMMENDATIONS  
2011-2012**

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# FINAL REPORT AND RECOMMENDATIONS

## BACKGROUND AND DATA COLLECTION

### Authorization and Organization

The Falmouth Charter Commission in its 1989 final report made the initial recommendation for a Falmouth Home Rule Charter. Since the Charter's adoption in 1990, there have been Charter Review Committees in 1997 and 2005.

The Falmouth Home Rule Charter states in Section 9-12:

- A. *“At least every seven (7) years, the Board of Selectmen shall appoint a Charter Review Committee for the purpose of recommending changes to the Charter, based upon active solicitation of suggestions from the public and town officials.*
- B. *Changes recommended by the Committee shall be the basis for action as deemed appropriate by the Board of Selectmen consistent with the provisions described in C9-10 preceding.”*

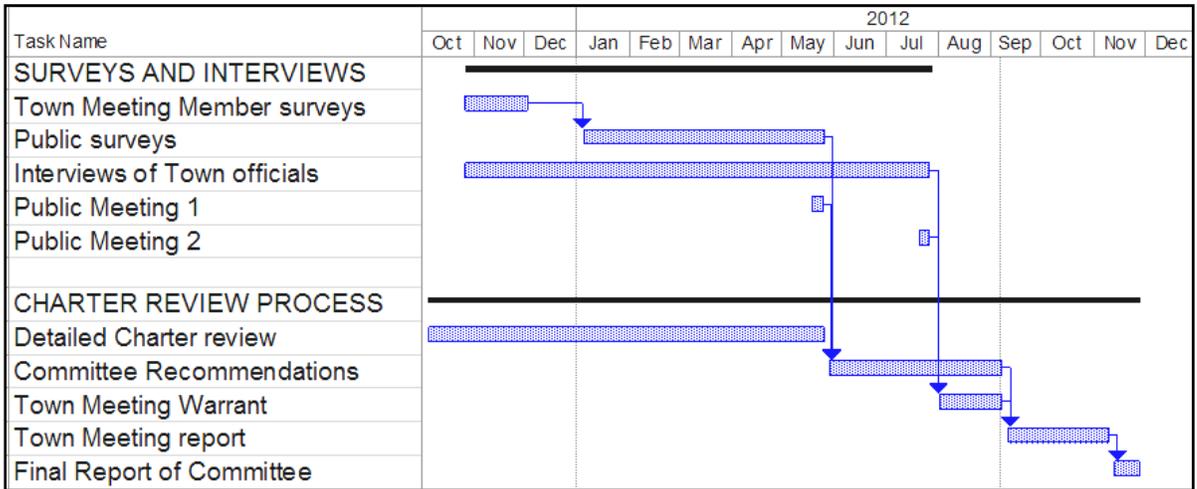
The Falmouth Board of Selectmen appointed 7 residents to the third Charter Review Committee (CRC3) in September 2011 to review and recommend revisions to the Charter:

- Joan N. Boyer
- Catherine O'Brien Bumpus
- Paul C. Dreyer
- Frank K. Duffy Jr., *Ex-officio*
- Judith Fenwick
- Ralph E. Herbst
- Michael C. Palmer
- F. Bradley Stumcke Jr.

At the CRC3's first meeting on September 19, 2011, Brad Stumcke and Catherine Bumpus were elected the Chairman and Vice Chairman respectively.

## Schedule of Activities

The Committee developed a scope of work for the detailed review of the Charter and assigned a schedule to complete all the review activities that are summarized in Figure 1. The Committee generally followed this schedule



**Figure 1: Schedule of CRC Activities**

## Questionnaire and Survey

The Committee developed a questionnaire for Town Meeting Members to complete at the Fall Town Meeting, November 7 and 8, 2011. The questionnaire was designed to solicit comments from Members on the nine Articles in the Falmouth Home Rule Charter which would assist the Committee in its detailed review. The questionnaire is Appendix D.

The Questionnaire was provided to Town Meeting Members at the start of each session, with the Town Moderator reiterating the importance of the Questionnaire. Members were asked to assess and comment on each Article in the Charter and specific comments were requested for each Article. Three recommendations made by the previous Committee that were not accepted by Town Meeting in 2006 were presented for possible reconsideration.

Seventy-six responses were received out of 243 Town Meeting Members, a 31% return. More than 50% of the respondents indicated that six of the nine Articles in the Charter “work well”. The remaining Articles that “need examination or need to be addressed” were:

- Article III The Board of Selectmen,
- Article V The Town Manager, and
- Article VII Appointed Boards.

Individual comments from the questionnaire on each Article were valuable for the deliberations of the CRC. A detailed summary and analysis of the Town Meeting Questionnaire was posted on the Town website.

The committee used a very similar survey for the general public. It was distributed through the Falmouth public libraries and was available for six weeks. Responses to the survey by town residents were very light but all the comments received were incorporated into deliberations by the committee.

