



LEAGUE OF WOMEN VOTERS OF AMHERST - MARCH 17, 2024

CHARTER REVIEW TASK FORCE

First in a series of public discussions of potential Amherst Home Rule Charter amendments, based on the League's "Good Government" principles

TASK FORCE BACKGROUND

- **LWVA 2022 Annual Meeting: Members voted to conduct a review of the Amherst Home Rule Charter in relation to the LWVA's Good Government Principles. The move was made in anticipation of the Town-required review in 2024, and an LWVA Task Force was created.**
- **2022-2023: The Charter Review Task Force conducted a resident survey guided by the LWVA principles, and published the results, which are available on the LWVA's website.**



TASK FORCE BACKGROUND

- The Task Force's survey concluded that many survey respondents are not fully satisfied with how Amherst government is functioning. It also found that among the 13 Massachusetts towns that use Amherst's form of government, (City Council and Town Manager) it is a common practice to amend or change Home Rule Charters, by using an array of processes established under state law.



THE CHARTER'S PERIODIC REVIEW REQUIREMENT

“The Town Council shall provide, in every year ending in a 4, for a review of the Charter by a special committee to be established by Town Council ... the committee shall file a report within 1 year recommending any changes to the Charter which it deems necessary or desirable.” - Amherst Home Rule Charter



The LWVA'S "Good Government" Principles

1. **Widespread and inclusive** participation
2. **Diversity** in the community reflected in government
3. **Openness** and full disclosure
4. **Checks and balances** of power among the executive, legislative and administrative branches of government and the electorate
5. **Honesty and non-corruptibility** in all decision-making
6. **Efficiency**, based on professional management and timely decision making
7. **Accountability** for political and fiscal decisions

MASSACHUSETTS LAW & CHARTER CHANGE

PATHWAYS

The Home Rule Amendment to the Massachusetts Constitution and the Home Rule Procedures Act provides several paths that cities and towns now use to modify charters.

- A change to the legislative body, including terms of office, and modes of election or appointment, must be proposed by an elected Charter Commission
- Many amendments can be proposed by a $\frac{2}{3}$ vote of a city or town council, followed by public hearings and submission of the intended change to the Attorney General's office and the voters
- A community can also adopt, revise or amend a charter by a special act of the State Legislature

THE TASK FORCE'S CURRENT EFFORTS & NEXT STEPS

- Studying Amherst Home Rule Charter articles and finding resources about municipal government & best practices
- Met with/receiving comment from original Amherst Charter Commission members
- Meeting with sitting Town Council members
- Will observe the Town's Charter Review process, and update the Steering Committee on developments (The Town Council has created a charge for the 2024 Town Council Charter Review Committee and will be composing it soon.)
- Collecting data to make recommendations to LWVA membership about whether specific amendments or revisions to the Charter are warranted based on the Good Government Principles

UPCOMING DISCUSSION SESSIONS



Sunday, March 17th, 2:00 - 3:30 PM

Town Council (Article 2)

Financial Policies and Procedures (Article 5)

<https://us06web.zoom.us/j/82820853930?pwd=MD4VEgnNHPUQh59b30AGHPPAbvbTr6.1>

Sunday, April 14th, 2:00 - 3:30 PM

Town Manager (Article 3)

Incorporation Powers (Article 1)

Elections (Article 7)

<https://us06web.zoom.us/j/83271559250?pwd=hESFauTfCYXMtW7r7teejAi5RTSayf.1>

Sunday, May 5, 2:00 - 3:30 PM

Public Participation (Article 8)

Transition Procedures (Article 10)

<https://us06web.zoom.us/j/83034246172?pwd=0z9cTpybUhSjPnmxrl8OEY4bNIYcQL.1>

LWVA CONSENSUS MEETING

The LWVA will hold a consensus meeting on June 2, from 2-4 pm to hear the recommendations of the Charter Review Task Force and to determine the final LWVA recommendations for amendments to the Home Rule Charter.

