

INTERIM REPORT OF THE WILLIAMSTOWN CHARTER REVIEW COMMITTEE

AUGUST 3, 2023

Massachusetts state law sets forth how cities and towns organize their local governments. In all towns with less than 12,000 residents, the Town Meeting is the highest legislative authority. In this uniquely New England institution town voters sit as a legislative body, usually once a year, to approve budgets and local bylaws. To run the meeting, the voters elect a Moderator. To take care of town business when Town Meeting is not in session they elect a Select Board which is the head of the executive branch of town government.

Historically, the Select Board handled many administrative tasks, including hiring and supervising town employees. This is still the case in some of the smallest towns in Massachusetts. Though elected, Select Board members usually are volunteers who receive little or no monetary compensation for their efforts. As towns grew and the demands of municipal services become more complicated, the burdens on volunteer Select Board members became more challenging, so many towns chose to professionalize their town administration with a Town Manager. In the select board-manager form of town government, the Select Board hires a Town Manager and gives him or her the executive responsibility and authority necessary to run a modern town. Town Managers often have specialized training and experience with municipal law and administration, which can make town government more effective and efficient.

In 1956 Williamstown adopted the current Charter, which professionalized town government and led to our first Town Manager. The Town Charter establishes how this select board-manager government is structured and how it should work. Since state law regulates local government, our charter required special state legislation, namely Chapter 55, Acts and Resolves of 1956. Changes to the charter also require state legislation, a cumbersome process, so changes occur rarely.

Williamstown's Town Charter describes a "strong manager" local government. In other words, the Select Board ceded most of its historic executive responsibilities to the Town Manager. In particular, the manager hires and supervises all Town employees other than himself or herself. He or she is responsible for the overall day-to-day functioning of the Town. The Select Board is responsible for hiring the manager and holding him or her accountable. They also concern themselves with broad Town policy, appoint members of some Town committees, and have whatever legislative authorities have not been delegated to the Town Manager. Though the Select Board's work is demanding, our strong manager form of government makes it possible for citizens with other fulltime jobs to serve on the Select Board, while giving us the benefits of professional management.

Since 1956 our Town Charter has not had a comprehensive review until now. Times have changed. Town Meeting has adopted many bylaws that alter the way Town government operates. New committees and boards have formed, some appointed by the Select Board and some by the Town Manager. Some functions mentioned in the charter no longer exist.

In August 2022, the Select Board established the Charter Review Committee to review the Town Charter. The Select Board initiated this review with the goal of reviewing the structure of Town government, analyzing the effectiveness of that structure and, if areas for improvement are identified, to make recommendations for changes.

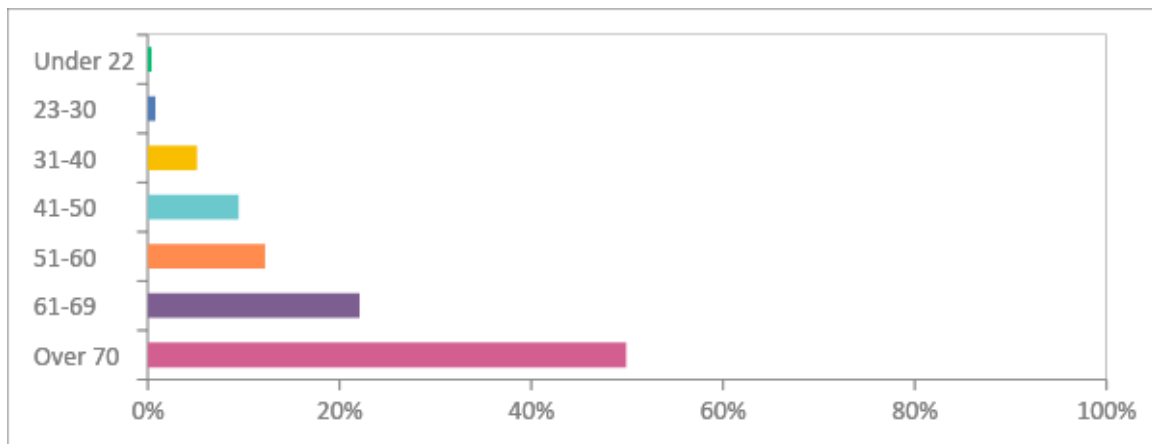
The review will include the Charter, relevant state laws, town bylaws and past town meeting votes that establish the current structure. The review includes discussions of how well the structures are working and will identify options for modifying the structure that might improve the functions of government. The charter review process seeks to comprehensively review the town’s current charter and to recommend changes to ensure Williamstown’s government meets the current and anticipated needs of our residents and is responsive to the challenges of today and tomorrow.

Starting in September 2022, the Committee has met on a monthly basis with the goal of being able to present its recommendations in time for action at Town Meeting in May 2024. Members have done research on a range of topics, and we have heard from The Collins Center on an overview of topics to consider, and from advocates from Voter Choice MA on Ranked Choice Voting.

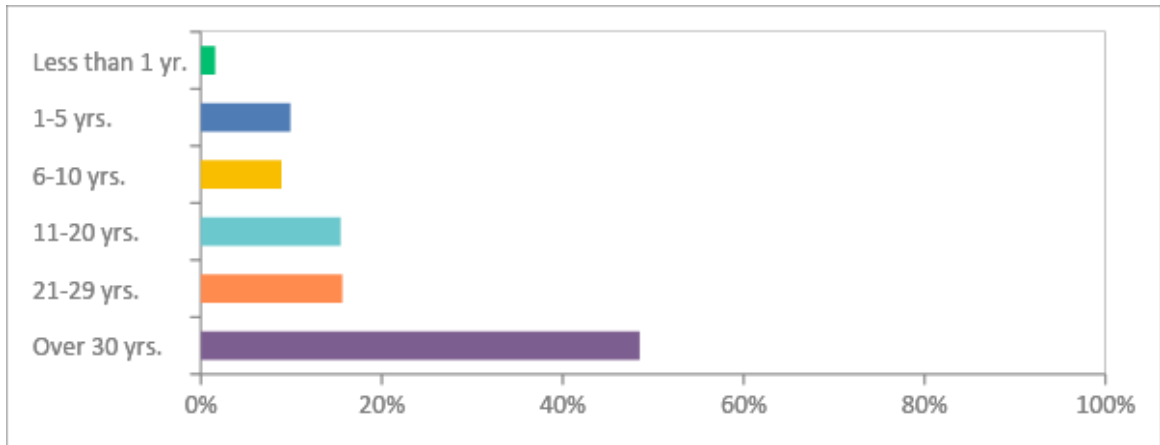
We solicited opinions from town residents by sending a survey out with about 2600 property tax bills in May 2023. Since we recognized that mailing would not reach tenants, we also mailed the survey to an additional approximately 600 probable addresses for tenants, though many of these mailings were returned as undeliverable. The survey allowed for responses to be submitted in paper to Town Hall or through an on-line portal using Survey Monkey. We received 509 responses while the survey was open.

Review of the survey responses should bear in mind that the respondents were heavily weighted towards seniors, long-time residents and homeowners.

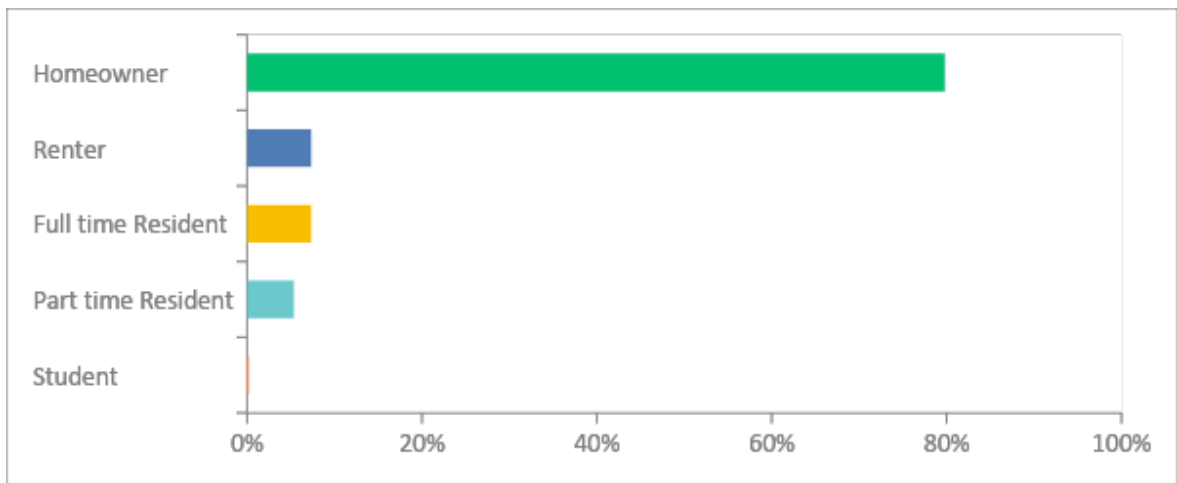
Age of respondents (507 responses)



Years resident in Williamstown (505 responses)



Residential Status (505 responses)



This demographic profile of a substantial portion of the respondents may not come as a surprise, since it resembles our observations of who votes regularly and attends Town Meeting. Nevertheless, it is a concern that younger and more recent residents, as well as tenants, were not much engaged in the survey and, perhaps, in town government. Further steps to broaden participation in town government are beyond the scope of the Charter Review Committee, but we submit them for subsequent further consideration. In addition, we surveyed current members of town boards and committees.

Our Town Manager, Bob Menicocci, solicited opinions from Town Hall staff, including on the topics raised in the survey. We received 20 responses from staff, and those responses are discussed in this report as each topic comes up, along with the community survey responses.

This Interim Report presents the status of the Committee’s work through August 2023. The Committee’s plan is to circulate this interim report for public comment during the fall of 2023 and to incorporate the results of public comment and further research into a final report with recommendations in about

January 2024. This will allow for further outreach and communications so the final recommendations will be ready for Town Meeting in May 2024.

Charter Review Committee members are:

Joe Bergeron

Nate Budington

Andy Hogeland, co-chair

Jeff Johnson, co-chair

Mary Kennedy

Anne Skinner

Jeff Strait

Bob Menicocci, ex officio

During the Committee's work to date, multiple issues have been identified as needed to be considered. A significant question has been which matters may best be addressed in the Charter itself, and which can more appropriately be addressed by town bylaw or policy. This matters because changes to the Charter require approval by the state legislature and Governor, whereas changes in bylaws merely require a Town Meeting vote. Wareham's 1977 Charter includes this opening comment. "This article is designed to assure that the Town of Wareham will be allowed to exercise every power it is possible for a town to have, without being required to go to the state legislature to seek special legislation." Part of the Committee's upcoming work is to determine both the best recommendations for these questions raised, and also the preferred vehicle for addressing them.

The topics being addressed in this interim report are organized as follows:

QUESTIONS AS TO TOWN MEETING AS THE BASIC FORM OF GOVERNMENT

- should we retain an open town meeting or change to a representative town meeting?
- possible modifications to town meeting
- should we hold two town meetings per year?
- is there an option to expand voting at town meeting through use of ballots?
- should we hold town meeting on a different day?
- should we use electronic voting at town meeting?
- should we explore remote electronic voting?
- should we modify the schedule for submitting warrant articles?

