

**TOWN OF FALMOUTH**  
**CHARTER REVIEW COMMISSION**  
**1996-1997**  
**FINAL REPORT**

**April 28, 1997**

# Town of Falmouth, Maine

Wm B. Harris, Town Manager

271 Falmouth Road  
Falmouth, Maine 04105  
(207) 781-5253



April 28, 1997

## The Town of Falmouth

Reference: Charter Review Commission

Dear Fellow Residents:

As you may recall from the municipal election held last June, the voters of the Town of Falmouth chose to have its Charter reviewed, and also elected six people to be members of the Falmouth Charter Review Commission. Those six, plus three others appointed by the Falmouth Town Council, comprised the entire Commission. In September of 1996, we held our organizational meeting and first public hearing. Since that time, we convened on several occasions during 1996 and 1997 in order to review the Charter and to discuss and debate many of its existing provisions as well as many proposals for revision.

The format used by the Commission for the conduct of its deliberations was that a quorum consist of a majority of the nine members of the Commission; that questions were only put to a vote when a quorum was present; and that the disposition of any proposed recommendation was only decided by majority vote of the members present at the time of the vote. Audio recordings of all of our meetings were made and are in the custody of the Town Clerk.

On February 18, 1997, the Commission issued its preliminary report. That report listed all of the individual changes which the Commission had agreed, by majority vote of its members, to recommend for submittal and adoption by the Town of Falmouth. On March 25, 1997, we held our second public hearing in order to receive comments on that preliminary report. We then met and formulated our final report.

Accordingly, the Falmouth Charter Review Commission hereby submits its final report to the residents of the town for your review and consideration relative to its recommendations for revisions to the Council-Manager Charter of the Town of Falmouth. Attached are the revisions, additions, and deletions to the Charter which the Commission submits for adoption by the Town; a list of items which were proposed but which the Commission chose not to submit for adoption; and two items which the Commission did not believe were Charter level issues but which it wishes to include in this report as recommendations.

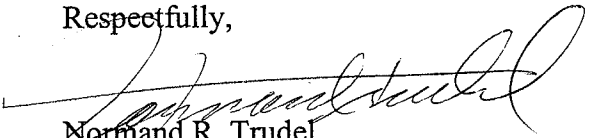
The Commission has determined that only one question should be separated from the others and voted upon as a single item. The Charter currently requires that appropriations in excess of

\$200,000 for a single capital improvement or a single item of equipment be submitted to the voters for approval, and that appropriations in excess of \$100,000 for a single capital improvement may also be required to be submitted to the voters for approval through citizen initiated petition. After reviewing several indices which track increases in the cost of goods and equipment from the last Charter revision, the Commission concluded that these amounts should be increased to \$400,000 and \$200,000 respectively.

It is the opinion of the Commission that the existing Charter has served Falmouth and its citizens very well since last revised in July of 1987 and as amended June of 1989. The recommendations described herein are intended to be fundamentally consistent with the principles set forth in that Charter and to preserve the basic nature of the Council-Manager form of government currently in effect. Although many of the individual proposed changes to the Charter were approved by less than a unanimous vote, and still other proposals were defeated, it is the unanimous opinion of the Commission that the sum total of the changes that we are recommending to the voters for adoption will, if approved, enhance and strengthen the Charter well into the future.

The Commission is grateful for the honor and opportunity the residents of Falmouth have granted us in pursuit of this endeavor and we appreciate the assistance and support that we received from the Town Clerk, Town Manager, and other members of the Town staff.

Respectfully,



Normand R. Trudel  
Chairperson,  
Falmouth Charter Review Commission

# CHARTER REVIEW COMMISSION

## Final Report - Draft 02/04/1997

---

### ITEM - 1

**Sec. 102. Powers of the Town.** The Town shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises, and shall be subject to all the duties, liabilities and obligations, provided for herein, or otherwise pertaining to or incumbent upon said Town as a municipal corporation, or the inhabitants or municipal authorities thereof; it may enact by-laws, regulations and ordinances not inconsistent with the Constitution and laws of the State of Maine, and impose penalties for the breach thereof to be recovered to the use of said Town by appropriate action. Except as otherwise provided by state law, such penalties shall be determined or set by ordinance. shall not exceed \$100 for any one infraction provided that after service of written notice by registered or certified mail of an infraction upon the person in breach, each day that a breach continues shall be considered a separate infraction. Service by registered or certified mail shall be complete when the registered or certified mail is delivered and the return receipt signed or when acceptance is refused, provided that upon notice of such refusal a copy of the written notice shall be sent by ordinary mail.

**Summary:** The Commission decided penalties are better set and regulated at the ordinance level.  
(02/06/97 - Meeting)

---

### ITEM - 2

**Sec. 202. Qualifications.** Councilors shall be qualified electors of the Town and shall have their principal place of residence in the Town during their terms of office. No Councilors Neither they nor their spouses shall hold any paid office or position of employment with the Town. If a Councilor shall cease to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, the office of that Councilor shall immediately become vacant.

**Sec. 402. Qualifications.** Members of the School Board shall be qualified electors of the Town and shall have their principal place of residence in the Town during their terms of office. No School Board member Neither they nor their spouses shall hold any paid office or position of employment with the School Department. If a member of the School Board ceases to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, the office of that School Board member shall immediately become vacant.