QUESTION 1

Should the 8-week “lame duck” period, between Election Day and the beginning of the new term be reduced?

RELEVANT CHARTER SECTION

2.1 (b) Term of Office: The term of office for Town Councilors shall be 2 years each, **beginning on the first Monday in the January following the regular Town election**, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day. Members shall serve until successors have been sworn.



RATIONALE FOR POSSIBLE AMENDMENT

LWV Principles: Accountability, Public Participation

November and December in odd-numbered years are the current lame-duck period.

Shortening the lame-duck period now in place after elections, and before inauguration of the newly-elected councilors would provide **less time where departing councilors engage in major decision-making and may be less accountable to voters.**

The lame-duck period includes winter **holidays, when people generally are not closely observing local government. This structure results in less public participation. Thus, the lame duck period should be limited as much as possible.**

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COUNCIL EXPERIENCE

This council has had two lame-duck periods, in November/December after the 2021 and 2023 elections. **During both periods, the Council met often and adopted major legislation.** See

<https://www.amherstma.gov/Archive.aspx?AMID=223>. The council has generally been meeting much more in November and December than in its first years.



COUNCIL EXPERIENCE

What major legislation has been adopted during a lame duck period?

Example: 2021 - 9 council meetings were held during the lame duck period, 5 in December

Major decisions in December 2021 included:

- Adoption of major zoning proposal to amend the zoning map to add a new (CVS) parking facility zoning district
- Referral of major zoning proposal - Article 3, Use Regulations, Section 3.325, Mixed-Use Buildings and Article 12, Definitions to Planning Bd and Community Resources Committee
- Adoption of Budget Guidelines for FY 23
- Public Way go ahead for Performance Shell on Common
- Town Manager Goals for 2022

BEST PRACTICES

Other towns with Council/Manager governments have much shorter lame duck periods, including Franklin, Bridgewater and Barnstable (2 weeks), Palmer (3 weeks) and East Longmeadow (4 weeks).



QUESTION 2

Should the number of consecutive terms a Councilor may serve be limited?

RELEVANT CHARTER SECTION

2.1 (b) Term of Office: The term of office for Town Councilors shall be 2 years each, beginning on the first Monday in the January following the regular Town election, except when that first Monday falls on a legal holiday, in which event the term shall begin on the following day. **Members shall serve until successors have been sworn.**



RATIONALE FOR POSSIBLE AMENDMENT

- Allows for turn-over of elected officials, **potentially increasing new ideas, nurturing new community leaders, and community involvement.** (public participation)
- Likely encourages more people to run for election because **open seats more often draw multiple candidates.** Often incumbent seats are not contested. (diversity)
- May encourage diversity by **enabling more opportunities for women and minorities.**
- Potentially focuses elected officials to plan an agenda and accomplish initiatives within a certain timeline. (efficiency)
- For school committees, term limits may increase likelihood that members have children that are active in the school system. (Collins Center, 2016.)

COUNCIL EXPERIENCE

- In 2023, all incumbents but one won their council races.
- Residents may be discouraged from running by the incumbent name-recognition advantage.
- **Uncontested races complicate the term limits issue** by giving potential unlimited terms to individuals who are seated in uncontested races. In 2021, 3 of 5 district races were uncontested. In 2023, one was uncontested.



BEST PRACTICES

The Town of Amherst's Appointed Committee Handbook generally sets length of service at 2 three-year terms. This structure facilitates turnover and public participation.

At minimum, Methuen, Southbridge, and Newton have term limits for major elected bodies.

Methuen limits terms for Mayor, City Council, and School Committee to three two-year terms (a total of 6 years). Southbridge does not have a Mayor, and limits City Councilors to three three-year terms (a total of 9 years). Southbridge does not have term limits for school committee members. Newton only limits school committee members, to four two-year terms (a total of 8 years).