QUESTIONS AS TO ELECTIONS

- should we adopt ranked choice voting for town elections?
- should elections be held before or after town meeting and should the effective date of office be after town meeting?
- should we reconsider whether the planning board should be elected or appointed?

QUESTIONS AS TO POWERS OF THE TOWN MANAGER AND SELECT BOARD

- should we make any modifications to the strong town manager form of government?
 - division of appointment authorities.

- budget process.
- litigation authority
- should we modify the process for removal of town manager?
- should we clarify town manager authority over boards?

QUESTIONS AS TO LIMITATIONS ON TOWN OFFICIALS

- should some board positions be prohibited from holding positions on other town boards?
- should we establish term limits?
- should we have a provision to recall elected officials?

OTHER PROCESS QUESTIONS

- can we modify processes for citizen petitions and ballot referenda?
 - citizen petitions
 - ballot referendum questions
- should there be a standard periodic review of the charter?
- how should the Charter be enforced?
- should we make any changes to how vacancies in elected offices are filled?

MISCELLANEOUS UPDATES TO REFLECT ORGANIZATIONAL CHANGES AND SUBSEQUENT EVENTS

FURTHER WORK ON THE USE OF TECHNOLOGY IN MUNICIPAL OPERATIONS

SHOULD WE RETAIN AN OPEN TOWN MEETING OR CHANGE TO A REPRESENTATIVE TOWN MEETING?

Under the Charter, Williamstown government is overseen by an elected five-member Select Board and is administered by an appointed, professional Town Manager who also oversees all of the departments in town hall. There are also various appointed boards and committees which have specific responsibilities, some mandated by State law, concerning various aspects of town governance. Town Meeting, which is generally unique to New England, serves as Williamstown's legislative body. It offers all registered voters of the community the opportunity to participate in the major decisions of the Town. Town Meeting is facilitated by an elected Town Moderator who also is responsible for appointing a nine-member Finance Committee, which in turn is responsible for advising Town Meeting on financial matters brought before it.

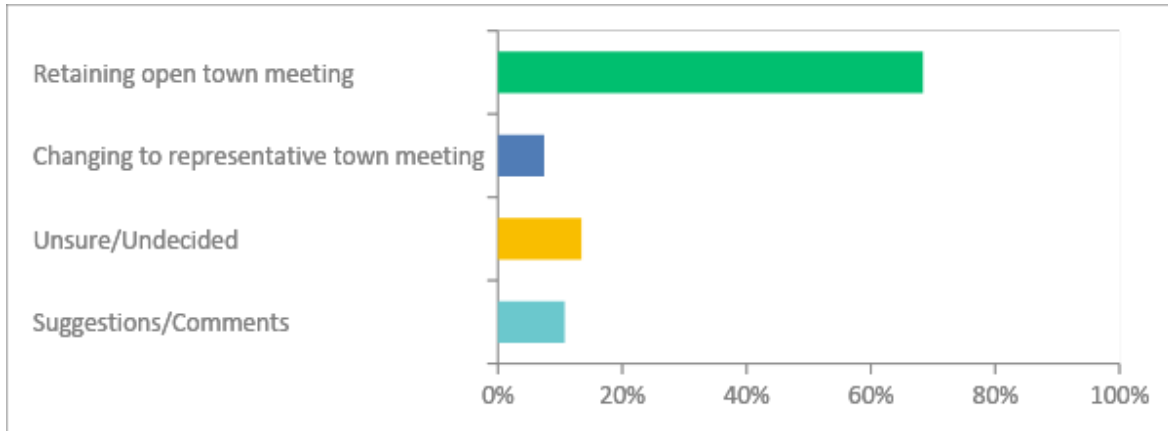
A threshold question for the Charter is the choice of the form of our government. Williamstown, like many Massachusetts towns, has its legislative powers vested in Town Meeting. The Town Meeting form of government began in Massachusetts with the settling of Plymouth Plantation in the early 17th Century. Williamstown's current legislative branch is in the form of an Open Town Meeting, unique to New England, wherein any registered voter can speak at, vote in, and sponsor legislation (in accordance with State law). For towns of our size, Massachusetts law also allows the option of a Representative Town Meeting form of government, wherein elected Town Meeting representatives, and not all registered voters, vote in Town Meeting sessions. In both forms of Town Meeting, an elected Select Board is the executive branch of town government, and most towns have an appointed Town Manager or Town Administrator.

Massachusetts law allows towns and cities other basic forms of government, but those are not available to a town of our size. Massachusetts law requires that any municipality with a population of 12,000 or less must be governed by Town Meeting. Williamstown's population is approximately 7,500. Towns with populations up to 6,000 must have an Open Town Meeting. Those between 6,000 and 12,000 may have either an Open or Representative Town Meeting. Some towns over 12,000 have changed to a town council-manager form of government. However, while allowed to use the term town, these are actually city forms of government. A population of at least 12,000 is required for a City government.

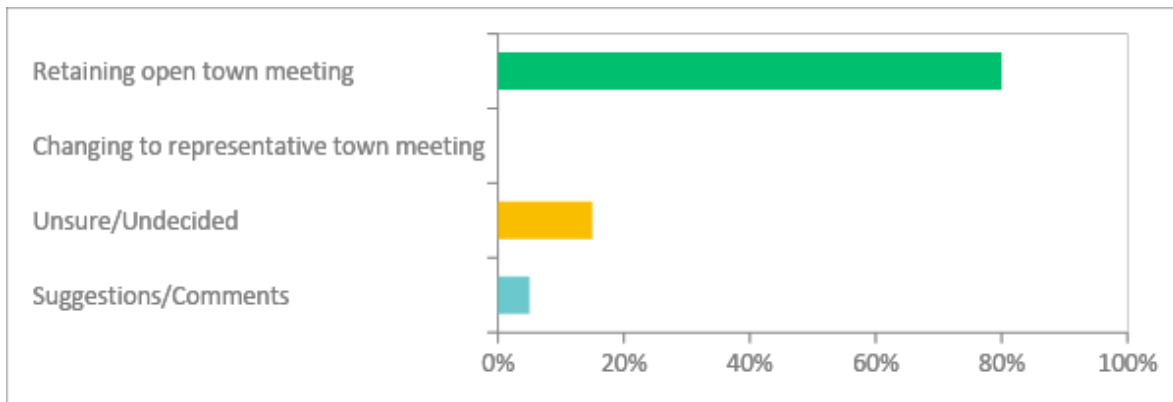
Representative Town Meeting government in Massachusetts features representatives elected from precincts in the town, usually elected for staggered 3-year terms. The size of Representative Town Meetings varies greatly from about 50 to 300 members. Size does not necessarily equate with population of town. We note that these sizes refer to the numbers of representatives elected, and that often far fewer actually show up to vote. By contrast, Williamstown's open town meetings draw an average of 350 registered voters.

Open Town Meeting remains very popular compared to Representative Town meeting. Our survey posed the following question:

Q12: The Williamstown Town Charter, which establishes our form of government, sets our legislative body as an open Town Meeting, where any registered voter can vote. Another option is for a Representative Town Meeting, where (often over 100) representatives are elected by the voters and only those representatives can vote at a town meeting.



Staff responses (20) were as follows:

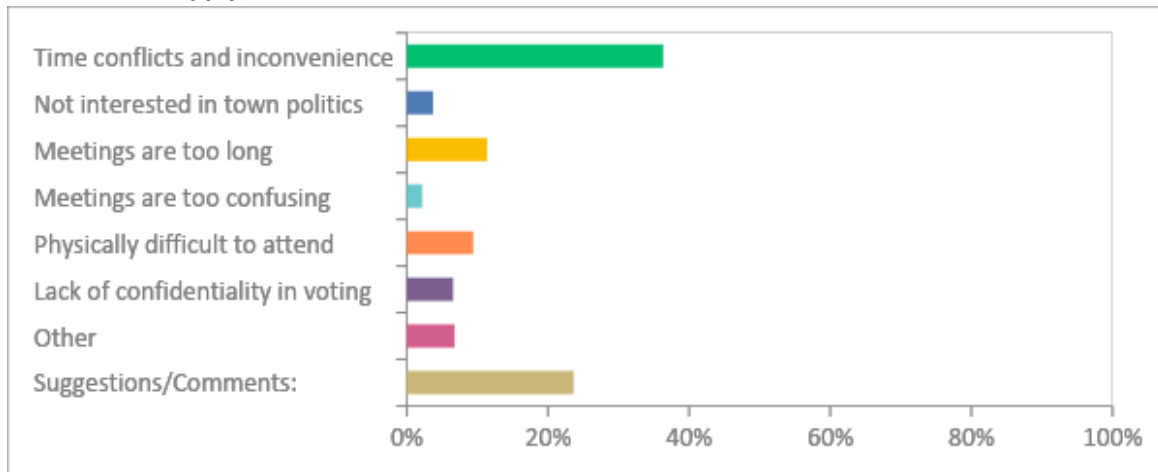


Open Town Meeting allows for direct legislative participation by any registered voter. This system of government, unique in the entire country to the local level of government and to New England, gives voters the ability to sponsor legislation, debate, and vote without any intermediary agent. Open Town Meeting draws on the ideas, perspectives, and votes of hundreds of residents who attend. While individuals and even governing boards can have blind spots, the totality of Town Meeting generally achieves a collective wisdom uncommon to smaller elected bodies. We recognize that Open Town Meeting does include some obstacles – voters can face challenges understanding in advance what will be discussed and some find it difficult to attend in person, as discussed below. Still, Open Town Meeting ensures that the Town’s legislature operates with reasonable transparency, since debate occurs in the open and all registered voters are equally empowered to accept or reject legislation. The administration, boards and citizens have the opportunity to persuade the voters directly. It does not appear that a representative form of government, where the number of decision makers is drastically lower, could bring increased transparency and inclusion. Open Town Meeting allows residents to represent themselves or, if they do not attend, to rely on hundreds of peer residents to represent the interests of the community in a way no representative government could. We note, and address below, that although Open Town Meeting is more inclusive than a Representative Town Meeting, it still presents barriers to those who cannot attend for a variety of reasons discussed below.

