

Recommendation to Board of Selectman for presentation in Spring, 2013

Approved December 3, 2012

**Re: Charter provisions for the make-up of the Board of Selectmen, terms of office and the eligibility of a candidate First Selectmen to fill a seat on the Board of Selectmen based on vote totals.**

Charter Chapter II *Elections* section 2-1 (b): No changes are recommended.

Charter Chapter IV *Board of Selectmen*:

Section 4.1 *Composition* (a): The First Selectman and two Selectmen shall comprise the Board of Selectmen, and each shall be elected for a term of two (2) years, in accordance with the General Statutes. During any election, an unsuccessful candidate for the office of First Selectman shall be deemed ineligible for a seat on the Board of Selectmen regardless of the number of votes that candidate shall receive. No person may simultaneously seek the office of First Selectman and the office of Selectmen. (*Ref. Town of Suffield III A Approved 11/6/2001 with modifications by this commission*)

Section 4.1 (b): No changes.

Section 4.1 (c): No changes.

Section 4.2 (entirety): No changes.

Section 4.3 (entirety): No changes.

Section 4.4 (entirety): No changes.

Section 4.5 (entirety): No changes.

Section 4.6: (new) *Succession*: The Board of Selectmen shall confirm the order of succession to assume the duties and responsibilities of the First Selectman in the event of the absence or disability of the First Selectman. The order of succession shall be by descending number of votes received in the last completed Town Election. (*Ref. Town of Marlboro 3.2.2.1 as of 11/26/2012*)

Section 4.7 (entirety): No changes.

Section 4.8 (entirety): No changes.

Rationale:

4.1 The consensus of the Town of Somers via public hearings, and the consideration of this Charter Committee is that our current three-member Board of Selectmen supports a democratic process and serves the community with appropriate access and representation at the local and state level. It is necessary to stipulate that a candidate is running either for First Selectman or Board of Selectman, and that a First Selectman candidate cannot displace one running for Board of Selectman.

Respectfully Submitted,

Tim Potrikus, Charter Revision Commission Chair

Approved December 17, 2012

**Re: Charter provisions for Term Limits and Terms for Elected and Appointed officials of the Town of Somers.**

The Charter Commission recommends that the town refrain from instituting term limits.

The Charter Commission makes the following recommendations regarding terms for Elected and Appointed officials:

Charter Chapter III *Elective Offices*

Section 3.1 *Two Year Terms*: Refer to Commission recommendation for Board of Selectmen approved December 3, 2012.

Section 3.2 *Board of Finance*: Change term from six years to four years; revise section 3.2 to read: *The electors shall elect a Board of Finance of six members for terms of four years. At the regular town election in 2015, there shall be elected two members and one member shall be for a two year term. A two-year term candidate may be an incumbent or a new candidate, however, candidates must state whether each is seeking either a two-year or four-year term; no candidate may run for both term lengths. Thereafter, there shall always be elected a sufficient number of members to such Board to maintain its number at six.*

Section 3.3 *Board of Education*: Eliminate everything after the term length & add a clause defining their powers and duties; revise section to read: *The electors shall elect a Board of Education of nine members for terms of four years with the powers and duties of a Board of Education as prescribed by the General Statutes.*

Section 3.4 *Board of Assessors*: Refer to Commission recommendation on Elected Position Eliminations pending approval.

Section 3.5 *Board of Library Directors*: Change term from six years to four years; revise section 3.5 to read: *The electors shall elect a Board of Library Directors of nine members for terms of four years. At the regular town election in 2015, there shall be elected three members and two of whom shall be elected for two year terms. The two-year term candidates may be incumbents or a new candidates, however, candidates must state whether each is seeking a two-year or four-year term; no candidate may run for both term lengths. Thereafter, there shall always be elected a sufficient number of members to such Board to maintain its number at six.*

Section 3.6 *Currently not titled*: Create title: *Town Clerk.*

Section 3.7 *Powers*: No changes.

Charter Chapter IV *Board of Selectmen*

Section 4.7 *Director of Health*: No changes.

Section 4.8 *Town Attorney*: No changes.