**Summary:** The majority of the Commission voted to remove "spouse"; some members stated if a conflict occurred it could be resolve with a policy change.

---

### ITEM - 3

**Sec. 202. Qualifications.** Councilors shall be qualified electors of the Town and shall have their principal place of residence in the Town during their terms of office. Neither they nor their spouses shall hold any paid office or position of employment with the Town. If a Councilor shall cease to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, the office of that Councilor shall immediately become vacant.

The office of Councilor shall become vacant upon resignation, death, recall, failure to qualify for the office within 10 days after written demand by the Council, forfeiture of office or failure of the municipality Town to elect a person to the office.

**Summary:** This is a word change as suggested by the Town attorney and was approved by the Commission. (10/16/97 - Meeting)

---

**ITEM - 4**

✓ 204.1 Appoint the Town Manager, in accordance with Section 217 hereof, and appoint the Assessor, Town Attorney, ~~Health Officer~~, the Board of Assessment Review, the Board of Appeals, the Planning Board and all other statutory and advisory boards, commissions and committees. It may remove the Town Manager in accordance with Section 217 hereof and may remove any of the other above appointees after providing 30 days written notice of such intent, with reasons therefor, and providing the appointee an opportunity for hearing;

✓ **Sec. 305. Health Officer.** <sup>TOWN</sup> The ~~Manager~~ may shall appoint for an indefinite term a health officer who shall exercise such powers and perform such duties as may be conferred or imposed by law. The health officer shall meet such qualifications as may be specified generally for such positions by the State Commissioner of Human Services.

**Summary:** The Charter has both the Town Council and the Town Manager appointing the Health Officer. To eliminate this conflict, the Commission decided the Town Manager should make this appointment. (10/16/96 - Meeting)

---

**ITEM - 5**

✓ 204.3 Make, alter and repeal ordinances to the full extent permitted under the Home Rule authority granted to municipalities under the Maine Constitution and statutes; included under this power shall be the power to enact ordinances regulating the following classes of persons, businesses and purposes and to grant licenses and permits therefor for such periods of time and in accordance with such rules and regulations, not inconsistent with law, upon payment by the licensee of such fees, and filing of such bonds as said Town Council may establish and make provisions for by ordinance, to wit: Auctioneers, the maintenance and operation of garages, filling stations, sidewalk tanks and pumps for the sale or distribution of gasoline and other volatile inflammable liquids for fuel or power; the manufacture, storage, sale, transportation, disposition and use of explosives and flammable liquids; billiard halls, pool halls; bowling alleys; roller skating rinks; junk dealers; dealers in second hand merchandise; hawkers and peddlers; employment agencies; itinerant vendors; public automobiles; taxicabs and motor buses; public wagons and trucks; amusements; exhibitions and performances; theaters; moving picture houses; inns, victualers; pawnbrokers; lodging houses of 14 rooms or more; public shooting galleries; the manufacture, storage, sale, disposition and use of fireworks; dance halls; circuses; and the erection of signs, flags, banners, awnings; marquees, and all other things within the limits of the sidewalks, roads, ways and streets of said Town, and no such objects placed within said limits in accordance with such ordinances shall be deemed defects in such sidewalks, roads, ways and streets; and such other activities as the Council may by ordinance designate;

**Summary:** The original language contains terms that are no longer used; to "clean up" this section, the above change was approved by the Commission. (10/16/96 - Meeting)

---

**ITEM - 6**

✓ 204.9 ~~Repealed~~ Adopt, modify and carry out plans proposed by the Planning Board for the clearance of slum districts and rehabilitation of blighted areas;

**Summary:** The original language contained out-dated terms and functions; the Commission decided to repeal it. (10/16/96 - Meeting)

---

**ITEM - 7**

204.12 Sell, ~~exchange or donate or offer to sell, by competitive bids only~~, surplus property of the Town, both real and personal. Except as provided by ordinance, any sale shall be preceded by a competitive bidding process with publication and invitations to bid at least 30 days prior to the opening of the bids. ~~Invitations for bids shall be published at least 30 days prior to the date for the opening of bids.~~ The Council may, at its discretion, accept or reject any such bid or bids.

**Summary:** The above change allows the Town to dispose of surplus property with little value by ordinance, eliminating costly advertisements and the bidding process. (Competitive bidding will be used for disposal of property unless otherwise indicated by ordinance.) (11/13/96 - Meeting)

---

**ITEM - 8**

**Sec. 205. Compensation.** The Town Council by ordinance shall determine the compensation of Councilors and members of the School Board. No increase in compensation shall take effect until the next Town fiscal year. The Town Council, by specific order, shall set the compensation of its appointees. Salaries of the appointees of the Town Manager shall be set by the Town Manager, ~~subject to approval of the Town Council, by specific order.~~

**Summary:** Salaries are adjusted throughout the year as a result of new employees being hired, merit step increases being granted, or required step increases under union contracts. Past practice has been to include the appropriation for salaries in the annual budget. The budget and pay plan are approved by the Town Council. The Commission decided to remove the following wording "subject to approval of the Town Council, by specific order". (01/15/97 - Meeting)

---

**ITEM - 9**

**Sec. 206. Induction of Council into office.** The Town Council shall meet at the usual place for holding meetings at 8 P.M. on the 3rd Monday in June following the regular Town election and at said meeting Councilors-elect shall be sworn to the faithful discharge of their duties by a notary public justice of the peace or by the Town Clerk.