POSSIBLE MODIFICATIONS TO TOWN MEETING

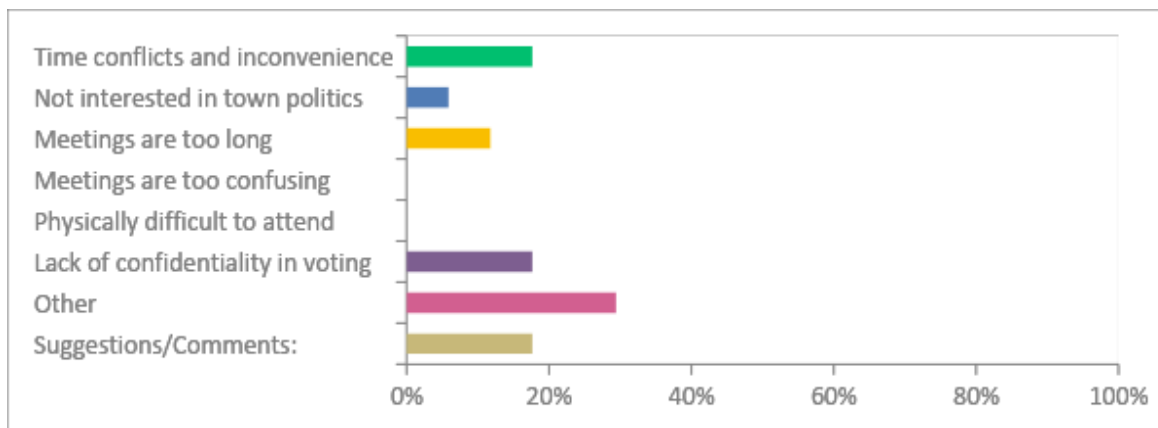
Despite the long history and open nature of town meeting itself, we recognize that only a minority of eligible voters attend town meeting. In 2023, 380 out of 5,071 registered voters attended, a ratio common in recent years. By contrast, 909 voted by ballot at the 2023 town elections. The survey by the Charter Review Committee showed that the most commonly cited reasons for not attending town meeting are time conflicts, length of meetings, physical difficulty in attending and lack of confidentiality in voting.

Our survey asked: **Q14: What are the main reasons when you do not attend Town Meeting (please check all that apply):**



Within the 112 suggestions/comments responses for this question, the most frequent comments centered around childcare and work schedules creating conflicts for attendance. There was also a common theme around not believing in the concept of a town meeting and the desire to determine more by ballot vote instead of town meeting.

Staff responses (17) were as follows:



In this section, we discuss several ideas for structural changes to Town meeting to address this problem. The interest in examining changes is because long town meetings are one of the disincentives to voter

attendance. The length of the meeting is often the result of a few particularly controversial warrant article that generate lengthy discussion, particularly zoning by law proposals. For example, the 2023 Town Meeting lasted 4 hours and 19 minutes. It covered 42 articles, and was attended by 380 voters who checked in. Based on the table of data below, compiled by Debbie Dane and Nicole Beverly, over the last 15 years town meetings have lasted from as short as 51 minutes to 4 hours and 24 minutes, with an average of 2 hours 59 minutes. See chart below

***Williamstown Annual Town Meetings Data: 2007 - 2022**

<u>YEAR</u>	<u># Checked-in</u>	<u>Meeting Length</u>	<u># of Warrant Articles</u>
2022-1	242	19 min Mtg Opened at WES & Continued	49
2022-2	327	4 hr 24 min /Continuation at MGRHS	
2021	367	3 hr 1 min	34
2020	360	3 hr 45 min	37
2019	278	2 hr 1 min	34
2018	213	51 min	32
2017	286	2 hr 41 min	40
2016	788	4 hr 6 min	35
2015	324	2 hr 53 min	43
2014	436	1 hr 16 min	37
2013	283	1 hr 46 min	38
2012	419	2 hr 58 min	33
2011	301	1 hr 40 min	36
2010	171	2 hr 29 min	33
2009	241	2 hr 52 min	34
2008	435	3 hr 24 min	29
2007	230	2 hr 20 min	34
Average # Checked-in: 335 aver. checked-in [total 5,701 over 17 mtgs (2@2022)]			

Lowest checked-in: 171 (in 2010)/ Highest : 788 (in 2016)

Average Length: **2 hr 59 min** [total 3,046 min over 17 (2@ 2022) mtgs]

Shortest Mtg: 51 min (2018)/ Longest Mtg: 4 hr 24 min (2022-Continuation)

Average #of Articles: **36 Articles**

Fewest Articles 29 (2008)/ most Articles 49 (2022)

*All meetings available to stream on **willinet.org**, search "Annual Town Meeting."

SHOULD WE HOLD TWO TOWN MEETINGS PER YEAR?

A town may divide its business meeting into two meetings. For example, they can hold one meeting between April 1 and June 30, as required by state law, and would include the budgets that are required

to be submitted to the state by June 30. The second business meeting could be held in the fall. It is still considered an Annual town meeting (so it falls under the 7 day posting requirement). Our research of other towns indicates this second meeting traditionally focuses on zoning, planning, bylaws, citizen petitions and budget transfers. One advantage to having a standing second meeting would be to avoid having to call a Special Town meeting, although Williamstown has had only a limited history of needing to call such meetings. One disadvantage of having a second town meeting in the Charter is that you cannot eliminate the second one if it is not needed. Alternatively, the second meeting could just be established by by-law, or just decided on an annual basis by the Select Board based on the perceived complexity of the articles. Another option would be to schedule town meeting to be held during two or more successive evenings, with a clear allocation of what articles will be discussed each evening. In addition, the Select Board could take a hard look at the proposed warrant each year and make a focused determination whether the warrant in any particular year merits more than one meeting.

IS THERE AN OPTION TO EXPAND VOTING AT TOWN MEETING THROUGH USE OF BALLOTS?

Under current law, votes on Town Meeting warrant articles are to be taken at Town Meeting itself. Without enabling legislation, votes cannot be taken at a later time. Multiple comments in the Charter survey expressed the desire to be able to vote by ballot and not have to attend in person. Here are the outlines on a couple of options for allowing voters to use ballots for voting on warrant articles without requiring the voters to attend town meeting. ***These approaches would require legislation and/or a Charter change. They would also require some logistical coordination to allow for printing of ballots and for absentee or early voting.*** They are set out to stimulate discussion on whether the town should pursue these options.

Option 1. Keep the in-person town meeting for debate but have a ballot vote **on all articles** at a later time.

The Select Board would prepare a warrant that presents all of the articles, but designates a subsequent day for voting by ballot. The ballot could also be used for town elections. This would reverse our current order, where ballot elections are scheduled a week before town meeting. At the in-person town meeting, full debate would still be allowed on all articles, and motions to amend would still be voted on, but the final amended version would not be voted during the meeting. Instead, the final versions of all articles as amended would be published on a ballot for subsequent voting. The ballot voting would probably be several weeks after the in-person meeting to allow time for the ballot to be printed reflecting the results of the meeting.

Some possible consequences:

- This approach keeps the debates at town meeting, so those who want to speak or attend can do so, but might decrease attendance since voters can vote by ballot later and no longer have to attend to be able to vote. It is not clear this would shorten town meeting.
- Voting by ballot would mean more people voting on warrant articles than vote at town meeting currently since it would be the regular full day of voting we have with our elections. Ballot voting at our elections normally attracts about three times as many

people who attend town meeting. It may be that even more people would vote if the ballot was not just elections, but also included warrant articles.

- Voters who cannot attend town meeting have an opportunity to vote on the articles, so this would improve voter participation. This approach addresses all of the main reasons voters do not attend town meeting in person.
- Voters who do not attend town meeting, or can't watch that night, would have the chance to be better informed since they could watch tapes of town meeting at their convenience before they vote.
- Candidates for election might use the floor of town meeting to advance their campaigns in the upcoming election (which, as noted, would be after town meeting).
- Budget items must pass before June 30, per state law. If a budget item failed at the ballot, there would need to be a mechanism for a subsequent vote in time meet the deadline.

Option 2. Keep the in-person town meeting for debate **and voting on pre-designated articles**, but defer all other articles for subsequent vote by ballot.

As with Option 1, the Select Board would prepare a warrant with all articles, and designate a voting date after town meeting. At town meeting, there would be full debate allowed on all articles. Different from Option 1, the warrant would designate certain articles such as the budget and finance articles, to be voted on at town meeting, and other articles, such as zoning, non-routine or controversial matters and citizens petitions to be voted by ballot at a later date.

Some possible consequences:

- As with option 1, whoever wants to attend and debate may do so. Attendance may decrease similarly or more, especially if only non-controversial items are selected for voting at the meeting.
- As with Option 1, voting by ballot would increase voter participation.
- Different than Option 1, voters who cannot attend will not have the chance to vote on the articles to be voted during the meeting, but can vote on the rest by subsequent ballot.
- As with Option 1, voters can still become informed about the ballot questions by watching the tapes of town meeting.
- As with Option 1, candidates for election will have a similar opportunity to use town meeting as a campaign platform.
- In contrast to Option 1, the necessary finance and budget articles will be passed at town meeting.
- As with Option 1, to allow for amendments from town meeting to be printed in a ballot means a several-week delay until the vote on those articles.
- The division of articles into those voted on the floor and those voted by ballot will be critical to success.
- What should we provide for absentee voting? We would have to go into the scheduling of how long will it take to prepare the ballots and allow a reasonable

time for voters take advantage of absentee voting. We have parallel questions on early voting if we allow it.

SHOULD WE HOLD TOWN MEETING ON A DIFFERENT DAY?

Some commenters suggested holding Town Meeting at a different day or time than the traditional Tuesday evening time. We learned that some towns have tried having town meeting on Saturdays, but the rate of attendance did not improve, since that time just presented different obstacles of scheduling conflicts for the voters. Lanesborough tried Saturday Town meetings for a couple of years, but recently changed back to Tuesday evenings. The committee could not determine any significant advantage in changing the scheduling of town meeting except perhaps to have it start earlier in the evening, such as at 6:00 pm.

SHOULD WE USE ELECTRONIC VOTING AT TOWN MEETING?

Given the reasons given by survey respondents to why they did not attend town meeting, the use of electronic voting at Town meeting, generally referred to as “clickers” has some appeal. During the preparation of this report, clickers were used for the first time at the May 2023 Town Meeting and, after using the clickers during the meeting, voters approved the purchase of the clickers for future use. Electronic voting would shorten vote counts when it is used, but it does not need to be used for all votes, particularly if a voice vote is clear. It is more accurate than having staff or volunteers try to count each raised hand.

It addresses the concern about being able to cast votes confidentially without having to worry about peer pressure on how you are voting. In-person electronic voting also guarantees confidentiality and privacy in voting. While some contend that voting at Town Meeting should be open and visible, the Committee heard several comments that many voters who attend Town Meeting are concerned about reprisals and some voters are even unwilling to attend Town meeting because of this fear. Therefore, it is reasonable to infer that adopting electronic voting may enfranchise voters and enhance the democratic process. A distinction needs to be made here about the greater need for public voting in a Representative Town Meeting form of government. In that case, the representatives are elected to vote on behalf of the entire electorate and so it is reasonable that the votes should be publicly identifiable. And in fact in representative town meetings they are; those that use electronic voting assign names to the ‘clickers’. Our research indicated that at least in several towns, a standing vote can be requested after an electronic one, in one case by a single person, in another by seven participants. We can discuss whether we want to establish such a process, but otherwise it technically is at the discretion of the Moderator, but can be part of any decision Williamstown makes on the use of clickers.

On the practical side, there are first of all concerns on security. Any electronic system is in principle able to be hacked. The Town must of course be concerned about security risks associated with electronic voting. Those using the system have devised various schemes to protect the integrity of the vote, and these deserve continued examination. There is a practical concern about how many clickers to buy, but the Town Clerk has arranged for a stock of 1,000, which seems to cover the vast majority of Town Meeting attendance numbers historically. We also heard, prior to the 2023 Town Meeting, that using

clickers would be an unwelcome change of public voting and overall atmosphere, but the 2023 meeting seems to have allayed these concerns, so the clickers remain as a tool to be used at the discretion of the Moderator.