Charter Chapter V *Appointive Board in Office*

Section 5.2 (a): Change term from six years to four years; revise section to read: *The terms of appointment to any appointive board shall not exceed four years and shall commence on December 23<sup>rd</sup> following appointment by the Board of Selectmen; and shall expire on December 22<sup>nd</sup> at the term of appointment.*

Section 5.4 (d) (1) Replace the word *appointment* with *appointive*.

Section 5.5 *Planning Commission*: Subject to further revision as a result of Charter Commission discussions not yet completed regarding the structure of the Planning and/or Zoning commission, change the term from five years to four years; revise section to read: *There shall be a Planning Commission of five members serving four year terms with the powers and duties of Planning Commissions prescribed by the General Statutes.*

Section 5.6 *Zoning Commission*: Subject to further revision as a result of Charter Commission discussions not yet completed regarding the structure of the Planning and/or Zoning commission, change the term from five years to four years; revise section to read: *There shall be a Zoning Commission of five members serving four year terms with the powers and duties of Planning Commissions prescribed by the General Statutes.*

Section 5.6 (a) Allow for alternates to serve subsequent one-year terms and clarify language for consistency with other alternates; revise section to read: *There shall be three alternate members of the Zoning Commission, serving subsequent one-year terms. When seated, the alternate members shall have all the powers and duties prescribed by the General Statutes.*

Section 5.8 *Zoning Board of Appeals*:

5.8 (a) Change term from five years to four years; revise section to read: *There shall be a Zoning Board of Appeals of five members serving four year terms with the powers and duties of Planning Commissions prescribed by the General Statutes.*

5.8 (b) Change term of alternates from five years to subsequent one-year terms and clarify language for consistency with other alternates; revise section to read *There shall be three alternate members of the Zoning Board of Appeals, serving subsequent one-year terms. When seated, the alternate members shall have all the powers and duties prescribed by the General Statutes.*

Sections 5.9 through 5.12 (entirety): No changes.

Section 5.13 *Conservation and Wetlands Commission*. Change term from five years to four years; revise first sentence to read: *There shall be a Conservation and Wetlands Commission of seven members serving four-year terms.*

5.13 (a) Allow for alternates to serve subsequent one-year terms; revise section to read: *There shall be two alternate members of the Conservation and Wetlands Commission, serving subsequent one-year terms. When seated, the alternate members shall have all the powers and duties prescribed by the General Statutes.*

Section 5.14 *Housing Authority*: Change term from five years to four years; revise section to read: *There shall be a Housing Authority of five members serving four year terms with the powers and duties of Planning Commissions prescribed by the General Statutes.*

Section 5.15 *Building Board of Appeals*: Change term from five years to four years; revise section to read: *There shall be a Building Board of Appeals with five members serving four year terms with the powers and duties of Planning Commissions prescribed by the General Statutes.*

Section 5.16 *Cemetery Committee*: Change term from five years to four years; revise first section to read: *There shall be a Cemetery Committee of five members serving four year terms.*

Sections 5.17 through 5.21 (entirety): No changes.

#### Rationale:

The Charter Revision Commission was asked by the Town of Somers in the Resolution dated April, 2012 to review Elected and Appointed Terms.

Certain sections in this recommendation are not identified; they are not to be deemed as overlooked. If a section is not listed, it was considered to be outside the scope of this particular recommendation.

The consensus of the Town of Somers via public hearings, and the consideration of this Charter Committee is that the town need not institute term limits. Town resources regarding willing, qualified candidates for open offices are limited. When finding such individuals, the town can be served well as those officials learn the history, tradition, and legal implications of their respective roles. The electorate has the option and obligation of finding new representation should the seated official fail in their duties. By limiting terms to four years in most cases, elected and appointed officials should be afforded adequate time to become familiar with their duties & obligations, but short enough so that the electorate can voice their opinion at the polls.

Section 3.3 Board of Education – There is in the existing Charter a reference to the town elections of 1981 and 1983 that are no longer relevant. However, the Commission wishes to state that in the unlikely event of more than 5 Board of Education seats being open at any single election, the electorate would choose no more than 5 candidates for four year terms, and the remaining open seats for two-year terms. This will help ensure smooth management of the town's schools and a qualified pool of future candidates in subsequent elections. Powers & duties terminology came from Charter clauses for seating of similar public officials. This was not written into revisions, as it appears to this commission that filling vacancies is adequately addressed in 2-5.