**Sec. 404. Organization; qualifications; quorum.** The members of the School Board shall meet for organization within fourteen days from the date of their election. The members-elect shall be sworn to the faithful discharge of their duties by a notary public justice of the peace or by the Town Clerk, and record made thereof. The majority of the whole number of the School Board shall be a quorum and they shall elect their own chairman.

**Summary:** "Justices of the peace" no longer exist; now notary publics administer oaths. (10/16/96 - Meeting)

---

**ITEM - 10**

**Sec. 209. Chairman.** At its first meeting or as soon thereafter as practicable the Council shall elect, by majority vote of the entire Council, one of its members for the ensuing year as chairman and one of its members as vice chairman, and the Council shall fill, for an unexpired term, any vacancy in the office of chairman or vice chairman that may occur. The chairman shall be recognized as head of the

Town government for all ceremonial purposes and by the Governor for purposes of military law, but he shall have no regular administrative duties. In the temporary absence or disability of the chairman, the ~~Town Council shall elect a vice chairman pro tempore, from among its members and he~~ shall exercise all the powers of the chairman during such temporary absence or disability of the chairman. It shall be the duty of the chairman to (1) preside at all meetings of the Council; (2) develop, after consultation with the Town Manager, agenda for Council meetings, provided that no Councilor shall be denied the right to place an item on the agenda; (3) after consultation with the Council, represent the Council in all dealings with the Town Manager and with all statutory and advisory boards, commissions and committees in person or by delegation.

**Summary:** The Council currently elects a vice chairman; this is not included in the Charter. The Commission decided that a vice chairperson should exercise the powers of the chairperson in his/her absence. (10/16/96 and 02/06/97- Meetings)

---

#### ITEM - 11

**Sec. 215.** ✓ **Independent annual audit.** ~~Prior to the end of each fiscal year,~~ The Council shall designate the State Department of Audit or private certified public accountants<sup>FINANCIAL</sup> who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the Town government and shall submit their report to the Council, and the Town Manager. Such accountant shall not maintain any accounts or records of the Town business, but shall post-audit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department, or agency of the Town government.

**Summary:** By removing "prior to the end of the fiscal year", the Town Council can enter into a multi-year contract with auditors which can lower the cost for this service. In addition, by removing the language, it easier to enter into this contact without the question of one council being able to bind another. (02/06/97 - Meeting)

---

#### ITEM - 12

**Sec. 219.** ✓ **Periodic Charter Review.** At least once every 10 years, the Town Council shall, on its own motion and without requiring a petition, create a Charter Review Commission in the manner prescribed by the Home Rule statute, 30-A M.R.S.A. Section ~~1912~~ 2102 et seq.

**Summary:** Section 2102 is the correct reference in 30-A M.R.S.A. for the Home Rule statute. (10/16/96 - Meeting)

---

#### ITEM - 13

Combining Section 1008 with 302.

✓ 302.1 Appoint, prescribe the duties of, and, when necessary for the good of the service, remove all officers and employees of the Town, except as otherwise provided herein, and except as the Town Manager may authorize the head of a department or office to appoint and remove subordinates in such department or office;

The decision of the Town Manager, or other appointing officer, shall be final and there shall be no appeal therefrom to any other office or body except as allowed by State or Federal law.

✓  
**Sec. 1008.** ~~Repealed. Removal of officers and employees.~~ Any officer or employee to whom the Town Manager, or a head of any office, department or agency, may appoint a successor, may be removed by the Manager, or other appointing officer at any time.

The decision of the Manager, or other appointing officer, shall be final and there shall be no appeal therefrom to any other office, body or court whatsoever.

**Summary:** To eliminate repetition in the Charter, it was decided to combine these two sections. (02/13/1997 - Meeting)

---

**ITEM - 14**

✓ 302.3 Prepare and submit to the Council, as promptly as possible, as of at the end of the fiscal year a complete report on the finances of the Town for the preceding fiscal year, and further cause, as promptly as possible, and administrative activities of the Town for the preceding year, and cause such an annual Town Report to be published and made available to the public as promptly as possible after the end of the calendar close of the fiscal year;

**Summary:** The above change allows the Town to create an annual Town Report that includes information on the calendar year vs. the fiscal year. The report on the finances will be available "as promptly as possible" at the end of the fiscal year. (11/13/96 - Meeting)

---

**ITEM - 15**

✓ 302.8 ~~Repealed Prepare an administrative code, to be submitted annually to the Council and be responsible for its administration after adoption.~~

**Summary:** This section requires the town manager to "prepare an administrative code to be submitted annually to the Council". For many years, the administrative code has been part of the Municipal Code of Ordinance making this provision obsolete. Therefore, the Commission decided to repealed this section. (10/16/96 - Meeting)

---

**ITEM - 16**

✓  
**Sec. 405.** **Powers and duties.** The School Board ~~board of education~~ shall have all the powers conferred and shall perform all the duties imposed by law upon superintending school committees in regard to the care and management of the public schools of the Town, except as otherwise provided in this charter. The School Board shall prepare budget estimates in detail of the several sums required during the ensuing budget year for the support of the public schools and at least 45 days before the beginning of the budget year, the School Board shall furnish copies of such estimates to the Manager. All meetings of the School Board ~~Board of Education~~ shall have due public notice and shall be recorded. No failure to give public notice or to make record of any meeting at which no vote is taken shall invalidate any action of the Board.