## **Interviews of Town Officials and Residents**

The Committee conducted a series of interviews over a period of more than six months from November 2011 to May 2012. Individuals interviewed by the Committee were selected from the following groups:

- Members of the previous Charter Review Committee,
- Members of the Board of Selectmen,
- Town Moderator, Town Manager, and several Town employees,
- Various Town Commission and Committee members,
- League of Women Voters of Falmouth, and
- Other interested parties.

The individuals interviewed provided opening comments and responded to questions from CRC members. The intent was to solicit specific comments from each individual on the Articles in the Charter. More than twenty interviews were conducted and are listed in Appendix A. The interviews were a valuable source of information for the Committee in its review of the Charter.

## **Public Meetings and Communications**

The Committee conducted about forty meetings during the last twelve months. The minutes of each meeting were recorded and posted on the Town website. A List of the meeting dates is included in Appendix B.

The Committee also scheduled two public hearings with the general public: the first for general input (April 2012) and the second hearing for the review of the preliminary recommendations for the Charter (August 2012). The minutes of these meetings were also posted on the website.

The Committee would like to acknowledge the contributions of the League of Women Voters of Falmouth who provided a detailed analysis of 20 proposed changes to the Charter (January 6, 2012). The League's thorough work was a good reality check for the Committee throughout its deliberations.

In addition, the Falmouth Enterprise provided a reporter at many of the meetings and hearings. Numerous articles were printed during the deliberations of the Committee including an op-ed and an editorial on August 28, 2012 in support of the Charter review.

## **REVIEW PROCESS AND RECOMMENDATIONS**

### **Review Process and Prioritization**

After interviewing many key Town officials and reviewing its progress at two public meetings on April 26 and August 30, 2012, the Committee conducted a detailed review of the Charter and initially identified 63 items for consideration as potential revisions to the Charter. These items were assigned one of three priorities and then reviewed by the Committee, resulting in 26 items for further consideration by the Committee.

The Committee continued the deliberations with all the information from the questionnaire, the survey, the interviews, and the public hearings and voted to adopt a series of

recommended revisions. The detail of each deletion, addition, or change was discussed extensively and detailed explanations for each item were prepared by the Committee.

### Recommendations for the Charter

These items were again reviewed in detail to arrive at fifteen (15) separate revisions to be brought forward as warrant articles at the 2012 Fall Town Meeting. The preliminary recommendations and explanations for each revision were presented at the Public Hearing on August 30, 2012.

The Committee prepared a draft of fifteen warrant articles and explanations resulting from this analysis that was submitted to the Board of Selectmen for consideration on September 7, 2012. The recommended changes to the Charter were presented to the Board of Selectmen by the Chairman of the Committee at their meeting on September 17, 2012

The results of this review process were the recommended revisions to the Charter that are summarized in Table 1.

Warrant Article No.	Charter Article No.	Charter Section	Title	Delete	Add	Change
8	2	11D	Vacancy			O
9	2	12C	Town Meeting Committees		O	
10	2	13A	Town Clerk			O
11	2	14	Watchman of the Warrant		O	
12	3	2A & C	General Powers		O	O
13	4	1C	General Provisions		O	
14	4	6C & E(1)	Planning Board	O		O
15	5	4A	Responsibility for Appointments		O	
16	5	6A, B & C	Administrative Organization			O
17	5	13 A & B	Acting Town Manager			O
18	6	2	Publicizing Vacancies	O		
	7	1A & B	Publicizing Vacancies		O	
19	7	2A, B, C & H	Appointed Town Boards		O	O
20	9	1A, B & C	Charter Enforcement		O	
21	9	9	Revision of By-laws			O
22	9	12A	Definitions		O	

**Table 1 Recommended Revisions to the Charter**

These fifteen recommendations to the Charter were included in the Warrant for the Annual Fall Town Meeting (November 13, 2012). The detailed recommendations for the Charter are listed as Articles 8 to 22 in the Warrant and are included in Appendix C with a detailed explanation of each Article.

At Town Meeting all recommendations except Articles 18, 20, and 22 passed on the blanket vote. The remaining three were approved with slight modifications to Articles 20 and 22. In Article 20 a written complaint must be filed within six (6) months of an alleged violation rather than the proposed 30 days. In article 22 the definition of MASTER PLAN was amended by adding the words "historic community character".

## **Additional Suggestions for the Board of Selectmen**

During the deliberations of the Committee, many items were considered that were not included in the final recommendations to the Board of Selectmen as revisions to the Charter. These suggestions did not rise to the level of changes to the Charter, warrant articles or potential ballot measures, but the Committee urges the Board of Selectmen to consider implementing these suggestions. We have referred to them during our later deliberations as the "Over and Aboves." We view this section of our report is a continued opportunity for the Board of Selectmen and the Town Manager to improve town government based in the input we received as a committee.