Section 5.13 has some terminology regarding alternates that the commission felt would clarify roles of alternates in other roles, and has so incorporated those terms into 5.6 (a) and 5.8 (b).

The Commission was asked in the April 2012 Resolution to "...consider the term of Registrar of Voters to (4) years vs. two (2) years" but cannot locate in the Charter any reference to the Registrar of Voters. Lacking any formal inclusion in the Charter, the Commission would

recommend leaving the term at two years, consistent with its decisions in other cases during this review where current terms are less than four years.

Board of Finance Terms:

Of 6 members on Board of Finance, two members have terms that expire in 2015. Two members currently serving have terms that expire in 2017. Two members who are elected in 2013 will have their terms expire in 2019. At that 2015 election, having one (4) year term and one (2) year term on the 2015 ballot would provide for 3 terms expiring in 2017, and 3 expiring in 2019. In the 2017 and subsequent elections, 3 seats would be open for balloting.

Library Board Terms:

Of 9 members on the Library Board, three members have terms that expire in 2015 and three terms expire in 2017. Three members who are elected in 2013 will have their terms expire in 2019. At that 2015 election, having one (4) year term and two (2) year terms would provide for 5 terms expiring in 2017, and 4 expiring in 2019. In the 2017 and subsequent elections, either 4 or 5 seats would be open for balloting.

Respectfully Submitted,

Tim Potrikus, Chair

Approved December 17, 2012.

**Re: Charter provisions for the Elected Board of Assessors and Elected Constables.**

The Charter Commission recommends that the Elected Positions for Board of Assessors be removed from the charter. In its place the Commission recommends authorizing the appointment of an assessor by a panel, and requiring necessary professional credentials commensurate with the requirements of the role. In addition, the Commission recommends that the Board of Selectmen create a job description and a cycle of periodic review and refinement of the job description for the role of Assessor. Further, Chapter III Section 3.4 should be removed and left “open” for future use.

As part of this modification, the Commission recommends renumbering Chapter V section 5-22 as Chapter V section 5-23, and that a new Chapter V section 5-22 be inserted with terms substantive to the following, pending a review from the Board of Selectmen, their authorized agents, and the Town Attorney: *Section 5-22. Assessor. There shall be an Assessor serving a term of two years renewable annually by a panel of the same composition as required by this Charter to appoint the position. The Board of Selectmen shall establish and periodically review a written job description for the Assessor including any required certifications, licenses, or degrees. The Assessor shall perform all duties and functions prescribed to Assessors in the Connecticut General Statutes and shall report to the Director of Finance. The Assessor shall be appointed by a panel comprised of two members of the Board of Finance, one member of the Board of Selectmen, and one non-elected individual with a background in property management or property evaluation. The non-elected member of the panel shall be chosen by the three other panel members.*

The Charter Commission recommends that the Board of Selectmen follow the guidance of the Town Attorney regarding the current Elected Constables and the implementation of the 2006 Charter Revision authorization by the electorate regarding Elected Constables in the Town of Somers.

**Rationale:**

The Charter Revision Commission was asked by the Town of Somers in the Resolution dated April, 2012 to review Elected Positions for the Board of Assessors and Constables.

Appointment of an assessor will enable the town to stay current on property assessments through the services of a professional in this role. A two-year term ensures that the assessor and town executive leadership work in concert to the benefit of the town’s development and fiscal planning goals. The commission feels it is not only good practice to have a written job description for the role, but that it is a necessary component of ensuring the assessor is meeting the town’s needs.

The recommended Section 5-22 stipulates that the Assessor reports to the Director of Finance. There is no Director of Finance in the existing Charter; however the Charter does indeed state in section 5-20 that “The Treasurer shall act as the Director of Finance...” Lacking anything more precise in other discussions related to charter revision, it is the intent of this Commission to have the Assessor report to the Treasurer as Director of Finance.