**Summary:** To make the Charter consistent, it was recommended that School Board replace Board of Education.

---

**ITEM - 17**

✓ **Sec. 802. Nomination.** Registered voters of the Town, regardless of whether they be political caucus nominees or unenrolled voters-independents, shall be nominated for the Council or School Board by use of nomination papers in accordance with the State Statutes governing Town elections.

**Summary:** The Commission decided to change "independents" to unenrolled voters to be consistent with State statute. (01/15/97 - Meeting)

---

**ITEM - 18**

✓ **Sec. 805. Election officials.** The Town Council shall annually ~~or at least 10 days before any election,~~ appoint a warden and a ward clerk, in addition to the election clerks, for each voting place.

**Summary:** By removing "at least 10 days before an election" the Town Council has the ability to appoint a warden at any time. A "ward clerk" is the term used in State statute. (02/06/97 and 01/15/97 - Meetings)

---

**ITEM - 19**

✓ 901.2 Orders or resolves appropriating ~~\$200,000 \$100,000~~ or more for a single capital improvement;

901.3 Orders or resolves authorizing bond issues of ~~\$200,000 \$100,000~~ or more for capital improvements.

✓ **Sec. 903. Referendum on Certain Expenditures.** The Town Council shall submit any order or resolve appropriating ~~\$400,000 \$200,000~~ or more of funds raised pursuant to the Town's power of taxation for a single capital improvement or for a single item of equipment and any order, resolve or ordinance authorizing general obligation bond issues of ~~\$400,000 \$200,000~~ or more for capital improvements or for equipment to the voters at a regular or special election following at least one or more public hearing. These provisions shall apply whether or not payment for the capital improvements or single item of equipment is to be made in more than one fiscal year. The question shall be submitted to the voters at the next regular municipal election held not less than 30 days after the order, resolve or ordinance is passed; or the Council may order that the question be submitted to the voters at a special election to be held not less than 30 days from the date of the order, resolve or ordinance. (01/15/97 and 02/06/97 - Meetings)

**Summary:** The capital expenditure amount that is subject to referendum by citizen initiative has not changed in 30 years. The automatic referendum requirement was implemented in 1978. The Commission felt these amounts need to be increased, but politically did not feel it would be prudent to try to adjust the amounts up to current costs.

---

**ITEM - 20**

✓ **Sec. 904. Form of ballot.** The form of the ballot for the proposed ordinance, or repeal of such ordinance, order or resolve, shall be substantially as follows:

"Shall the ordinance, order or resolve entitled  
'.....' be repealed?  
(or adopted?)"

YES

NO

~~The voters shall indicate by a cross or check  
mark placed in box under the words YES~~

and NO, thier opinion of the same

**Summary:** The Optech Voting machines require a voter to connect a line, not "a cross or check mark in a box". (10/16/96 - Meeting)

---

**ITEM - 21**

Changing Manager to Town Manger

**Summary:** Refer to Appendix "A". To maintain consistency in the Charter, it was recommended to have "Manager" changed to "Town Manager".

---

**ITEM - 22**

Making the Charter gender neutral.

**Summary:** The Commission decided to make the charter gender neutral by removing references to "he", "him" and "his" and changing "chairman" to "chairperson". Appendix "B" has all these changes as approved by the Commission. (01/15/1997, 02/06/1997, and 03/25/1997 - Meetings)

---

**ITEM - 23**

✓ Not this one  
903.2 The land acquisition shall be considered a capital improvement for purposes of this Charter and in each clause which references capital improvement, capital improvement shall include land acquisition.

**Summary:** For clarity purposes, the Commission decided land acquisitions should be defined as a capital improvement. The Town Attorney will provide a location in the Charter. (03/25/1997 - Meeting)

---

**COMMISSION RECOMENDATIONS THAT ARE NOT CHARTER ISSUES BUT COMMISSION WANTED INCLUDED IN THE REPORT**

---

1. Increase compensation for the School Board and the Town Council. The Commission did not want to change the Charter to increase or set the pay rate for School Board or Council members. It did wish to include in its report to the Council a recommendation that the current compensation for these elected official should be increased by the Town Council. (02/06/97 - Meeting)
2. Although the Commission sees the value of political parties asking for candidates to run, the Commission does not believe a Charter amendment is necessary to advance that objective. (03/25/1997 - Meeting)
3. The Commission recommends the Organizational Chart be updated. Appendix "C" is a copy as approved by the Commission. (02/06/97 - Meeting)

*copy  
Sheet  
B/11/1/10/1997  
new  
Attache*

---

## MOTIONS THAT FAILED

---

“To change the Town Charter to allow candidates to be nominated by political party caucuses or by nomination papers.” (12/11/1996 - Meeting)