SHOULD WE EXPLORE REMOTE ELECTRONIC VOTING?

Remote electronic voting is not yet permissible for Open Town Meeting forms of government, so this is not an option for Williamstown at this time. State law allows it for use at Representative Town Meetings, since in that context the identities of those casting the votes remotely can be verified in advance. Although Bills have been offered in the legislature to allow remote voting at Open Town Meetings, none of those have been accepted yet. The technology, especially the security features, are not settled yet. We believe it is worth continuing to investigate the technical and legal impediments to remote electronic voting at Open Town Meetings so as to assist in increasing voter participation in Town meeting.

SHOULD WE MODIFY THE SCHEDULE FOR SUBMITTING WARRANT ARTICLES?

It is common practice for towns to have specified dates for the opening and closing of the warrant for annual town meeting. Our bylaws do establish a deadline for submitting articles to the Select Board. Section 4-3 of the bylaws states that:

“Any article to be inserted in the warrant for the Annual Town Meeting must be submitted to the Select Board on or before the 45th day preceding said meeting, signed by the required number of petitioners who must be voters of the Town, and all such petitions shall be placed in the warrant as presented.”

Although our Charter does not specify deadlines, town practice has been for the Select Board to establish in January a schedule for elections and the warrant. At least recently, this schedule establishes a date for when proposed articles must be submitted to the board, and a date when the board expects to finalize the warrant. Recent practice indicates that the board is not receiving proposed warrants from other town boards by the deadline in the by-laws.

Although the language in the bylaw refers to ‘any article’ and is not limited to citizen petitions, perhaps some boards believe that it only applies to citizen petitions because of the language about petitioner signatures. The Select Board would be in a better position to properly finalize the warrant, deliberate on it and make its recommendations on the articles, if all proposed articles were submitted by 45 days before the date set for annual town meeting. Either the Charter or the bylaws can be drafted to clarify any doubt about the due date for all proposed warrant articles. Any provision should contemplate whether the Select Board has discretion to allow late filing of articles in the event of an emergency or unavoidable delay.

SHOULD WE ADOPT RANKED CHOICE VOTING FOR TOWN ELECTIONS?

The Committee held a presentation on a proposal for Ranked Choice Voting (RCV) by representatives of Voter Choice MA. This presentation coincided with the submission by town residents of a citizens petition to have RCV on the warrant for Town meeting 2023. The petition was on the warrant, but was

withdrawn at Town Meeting by the petitioners to allow for further public education about how RCV would work.

The term ranked choice voting, pertains to any voting system where voters use a rank to order candidates or options—in a sequence from first, second, third, and onwards—on their ballots. Ranked voting systems vary based on the ballot marking process, how preferences are tabulated and counted, the number of seats available for election, and whether voters are allowed to rank candidates equally. There are several counting methods to determine the winning candidate or candidates. Additionally, in some ranked voting systems, officials mandate voters to rank a specific number of candidates, sometimes all; while in others, voters may rank as many candidates as they desire.

Basically, the method sequentially eliminates candidates in a series of rounds until a winner emerges by securing at least 50% of the vote. In this system, voters rank candidates in order of preference. If a candidate does not receive a majority of first-choice votes, the candidate with the fewest votes is eliminated, and their votes are redistributed according to the voters' next preferences. This process continues until one candidate receives a majority of the remaining votes.

RCV can be used for the election of single members using ranked votes, but a variant can be used for the election of multiple members, often using a single transferable voting system. There exist other systems applicable for single-member selection or multi-member elections. More detail and data can be found at <https://fairvote.org/resources/>

Williamstown does not have a long history of elections where the winner was significantly below the 50% level, but VoterChoice MA identified two recent traces where this happened when three candidates were running for a single seat;

2021 Planning Board race – winner 37.3%; second place 36.3%, third place 26.3%

2016 Planning Board race – winner 48.8%; second place 43.8%; third place 7.4%

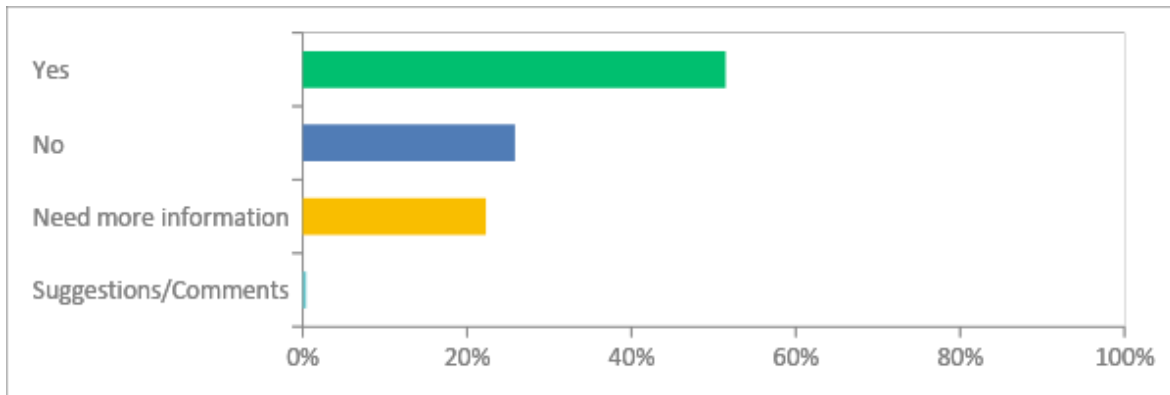
One question raised was how often the candidate with the highest votes in the first round became the ultimate winner in the successive rounds, or lost to a “come-from-behind” winner. Data from FairVote indicates that 6% of winners in races with three or more candidates were not the leader in the initial round; and that was true for 11% of all races that used multiple rounds of counting.

One disadvantage of RCV is the confusion it may cause when first implemented, as voters will have to be educated on how it works and how they should mark their ballots. It has also been objected to as contrary to the concept that whoever comes in first is the winner, and that looking for voter’s second or third choices in order to get over the 50% threshold undermines that approach. Still, looking at second or third choices may allow the election to get closer to the voters’ wishes.

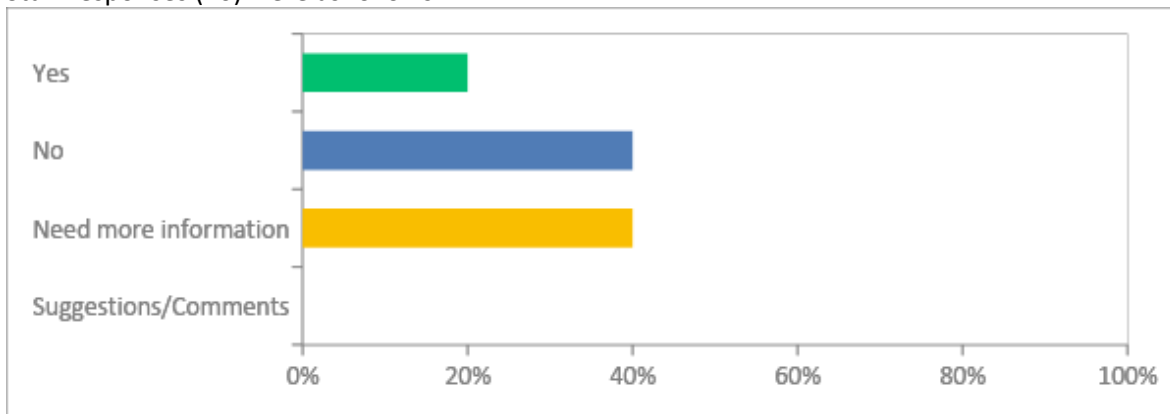
In 2020, the state had a state ballot question as to whether RCV should be adopted for state elections. The ballot initiative lost state-wide 55%-45%, but Williamstown voted 64.5% – 35.5% in favor. One question to consider is the detail of how to implement it in the absence of state-wide acceptance. We would have to seek approval from the state legislature for using RCV, so we would want to get the details right. We would want to be sure that the algorithm for choosing winners is standardized and is consistent with our voting machines and voting software. One question we face is whether we move forward now, or whether we wait for wider implementation within Massachusetts.

Just over 50% of survey respondents favoured RCV, but there was a significant percent of respondents asking for more information. **Survey Question 13 asked: Do you favor ranked-choice voting in our town**

elections? (we are not asking about federal or state elections) <https://cspa.tufts.edu/our-reports/guide-massachusetts-question-2-ranked-choice-voting>



Staff responses (20) were as follows:



SHOULD ELECTIONS BE HELD BEFORE OR AFTER TOWN MEETING AND SHOULD THE EFFECTIVE DATE OF OFFICE BE AFTER TOWN MEETING?

Traditionally, the warrants for Town Meeting include as Article 1 the calling of an election for town offices, normally held one week before Town Meeting. Also by tradition, the newly elected officials are sworn in at the end of Town Meeting, but none if this is set out in the Charter or bylaws. State law simply provides in MGL c. 41, s. 107 that an elected official “shall enter upon the performance of his duties on the day after his election, or as soon thereafter as he is qualified”. Town Counsel stated that it is his opinion that the newly elected members may be sworn in at any time and begin serving in that office, including at the conclusion of a regular or adjourned session of Town Meeting. In 2020 and 2021 there was a delay between the election and Town Meeting due to COVID precautions, and in 2023, Town meeting was adjourned until a month later than originally scheduled. These instances highlighted the fact that newly elected officials could take office even before Town Meeting.

- Although Williamstown has elections before Town Meeting, other towns have the reverse order. Our research indicates that some of the rationale for having elections after Town Meeting is so the same officials who issued the warrant are still in office at the Town meeting they called. The main concern of having the election before the ATM and being sworn in before the meeting is that the newly elected official may represent a different policy direction than the ones that led

up to the multi-month process leading to the imminent town meeting. In addition, towns reported that having Town Meetings before elections, especially if there are money and hot button issues, is an opportunity for the residents to discuss merits and disadvantages of issues before voting for candidates who often run in relation to these issues.

We discussed three options that towns have for holding Town Meetings in Massachusetts:

1. Election and directly taking office before Town Meeting. This has the disadvantage of having newly elected officials at Town Meeting who may be less well informed of the warrant articles and were not part of formulating them.

2. Change election to after Town Meeting. This approach avoids having newly elected officials from being uninformed at Town Meeting. It does, however, mean that holding an election after Town Meeting could inject electoral politics into Town Meeting, as candidates could use it as a campaign forum. Some voters might appreciate the opportunity to see the candidates at Town meeting before having to vote in the election. We would have to rely on the candidates' self-restraint and the authority of the Moderator to keep candidates' remarks germane to the warrant articles being discussed.

3. Keep elections before Town Meeting and make the effective date of office after the Town Meeting. Despite the exceptions noted above, this remains our current practice. It avoids newly elected officials being uninformed at Town Meeting and not being part of the warrant process. By keeping election first, it keeps Town Meeting from becoming a campaign rally for local candidates. On the other hand, elected officers who may be defeated at the election or are not running become "lame ducks" until the end of Town Meeting.