### ***Administrative Issues***

- ***Organization Chart*** –  
The Charter Commission Final Report dated November 15, 1989 made the initial recommendations for the Home Rule Charter and included a proposed Organization Chart of the Town indicating elected and appointed officials. This chart was not included in the original Charter and subsequent revisions to the Charter did not specifically include an organization chart. The current Charter states that the Town Manager, as the chief administrative officer is “responsible for administrating and coordinating all employees, activities and departments.” The Charter authorizes the Town Manager “to create new administrative organizations based upon similar functions, experience and expertise”. Therefore, the Committee recommends that the Town Manager be responsible for the preparation of an organization chart to reflect the changes and revisions currently being implemented for the Town, said chart to be periodically updated and posted to the Town’s website and published in the Annual Report.
- ***Labor Agreements and Personnel Salaries*** –  
Labor agreements, budgets and salaries should be posted on the Town website, published in the Annual Report, and be available at the library prior to Town Meeting. This will assist Town Meeting members to be more informed before voting.
- ***Appointment of an Ombudsman*** –  
Town government and its functions should be easy for citizens to access and navigate, but this isn’t always the case. There is no single resource for people to turn to when they need help navigating how to get a permit, license, access other municipal services, or solve a problem. This can cause challenges for the public and can color the public’s perception of town government. Creating the position of ombudsman, designating a current employee to act as one, or creating a written guide to town hall and town services would improve the ability of citizens to access their town government, its resources and services.
- ***Appointment Procedure for Registrars and Election Officials*** –  
The procedure for appointment of the Board of Registrars and Election officers is not specified in the Charter (§C3-6 Powers of Appointment), but rather dictated by MGL c51 §15 and c54 §12, respectively.

The Board of Selectmen in February or March of every year shall request from each political Town Committee a list containing the names of three enrolled members of the party willing to serve as a Registrar. The appointments should be made to ensure equal representation of the two leading political parties. The term should be for three years, beginning on April 1st

The Board of Selectmen each year before April 15th must send written notification to the chairman of each political Town Committee requesting a list of members of their party willing to serve as election workers. The town committees have until June 1st to submit a list. The selectmen annually, not earlier than July 15th nor later than August 15th, appoint as election officers for each precinct for the following year

These are annual responsibilities requiring action by the Board of Selection and should be placed on a calendar to be completed yearly.

- ***Delegation of Licensing Authority*** –  
The Board of Selectmen may wish to form a licensing board to oversee licensing issues so as to relieve themselves of this work load. A three (3) member board would only meet as required and act as an independent governmental body more removed from town government.
- ***Clarify Historical District Commission and Historical Commission*** –  
The Board of Selectmen may wish to examine combining the Historical Commission (§C7-9) and the Historic Districts Commission (§C7-15). They currently have problems getting people to serve which results in quorum issues. The board could consult with the respective chairpersons and Planning Board staff which act as support staff for each. There are models under MGL for such a combination.

### ***Operational Issues***

- ***Procedures Manual for Governmental Bodies*** –  
The Board of Selectmen appoints: four (4) regulatory governmental bodies, twenty (20) governmental bodies that are advisory to the Board of Selectmen and six (6) governmental bodies that are advisory to other entities in town. Some have staff support some do not. A manual outlining the duties and responsibilities of committee members would make it easier for committee members to comply with MGL, the charter, and the public's expectations. Michael Palmer has produced a draft manual for governmental bodies that could be used as a starting point. The manual should at least cover; charter requirements especially §C7-2, open meeting law, conflict of interest, ethics compliance, how to post meetings and how to post minutes to the web site.
- ***Town Web Site-***  
The website could be improved so that citizens can readily access information on issues that concern them. It is recommended that the Town Manager form a small group to make the website more “user friendly”. The listing of all the committees and town departments under the heading "Departments" leads to a fair amount of public confusion. Agendas, minutes, entity membership etc. should all be readily available to all residents. In addition residents should be able to easily query the various entities.

- ***Policy Manual for Town Officials –***

We received a number of comments and questions about how the Board of Selectmen and other town officials carry out their work. A policy manual that is readily accessible to the public and outlines some specific policies and procedures would help improve the community's understanding of their town government. Below are several suggestions as to what might be included in such a policy manual.

- ***Publicizing Vacancies –***

The charter requires that vacancies on town committees be "publicized". What form this publicity takes has been a matter of some discussion among public. The board of selectmen should develop a policy for how and when it will publicize vacancies and include a suitable location for such notification in Town Hall.

- ***Staggering Appointments to Governmental Bodies –***

All the appointments to governmental bodies take place at the end of the fiscal year. The board might consider staggering some of these appointments to take place at different times of year to allow for a smoother appointment/reappointment process.

- ***Liaison with Governmental Bodies-***

The Board of Selectmen should outline how they maintain liaison with governmental bodies and communicate this to the public and governmental bodies. With the changes to §C7-2C all governmental bodies if they do not meet with the Selectmen shall submit an annual written report to the Selectmen. Posting these reports on the Town's website would also be helpful.