“To add the following language to Section 903: this does not apply to the issuance of bonds for streets, sidewalks, or storm or sanitary sewers; or improvements or equipment needed as a result of fire, flood, disaster or other declared emergency.” (01/15/1997 - Meeting)

“To have the Charter state that the Town Council and School Board members receive a minimum of \$1,800 per year payable as determined by the Town Council.” (02/06/1997 - Meeting)

“To have the chair\chairperson of the Planning Board elected to office for a term of two (2) years at the regular municipal election.” (02/13/1997 - Meeting)

“To change the Charter to require the School Board to provide the Council with two budgets - one for education and one for facilities costs.” (02/13/1997 - Meeting)

“Only registered voters of the town may be nominated for the Town Council or the School Board. They shall be nominated by a political committee such as the Democratic or Republican Town Committees, but must also file a nominating petition in accordance with state statutes. They may also be nominated by petition alone, also in accordance with state statutes governing town elections.” (03/25/1997 - Meeting)

## APPENDIX "A"

204.2 By ordinance create, change and abolish offices, departments or agencies, other than the offices, department and agencies established by this Charter. The Council by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency. The Council may, however, vest in the Town Manager all or part of the duties of any office except the Department of Education;

**Sec. 218.** ✓ **Council not to interfere in appointments or removals.** Neither the Council nor any of its members shall direct or request the appointment of any person to or his removal from office by the Town Manager or by any of his subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the Town Manager, and neither the Council nor any member thereof shall give orders to any subordinates of the Town Manager, either publicly or privately.

**Sec. 303.** ✓ **Absence of Town Manager.** To perform his duties during his temporary absence or disability, the Town Manager may, with the consent of the Council, designate by letter filed with the Town Clerk, a qualified administrative officer of the Town. In the event of failure of the Town Manager to make such designation, the Council may by resolution appoint any administrative officer of the Town to perform the duties of the Town Manager until he shall return or his disability shall cease.

**Sec. 405.** ✓ **Powers and duties.** The board of education shall have all the powers conferred and shall perform all the duties imposed by law upon superintending school committees in regard to the care and management of the public schools of the Town, except as otherwise provided in this charter. The School Board shall prepare budget estimates in detail of the several sums required during the ensuing budget year for the support of the public schools and at least 45 days before the beginning of the budget year, the School Board shall furnish copies of such estimates to the Town Manager. All meetings of the Board of Education shall have due public notice and shall be recorded. No failure to give public notice or to make record of any meeting at which no vote is taken shall invalidate any action of the Board.

**Sec. 502.** ✓ **Preparation and submission of the budget.** The Town Manager, at least 35 days prior to the beginning of each budget year, shall submit to the Council a budget and an explanatory budget message. The budget authority of the Council shall be limited to the final determination of the total appropriation to be made to each of the several offices, departments and agencies of the Town, including the department of education. This budget shall be compiled from detailed information furnished by the administrative officers and boards on blanks, forms of which shall be designated by the Town Manager, and shall contain: ...

The proposed budget prepared by the Town Manager shall be reviewed by the Town Council which shall approve the budget with or without amendments. The Town Council shall fix the time and place for holding a public hearing on such budget, and shall give a public notice of such hearing. The Council shall thereafter review the budget and adopt it, with or without change, no later than 60 days from the beginning of the fiscal year. In the event the Council shall fail to adopt the budget within said 60-day period, the budget as presented by the Town Manager shall automatically become the budget for the fiscal year.

**Sec. 504.** ✓ **Budget establishes amount to be raised by property tax; certification to Town Assessor.** From the date of the adoption of the budget, the amounts stated therein as the amount to be

raised by property tax shall constitute a determination of the amount of the levy for the purposes of the Town in the corresponding tax year. A copy of the budget as finally adopted shall be certified by the Town Manager and filed by him with the Town Assessor, whose duty it shall be to levy such taxes for the corresponding year.

**Sec. 508.** ✓ **Transfer of appropriations.** At the request of the Town Manager, the Council may by resolution transfer an unencumbered appropriation balance or portion thereof including surplus between the general accounts.

**Sec. 1008.** ✓ **Removal of officers and employees.** Any officer or employee to whom the Town Manager, or a head of any office, department or agency, may appoint a successor, may be removed by the Town Manager, or other appointing officer at any time.

The decision of the Town Manager, or other appointing officer, shall be final and there shall be no appeal therefrom to any other office, body or court whatsoever.

## APPENDIX "B"

1) **Sec. 209.** ✓ **ChairpersonChairman.** At its first meeting or as soon thereafter as practicable the Council shall elect, by majority vote of the entire Council, one of its members for the ensuing year as chairperson chairman and one of its members as vice chairperson chairman, and the Council shall fill, for an unexpired term, any vacancy in the office of chairperson chairman that may occur. The chairperson chairman shall be recognized as head of the Town government for all ceremonial purposes and by the Governor for purposes of military law, but <sup>the</sup> chairperson he shall have no regular administrative duties. In the temporary absence or disability of the chairperson chairman, the vice chairperson chairman shall exercise all the powers of the chairperson chairman during such temporary absence or disability of the chairperson chairman. It shall be the duty of the chairperson chairman to (1) preside at all meetings of the Council; (2) develop, after consultation with the Town Manager, agenda for Council meetings, provided that no Councilor shall be denied the right to place an item on the agenda; (3) after consultation with the Council, represent the Council in all dealings with the Town Manager and with all statutory and advisory boards, commissions and committees in person or by delegation. (This paragraph includes the Commission's recommendation on a vice chairperson.)