Our current practice has worked well, as we have normally been able to work around the 'lame duck' status of elected officials since in most years it is only one week. However, given the recent experiences when the delay has been for several weeks, it seems prudent to formalize the practice but addressing the issue of a delay in Town Meeting. For example, we could provide that newly elected officials take office at the conclusion of Town meeting, or 21 days from the date of election, whichever is sooner.

SHOULD WE RECONSIDER WHETHER THE PLANNING BOARD SHOULD BE ELECTED OR APPOINTED?

The Williamstown Planning Board was established at the 1959 Town Meeting as a board appointed by the Select Board. It continued to be so appointed for almost 50 years until the 2007 Town Meeting. In the year prior to the 2007 vote, the Select Board had decided not to renew the appointment of one of the Planning Board members, in the wake of a controversy over a proposed water line extension down Cold Spring Road to the high school. A group of citizens, objecting to the decision to not reappoint, filed a citizens petition to change the positions to elected positions. The measure just barely passed, by three votes, 111-108, and the positions have been elected since that time, starting with the elections of 2008. Since the Planning Board was appointed for almost 50 years, and was changed to an elected office by a thin margin of votes due to a particular controversy, this Charter review process is a timely opportunity to reconsider this question.

This history also illustrates how the choice of selecting authority makes a difference in whether board members continue to serve. As noted, after many years of the Select Board routinely reappointing members, the one time it did not do so in 2007 caused a Town Meeting reaction to change the system in 2008. The pattern of the Select Board reappointing members is historically true of how it would normally reappoint members of all other boards who wished to be reappointed. By contrast, once the Planning Board became an elected position, the voters were more likely not to re-elect incumbents who ran for reelection in contested races. Over the last 10 years, Planning Board incumbents ran for reelection four times against other candidates, and lost in three of those contests. Incumbents lost contested bids for reelection three years in a row from 2019-2021.

Our current review of the Charter is an occasion to revisit the best way to fill positions on the Planning Board, as other towns have done in their Charter review processes. In a recent Charter review done by the Town of Andover, the review committee recommended that members of the Planning Board continue to be appointed and not elected. The report gave several reasons, two of which are applicable to Williamstown: First, qualified residents who would serve if appointed may not run for election – this would shrink the pool of residents who are willing to serve on this critical board. Second, the Planning Board operates in a quasi-judicial capacity that is inappropriate for the campaigning and fundraising that attends local elections.

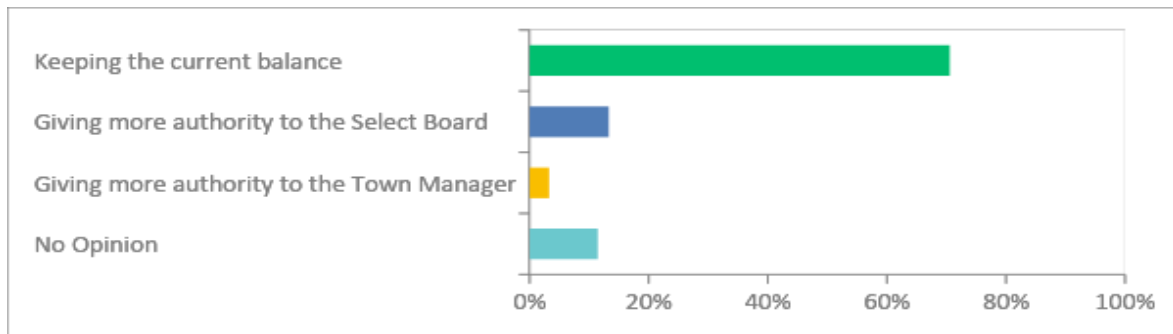
These reasons are relevant to Williamstown. Campaigning is a deterrent to public service and the town may get more candidates if the Planning Board positions were appointed. Also, electing a Planning Board member in the midst of a campaign over pending controversies may not draw candidates who may take a longer and judicious view on planning issues. Appointment by the Select Board may help promote the selection of candidates with skills and perspectives not driven by the debates pending at election time. On the other hand, there are good reasons to think that a Planning Board should be representative of the will of the community and elections may advance that goal.

One alternative, suggested by a former Planning Board member, to having to choose between appointment and election for the Planning Board would be to have a hybrid process. For example, the five members could be elected or appointed in alternating years so we could, for example, imagine members elected in years 1, 3 and 5, and appointed in years 2 and 4.

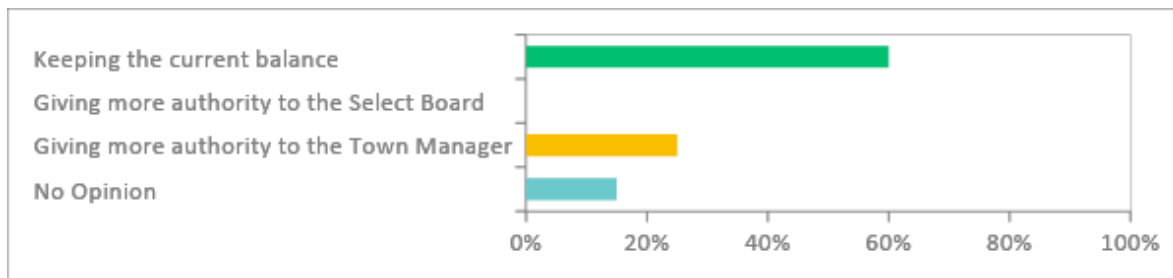
SHOULD WE MAKE ANY MODIFICATIONS TO THE STRONG TOWN MANAGER FORM OF GOVERNMENT?

The 1956 Charter gives to the Town Manager a broad range of authority over town government operations. These include the power to appoint all Town Hall personnel and members of several boards and committees. The Town Manager is in charge of preparing the budget, acting as the chief procurement officer, overseeing all Treasury, HR, DPW and Police functions and general supervision of the day-to-day management of the town. The Town Manager is responsible for the planning, construction, reconstruction, alteration, repair, maintenance, improvement, use and rental of all town property. The Select Board retains those powers, such as the preparation of the annual meeting warrant, the calling of town meetings, licensing and other items which have not been specifically removed from them. It has been explained that the Town Manager is the Chief Executive Officer and, in a sense, the Select Board acts as a Board of Directors and its responsibility is to set policy, subject to Town Meeting, and to oversee the Town Manager's performance.

Our survey indicated significant support for the current balance. Survey **Question 9** asked: *The current Town Charter establishes a strong Town Manager form of government. The Select Board acts as a supervisory board. Most of the day-to-day operational and hiring decisions are made by the town manager. Do you favor:*



Staff responses (20) were as follows:



Town Manager Bob Menicocci discussed Charter issues at a staff department heads meeting in January 2023, and staff felt very strongly that the town should maintain a strong Town Manager form of government. Staff felt there are many disadvantages with having a town run by a Select Board and Town Administrator

Given the complexities of municipal law and finance, the need for a well-trained professional competent Town manager is clear, and it would be hard to expect that a volunteer Select Board could take on these tasks as competently. There are, however, two areas where we might consider modifying some of the duties of the Town Manager, and those are: 1) the appointment process and 2) the annual budget process. In addition, we should consider clarifying the roles on litigation matters.

Division of Appointment Authorities.

With two exceptions, the powers to appoint members of town boards are split between the Town Manager and the Select Board. The exceptions are the Town Moderator’s appointment of the Finance committee, and the Planning Board’s appointment of a delegate to the Berkshire Regional Planning

Commission. The table below sets out which boards are appointed by the Town Manager or the Select Board.

Town Manager	Select Board
Conservation Commission	Housing Authority (2 of 5 members)
Council on Aging	Affordable Housing Trust
Historical Commission	Municipal Scholarship Committee
Agricultural Commission	Mobile Home Rent Control Board
1753 House Committee	Sign Commission
Board of Assessors	Northern Berkshire Cultural Council
Berkshire Regional Planning Commission Alternate	Delegate to Berkshire Regional Transit Authority
All town hall employees	Zoning Board of Appeals
	Planning Board Associate Member
	Representative to Hoosac Water Quality District
	Representative to Northern Berkshire Solid Waste Management District
	Mt. Greylock Advisory Council
	Mohawk Trail Woodlands Partnership
	Registrar of Voters

The allocation of appointments seems not to have been organized by a comprehensive scheme. Instead, the authority to make appointments was established for each board at the time the board was created by Town Meeting, often based on a statutory directive. Most boards are not mentioned in the Charter itself. In considering whether to make any changes (to the extent that would be allowed by statute) one could consider, for example having all boards with more of a policy focus to be appointed by the Select Board, and those with a quasi-judicial and permitting function to be appointed by the Town Manager, on the assumption they would be freer from any political biases.

One curious feature of Williamstown's appointment structure is that the three land use boards are filled by different appointment authorities. The ZBA members are appointed by the Select Board, and the Conservation Commission members are appointed by the Town Manager, with approval by the Select Board. The Planning Board is filled by election. The fact that we have three different approaches is cause for reflection as to what is the best method for filling these board positions.

Another aspect to note is that the Select Board makes all the appointments to six regional organizations, but not the position of Alternate to the Berkshire Regional Planning Commission. This could be harmonized.

We should be open to discussions whether any of these appointment authorities should be shifted, though the system seems to have worked well for many years. The Committee was aware that selecting certain positions by ballot, as opposed to via appointment, may result in turning away qualified

residents who would serve if appointed but would not run for election. This could also result in popular but less qualified individuals taking office.

Budget Process.

Section 17 of the Charter provides that, on or before December 15th, or such other date as the town may by bylaw prescribe, the Town Manager shall prepare and submit to the Finance Committee a budget for the ensuing year. Chapter 14 of the bylaws modified this date to February 15. Under Bylaws section 4-4 D and E, the Finance Committee is to consider all budget requirements as presented by the Town Manager and submit a budget and its recommendations to Town Meeting. Notably, this process does not include any elected officials, including the Select Board. For several years, the actual engagement of the Select Board in the budget process has been varied, generally according to the interests of those serving at the time.

We should consider formally increasing the role of the Select Board in the preparation of the budget. The Select Board is the policy-setting body supervising the town manager and it seems reasonable that the priorities of the community, as understood by the elected Select Board, should be part of the process in preparing the budget for submission to the Finance Committee. One way to accomplish this would be to create a step that requires the Select Board and the Town Manager to consult early in the budget process to make sure that whatever the Town Manager proposes to the Finance Committee reflects the Select Board's view of priorities for the town. This step could be created in a bylaw, Charter amendment or by Select Board direction to the Town Manager

Litigation Authority

The allocation between the Town Manager and the Select Board for responsibility for litigation is addressed differently in Bylaw 4-9 than it is in Section 15(k) of the Charter, so these should be harmonized.

Town Bylaw 4.9 gives the Select Board the authority, "except as otherwise provided by law, to prosecute, defend and compromise all litigation or claims to which the Town is a party and to employ special counsel to assist the Town Counsel whenever in the Board's judgment necessity therefor arises."

Somewhat differently, the Charter in section 15(k) (k) provides: "The Town Manager shall, with the approval of the Selectmen, have authority to prosecute, defend and compromise all litigation to which the town is a party, and to employ special counsel whenever in his judgment it may be necessary."

SHOULD WE MODIFY THE PROCESS FOR REMOVAL OF TOWN MANAGER?