- ***Town Annual Report –***

The Town Annual Report is required every year by MGL c40 §49 prior to the Annual Town Meeting. This report has been provided since 1873. There is presently a wealth of information in the report; however, in some cases, specific information is hard to locate and utilize. It is the suggestion of the Committee that the Board of Selectmen considers reviewing the Annual Report format and content and provides guidelines to each Department so as to provide this information in a user-friendly format that is concise and readily accessible to the residents.

- ***Communication -***

We received several comments about the perceived lack of communication from the Town's leadership team; Selectmen, Town Manager and governmental bodies to the public. It is suggested that the Selectmen develop a communications policy for the Town and encourage openness and outreach. In addition, the Town's website, if used properly, is an ideal vehicle to keep the citizenry informed on Town governmental activities. It takes a desire and discipline from all to make communication successful.

- ***Public Records –***

The Charter requires in § C8-10 that; "The budget and capital improvements program shall be public records, and copies shall be kept available for inspection at the office of the Town Clerk and at the Falmouth Library." An individual should be tasked with ensuring that this happens on a yearly basis so that the information is up to date. The board should also consider posting these documents on the town web site to make them even more widely available but only if they can be kept current.

## APPENDIX A

### LIST OF CRC INTERVIEWS

#### *Members of previous Charter Review Committees:*

- Mary Pat Flynn, previous Chairman of the 2nd Charter Review Committee, on November 9, 2011
- Michael Corgan, previous Chairman of the 2nd Charter Review Committee, on January 18, 2012
- Megan Jones, Chair of 1st and member of the 2nd Charter Review Committees September 2011

#### *Members of the Board of Selectmen:*

- David Braga, member of the Board of Selectmen, on January 25, 2012
- Kevin Murphy, member of the Board of Selectmen, on January 25, 2012
- Mary Pat Flynn, member of the Board of Selectmen, on February 8, 2012
- Brent Putman, member of the Board of Selectmen, on February 8, 2012
- Melissa Freitag, member of the Board of Selectmen, on February 22, 2012

#### *Town Moderator, Town Manager and Town employees:*

- Heather Harper, Assistant Town Manager, on December 14, 2011
- David Vieira, Town Moderator, on March 14, 2012
- Julian Suso, Town Manager, on April 11, 2012
- Michael Palmer, Town Clerk, on April 25, 2012
- Frank Duffy, Town Counsel, on May 9, 2012
- Julian Suso, Town Manager, on August 22, 2012
- Mary Ellen Alwardt, Town Accountant, on August 22, 2012

#### *Various Town Commission and Committee members:*

- Gary Anderson, Chairman of the Finance Committee, on January 11, 2012
- Ralph Herbst, Chairman of the Planning Board, on February 22, 2012
- Pat Kerfoot, Vice Chairman of the Planning Board, on February 22, 2012
- Brian Currie, Town Planner, on February 22, 2012
- Marc Dupuis, School Superintendent, on March 28, 2012
- Rebecca Moffitt, Chairman of the School Committee, on March 28, 2012
- Elizabeth Gladfelter, Chairman of the Conservation Commission, on March, 28, 2012
- Jennifer McKay, Administrator for the Conservation Commission, on March 28, 2012

#### *Public Hearings:*

- Hermann Room, Falmouth Public Library on April 26, 2012
- Hermann Room, Falmouth Public Library on August 30, 2012

*Note: The minutes of all interviews have been  
Posted on the Falmouth Town website.*

## APPENDIX B

### CRC MEETING DATES

1. September 19, 2011
2. October 5, 2011
3. October 26, 2011
4. November 9, 2011 - Interviewed  
Mary Pat Flynn, previous Chair of CRC2
5. November 30, 2011
6. December 14, 2011 - Interviewed  
Heather Harper, Assistant Town Manager
7. January 11, 2012 - Interviewed  
Gary Anderson, Chair Finance Committee
8. January 18, 2012 - Interviewed  
Michael Corgan, previous Chair of CRC2
9. January 25, 2012 - Interviewed  
David Braga and Kevin Murphy, Selectmen
10. February 8, 2012 - Interviewed  
Mary Pat Flynn and Brent Putnam, Selectmen
11. February 22, 2012 - Interviewed  
Melissa Freitag, Selectman  
Ralph Herbst (Chair), Pat Kerfoot (Vice Chair),  
Brian Currie (Town Planner), Planning Board
12. March 14, 2012 - Interviewed  
David Vieira, Town Moderator
13. March 28, 2011 - Interviewed  
Marc Dupuis (Superintendent) and Rebecca  
Moffitt (Chair), School Committee;  
Elizabeth Gladfelter (Chair) and  
Jennifer McKay (Administrator),  
Conservation Commission
14. April 11, 2012 - Interviewed  
Julian Suso, Town Manager (1st interview)
15. April 25, 2012 - Interviewed  
Michael Palmer, Town Clerk
16. April 26, 2012 (Public Meeting)
17. May 9, 2012 - Interviewed  
Frank Duffy, Town Counsel
18. May 23, 2012
19. June 6, 2012
20. June 13, 2012
21. June 27, 2012
22. July 5, 2012
23. July 10, 2012
24. July 18, 2012
25. July 25, 2012
26. August 1, 2012
27. August 7, 2012
28. August 15, 2012
29. August 22, 2012 - Interviewed  
Julian Suso, Town Manager (2nd  
interview) and Mary Ellen Alwardt,  
Town Accountant
30. August 29, 2012
31. August 30, 2012 (Public Meeting)
32. September 5, 2012
33. September 18, 2012
34. September 5, 2012
35. September 17, 2012 (Board of  
Selectmen)
36. September 25, 2012
37. October 10, 2012
38. October 25, 2012
39. November 29, 2012