✓ 209.1 The Council may, by vote of 5 Councilors, after public notice, notice in writing to the chairperson chairman and hearing, remove the chairperson chairman, provided that the chairperson chairman may elect to waive public notice and/or public hearing.

2) **Sec. 218.** ✓ **Council not to interfere in appointments or removals.** Neither the Council nor any of its members shall direct or request the appointment of any person to or the his removal from office by the Manager or by any of his subordinates. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the Manager, and neither the Council nor any member thereof shall give orders to any subordinates of the Manager, either publicly or privately.

3) ✓ 302.4 Attend the meetings of the Council, except when the Town Manager's his removal is being considered, and keep the Council advised of the financial condition and future needs of the Town and make such recommendations as may seem to the Town Manager him desirable;

4) ✓ 302.7 Perform such other duties as may be prescribed by this charter or required of the Town Manager him by the Council, not inconsistent with this Charter;

5) **Sec. 303.** ✓ **Absence of Town Manager.** To perform the Town Manager's his duties during <sup>a</sup> his temporary absence or disability, the Manager may, with the consent of the Council, designate by letter filed with the Town Clerk, a qualified administrative officer of the Town. In the event of failure of the Manager to make such designation, the Council may by resolution appoint any administrative officer of the Town to perform the duties of the Manager until the Town Manager he shall return or the his disability shall cease.

6) **Sec. 404.** ✓ **Organization; qualifications; quorum.** The members of the School Board shall meet for organization within fourteen days from the date of their election. The members-elect shall be sworn to the faithful discharge of their duties by a justice of the peace or by the Town Clerk, and record made thereof. The majority of the whole number of the School Board shall be a quorum and they shall elect their own chairperson chairman.

7) **Sec. 504.** ✓ **Budget establishes amount to be raised by property tax; certification to Town Assessor.** From the date of the adoption of the budget, the amounts stated therein as the amount to be raised by property tax shall constitute a determination of the amount of the levy for the purposes of the

Town in the corresponding tax year. A copy of the budget as finally adopted shall be certified by the Manager and filed by the Town Manager ~~him~~ with the Town Assessor, whose duty it shall be to levy such taxes for the corresponding year.

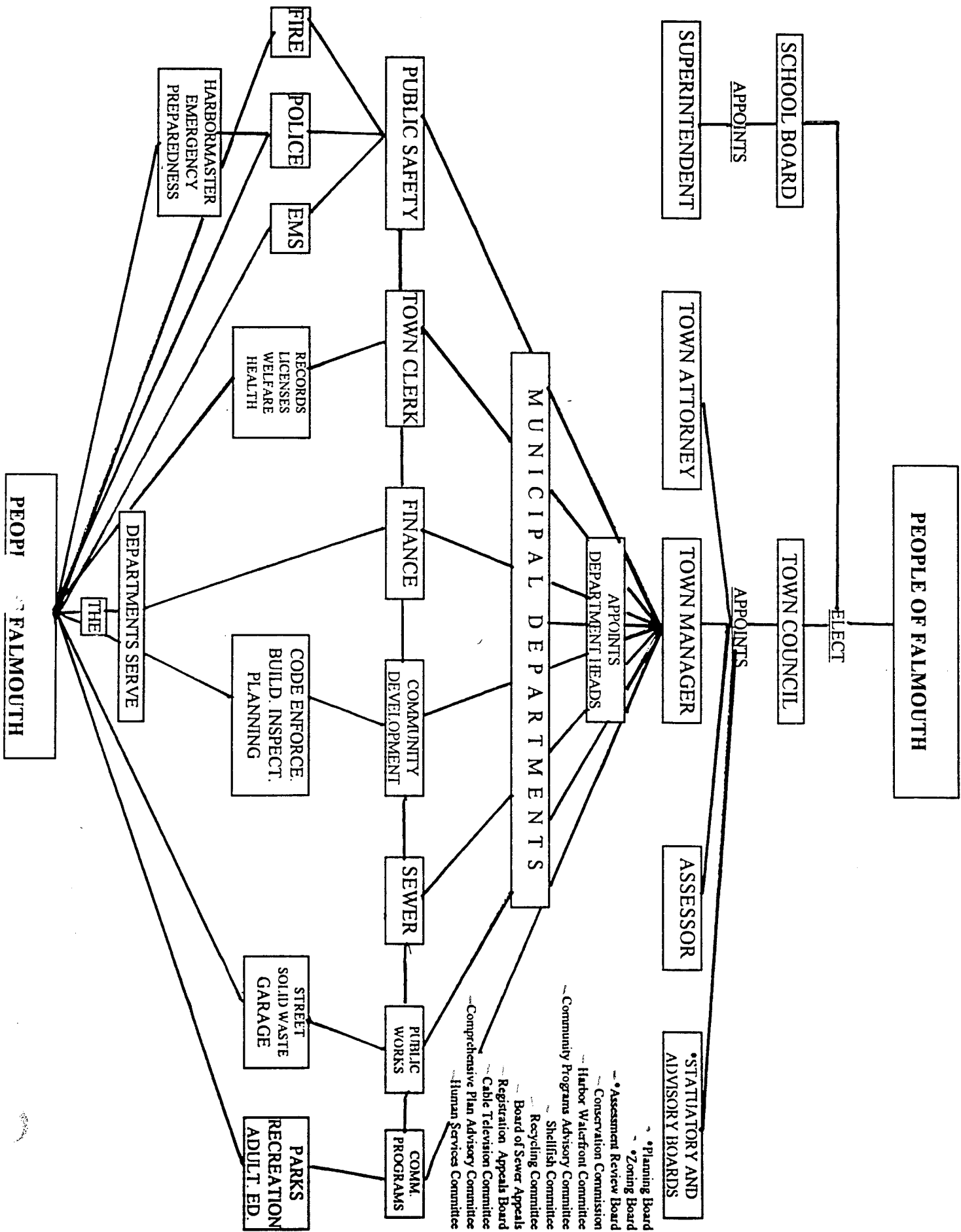
8) **Sec. 507.** ✓ **Work program; allotments.** Before the beginning of the budget year, the head of each office, department or agency shall submit to the Town Manager, when required by the Town Manager ~~him~~, a work program of the year, which program shall show the requested allotments of appropriations for such office, department or agency, by stated periods, for the entire budget year. The Town Manager shall review the requested allotments in the light of the work program of the office, department or agency concerned, and may revise, alter or change such allotments before approving the same. The aggregate of such allotments shall not exceed the total of appropriations available to said office, department or agency for the budget year.