The Charter sets out a process for removal of the Town Manager that seems cumbersome, and is not available to any other town employee. It also is a topic that could be handled as a matter of the Town Manager's employment contract. Recent contracts have provided that the Charter process will be the process, unless the Select Board decides to terminate and provide six months' salary. Section 13 of the Charter provides:

The Selectmen, by a vote of three or more members of the Board, may remove the Town Manager. At least 30 days before such removal shall become effective, the Selectmen shall file the preliminary

written resolution with the Town Clerk setting forth in detail the specific reasons for the proposed removal, a copy of which resolution shall be delivered to the Town Manager. The Manager may reply in writing to the resolution and may request a public hearing. If the Manager so requests, the Board of Selectmen shall hold a public hearing not earlier than 20 days nor later than 30 days after the filing of such request. After such public hearing, if any, otherwise at the expiration of 30 days following the preliminary resolution, and after full consideration, the Selectmen by a vote of three or more members of the Board may adopt a final resolution of removal. In the preliminary resolution the Selectmen may suspend the Manager from duty, but shall in any case cause to be paid to him forthwith any unpaid balance of his salary and his salary for the next three calendar months following the filing of the preliminary resolution.

We should consult with counsel on whether there is any particular reason why the Charter needs to have such a removal process, or whether we can just establish a termination process in the Town Manager contract.

SHOULD WE CLARIFY TOWN MANAGER AUTHORITY OVER BOARDS?

There may be an unintended grant of power to the Town Manager to reorganize, consolidate or abolish town boards and committees appointed by the Town Manager. This comes up through the interplay of two separate Charter provisions. This is because section 6 says any boards or committee the Town Manager appoints are under his or her supervision, and Section 15b says he or she can reorganize, consolidate or abolish those boards.

Charter section 6 provides:

” Officers, boards, commissions and committees appointed by the Town Manager shall possess all the powers and rights and shall be subject to all the duties and liabilities specifically conferred or imposed by any applicable provision of law upon them or upon officers, boards, commissions or committees having corresponding powers and duties, but in the performance thereof **they shall be subject to the general supervision of the Town Manager.** (emphasis added)”

15b of the Charter provides:

“The Town Manager, in accordance with the provisions of this Act and except as otherwise expressly prohibited by the General Laws, **may reorganize, consolidate or abolish departments, commissions, boards or offices under his direction and supervision**, in whole or in part, may establish such new departments, commissions, boards or offices as he deems necessary and, in so doing, may transfer the duties and powers, and so far as possible in accordance with the vote of the town, the appropriations of one department, commission, board or office to another.”

This seems to be a drafting glitch, as it would be very surprising to think the Town Manager can reorganize, consolidate or abolish committees such as the Conservation Commission, Historical Commission or Agricultural Commission, all of which were established by votes of Town Meeting.

SHOULD SOME BOARD POSITIONS BE PROHIBITED FROM HOLDING POSITIONS ON OTHER TOWN OFFICES?

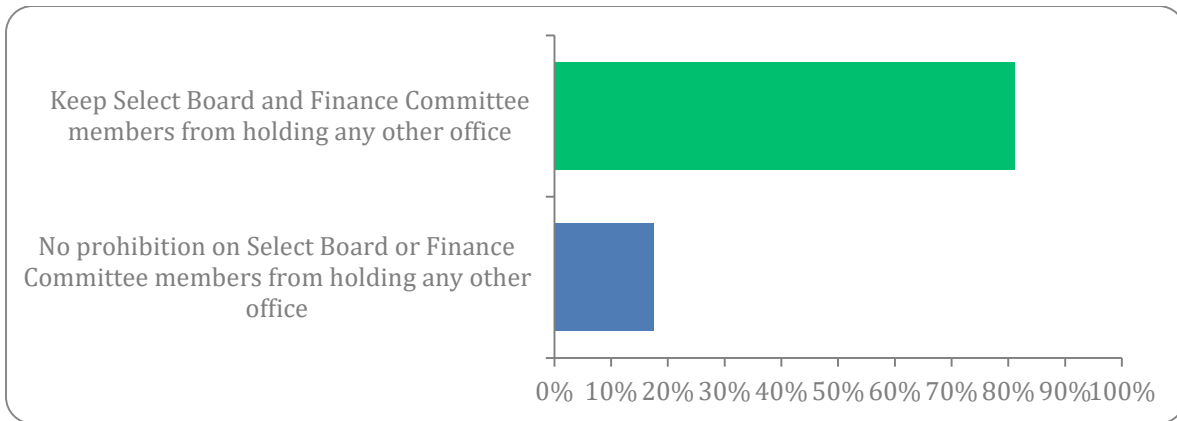
Section 10 of the Charter provides in part that: “A member of the Board of Selectmen or of the School Committee, or of the Finance Committee shall, during the term for which he was elected or appointed, be ineligible either by election or appointment to hold any other town office”. The School Committee being referenced is the former Williamstown School Committee, which no longer exists. It is unclear whether the ban on holding multiple offices was occasioned by a concern over consolidation of power, conflicts of interest or some other reason.

One interpretational question we should consider is what is an “other town office”? We have practice that a member of the Select Board or Finance Committee is not considered as holding an “other town office” if they are holding that office in their capacity as a member of the Select Board or Finance Committee. This seems to be allowed in a couple of contexts and has been a longstanding practice. First, some boards are established in town bylaws or state statute as prescribing that certain members come from these two committees. The Community Preservation Committee has membership spots designated for a member of the Finance Committee and of the Parks Commission, which is the Select Board. Similarly, the Affordable Housing Trust has a spot designated for a representative of the Select Board. A related situation would be when the Select Board or the Finance Committee forms its own subcommittee or advisory committee and puts one or more of its members on it. In all of these cases, the Select Board or Finance Committee member is not holding an “other town office”; they are holding the position in their official capacity. Town Counsel has confirmed this reading of our Charter.

Town Council has also advised that under our current Charter, an advisory committee with no authority is not considered a town office, so members of the Select Board and the Finance Committee may currently serve on such advisory committees.

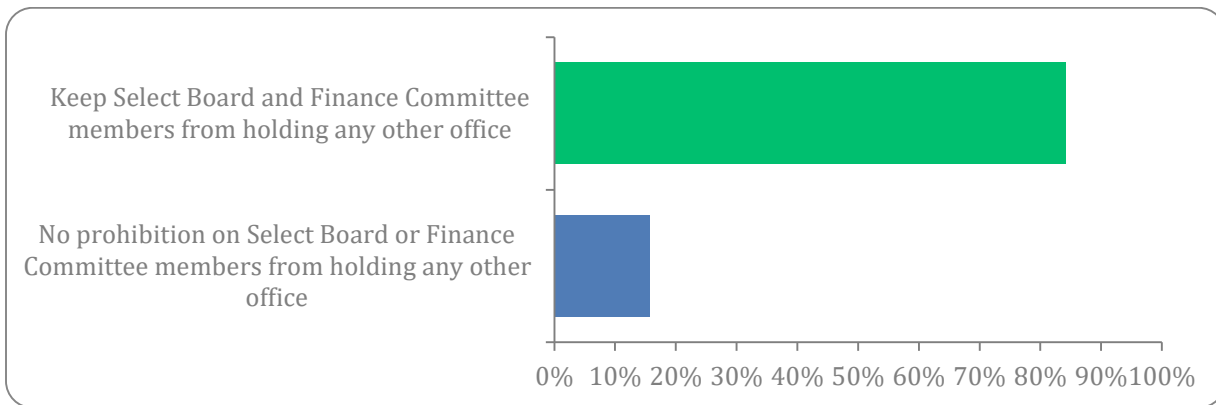
The Charter’s language does not make these distinctions clear, so at a minimum we should consider clarifying language to make it more clear what the ban applies to.

Our survey showed support for the current system. ***Question 10 of the survey stated: The current Town Charter prohibits members of the Select Board and the Finance Committee from holding any other town office, though this has been interpreted to allow members to be on other committees in their official capacity as a member of the Select Board or Finance Committee, or where a statute provides for it. Do you favor (check all that apply):***



33 free text responses were split consistent with the multiple choice responses. There was a theme around increasing the diversity of participation on committees, avoiding conflicts of interest, and ensuring transparency in government actions.

Staff responses (19) were as follows:



We should evaluate whether any form of ban on dual offices is appropriate. Disallowing members of the Select Board or the Finance Committee from holding an 'other town office', other than in their official capacity, would reduce the chances of consolidation of power and of conflicts of interest. It also would keep these other offices open for participation by residents in the community. Should the ban apply to both elected and appointed offices, or just one of those options? At least in the case of offices appointed by the Town Manager or the Select Board, it might make sense to not allow Select Board members to have those appointments, since they could have an unfair influence on the decision compared to other candidates. Since the members of the Finance Committee review the budgets of all boards and committees, perhaps it makes sense they should not serve on those other boards so as to avoid the conflict of interest. Other options and considerations may develop as we review this question.

A different question arises in the context of whether a position as the town representative to other regional organizations is covered. The town appoints representatives to entities such as the Hoosac Water Quality District, the Northern Berkshire Solid Waste Management District, the Berkshire Regional Planning Commission, the Berkshire Regional Transit Authority, the Northern Berkshire Cultural Council, the Mt. Greylock Advisory Council and the Mohawk Trail Woodlands Partnership. The Berkshire County Metropolitan Planning Organization requires regional delegates to be Select Board members. Town Counsel considers these currently to be 'town offices'. If we want to change this, it should be addressed as a Charter amendment. One conflict of interest consideration here is the case of a regional organization that assesses financial fees on the town, and whether the town representative to that organization should be allowed to sit on the town committee to vote whether to approve payment of those fees.

SHOULD WE ESTABLISH TERM LIMITS?

The Williamstown Charter currently does not have any limits on number of terms a person can hold an office. We identified the following benefits and drawbacks to term limits:

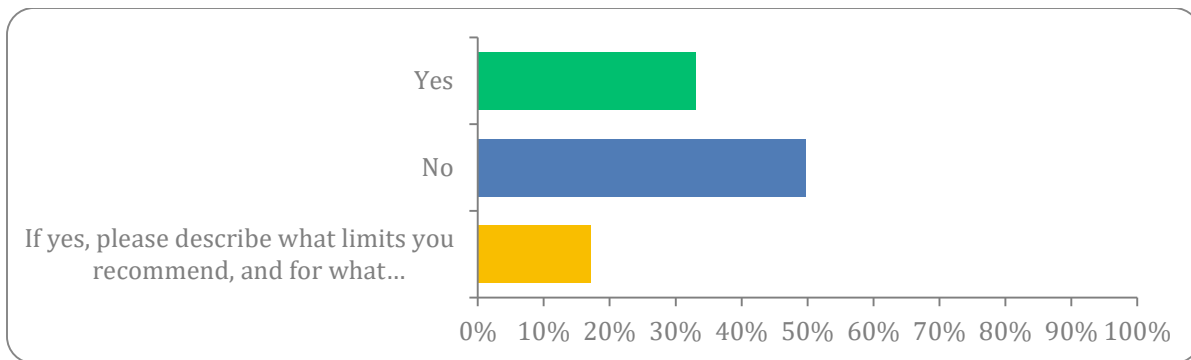
Benefits to Term Limits

- Allows for turn-over of elected officials potentially increasing new ideas, nurturing new community leaders, and community involvement.
- Likely encourages more people to run for election because open seats more often draw multiple candidates. Often incumbent seats are not contested.
- May encourage diversity by enabling more opportunities for women and minorities.
- Potentially focuses elected official to plan an agenda and accomplish initiatives within a certain timeline.