*Note: The minutes of all meetings have been  
posted on the Falmouth Town Website.*

## APPENDIX C

### CRC RECOMMENDATIONS IN THE WARRANT

*This includes the fifteen (15) proposed revisions to the Falmouth Home Rule Charter included as Articles in the 2012 Fall Town Meeting Warrant along with the brief explanation for each.*

**Article 8:** To see if the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § C2 – 11 Vacancy, subsection D, regarding vacancies in the office of Town Meeting members, to read:

- D. Vacancies in the office of town meeting member shall be filled until the next annual election by the unsuccessful candidate for Town Meeting in that precinct receiving the largest number of votes at the most recent election. If no such unsuccessful candidate exists, the remaining precinct members shall be called together by the Town Clerk, by written notice, before the next Town Meeting. The Town Clerk shall conduct an election, having first publicized any vacancy in accordance with C7-1. The remaining members shall fill any vacancy by choosing a registered voter residing in the precinct in which the vacancy exists.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: This article would delete the requirement to hold a meeting within 30 days of a vacancy in the office of Town Meeting Member. Precinct meetings are being held on a regular basis prior to each town meeting; holding a meeting within 30 days of a vacancy is unnecessary.*

**Article 9:** To see if the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § C2 – 12 Town Meeting Committees, subsection C, regarding the Town Meeting Rules and Procedures Committee, to read:

- C. The Moderator shall establish a standing committee, the Rules and Procedures Committee, of Town Meeting members, to review town meeting rules, procedures and related town by-laws and submit recommendations to Town Meeting.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: This article would formalize the name of the Rules and Procedures Committee.*

**Article 10:** To see if the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § C2 – 13 Town Clerk, subsection A, regarding the Rules and Procedures Committee of Town Meeting, to read:

- A. The Town Clerk shall serve as the Clerk of Town Meeting and as an ex-officio member of the Rules and Procedures Committee. The Town Clerk shall cause notice of Town Meeting to be posted in the town office building and a public place in each precinct and shall mail copies of the notice, citing the date, place and time of Town Meeting to all Town Meeting members at least ten (10) days before the date of each meeting. The Town Clerk may comply with this section by mailing within the prescribed time the Finance Committee report containing the complete warrant with recommendations and explanations as required by §C8 – 4B of this Charter.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: This change would add the Town Clerk as an ex-officio member of the Rules and Procedures Committee and would eliminate the need to have two separate mailings to notify town meeting members of the meeting.*

**Article 11:** To see if the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § C2 – 14 Watchman of the Warrant, regarding the Watchman of the Warrant, to read:

The Moderator, or his designee, shall act as the Watchman of the Warrant and shall present a written progress report on each passed action article of Town Meeting to be printed in the Annual Town Report.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: This article would allow the Moderator some assistance in gathering the information on each passed action article of Town Meeting for the Annual Report*

**Article 12 :**To see if the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, or any other appropriate authority.

Amend § C3 – 2 General Powers, subsections A and C, regarding powers of the Board of Selectmen, to read:

- A. Set and communicate policies to be carried out by the Town Manager, other officers, and governmental bodies appointed by the Board.
- C. Make recommendations to Town Meeting on all articles except those that are the responsibility of the Finance Committee, the Community Preservation Committee or the Planning Board.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: The word “communicate” was added to insure that adopted policies would reach those affected. This revision of subsection C is intended to address the concerns of the board about its responsibility to make recommendations on all Town Meeting Articles and clarify that the board will make recommendations on all articles except when another identified board is responsible for the recommendation.*

**Article 13:** To see if the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § C4 – 1 General provisions, subsection C, regarding other elected town boards and officers, to read:

- C. Governmental bodies established or continued under this article shall perform their functions and duties in accordance with the Constitution, General Law, this Charter, by-laws and votes of the Representative Town Meeting. They shall organize annually; elect necessary officers; adopt rules of procedure and voting including the development of agendas; maintain minutes and records of attendance, copies of which shall be public records and shall be filed regularly with the Town Clerk. It is the responsibility of each chairperson to file a current description of the duties and responsibilities of the governmental body and its members with the Town Clerk.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: This addition articulates the duties and responsibilities of all elected governmental bodies.*

**Article 14:** To see if the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § C4 – 6 Planning Board, subsections C and E (1), regarding the Planning Board, to read:

C. The Planning Board shall be responsible for the development and periodic review of a Master Plan or portions thereof. Such plan may include all or portions of plans developed by other boards or committees, but these inclusions must be approved by a vote of the Planning Board. The Master Plan, also known as the Local Comprehensive Plan, shall be submitted to the Town Meeting and then to the Cape Cod Commission.