9) **Sec. 902.** ✓ **Petition for enactment of ordinances.** Not less than 10% of the registered voters of the Town may at any time petition for the enactment of any proposed lawful ordinance by filing such petition, including the complete text of such ordinance, with the Town Clerk. The Council shall call a public hearing to be held within 30 days from the date of the filing of such petition with the Town Clerk, and shall within 30 days after said public hearing call a special Town election for the purpose of submitting to a referendum vote the question of adopting such ordinance, unless prior to the call for said Town election, such ordinance shall be enacted by the Council. Such ordinance shall take effect on the 10th day after the conclusion of such referendum, provided a majority of those voting hereon shall have voted in the affirmative.

Any such proposed ordinance shall be examined by the Town Attorney before being submitted to referendum. The Town Attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, illegalities and unconstitutional provisions, and to assure accuracy in its text and references and clearness and preciseness in its phraseology, but the Town Attorney ~~he~~ shall not materially change its meaning and effect.

10) ✓ 905.1 The recall committee shall have 30 days from the date of issuance of appropriate petition blanks to cause the petition to be signed by 25% of the qualified voters of the Town. The petition shall be signed in the presence of the Town Clerk or of a qualified voter of the Town who shall certify to the validity of the signatures ~~he~~ collecteds. Within 10 days after the circulation period ends the Town Clerk shall certify to the Town Council as to whether the petition has been signed by not less than 25% of the qualified voters of the Town. Should less than 25% of the qualified voters of the Town sign the petition, the petition shall have no further force or effect, and no new petition action for recall of the same person can be initiated until 180 days from the end of the previous filing period.

11) ✓ **Sec. 1006. Oath of office.** Every officer of the Town shall, before entering upon the duties of the ~~his~~ office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk.



## **MINORITY REPORT**

## MEMORANDUM

**TO:** Chairperson Trudel,  
Charter Review Commissioners,  
Town Clerk,  
Residents of Falmouth  
**FROM:** Roger V. Snow, member, Charter Review Commission  
**DATE:** April 9, 1997  
**RE:** Minority Report

---

I dissent from several negative decisions made by a majority of the Falmouth Charter Review Commission. A majority voted not to pass on the following proposals:

- 1) To have the Charter state that the town council and school board members receive a minimum of \$1,800 per year.
- 2) To have the chair of the planning board elected to a term of office for two years at the regular municipal election.
- 3) To offer the following wording concerning nominations for the council or school board:

“Only registered voters of the town may be nominated for the town council or school board. They shall be nominated by a political committee such as the Democratic or Republican Town Committees, but they must also file a nominating petition in accordance with state statutes governing town elections.”

- 4) To call the chairman of the town council “mayor”.

**I do not dissent lacking respect for the integrity and membership of the Charter Review Commission. In general, they were a diligent and thoughtful group.**

I dissent for these reasons:

- 1) Members of the town council are paid \$25 per meeting, with a limit of only several hundred dollars each year. Not only is this far less than most of our neighbors, but it discriminates against persons of small to moderate income. Should they be unable to contribute their energy and minds to our fine community because the council pay does not cover baby sitter costs? I think not. True, the council can set its own pay, but it hesitates to raise it because individual members do not wish to be regarded as greedy. This is short-sighted.
- 2) Falmouth is growing rapidly. As a result, much attention is focused on the planning board. My thinking (and I am not alone in this) is that the election of the planning board chair will focus more attention on its policies and actions. It would do so without dangerously encouraging or discouraging any specific planning board actions because other members of the board and the town council itself can block dangerous actions.

