

# Town of Brewster Charter Committee

**Karen Whitney**

Citizen  
Chair

**Peter Lombardi**

Town Administrator

**Richard Koch**

Citizen  
Vice Chair

**William Meehan**

Clerk of Finance Committee

**Charles Sumner**

Town Moderator

**Cindy Bingham**

Member of Select Board  
Clerk

**Colette Williams**

Town Clerk



January 23, 2021

# TODAY'S PUBLIC FORUM

- GOALS

- Present overview of Charter Committee
- Present process of charter preparation
- Present overview of charter
- Record any feedback for later consideration by Charter Committee
- Present next steps

- Draft charter is available on town website

- <https://www.brewster-ma.gov/files/charterdraft.pdf>

- Presentation will be available on town website after public forum presentation

- Presentation structured to denote aspects being kept, recording current practice, aspects being changed, and that are new.

# WHY A CHARTER?

- CHARGE FROM SELECT BOARD
- GOALS OF COMMITTEE
  - Create a charter for approval by the Select Board. A charter is a single governing document for form, structure, and organization of town government.
    - Set clear lines of authority and responsibilities.
    - Review and define powers of administrator of town.
    - Review and define powers of elected and appointed boards.
    - Coordinate operations of various departments.
    - Seek to minimize changes to and to codify existing practices.
- CHANGE IN ORDER TO:
  - Resolve ambiguities and conflicts between and among town by-laws and/or state laws.
  - Memorialize current town practices.
  - Apply best practices in local governance based on input from MA Department of Revenue and various town committees (Government Study Committee and Vision Advisory Group).
- PROVIDE DELIVERABLE TO SELECT BOARD
  - Special Legislation ACT TO ESTABLISH A CHARTER FOR THE TOWN OF BREWSTER
  - SPECIAL ACT SECTION 1 contains the CHARTER, developed by the committee with guidance from town counsel.

# CHARTER PREPARATION PROCESS

Part 1

- FACT-GATHERING
  - Reviewed findings from:
    - 2016 Government Study Report
    - 2018 Vision Plan
    - 2019 Dept. of Revenue Report
  - Reviewed town charters from several MA towns.
    - Interviewed Town Managers from Chatham and Sandwich regarding their town's charters and representatives from the Massachusetts Municipal Manager Association's Form of Government Committee.
  - Interviewed and received feedback from elected officials, town employees, boards, commissions, and committees including:
    - Select Board, Assistant Town Administrators, Police Chief, Fire Chief, Constable, Finance Committee, Board of Assessors, Finance Director, Treasurer/Collector, Deputy Assessor, Planning Board, Town Planner, Board of Health, Health Director, Recreation Commission, Recreation Director, Old King's Highway Historic District Committee, Library Director, Library Board of Directors, Water Superintendent, and Water Commission.

# CHARTER PREPARATION PROCESS

Part 2

- PREPARED FRAMEWORKS of chapters based on FACT-GATHERING
- DEVELOPED CHARTER DOCUMENT from frameworks with guidance from town counsel
- SEEKING FEEDBACK
  - Preliminary draft – presented to Select Board and town officials and made available on Town website.
  - Revised based on feedback from all sources.
  - Document is available at <https://www.brewster-ma.gov/files/charterdraft.pdf> .
  - Public Forums – January 23, 2021 and February 2, 2021.
- FINALIZE FOR APPROVAL BY SELECT BOARD & INCLUSION ON THE WARRANT
- CONTINUED PUBLIC OUTREACH
- VOTE ON AT MAY 2021 TOWN MEETING
  - At Town Meeting, a vote to approve the Act would also grant authority to Select Board to revise charter in accordance with requirements from General Court.

# CHARTER DOCUMENT GENERALLY

- Seeks to provide context but avoid too many references to statutes.
- Record specific language in support of current governmental practices.
- Include language about permissible actions & timing during states of emergency.
- Notable changes and additions are summarized in this presentation but text of charter should be consulted for full meaning and context.

# AN ACT ESTABLISHING A CHARTER FOR THE TOWN OF BREWSTER

- SPECIAL ACT SECTION 1. CONTAINS THE CHARTER LANGUAGE.
  - Note from counsel: the General Court is very particular about the capitalization of names other than the name of the Town and State. For that reason, all names of offices, etc., will be in lowercase text in the charter document.
- SPECIAL ACT SECTION 2. CONTINUATION OF EXISTING LAWS.
  - Standard language regarding charter provisions shall govern and those town by-laws, rules, regulations, orders and special acts not superseded by the charter remain in force.
- SPECIAL ACT SECTION 3. CONTINUATION OF GOVERNMENT.
  - Standard language regarding town offices, boards, commissions or agencies shall continue to perform their duties upon effective date of Act.
- SPECIAL ACT SECTION 4. CONTINUATION OF PERSONNEL.
  - Standard language regarding personnel of town shall continue to perform their duties upon effective date of Act.