E (1). Consult with the Town Manager on the appointment, suspension and removal of the Town Planner.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: This amendment to subsection C clarifies the Planning Board's role as the Local Comprehensive Planning Committee. The "Master Plan" is synonymous with the Local Comprehensive Plan. Also, the requirement to organize annually, etc., has now been incorporated in the requirements for all elected town boards.*

**Article 15:** To see if the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § C5 – 4 Responsibility for Appointments, subsection A, regarding Town Manager appointments, to read:

A. Subject to the approval of the Board of Selectmen granted within ten (10) working days, the Town Manager shall appoint on the basis of fitness and merit alone, an Assistant Town Manager, a Town Planner, a Town Counsel, a Finance Director, a Director of Personnel and other department and division heads. The failure of the Board of Selectmen to act within ten (10) working days shall constitute approval of the Town Manager's action. The Town Manager may suspend or remove any person so appointed consistent with the General Laws, this Charter or the by-laws of the Town.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: This amendment adds the new Finance Director as an appointee of the Town Manager.*

**Article 16:** To see if the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § C5 – 6 Administrative Organization, subsections A, B and C regarding administrative organization, to read:

- A. The administrative functions of town government shall be performed within the organizational framework of several departments, divisions thereof and other administrative organizations as determined by the Town Manager.
- B. The Town Manager shall determine the functions, duties and responsibilities of departments, divisions and other administrative organizations.
- C. The Town Manager, with the approval of the Board of Selectmen, may directly supervise any department, division and other administrative organization; provided, however, such additional duties shall be performed without additional compensation.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: The Charter originally viewed town government within the framework of existing departments and divisions and did not accurately distinguish between the definition and function of each. This article proposes an amendment to § C5 - 6 by restating its basic principles, clarifying that departments may consist of several divisions and authorizing the Town Manager, with the approval of the Board of Selectmen, to create new administrative organizations based upon similar functions, experience and expertise and determine their functions, duties and responsibilities.*

**Article 17:** To see if the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § C5 – 13 Acting Town Manager, in its entirety, regarding the acting Town Manager, to read:

§5-13 Acting or Interim Town Manager

- A. The Assistant Town Manager shall perform the duties and responsibilities of the Town Manager during any period when the Town Manager is unable to perform the duties of the office of the Town Manager. If the Assistant Town Manager is also absent or unable to perform, the Board of Selectmen shall designate a competent and qualified person, preferably a town employee, to serve on an acting basis at the will of the board until the Town Manager or the Assistant Town Manager returns to office. No member of the Board of Selectmen shall serve in this capacity. The Board of Selectmen shall make the appointment at a duly noticed open meeting and shall file written notice thereof with the Town Clerk.
- B. The Assistant Town Manager shall perform the duties and responsibilities of the Town Manager during any vacancy in the office of Town Manager. If the Assistant Town Manager is unable to perform, the Board of Selectmen shall designate a competent and qualified person to serve on an interim basis at the will of the board until a permanent Town Manager has been appointed and sworn to the office. No member of the Board of Selectmen shall serve in this capacity. The Board of Selectmen shall make the appointment at a duly noticed open meeting and shall file written notice thereof with the Town Clerk.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: When the Charter was originally adopted, there was no Assistant Town Manager and the Charter provided that during any vacancy in the office of Town Manager, the Acting Town Manager would serve no more than 2 ninety (90) day terms. Later the position of Assistant Town Manager was created for reasons including acting as Town Manager during the absence of or during a vacancy in the office of Town Manager. The Charter retained the 2 ninety (90) day terms. During a recent vacancy in the office of Town Manager in 2010 and 2011, this limitation proved to be cumbersome and unnecessary. The Assistant Town Manager is by job description fully capable of acting as Town Manager for as long as the Board of Selectmen considers it prudent. This amendment will provide for better continuity of service during the absence of or vacancy in the office of Town Manager and provide the Board of Selectmen with more flexibility to direct the affairs of the Town.*

**Article 18:** To see if the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § C6 – 2 Publicizing Vacancies, subsections A, B and C, regarding publicizing of vacancies, by DELETING the same.