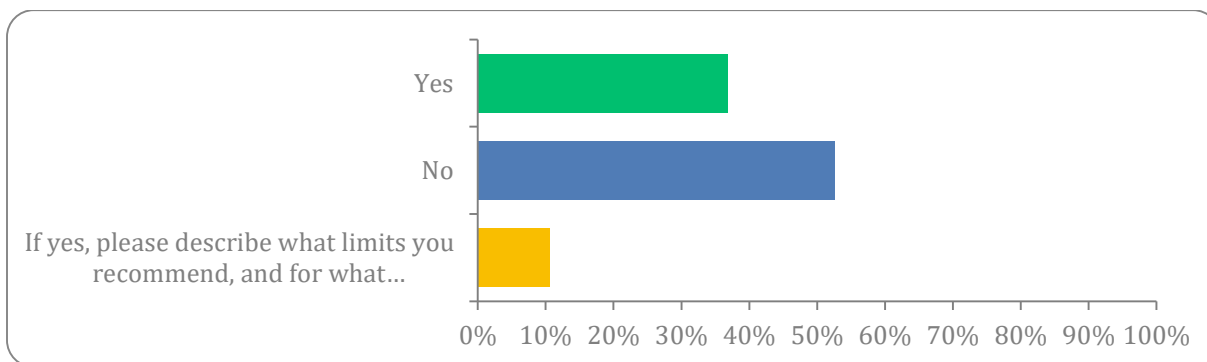
Drawbacks to Term Limits

- Potentially forces popular leaders to give up their positions even if they are popular with the voters.
- Potentially forces those with institutional knowledge to leave office.
- May cause "lame duck" periods where officials do not have the same incentives as when they expect to run for office.
- Can result in a large number of vacancies in a body at the same time, then with a large number of elected officials being new at the same time (with steep learning curves).
- Without term limits voters already have an opportunity to limit office holding with elections.

Our survey showed overall opposition to term limits, but with a significant percentage in favour of them. Within the respondents in favour of term limits, most indicated 2-3 terms as their preferred limit. ***Survey question 11 asked: The Charter currently has no term limits on office holders. Do you favor imposing term limits?***



Staff responses (19) were as follows:



Although we desire that our town boards and committees should comprise the best talent available and that sufficient opportunities should exist for a qualified resident to serve, it is not clear that term limits are the best mechanism to achieve those goals. Limits may force removal of experienced, knowledgeable volunteers who have learned over time how best to function on boards or who might have spent many years learning the technical areas of their respective boards' work. We cannot assume that replacements would be found who would make a similar contribution to high-performing incumbents. Finally, limits might force removal of key contributors or committee leadership at inopportune or even critical junctures in a board's work.

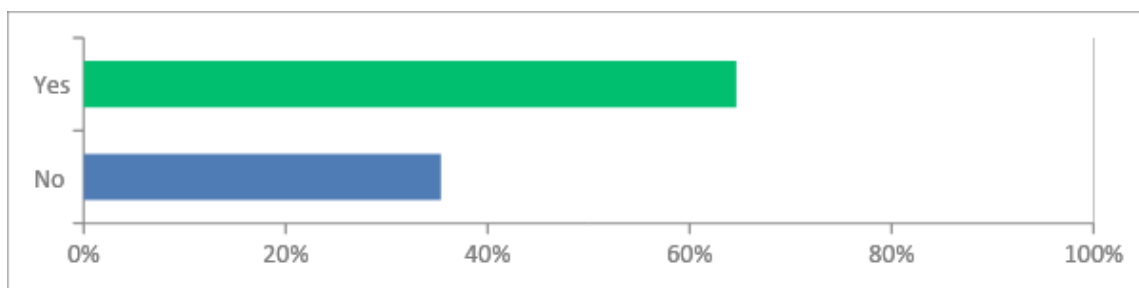
SHOULD WE HAVE A PROVISION TO RECALL ELECTED OFFICIALS?

Our Charter contains no recall provision, and we were not aware of any past matters where one might have been an appropriate tool. The Collins Center advised that putting recall provisions into Charters has become a more common practice, and it might be better to have the tool available before the occasion arrives where the voters might want to use it.

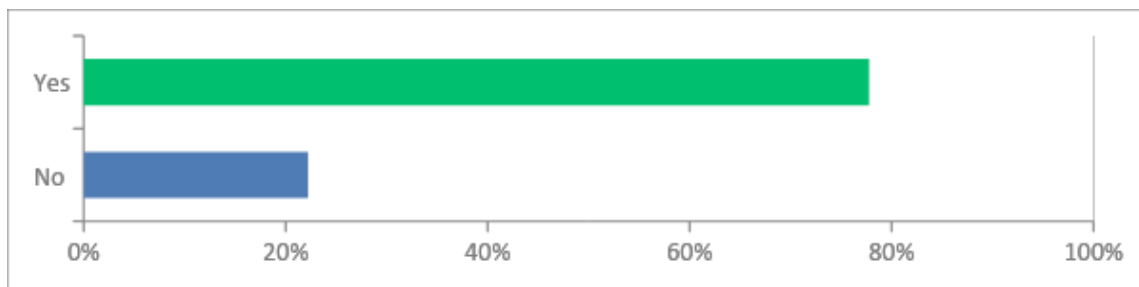
Any mechanism to remove elected officials could be abused for political purposes, by single-issue constituencies, or in an attempt to overturn often difficult decisions by the very officials who were elected to make those decisions. A recall provision might dissuade talented residents from seeking elected office. It might also have a chilling effect on decision-making. Williamstown has not had such a

provision. Would having one promote its use, or is the lack of one unreasonably limiting the democratic process in the community? If there is has no formal mechanism, other than public persuasion, to remove an elected official even for the most egregious infractions, such as criminal offenses or significant failures to perform their duties, then the voters would be left without recourse until the next time that seat is up for election. On balance, it may be preferable that a mechanism to remove elected officials should be put in place before it is needed. The Town should not wait until a serious problem has arisen and only then attempt to develop a remedy.

Survey respondents strongly favored a recall provision. **Survey question 8 asked: *The Charter has no provision for recalling elected officials during their term of office. Do you favor adding a recall provision?***



The staff responses (18) were as follows:



Our research indicates that recall provisions have several elements:

- First, there should be time limits on how soon after, or how long before, an election will a recall petition be allowed? For example, recalls may not happen within six months before or after an election.
- The recall provision should establish a percentage or number of voters to file a petition for a recall. The number is usually set high enough to prevent petitions without strong support. Often it is 25-30 but in Stoughton it is 5% of the voters
- There may be a subsequent threshold for the petitioners to get enough signatures to get the matter onto a ballot
- Should the petition state reasons for removal, or are none required?
- Should the elected official be given notice and an opportunity to resign before the vote?
- Should the petition can be accompanied by an election of a successor if the recall is successful? While some towns have a provision whereby the recall election includes an election for a potential successor, the Collins Center indicates this is no longer a preferred method and that a special election is the preferred method

- Should there be any delineation on which officers are included or excluded
- Should there be a prohibition on holding office for a specific period of time if the recall is successful? (e.g. 1-2 years)

As an example, Andover recently enacted a recall provision with the following features:

1. To receive petition pages/provide notice of recall attempt – 50 signatures, or whatever is required under State law to become a candidate for local election. The notice must state the grounds for recall. However, there should be no limitation on which grounds can support a recall effort as any limitation would be difficult to legislate and easy to circumvent. Separate petitions are required for each elected official targeted for recall. Within business five days of certification, the Town Clerk will issue blank petition pages to petitioners.
2. To call a Special Recall Election – Certified signatures from 30% of registered voters must be provided. Petition pages must be returned by petitioners within 20 days of the pages being given to the petitioners by the Town Clerk.
3. To qualify a candidate for the ballot – The standard ballot/candidate threshold for local elections applies.
4. To recall & elect replacement official – There would be two votes on the recall election ballot: the first determines whether the elected official should be recalled; the second determines who, if a recall has been approved, should be elected to the now-open seat. A simple majority of votes is required to recall the elected official(s); and the candidate receiving the most votes is elected to serve the balance of the unexpired term. The recalled candidate remains on the ballot in the resolution of question two.

CAN WE MODIFY PROCESSES FOR CITIZEN PETITIONS AND BALLOT REFERENDA?

We received requests to see if the town could modify processes for filing of citizens petitions or ballot referenda, or how we might use them as part of town governance. We believe these processes are governed by state law and cannot be modified by a Charter amendment, except on a limited basis as to referenda.

Citizen petitions

Citizen petitions are governed by state law and the primary ability of a town to regulate them at all is on the timing of when they must be submitted in order to be included in the warrant and be subject to public hearings, if required. The Town Meeting Warrant is developed by the Board of Selectmen and is generally composed of items, called Articles, brought forth by various Town departments and standing committees for consideration and action by Town Meeting. Individual citizens can add their own agenda items to Town Meeting through the statutory device called a Citizens' Petition.

Massachusetts General Laws, c. 39, section 10, provides, in part, as follows:

The selectmen shall insert in the warrant for the annual meeting all subjects the insertion of which shall be requested of them in writing by ten or more registered voters of the town and in the warrant for every special town meeting all subjects the insertion of which shall be

requested of them in writing by one hundred registered voters or by ten per cent of the total number of registered voters of the town whichever number is the lesser. The selectmen shall call a special town meeting upon request in writing, of two hundred registered voters or of twenty per cent of the total number of registered voters of the town, whichever number is the lesser; such meeting to be held not later than forty-five days after the receipt of such request, and shall insert in the warrant therefor all subjects the insertion of which shall be requested by said petition. No action shall be valid unless the subject matter thereof is contained in the warrant. Two or more distinct town meetings for distinct purposes may be called by the same warrant. The written requests of registered voters for the insertion of subjects in town meeting warrants shall not be valid unless the required number of registered voters not only sign their names but also state their residence, with street and number, if any.

Please note the higher threshold number of signatories required (100 registered voters) for a Special Town Meeting. Potential petitioners for either a Special or Annual Town Meeting should confer with the Town Manager at the earliest opportunity in order to insure a timely and effective effort. Per the Town Bylaws at section 4-3, any article to be inserted in the warrant for the Annual Town Meeting must be submitted to the Select Board on or before the 45th day preceding said meeting, signed by the required number of petitioners who must be voters of the Town, and all such petitions shall be placed in the warrant as presented.

Some types of petitions will require a public hearing. For example, an article seeking a change to Zoning By-laws also requires a Public Hearing with the Planning Board, as required by MGL Chapter 40A Section 5. No zoning amendment can be adopted until after there has been a public hearing, which must be held within 65 days of submission of the petition. Similarly, Section 4-4D of the Charter provides that:

All articles in any warrant for a Town Meeting calling for the expenditure of any Town funds, or the incurring of any financial obligations by the Town, shall be referred by the Select Board to the Finance Committee for its consideration. Said Committee shall report thereon to the Town Meeting, in writing, such recommendations as it deems best for the interests of the Town and its citizens.

