

Charter Review: Miscellaneous

Somerville MA City Council
March 22, 2023

Tonight's Agenda

Anticipated Schedule

Reminder of Procedure

Miscellaneous Recommendations for Review

Optimistic Schedule

- **Virtual, April 13**
 - Reconvene on Recommendations sent to Working Groups
- **Virtual, April 27**
 - Review of other effective changes not covered by the report, further deliberation
- **Virtual, May 11**
 - Return of Revised Charter Document, Public Hearing
- **Virtual, May 25**
 - Line-by-Line Review, Final Amendments and Vote

Resources and Process

- **Subject Matter Experts: Collins Center consultants**
 - Legislative Policy Analyst **Brendan Salisbury** serving as City Council liaison
- **Subject Matter Experts: Charter Review Committee members**
 - Bev Schwartz (member) and Anna Corning (Mayor's Office), liaisons
 - Questions submitted through the Chair in advance will give time to research answers and arrange for attendees to help with discussion
- Topic Areas will be published in advance, on Agendas
- **Online Document repository: tinyurl.com/hashtagCharterReform**

Parliamentary Procedure

- **Deliberation**
 - Largely focused on the current topic area; Rules of the Council prevail
- **Resolutions are “in order”**
 - Resolutions to recommend adoption of the Committee’s suggested text
 - Resolutions to request amended text to address the Council’s intent
 - Motions to amend are not, there is no text before us
 - Amended text will be reviewed at a future meeting
- Once all topics have been resolved, a final HRP Text will be submitted
- **Working Groups** may be formed to work on issues and return with compromise

Miscellaneous

Modernized Charter

Group Petition Provision

Maintain Council Vacancy Process

Change Mayoral Vacancy Process

Miscellaneous

Maintain School Committee Structure

Maintain School Committee 2 Year Terms

Maintain School Committee Vacancy Process

Maintain Elected Official Eligibility Requirements

Modernized Charter

Recco #1: Write a new and modernized Charter.

- Policy Considerations: As a best practice for governing, innovation, and accessibility, it is common for municipalities to rewrite and modernize their charter. Most modern charters last 30 to 40 years. The current Somerville charter was drafted in 1899 and still has many remains of old language and outdated practices. It has been amended and overridden by State and federal law countless times, making much of the document null and void or nearly impossible to follow. The committee realized that adding amendments to the current charter would amplify this problem instead of improving the document.

Modernized Charter

Recco #1: Write a new and modernized Charter.

- Community Feedback: Somerville residents and elected officials have expressed strong support for a more clear and accessible government; modernizing and organizing the charter and its language were the best first step to fixing this issue.
 - Proposed text: The entire proposed charter
 - Current text: The entire current charter

Group Petition Provision

Recco #11: Add a group petition mechanism.

- The committee recommended adding a group petition provision, which would require City Council to hold a public hearing on every petition submitted that is signed by at least 100 municipal voters within 3 months.
- The committee considered multiple resident participation mechanisms, but approved **only the group petition** mechanism. Community feedback was generally negative on resident participation mechanisms, and concern was expressed for how initiatives are being used to disrupt government and stoke culture wars across the country.

Group Petition Provision

Recco #11: Add a group petition mechanism.

- Policy Considerations: The current charter provides a mechanism for fifty qualified voters to make a written request for a general meeting called by city council. The current charter has no other participation mechanisms such as initiative petitions, referendum, or recall. The group petition the committee recommends is most similar to what is in our current charter, but allows any municipal voter to sign on, raises the signature requirement to 100, and has a timeline for when city council must respond. 100 was the threshold chosen because it is the number of signatures a candidate must gather to run for an at-large city council seat in the proposed charter.

Group Petition Provision

Recco #11: Add a group petition mechanism.