In all cases, elected officials are allowed to run for office again if they take time off once their term-limit has expired. In other words, a Methuen City Councilor could serve six years, take two years off, and then run again and serve six additional years. (Collins Center, 2016)

WHY NOT TERM LIMITS?

Term limits are often favored by voters, but are not often enacted. There are a number of potential reasons for this;

- People more intimately involved in governmental functions are typically those who decide the issue (charter commissions, etc.),
- There is often a status-quo bias, and few examples to look toward in neighboring municipalities,
- Some of the anticipated benefits of term limits (such as more diversity) may not have come to fruition. (Collins Center, 2016)



QUESTION 3

Should the Charter limit the number of one-year terms served by a Town Council President?

RELEVANT CHARTER SECTION

2.2 (a) Election and Term: As soon as practical after the Councilors-elect have been sworn following each regular Town election, and annually, the members of the Town **Council shall elect a President who shall serve for a 1-year term and a Vice President who shall serve for a 1-year term. The method of election of the President and Vice President shall be consistent with the rules of the Town Council.** The Town Council may reorganize at any time at its discretion.



RATIONALE FOR POSSIBLE CHARTER AMENDMENT

The power of the Council President may increase with time in office. The same Good Government principles should apply for term limits of the Council President as for councilors in general. Change in the president's seat can allow for more diverse participation and emergence of new leaders.

Currently, a Council President could be elected in an uncontested race, or in a small district race, and nonetheless hold the Council leadership position for an unlimited number of years. To be more democratic, representative, participatory and diverse, there should be term limits to prevent any councilor from holding the office for multiple terms.

QUESTION 4

Should the Charter be Amended So that All Town Councilors have a Voice and Vote on An Equal Number of Standing Committees?

RELEVANT CHARTER SECTION

2.6 (e) The Town Council shall determine its own standing or ad hoc committees.



RATIONALE FOR POSSIBLE AMENDMENT

LWV principles: Participation, diversity

Amherst has at several organized political groups and two official PACs. One PAC has endorsed a majority of the councilors in each term. **Council committees should include equal participation of councilors elected - to promote both full public participation (democratic process) and diversity of representation.**



COUNCIL EXPERIENCE

The Town Council established its own committees in the first term of the council. By the end of that term, they had established four major standing committees:

- the Finance Committee,
- the Governance, Organization and Legislation Committee (GOL),
- the Community Resources Committee (CRC), and
- the Town Services and Outreach Committee (TSO)

The committee chairs all currently serve on two committees. Several councilors neither serve as Chair of any committee nor serve on more than one standing committee of the Council. **Membership on a committee gives a councilor a voice on that committee's recommendation back to the council. Councilors on two standing committees have twice as much voice as those on one.**

BEST PRACTICES

Inclusive participation also applies to the amount of responsibility and power granted to individual Town Councilors. Amherst could adopt 3-member standing committees. Twelve (all but the President) could serve on one each of four 3-member committees. Councilors would be less overburdened with work, and committee chairs would serve on only one committee.



QUESTION 5

Should the Charter be amended, so that no sole member of the Town Council can unilaterally postpone a discussion?

RELEVANT CHARTER SECTION

SECTION 2.10: BYLAWS AND OTHER MEASURES

(c) Right to Postpone: On the first occasion that the question on adoption of a non-emergency measure is put to the Town Council, if a single member present objects to the taking of the vote, the vote shall be postponed until the next meeting of the Town Council, whether regular or special ... The use of this right to postpone shall have privilege over all motions, must be raised prior to or at the call by the presiding officer for a vote, and, once invoked, all debate on the measure shall cease.



RATIONALE FOR POSSIBLE AMENDMENT

The LWVA's "Good Government Principles" include widespread/inclusive participation, and the presence of checks and balances. The current Right to Postpone contravenes these principles, by enabling a sole Councilor to halt an ongoing discussion without having to explain or defend their reason(s) for doing so. The existing language on the Right to Postpone does not require that the Council weigh the pros and cons of halting discussion.