- 3) The record will show that meritorious candidates for the council and school board often do not always become candidates without strenuous urging from others - and sometimes the "others" are persons with an agenda. It seems to me that greater involvement by the town committees would do two things. First, it would broaden candidate selection and, in the process, give voters more choice. Second, it would strengthen our Democrat and Republican committees - strengthen them, that is, by involving them more in Falmouth affairs. Presently, they tend to become involved only in state or national elections, whereas local elections are equally, or perhaps more important to us.
- 4) For the above reasons stated in #3 above, I would also prefer that our council chairman, chairwoman, or chairperson be called "Mayor". Perhaps the title would also strengthen interest in town affairs.

## **BALLOT QUESTIONS**

DRUMMOND WOODSUM & MACMAHON  
ATTORNEYS AT LAW  
245 COMMERCIAL STREET  
POST OFFICE BOX 9781  
PORTLAND, MAINE 04104-5081  
(207) 772-1941  
FAX (207) 772-3627  
TTY (207) 828-8260

WILLIAM L. PLOUFFE

April 28, 1997

**VIA FAX AT 781-3640**

Fran Smith  
Town Clerk  
Town of Falmouth  
271 Falmouth Road  
Falmouth, ME 04105

RE: Proposed Ballot Questions for Charter Revisions

Dear Fran:

I have set out below the two proposed ballot questions for the various Charter revisions recommended by the Falmouth Charter Review Commission in its April 2, 1997 draft report.

**QUESTION 1**

Shall the municipality approve the Charter modifications recommended by the Charter Commission and summarized below?

**Summary**

- \* Section 102 is amended to provide that penalties for breach of Town ordinances will be set by ordinance. Current language limiting penalties to \$100 per infraction is repealed.
- \* Sections 202 and 402 are amended to repeal the current prohibition on spouses of Town Councilors and School Board members holding any paid office or employment with the Town.
- \* Sections 204.1 and 305 are amended to make the appointment of a health officer discretionary and make clear that the Town Manager is the appointing authority.
- \* Section 204.3 is amended by deleting various specific areas of Town Council ordinance authority and substituting a provision that the Town Council has all the ordinance authority granted under the Maine Constitution and statutes.

- \* Section 204.12 is amended to allow the Town to dispose of surplus property without competitive bidding if an ordinance has been adopted to allow such disposal. Otherwise, disposal of surplus property must be preceded by competitive bidding.
- \* Section 205 is amended to delete the requirement that the Town Council approve by specific order the salaries of employees appointed by the Town Manager.
- \* Section 209 is amended to allow the Town Council to elect a vice-chairperson who may exercise the powers of the chairperson in the chairperson's absence.
- \* Section 215 is amended to allow the Town Council to enter into multi-year contracts with auditors.
- \* Section 1008 is repealed and Section 302.1 is amended by adding language concerning removal of employees from office and appeal from such orders.
- \* Section 302.3 is amended to provide that an annual financial report shall be prepared as promptly as possible after the close of the fiscal year and an annual Town Report shall be prepared as promptly as possible after the close of the calendar year.
- \* Section 805 is amended to allow the Town Council to appoint wardens and ward clerks at any time.
- \* Section 903.2 is enacted to clarify that the term "capital improvement" includes, without limitation, land acquisition.
- \* A number of non-substantive modifications are made to replace masculine pronouns and adjectives with gender neutral pronouns and adjectives; to provide internal consistency; to provide consistency of terminology with certain Maine statutes; and to remove obsolete language.

#### QUESTION 2

Shall the municipality approve the Charter modifications recommended by the Charter Commission relating to appropriations and bond issues for capital improvements and equipment as summarized below?

Fran Smith  
Town Clerk  
April 22, 1997  
Page 3

Summary

Amendments to Charter sections 901.2 and 901.3 raise from \$100,000 to \$200,000 the amount of the appropriations and bond issues for capital improvements that are subject to overrule by citizen initiated referendum. Amendments to Charter section 903 raise from \$200,000 to \$400,000 the limit on appropriations and general obligation bond issues for capital improvements or a single item of equipment which may be approved by the Council without referendum. Any appropriation or bond issue over \$400,000 must be given at least one public hearing by the Council and sent to referendum.

Very truly yours,



William L. Plouffe

WLP:sdr  
96816.1

**LETTER FROM THE TOWN ATTORNEY**

DRUMMOND WOODSUM & MACMAHON  
ATTORNEYS AT LAW  
245 COMMERCIAL STREET  
POST OFFICE BOX 9781  
PORTLAND, MAINE 04104-5081  
(207) 772-1941  
FAX (207) 772-3627  
TTY (207) 828-8260

WILLIAM L. PLOUFFE

April 28, 1997

Elaine McCool  
Chair, Falmouth Town Council  
271 Falmouth Road  
Falmouth, ME 04105

RE: Final Report of the Falmouth Charter Review Commission

Dear Ms. McCool:

Pursuant to 30-A M.R.S.A. § 2103(5)(D), I hereby certify that: (1) I am an attorney admitted to the Bar of the State of Maine; and (2) the Charter modifications proposed by the Falmouth Charter Review Commission in its Final Report, dated April 28, 1997, are not in conflict with the United States or Maine Constitutions or the general laws.

Very truly yours,



William L. Plouffe

WLP:sdr

96921.1