Amend § C7 – 1 Publicizing of vacancies on town boards, subsections A and B, regarding publicizing of vacancies on appointed boards, to read:

- A. Except as otherwise specifically provided, the Board of Selectmen shall be the appointing authority for all governmental bodies. Prior to making appointments to governmental bodies, the board shall publicize all vacancies to be filled together with information on the filing of applications by prospective members, and the deadline for receiving applications. The board shall also require all chairs of governmental bodies to file with the Town Clerk a description of the duties and responsibilities of the governmental body and the members thereof. The board shall further consult with the governmental body to which appointments are to be made to obtain the names of prospective candidates for appointment. The board shall interview all applicants and make appointments in a timely manner, but no appointments shall be made until the last day for filing applications has passed.
- B. In cases where the Moderator is the appointing authority to a governmental body, the Moderator shall follow a procedure similar to the procedure set forth in paragraph A above: provided, however, the Moderator may delegate the function to a duly appointed nominating committee, which shall follow a similar procedure.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: There are several references in the Charter to the publicizing of vacancies on appointed boards and committees which cause some confusion. The Charter Review Committee and the Board of Selectmen recommend deletion of section C6 – 2, subsections A, B and C and moving and including these charter provisions to a new section C7 – 1, subsections A and B. The provisions remain essentially unchanged and should be easier to understand and apply.*

**Article 19:** To see of the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § C7 – 2 General provisions, subsections A, B, C and H, regarding general provisions applicable to appointed town boards, to read:

- A. Governmental bodies established in this article shall possess and exercise all powers given to them under the Constitution and laws of the Commonwealth and shall possess and exercise such additional powers and duties as may be authorized by this charter or vote of Town Meeting.
- B. All governmental bodies of the town shall organize annually; elect necessary officers; adopt rules of procedure and voting, including the development of agendas; maintain minutes of meetings and records of attendance, copies of which shall be public record and shall be regularly filed with the Town Clerk. It is the responsibility of each chairperson to file a current description of the duties and responsibilities of the governmental body and its members with the Town Clerk.
- C. All governmental bodies shall submit a written report to or meet with the Board of Selectmen at least once in each year.
- H. No member of a governmental body shall serve more than three (3) consecutive three year terms, except that members of governmental bodies who serve five (5) year terms shall serve for no more than two (2) consecutive five year terms: provided, however, that the appointment of a member to fill an unexpired term of another member shall not be counted in determining this term limitation.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: The responsibilities of governmental bodies are inserted here. This has not been included in the Charter for appointed governmental bodies. A governmental body must meet with or submit an annual report to the Board of Selectman. It is not always possible for the Selectmen to include every governmental body on its agenda each year, so the option of a written report is added.*

*The statement about members serving five year terms is made inclusive for all governmental bodies, if applicable, rather than limited to the Board of Appeals.*

**Article 20:** To see if the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § C9 – 1 (reserved), currently reserved for future use, by adding a new section titled Enforcement to read:

#### C9-1 Enforcement

- A. Any person who has reason to believe that a town official or public body has violated any provision of this charter by action or failure to act may file a written complaint with the Town Clerk, setting forth the circumstances which constitute the alleged violation.
  - (1) The written complaint shall identify the official or public body, specify the date and time of the alleged violation and cite the section of the charter allegedly violated.
  - (2) The written complaint shall be filed within thirty (30) days<sup>1</sup> of the alleged violation. Upon receiving the written complaint, the Town Clerk shall forward a copy thereof to the official or the chairperson of the public body with a further copy to the Town Manager and the Board of Selectmen.
- B. The official or chairperson of the public body shall file a reply with the Town Clerk.
  - (1) It shall either acknowledge the alleged violation with proposed remedial action if appropriate and feasible, or deny the alleged violation with a statement of reasons therefore.
  - (2) The reply shall be so filed by an official within 30 days of receipt of a copy of the complaint. In the case of a governmental body, its chairperson shall file a reply within thirty (30) days of the receipt of the copy of the complaint or within ten (10) days after the second regularly scheduled meeting of the governmental body following receipt of the copy of the complaint, whichever is greater.
  - (3) The Town Clerk shall forward a copy of the reply to the complainant with a copy of the reply to the Town Manager and the Board of Selectmen.
- C. A complainant who is aggrieved by the reply may pursue any remedy available at law or in equity.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: The Charter contains no explicit procedure for enforcement of its provisions and this has been a community concern for some time. The Charter Review Committee and the Board of Selectmen recommend this amendment to add an enforcement provision to the Charter which places the burden of correcting non-compliance on the appropriate governmental body or official in a fair and expeditious manner.*

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<sup>1</sup>. Section A(2) was amended at Town Meeting to require a written complaint shall be filed within six (6) months of the alleged violation.