Respectfully Submitted,

Tim Potrikus

Approved January 14, 2013

**Re: Confirmation of certain appointments.**

The Charter Revision Commission recommends that the town eliminate the need for Confirmation of Appointments at a Town Meeting.

The Charter Revision Commission makes the following recommendations for modifying the Town Charter:

*Charter Chapter VII Town Meeting*

Section 7-6. Confirmation of certain appointments. Remove sections 7-6 (a); 7-6 (b) and 7-6 (c) Rename Section 7-6. This Section left open for future use.

Rationale:

The Charter Revision Commission was asked by the Town of Somers in the Resolution dated April, 2012 to review Confirmation of certain appointments. It was the consensus of the members that there is sufficient representation for town residents by electing their town leaders, who can then effectively coordinate necessary appointments.

**Re: Residency Requirements for members of appointive boards.**

The Charter Revision Commission recommends that the town eliminate the need for residency requirements of certain paid, full time professional positions.

The Charter Revision Commission makes the following recommendations for modifying the Town Charter for the section(s) and subsection(s) noted below only:

*Charter Chapter V Appointive Board in Office*

Section 5-1 Board of Selectmen appoint. Section 5-1 (b) rewrite to state: *All members of appointive board shall be electors and residents of the town and their positions shall be considered vacated upon ceasing to be electors or residents of the town unless otherwise specified by charter or ordinance. Provisions for non-residents to serve in selected positions will be addressed in the appropriate sections pertaining to those positions.*

Section 5-18 Civil Preparedness Advisory Council. Rename *Emergency Preparedness Advisory Council* and rewrite to state first paragraph as written re-identified as 5-18 (a). Add new section 5-18 (b) *The appointive authority may suspend residency requirements for the following paid professional personnel: Resident Trooper; Fire Chief; Superintendent of Schools; and Superintendent of Highways.*

Rationale:

The Charter Revision Commission was asked by the Town of Somers in the Resolution dated April, 2012 to review residency requirements. It was the consensus of the members that certain full-time paid professionals have a fundamental role and responsibilities as may be defined in their job descriptions that necessitate their active participation in certain boards and/or commissions. Allowing elected officials to waive residency requirements ensures our town has these individuals serving in such positions as may be necessary from time to time.



**Re: Planning Commission and Zoning Commission.**

The Charter Revision Commission recommends that the town retain an appointive boards for Planning Commission and a separate, second appointive board for Zoning Commission.

The Charter Revision Commission recommends no changes to sections 5-5 Planning Commission or 5-6 Zoning Commission, other than those stated previously regarding each commission's appointive term as voted on December 17, 2012.

**Rationale:**

The Charter Revision Commission was asked by the Town of Somers in the Resolution dated April, 2012 to review combining the Planning Commission and Zoning Commission. The Charter Revision Commission believes that the town of Somers will be better served by two distinct boards, each with its own expertise and separate duties and obligations. In Somers, the two commissions have long served as an effective set of checks and balances. An adverse recommendation on an application by the Planning Commission can only be overridden by a two-thirds majority of the Zoning Commission. Typical arguments in support of combining the two commissions will increase efficiency and encourage development.

There is no conclusive argument put forth by residents of the town that these benefits indeed support combining the two commissions, nor are the suggested benefits particularly relevant to the process the residents of Somers or developers face when working with town officials.

The functions of the Planning Commission and the Zoning Commission are discrete. The former updates the town's plan of conservation and development as warranted and considers whether proposed development projects are in keeping with the plan and sustainable in terms of the town's resources and demands. The latter takes a much more "nuts and bolts" approach to the particulars of an application.

The demands of dealing with the welter of land-use applications means that in most cases, a combined planning and zoning commission does very little in terms of thoughtful development and consideration of the town plan itself.

While some advocates of merging the commissions have argued that it would expedite development projects, townspeople have shown repeatedly — most recently in the just completed survey for the Plan of Conservation and Development Committee — that they have little interest in or appetite for changing the current mix of land uses or patterns of development. For precisely that reason, any proposal for a significant change in the town's development should be weighed deliberately and patiently.

Please see attached references Ledyard Patch 14 June 102 and Discussion Item 1231 Town of Ledyard, CT.