COUNCIL EXPERIENCE

The Right to Postpone Has Been Used A Handful Times & Prompted Both Public and Intra-Council Criticism.

***On Dec. 21, 2020, a Town Councilor invoked the Right to Postpone discussion about whether the Town Manager's office should begin drafting changes to the Zoning Bylaw.** The Councilor maintained that there were insufficient opportunities for input on proposed zoning priorities by the public and Planning Department.

***On Oct. 17, 2022, a Town Councilor invoked the Right to Postpone during a heavily-attended meeting with the Community Safety & Social Justice Committee, stating that she needed time to think in solitude.** The move postponed discussion of Police Department response to a July 5, 2022 call from a housing complex. There was public concern about the APD's handling of the call, including whether nine juveniles were unwillingly detained.

A motion was on the table to refer the incident for further study by the CSSJC and other committees. The Town Council President later apologized publicly for not having tried to block use of the Right to Postpone.

BEST PRACTICES

Amherst's Charter language on the Right to Postpone is similar to Randolph, Winthrop, and Bridgewater. Not all municipalities grant a single-member Right to Postpone.

The Right to Postpone is like a "Point of Personal Privilege" in parliamentary terms. It does not require a second, and no vote by the full body is required. (Personal Privilege is generally reserved for measures to assure the wellbeing of a Councilor or assembled body.) If a Town Councilor wishes to postpone a discussion, they can use procedures that better align with principles of inclusive participation/checks and balances, such as making a motion to postpone, which requires a second and a majority vote.

Amherst could eliminate the Right to Postpone entirely; or could amend it, to require a second by another Councilor.

QUESTION 6

Should the three non-voting resident members of the Finance Committee each have a vote?

RELEVANT CHARTER SECTION

The Charter leaves the composition of the Finance Committee, and the appointment of its members, to the Town Council to determine.

SECTION 5.5: ACTION ON THE BUDGET (b) The Finance Committee of the Town Council shall consider any or all questions which it deems appropriate for the purpose of considering the budget. The Finance Committee as a whole shall have authority at any time to investigate the books, accounts, and management of any Town agency ...**The Finance Committee may include members of the public, who shall have a voice but no vote in the Finance Committee's deliberations. Council rules shall address the appointment of such members.**

RATIONALE FOR POSSIBLE AMENDMENT

The Finance Committee advises the Town Council on all Town financial matters.

The Charter states: “The Finance Committee may include members of the public, who shall have a voice but no vote in the Finance Committee’s deliberations.”

The current structure includes five Town Councilors, who are all voting members; and slots for three residents who are not. However, under state law, all members of finance committees are considered municipal employees for purposes of the Conflict of Interest Law and other statutory requirements..

The LWVA’s principles of widespread and inclusive participation require that residents who undertake the responsibility of serving be allowed to vote; while the lack of a vote is a disincentive to serve, for those who might otherwise bring individual expertise to the Finance Committee.

COUNCIL EXPERIENCE

The non-voting status of resident members has led to difficulty filling open positions on the Finance Committee. For a vacancy posted in February, just two applications were submitted, a number not considered sufficient by a Town Council subcommittee for an interview process to begin.



BEST PRACTICES



“A Finance Committee is the official fiscal watchdog for a town,” states the Finance Committee webpage for the Town of Goshen, MA. “Because it is difficult for all taxpayers to be completely informed about every aspect of a town’s finances, Finance Committees were established so a representative group of taxpayers could conduct a thorough review of municipal finance questions on behalf of all citizens.”



A Finance Committee on which ordinary resident members cannot vote risks losing its ability to function as a fiscal watchdog, and may not be able to provide the “checks and balances” needed for optimal government functioning.

FINAL COMMENTS

Please send any remaining comments that you would like the Task Force to consider to: 1jrhynes@gmail.com (with topic line: “LWVA Charter Comment”)

Your participation in this and future discussion sessions is appreciated!

The LWVA Charter Review Task Force