**Article 21:** To see of the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § C9 – 9 Revisions of by-laws, regarding the revision of town by-laws, to read:

The Board of Selectmen shall ensure that the town by-laws are reviewed and prepared for any necessary revision or amendment at least every five (5) years.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: The Charter contains a provision that the Board of Selectmen shall appoint a By-Law Revision Committee of five (5) members every five years. This provision has proved to be problematic. The by –laws are comprehensive and cover many different subjects. Review and revision should be accomplished by committees containing members with requisite experience. The by-laws of the Town should be reviewed regularly. A five (5) member committee is not appropriate for the task. This amendment will allow the Board of Selectmen more flexibility to appoint one or more committees to review and revise the by-laws and determine the appropriate size and membership of each committee.*

**Article 22:** To see of the Town will vote to propose an amendment to the Falmouth Home Rule Charter to be submitted to the voters at the next annual town election for the election of officers for their approval in accordance with the Home Rule Procedures Act, G.L. c. 43B, ss. 10 and 11, and any other appropriate authority.

Amend § 9 – 12, Definitions, by adding the following:

FINANCIAL PLAN - A forecast of revenues and expenditures for a predetermined period of time, including operating and capital categories.

GOVERNMENTAL BODY – A multi-member board, committee, commission or subcommittee Thereof within the Town, however created, elected, appointed or otherwise constituted, and established to serve a public purpose, whether or not specifically mentioned in this Charter, with the exception of Town Meeting. The provisions of the Charter apply to all governmental bodies within the Town unless specifically exempted herein.

LONG RANGE PLAN – A plan developed by the Board of Selectmen sometimes referred to as the Strategic Plan covering areas of importance to the Town.

MASTER PLAN – The Master Plan, sometimes referred to as the Local Comprehensive Plan, is the community vision of the future of the Town, including issues of growth, economic and community development<sup>2</sup>, civic improvements and resource conservation.

MULTI-MEMBER BODY – Any reference to a multi-member body shall be considered a reference to a governmental body as previously defined.

Or do or take any other action on the matter. On request of the Board of Selectmen.

*Explanation: The term “Governmental Body” was added to encompass the numerous terms for entities included in the current Charter that were not defined and is based on Massachusetts General Law. The term “Financial Plan” was added as it was not defined in the Charter. The term “Long Range Plan” was added as it was not defined and was at times referred to as a strategic plan. “Master Plan” was added as it was not defined in the Charter and was often referred to as the Local Comprehensive Plan.*

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<sup>2</sup> The definition of MASTER PLAN was amended at Town Meeting. The words "historic community character" were added.

**APPENDIX D**

**TOWN MEETING QUESTIONNAIRE**

There are nine articles in the charter, each outlining roles and procedures for the town government. The Charter Review Committee can amend and clarify articles. It cannot change the form of government.

**In your opinion, are there articles that need amending and in what way? Please be as specific as possible.**

For reference; a summary of the articles in the current Charter are listed on the reverse; copies of the Charter were sent to all town meeting members, with your warrant, in November 2010. Copies are also available online at [www.falmouthmass.us/charter](http://www.falmouthmass.us/charter), at all the Falmouth Libraries, and the Town Clerk's office.

	<b>Works Well</b>	<b>Needs Examination</b>	<b>*Needs To Be Amended*</b>
<b>Article I</b> The form of government and powers.			
<b>Article II</b> Representative Town Meeting			
<b>Article III</b> Board of Selectmen			
<b>Article IV</b> Other Elected Town Boards & Officers			
<b>Article V</b> Town Manager			
<b>Article VI</b> Citizen Participation: Elections and Recall			
<b>Article VII</b> Appointed Town Boards			
<b>Article VIII</b> Financials Provisions and Procedures			
<b>Article IX</b> General and Transitional Provisions			

**\*Please be as specific as possible on where and how you think the article(s) need to be amended.**

Comments can be made below or on attached pages.

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The previous CRC made recommendations for 14 changes to the charter in 2006. 3 did not pass Town Meeting.

**Should these 3 issues be reconsidered by the current charter review committee?**

1. Remove the residency requirement for the town manager  
     **reconsider** \_\_\_\_\_      **do not reconsider** \_\_\_\_\_
2. Remove the residency requirement for department heads  
     **reconsider** \_\_\_\_\_      **do not reconsider** \_\_\_\_\_
3. Clarify §C7-2H that the three consecutive 3-year term limit applies to all multi- member bodies appointed by selectmen.  
     **reconsider** \_\_\_\_\_      **do not reconsider** \_\_\_\_\_

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**If you would like to be contacted to give further input to the committee please include your contact information.**

Optional: Name \_\_\_\_\_ Precinct \_\_\_\_\_

Email \_\_\_\_\_ Phone \_\_\_\_\_

Please return this questionnaire to the **Charter Review Committee**, Falmouth Town Hall,  
 59 Town Hall Sq., Falmouth, MA 02540 or email to [charterreview@falmouthmass.us](mailto:charterreview@falmouthmass.us)  
 no later than **November 18, 2011**

**THANK YOU FOR YOUR TIME AND INPUT**