Respectfully Submitted,

Tim Potrikus, Chair

Approved February 25, 2013

**Re: Amount of an individual expenditure that needs approval at Town Meeting.**

The Charter Commission recommends that no changes be made to the Charter regarding expenditures needing approval at Town Meeting.

**Rationale:**

The Charter Revision Commission was asked by the Town of Somers in the Resolution dated April, 2012 to review individual expenditures that need approval at a Town Meeting.

Amounts are set by Connecticut State Statute, and existing Charter language in Chapter 6 Section 6-7 Special Appropriations adequately refers to the appropriate statute.

Respectfully Submitted,

Tim Potrikus

Recommendation to Board of Selectman for presentation in Spring, 2013

Approved March 25, 2013

The Charter Revision Commission recommends an ordinance to require posting of land-use applications.

- 1.) Whenever an application is made that requires review and/or approval by the town's Planning Commission, Zoning Commission, Conservation Commission, or Zoning Board of Appeals, the applicant shall place a sign or signs on the affected property so that the notice can be seen from all abutting streets.
- 2.) The sign or signs, to be provided by the town's land use office, shall be placed within 10 feet of each street line or in such other location that is clearly visible to the general public. The text shall read: "This property is the subject of a land-use application before the town of Somers. Information is available at Town Hall."
- 3.) The sign or signs shall be posted at least 10 days prior to the first meeting at which any of the above commissions is to discuss the application and shall remain posted until such time as any and all commissions have completed consideration of the application, and shall then be returned to the land use office within five days of the completion of consideration.
- 4.) A deposit for the sign or signs, refundable at the completion of consideration, will be payable when obtained at the land use office. An affidavit to be executed by the applicant or his agent certifying the placement and maintenance of signage in accordance with the provisions of this ordinance must be filed with the land use office before the first meeting at which any of the aforementioned commissions will discuss the application.

**Rationale:** Decisions affecting the town's development, especially those requiring the approval of public agencies, are by their nature a matter of public interest. Posting of the affected property gives notice to any and all residents, affording them an opportunity to comment and to observe the deliberations.

Recommendation to Board of Selectmen for presentation in Spring, 2013

Approved April 8, 2013

**Re: Ordinance for Vendors, Hawkers and Peddlers chapter 196.**

The Charter Revision Commission recommends certain revisions to the current Ordinance for Vendors, Hawkers and Peddlers (Chapter 196). The recommendation is to revise Chapter 196 as follows:

196-2: Fee; duration of license; approval of weights and measures.

The fee for such license shall be twenty-five dollars (\$25.00) for each year or portion thereof. All licenses shall be good for one (1) year after issuance, but no such license shall be issued by the First Selectman or the Town Clerk until the weights and measures of the applicant, if any such are used by him in his business, have been approved and certified by the appropriate State authority and a certificate to that effect has been presented to the First Selectman or the Town Clerk.

**Rationale:**

The Charter Revision Commission was asked by the Town of Somers in the Resolution dated April, 2012 to review certain Ordinances and Fee Schedules.

The ordinance as written referred to a "County Sealer of Weights and Measures" and no such authority exists. This revision removes the reference to any County authority. The fee schedule was not modified.

196.4. Duty of licensing authorities.

A. The Town Clerk or First Selectman shall issue a license to any applicant that meets the requirements of this section and pays the license fee. The licensing authorities shall pay over all money received for such licenses to the Town Treasurer as often as once a year and said licensing authorities shall not be entitled to receive from the town any extra compensation for services thus rendered.

B. The licensing authorities shall keep the following records for each license issued: the date of issuance; the name of the licensee; the fee collected; and a general description of the activity covered. Each license issued pursuant to this section shall include the following information on the face of the license: the date of issuance; the date of expiration; the name of the licensee; and a general description of the activity covered.

**Rationale:**

The Charter Revision Commission was asked by the Town of Somers in the Resolution dated April, 2012 to review certain Ordinances and Fee Schedules.

The ordinance as written could be considered vague as it relates to authority of those issuing a license. This modification clarifies who the licensing authorities are and stipulates they are responsible for turning fees collected for licenses over to the town. License documentation requirements are currently burdensome and perhaps too detailed. This revision eases the burden on town staff regarding details of license applications and authorizations.