# AN ACT ESTABLISHING A CHARTER FOR THE TOWN OF BREWSTER

- SPECIAL ACT SECTION 5. TRANSFER OF RECORDS AND PROPERTY.
  - Standard language defines the extent to which powers, duties, records, equipment, and property are transferred among town offices, boards, commissions, committees or agencies.
- SPECIAL ACT SECTION 6. EFFECT ON OBLIGATIONS, TAXES, ETC.
  - Standard language regarding the charter not rendering town obligations invalid.
- SPECIAL ACT SECTION 7. TRANSITION.
  - This will address any transitional language that might be needed. *For example*, change of terms for Planning Board.
- SPECIAL ACT SECTION 8. TIME OF TAKING EFFECT. This act shall take effect upon its passage.



# SPECIAL ACT SECTION 1: CHARTER CHAPTERS

- CHAPTER 1 POWERS OF THE TOWN
- CHAPTER 2 TOWN MEETINGS AND ELECTIONS
- CHAPTER 3 THE SELECT BOARD
- CHAPTER 4 TOWN MANAGEMENT
- CHAPTER 5 TOWN BOARDS/COMMISSIONS/COMMITTEES
- CHAPTER 6 FINANCIAL PROVISIONS
- CHAPTER 7 BY-LAWS AND CHARTER – ADOPTION, AMENDMENT AND PERIODIC REVIEW

# CHAPTER 1 POWERS OF THE TOWN

- KEEP current form of government.

## CHAPTER 1 POWERS OF THE TOWN

### SECTION 1 Incorporation

1-1-1 The present town of Brewster, Massachusetts, within its corporate limits as now established, shall continue to be a body politic and corporate under the name, town of Brewster.

### SECTION 2 Scope of Town Powers

1-2-1 The town shall possess and exercise all powers possible under the constitution and laws of the commonwealth of Massachusetts as fully and completely as though those powers were expressly enumerated in this chapter.

### SECTION 3 Form of Government

1-3-1 This charter provides for a select board-open town meeting-town manager form of town government.

### SECTION 4 Construction of Charter

1-4-1 The power of the town under this charter shall be construed liberally in favor of the town, and the specific mention of particular powers in the charter shall not be construed as limiting in any measure the general powers of the town as stated in section 1-2-1.

### SECTION 5 Intergovernmental Relations

1-5-1 The town may exercise, consistent with the law, any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more civil divisions, subdivisions or agencies of the commonwealth, other states or of the United States government.

# CHAPTER 2 TOWN MEETINGS AND ELECTIONS

Part 1

- KEEP
  - Open Town Meeting as legislative function of town.
  - Annual Town Meeting held on the first Monday in May and a Fall Town meeting.
  - Quorum established by by-law.
  - Recall of elected officials.
  
- RECORD CURRENT PRACTICE
  - Citizen petitions.
  - Constable's authority limited to posting of warrant.
  - Assistant Town Clerk shall serve as clerk of meeting in absence of Town Clerk.
  - Moderator appoints a Deputy Moderator

# CHAPTER 2 TOWN MEETINGS AND ELECTIONS

Part 2

- NOTABLE CHANGES

- Fall town meeting may be canceled by Select Board no later than September 15 in any year, so long as no more than 5 citizen-petitioned articles have been submitted for inclusion on the warrant.
- Post the warrant on the Town website and make the same available, rather than require “publication”.
- Planning Board terms set at 4 years (currently 5 years).
- Moderator term set at 3 years (currently 1 year).
- Constable term set at 3 years (currently 1 year).
- Allowing for adjustment in quorum and timing of elections during state of emergency.

- NEW

- Deputy Moderator term set at 1 year.
- Recall petition must name lead petitioner.
- Constable shall conform to any reasonable regulations concerning such responsibilities as may be proposed by the Police Chief and approved by the Select Board.

# CHAPTER 3 THE SELECT BOARD

Part 1

- KEEP
  - Select Board as executive function of town government – namely the Select Board is the primary policy-making, planning, and goal-setting agency of the town.
  - Ability to appoint all non-elected boards and committees.
  - Budget decision making authority.
  - Authority to hire the town professional (to be named Town Manager - see “Town Management” slides).
  
- RECORD CURRENT PRACTICE
  - Select Board shall adopt a code of conduct.

# CHAPTER 3 THE SELECT BOARD

Part 2

- NOTABLE CHANGES

- Require consultation with the Town Manager for Board's hiring of: Fire Chief, Police Chief, and Town Counsel (advise & consent role).
- Will no longer appoint Town Clerk, Director of Operations of the Captains Golf Course, or employees of Police Department.
- Personnel Committee is eliminated. Select Board retains authority to set personnel policies and approve collective bargaining agreements.

- NEW

- Authority to delegate licensing authority to the Town Manager or a board created for such purposes for issuance and enforcement of 1 or more licenses.