Ballot Referendum Questions

State law also provides the framework for non-binding ballot referenda onto a town ballot. MGLc. 53 Section 18A provides in part:

- A nonbinding public opinion advisory question may be placed on the ballot for a regular municipal election in any city or town no later than the thirty-fifth day preceding such election: by vote of the city council of such city, with approval of its mayor where so required by the city charter; by vote of the board of selectmen of a town or by vote of the town council of a town having a town council or by vote of the annual town meeting; or in conformity with the following provision of this section:
- A proposal to place a nonbinding public opinion advisory question on the ballot for a regular municipal election in any city or town may be presented to the governing body thereof on a

petition signed by at least ten registered voters of the city or town. If such governing body shall not approve said petition at least ninety days before said election, then the question may be so placed on said ballot when a petition signed by at least ten per cent of the registered voters of the city or town, but in no case less than twenty such voters, requesting such action is filed with the registrars, who shall have seven days after receipt of such a petition to certify the signatures. Upon certification of the signatures, the city or town clerk shall cause the question to be placed on the ballot at the next regular municipal election held more than thirty-five days after such certification.

- The procedures established by this section shall be available to any city or town; provided, however, that if an alternative procedure is prescribed by a home rule charter, optional plan of government, or special act applying to such city or town, relative to the placing of public opinion questions upon the local ballot, then such alternative procedure shall apply.

Note that section 18A itself says that a town can adopt an alternative procedure under its Charter. In addition, section 18B, which is only effective if the town has adopted it, sets out a procedure for putting questions on a ballot and outlining requirements for explanatory material on the question being posed. The explanatory information is to include: (1) the full text of each question; (2) a fair and concise summary of each question, including a 1 sentence statement describing the effect of a yes or no vote, which shall be prepared by town counsel; and (3) arguments for and against each question. As far as we have determined, Williamstown has not adopted section 18B.

SHOULD THERE BE A STANDARD PERIODIC REVIEW OF THE CHARTER?

The Williamstown town charter is the foundational document that lays out the structure of town government. As such it should be written for the long term, allowing only infrequent revisions as times change.

Williamstown enacted its charter in 1956 and many bylaws and de facto changes have occurred since then. We are the first Charter Review Committee in 67 years appointed to study our charter and consider possible changes. Should this review process occur more frequently? Should we write a required periodic review into the charter?

To explore how other municipalities deal with this question our research picked a random selection of 9 Massachusetts cities and towns, those with names beginning with "Wa" and listed on the Commonwealth's website of city and town codes.

<https://www.mass.gov/guides/massachusetts-city-and-town-ordinances-and-bylaws>

In order of ascending population, they are:

Municipality	Charter?	Form of Government	Population	Periodic Review
Warwick	None	Open TM	780	
Wales	None	Open TM	1,800	
Warren	None	Open TM	5,000	
Wayland	None	Open TM, manager	14,000	
Wareham	Home rule charter	Open TM, administrator	23,000	Every 10 years

Walpole	Home rule charter	Rep. TM, administrator	26,000	Every 10 years
Wakefield	Home rule charter	Open TM, administrator	27,000	Every 10 years
Watertown	Home rule charter	City council & manager	35,000	Every 10 years
Waltham	Charter	City council & mayor	65,000	None

Massachusetts accepted the Home Rule Amendment to its constitution in 1966 allowing cities and towns to adopt charters without state legislative action, but within certain parameters. Four of the municipalities in this small sample adopted home rule charters with many similarities, including a periodic charter review every 10 years. Here is the periodic review section from [Wareham's charter](#):

Article 7, Section 7-1: Periodic Review - The board of selectman shall, in every year which ends in nine, appoint a committee to review the charter, said committee shall submit a report, with recommendations, to the first annual town meeting that ends in zero, concerning any proposed amendments or revisions to the charter which it believes to be necessary or desirable.

Walpole, Wakefield, and Watertown have similarly worded provisions in their charters, perhaps based on the same template, perhaps a recommended home rule charter from an organization like the Massachusetts Municipal Association.

Andover is an interesting case that was not in the above sample of municipalities. Although their population is five times larger than Williamstown, like us they adopted their charter in 1956 prior to home rule and have an open town meeting, a select board, and a town manager. They recently completed a [charter review](#) and decided not to include a periodic review. The committee reported that they did not choose to formalize a periodic charter review for the following reasons.

- It is not possible to predict when a new review would be needed. Changes in circumstances dictate when a review should take place, not a pre-ordained timescale.
- The Select Board can empanel a committee at any time to conduct a new review, and residents can petition the Select Board at any time to do so. A formulaic approach is not required. Indeed, it was felt that the Town and/or Select Board will “know that the time is right”.
- However, it is important to note that the Committee does not believe that any conclusions we offer are definitive in perpetuity. The Committee considers this current study to have been a healthy exercise and should be repeated periodically.

On the other hand, without a formal periodic charter review we have managed to avoid considering the charter for 67 years. Instead, a 10-year review such as is described in the charters of Wareham, Walpole, Wakefield, and Watertown specifies when the review should happen, but is sufficiently flexible to allow for quick review if that proves best. It requires a periodic look at the charter, but it does not limit the town's ability to address the charter at any other time it deems appropriate.

Watertown, a city much larger than Williamstown, has a useful website describing their recent charter review process. <https://www.watertown-ma.gov/529/2020-Charter-Review-Documents>

HOW SHOULD THE CHARTER BE ENFORCED?

The Williamstown Charter does not include a specific provision as to how the Charter should be enforced. We will be undertaking further research on this issue.

SHOULD WE MAKE ANY CHANGES TO HOW VACANCIES IN ELECTED OFFICES ARE FILLED?

Section 3 of the Charter establishes the procedure for filling a vacancy in the Select Board. It states:

If for any reason a vacancy shall occur in the membership of the Selectmen, the remaining Selectmen may at any time prior to the next Annual Town Election appoint a qualified person to serve as Selectman until such election, at which election the voters shall elect a Selectman to serve for the unexpired portion, if any, of the original term.

The Charter does not explain how vacancies in other elected offices are to be filled, though the state laws governing those boards do establish the same general procedure: the remaining members of the board having a vacancy meet with the Select Board and the combined group votes on a replacement to serve until the next regular election, when a person is elected to complete the remainder of the unexpired portion of the term.

The **Library Trustee** Bylaws provide:

If a member for any reason should resign or leave office before his/her term of office has expired, the vacancy is filled pursuant to the requirements of G.L. c.41 §11. The person so appointed or elected serves until the next general election at which time s/he will, if elected, serve for the remainder of the original term and then may run for his/her own full term at the following election. If the appointment is made in the last year of the term of office, the person may run for his/her own full term at the next election.

G.L. c.41 §11 referenced in the trustee bylaws states:

Section 11. As used in this section, the term "vacancy" includes a failure to elect. If a vacancy occurs in any town office, other than the office of selectman, town clerk, treasurer, collector of taxes or auditor, the selectmen shall in writing appoint a person to fill such vacancy. If there is a vacancy in a board consisting of two or more members, except a board whose members have been elected by proportional representation under chapter fifty-four A, the remaining members shall give written notice thereof, within one month of said vacancy, to the selectmen, who, with the remaining member or members of such board, shall, after one week's notice, fill such vacancy by roll call vote. The selectmen shall fill such vacancy if such board fails to give said notice within the time herein specified. A majority of the votes of the officers entitled to vote shall be necessary to such election. The person so appointed or elected shall be a registered voter of the town and shall perform the duties of the office until the next annual meeting or until another is qualified.

As to the **Planning Board** Chapter 41 section 81A provides:

A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term,... in a town, if the members of the board are appointed, in the same manner as the original appointment. If

the members of a planning board are elected, any unexpired term shall be filled by appointment by the board of selectmen and the remainder of the members of the planning board until the next annual election, at which time, such office shall be filled, by election, for the remainder of the unexpired term.

The Mt. Greylock Regional School District agreement provides a parallel structure, calling for the Select Boards of both member towns to meet and chose a candidate to fill a vacancy.

MISCELLANEOUS UPDATES TO REFLECT ORGANIZATIONAL CHANGES AND SUBSEQUENT EVENTS

Section 15(c) of the Charter refers to a Welfare Agent, a position that no longer exists, so this reference can be deleted.

Sections 5, 7 and 15(h) of the Charter refer to the school committee, which was the school committee as it existed in 1956, before the establishment of the Mt. Greylock Regional School District and the subsequent consolidation of the Williamstown Elementary School, so these provisions should be modified or deleted.

The Charter in section 17 requires the Town Manager to submit the annual budget to the Finance Committee by December 15th of each year, unless the town prescribes otherwise by bylaw. The town did pass a bylaw in 1974 changing the date to February 15. See Bylaw 14-1. We should harmonize these provisions with the preferred date. We can also include the idea of having a schedule for the Select Board to set out priorities for the budget.

FURTHER WORK ON THE USE OF TECHNOLOGY IN MUNICIPAL OPERATIONS

The Committee also recognized that town government operations were dependent on various technologies and that there were opportunities of further development. The choice and use of technology are not topics we believe need to be addressed in the Charter itself, but they are discussed here to provide a basis for further discussion in more appropriate contexts.

The Town currently uses multiple technology providers for a variety of services and has recently hired its first IT coordinator. Current vendors include Wordpress, Mungy, OpenGov, ViewPoint, Cloud, Tyler Technologies, Google Unibank, AxisGIS / ArcGIS, ONSOLVE, and CodeRED.

The range of technology service is quite broad and includes:

- Marketing the town to: visitors, people moving to town, and for retaining people in town
- Government transparency
- Positions and committees
- Who they are, what role they play, how they are elected/appointed
- Meeting schedules, agendas, packets, and products of work (where applicable)
- Important decisions (both past and upcoming)
- Evolving role of news outlets like WilliNet, iBerkshires, and others
- Data lookup (ArcGIS, solar energy production, etc.)
- Transactional items
- Submission of forms related to permits, licenses, applications, etc...

- Faster renewals
- Management of profile information / subscriptions to content
- Payments related to fees and taxes
- Important and timely information
- “Push” information like road closures, emergencies, important events
- Email, text, robo calls, social media channels (Twitter, Facebook, Instagram)
- Services offered, requirements, etc...
- Schedules
- Contact information
- Evolving role of town halls, libraries, chambers of commerce, and non-profits as information hubs (events, assistance with navigating processes, etc.)
- Communication related to town services and responses (reporting safety issues, concerns, etc...)
- Running town services: payables, payroll, accounting, management of operations
- Technology services outside of the above
- Internet (both to the home and wi-fi around town)
- EV Charging
- Parking

We recommend that further discussions be held on the Town’s use of technology and identifying opportunities for further enhancement and efficiencies. We recognize that municipal software and legal requirements move more slowly than much of the world and that transitions take time and attention as a resource. They all will need some degree of training and/or dedicated staff to achieve the desired improvements and functionality. In addition, cost is always a factor and some types of technology require greater scale to make them more economically attractive.