Recommendation to Board of Selectmen for presentation in Spring, 2013

Approved April 8, 2013

**Re: 7-1. Annual and Special Meetings.**

The Charter Commission recommends revising Chapter VII Section 7-1 to incorporate Section 7-3 in an effort to clarify the purpose of the Town Meeting and Annual Budget. The recommendation is to revise Section 7-1 as follows:

**7-1. Annual and Special Meetings.**

- (a) The Annual Town Meeting, which shall also be the annual budget meeting, shall be held within 15 days of the first Monday of May each year, unless changed by a vote of a Town Meeting or by referendum, to consider all items on the call except those items relating to the Annual Budget. The meeting shall have the power to decrease any appropriation or item in an appropriation, but it may not increase any appropriation or item in an appropriation, nor may it make any appropriation for a purpose not recommended by the Board of Finance.
- (b) If the Annual Budget is not approved by vote at the first scheduled referendum, the Town Selectmen shall schedule subsequent referendums at 14-day intervals until the Annual Budget is approved.
- (c) Special Meetings shall be called by the Board of Selectmen in the manner provided by the General Statutes whenever they deem it necessary, or on application by fifty persons qualified to vote in Town Meeting.
- (d) The matters which the applicants for a Special Town Meeting desire to be acted upon shall, if proper subjects for Town Meeting action, be put in proper form for the call of a meeting and for a Town Meeting resolution with the assistance of Town Counsel, and those matters shall come first in the call of the meeting.
- (e) All Town Meetings shall be advertised in a newspaper having general circulation in Somers at least five days prior to the date of meeting. Warnings for Town Meetings may be typewritten or printed and a copy shall be filed with the Town Clerk consistent with statutory requirements.

**Rationale:**

The Charter Revision Commission in reviewing Chapter VII of the Town Charter felt that Section 7-3 was out of place and belonged in Section 7-1. Section 7-1 (a) was broken into two sections for clarity; and rewritten as section 7-1 (a) and 7-1 (c). Subsection (c) contains elements of former section 7-3. Subsection (b) remains unchanged; the former subsections (c) and (d) were re-labeled subsections (d) and (e) respectively, to make room for the new subsection (c).

The commission considered a limitation of 3 budget referendum votes, but ultimately felt that the electorate should have its voice heard related to the annual budget, and that it was the responsibility of the Board of Finance, Board of Selectmen, and Board of Education to consider the voice of the voters when establishing the annual budget.

The Commission considered separating the town budget and school budget as separate line items at each referendum. There are state statutes that require certain minimum funding levels for education. Public hearings provide ample information to town voters who wish to understand how funding is received and distributed as it relates to overall municipal funding. The consensus of the Commission members was that the town will be best served in the foreseeable future by including all spending in a single ballot referendum.

Recommendation to Board of Selectmen for presentation in Spring, 2013

Approved April 8, 2013

**Re: Ordinance Vending and Sidewalk, Tag and Auction Sales chapter 198.**

The Charter Revision Commission recommends no revisions to the current Ordinance for Vending and Sidewalk, Tag and Auction Sales (Chapter 198).

**Rationale:**

The Charter Revision Commission was asked by the Town of Somers in the Resolution dated April, 2012 to review certain Ordinances and Fee Schedules.

The ordinance as written gives the town needed governance of events covered by the ordinance, while still providing residents of Somers with an ability to hold a tag sale, auction, or other event. The fee schedule, while appearing overly complex, seems to address the expense of policing any activities governed by the ordinance. There was no compelling reason to modify fees at this time.

**Re: Subdivision Fees chapter 114.**

The Charter Revision Commission recommends no revisions to the current Ordinance for Subdivision Fees (Chapter 114).

**Rationale:**

The Charter Revision Commission was asked by the Town of Somers in the Resolution dated April, 2012 to review certain Ordinances and Fee Schedules.

The ordinance seems to be in compliance with State Statutes, and fees are to be set directly by the Planning Commission (State Statutes Chapter 126 Section 8-26 (b)).