# CHAPTER 4 TOWN MANAGEMENT

Part 1

- KEEP

- Select Board authority with respect to Town Manager

- Appoint.
- Determine/negotiate compensation.
- Set term of service.
- Remove from office for cause.

- Town Manager

- Prepares financial forecast and operating budget, and performs other administrative functions currently established in town by-law.

- Police & Fire

- Police & Fire Chiefs retain current statutory authority over department operations (strong chiefs).

- RECORD CURRENT PRACTICE

- Town Manager supervises all appointed department heads and employees, *with provisos for Police and Fire Departments noted.*
- Police Chief & Fire Chief are permitted to discipline and/or suspend employees for no more than 5 days.
- Emergency management director shall be responsible for directing town personnel during emergencies, and related emergency management functions.

# CHAPTER 4 TOWN MANAGEMENT

Part 2

- NOTABLE CHANGES

- Title of chief administrative officer of town will be Town Manager.
- Town Manager assumes all personnel/hiring responsibilities except for those identified with respect to Select Board and employees of the school department.
- Town Manager acts upon recommendations from the Police Chief and the Fire Chief, respectively, for appointment of employees of the Police and Fire Departments.
- Consults with appropriate department head or multiple-member body for appointment of employees of other departments as applicable.

- NEW

- Residency requirement for Town Manager within 1 year of employment, with ability of Select Board to waive by supermajority vote.
- Town Manager shall hold primary responsibility for acting for the town during emergencies.
- Town Manager shall appoint a deputy emergency management director to assist the emergency management director and to assume the duties of the emergency management director in their absence.



# CHAPTER 5 TOWN BOARDS/COMMISSIONS/COMMITTEES

- KEEP – All elected town officers.
  
- RECORD CURRENT PRACTICE
  - Reflect roles and responsibilities of Water Commissioners.
  
- NEW
  - Appointing authority may remove a member of a multiple member appointed board or committee following written notice and opportunity for public hearing.
  - Allows Select Board to appoint up to 2 alternate members to serve on elected and appointed boards (1-2 year terms).
  - Specific ability to deem board/committee positions vacant for lack of regular attendance.

# CHAPTER 6 FINANCIAL PROVISIONS

- KEEP
  - Budget development processes.
  - Budget schedule timeframe.
- NOTABLE CHANGES
  - Town Manager may appoint a committee to assist with preparation of five-year capital improvement plan.
  - Allowing for adjustment in timing of budget adoption during state of emergency.
- NEW
  - Preparation of five-year capital improvement plan that be led by Town Manager.

# CHAPTER 7 BY-LAWS AND CHARTER – ADOPTION, AMENDMENT AND PERIODIC REVIEW

- KEEP

- Periodic review of by-laws.
- Adoption and amendment of general and zoning by-laws shall be approved in accord with applicable general laws. (*Consistent with current practice of:* simple majority approval needed at Town Meeting to approve non-zoning by-law changes. Zoning by-law changes will still require a 2/3 to succeed.)

- NEW

- Review of by-laws to be conducted at least every 10 years.
- Periodic review of charter to be not less than every 10 years by a committee of no fewer than 5 and not more than 9 members to be appointed by the Select Board; review of the charter to begin 5 years after the by-laws review.
- Major amendments to charter (relating in any way to the composition, mode of election or appointment or terms of office of the legislative body, select board or the town manager) may be proposed only by a charter commission elected under the General Laws, or proposed pursuant to special legislation as otherwise authorized by the Massachusetts constitution.
- Minor Amendments to the charter (relating to other matters) may be proposed by a 2/3 vote at a duly called town meeting under the General Laws, and then approval at the polls by the voters of the town, or proposed pursuant to special legislation as as otherwise authorized by the Massachusetts constitution.

# TIMELINE

*November 2020* – Presented draft charter to Select Board

*November 2020* – Posted draft charter on town website. Requested charter feedback from Town officials & residents.

*December 2020* - Updated charter in response to feedback.

*January-February 2021* - Conduct community forums to inform, review, discuss and request input from voters.

*February 2021* - Finalize charter and present to Select Board for inclusion on Town Warrant

*March-April 2021* - Continue Public Outreach

*May 2021* - Town Meeting Deliberation and Vote ...

Thereafter Submit to State Legislature for Approval

# QUESTIONS ?

[chartercommitteemeeting@brewster-ma.gov](mailto:chartercommitteemeeting@brewster-ma.gov)

# Thank You!

## **Public comment**

E-mail [chartercommitteemeeting@brewster-ma.gov](mailto:chartercommitteemeeting@brewster-ma.gov)

## **Questions?**

Contact Karen Whitney, Chair, at [kwhitney@brewster-ma.gov](mailto:kwhitney@brewster-ma.gov)

## **UPDATES AVAILABLE AT:**

<https://www.brewster-ma.gov/committees-mainmenu-29/charter-committee>