- Community Feedback: At the beginning of the process, the committee heard from a number of people interested in direct participation mechanisms. As time passed, there were increasing cases of groups using these mechanisms to disrupt governments nationwide, and the committee started to receive only negative feedback on this topic. At the community outreach meeting which occurred towards the beginning of the process, there was split opinion on individual petition, overwhelming support for group petition, support for initiative petition with a high requirement for number of signatures (most votes for 500 or more), and split opinion on referendum.
- In the community survey, which occurred towards the end of the process, the question on referendum had 38% for, 41% against, 20% not sure, and 1% no preference. On recall, 33% for, 47% against, 19% not sure, and 1% no preference.

Group Petition Provision

Recco #11: Add a group petition mechanism.

- Text from Proposed Charter: SECTION 2-11: GROUP PETITIONS
 - The city council shall hold a public hearing and act with respect to every petition which is addressed to it and which is signed by **at least 100 municipal voters** as certified by the Board of Election Commissioners. The hearing shall be held by the city council or by a committee or subcommittee thereof, and the city council shall act on the petition **within 3 months of filing** with the city clerk. Hearings on two or more petitions filed under this section may be held at the same time and place. At least 14 days before the hearing, the city clerk shall notify the ten petitioners whose names first appear on each such petition, publish a general summary of the subject matter of the petition, and post notice of the date and time of the public hearing. A hearing shall not be held upon any subject more than once in a given 12-month period, as determined by the city council president.

Group Petition Provision

Recco #11: Add a group petition mechanism.

- Current Text: SEC 8 - General meetings of qualified voters
 - General meetings of the citizens qualified to vote may from time to time be held, according to the right secured by the constitution of the Commonwealth, and all such meetings may, and upon the request in writing of fifty qualified voters setting forth the purposes thereof, shall be called by the city council.

Maintain Council Vacancy Process

Recommendation #12: Maintain the vacancy process for at-large and ward city councilors.

- The committee recommends keeping the current vacancy process for city councilors.
 - Ward: if a vacancy occurs more than 180 days before the next municipal election, a special election is held.
 - At-large: if a vacancy occurs with more than 180 days until the next municipal election, the defeated candidate with the largest number of votes replaces them - if they decline or there isn't anyone, a special election is held.

Maintain Council Vacancy Process

Recommendation #12: Maintain the vacancy process for at-large and ward city councilors.

- Policy Considerations: The committee considered several factors when deliberating vacancies, specifically:
 - this process has been working well for the city council
 - both city council designees were in favor of keeping the policy the same, as it was recently tested by a vacancy and worked successfully
 - while it is unique to Somerville, the process allows residents to be represented by the person with the most votes for an at-large seat.

Maintain Council Vacancy Process

Recommendation #12: Maintain the vacancy process for at-large and ward city councilors.

Proposed Text: SECTION 2-12: FILLING OF VACANCIES

(a) Councilor At-large – Whenever a vacancy occurs in the office of councilor at-large the process for filling of the vacancy shall be determined by the number of days remaining until the next municipal election. In all occurrences of a vacancy, the city clerk shall notify the city council and the chairperson of the board of election commissioners of the vacancy within 7 days. Within 7 days after notification, the chairperson of the board of election commissioners or a designee shall certify, in writing, to the city clerk that the defeated candidate for the office of councilor-at-large with the next highest number of votes at the municipal election at which councilors-at-large were elected for the term in which the vacancy occurs shall serve as councilor-at-large. If the person is eligible and willing to serve, the city clerk shall administer the oath of office to the person within 15 days after certification and the person shall serve. If the person who is eligible declines the office, is not eligible and willing to serve, or fails to take the oath of office within the time period set forth in this section, then the person with the next highest number of votes at the election who is eligible and willing to serve shall serve.

Maintain Council Vacancy Process

Recommendation #12: Maintain the vacancy process for at-large and ward city councilors.

Proposed Text: SECTION 2-12: FILLING OF VACANCIES

If a vacancy occurs:

- (i) more than 180 days until the next municipal election, the next highest candidate serves the remainder of the unexpired term. If there is no defeated candidate eligible and willing to serve who has taken the oath of office, there shall be a special election
- (ii) 180 days or less prior to any regular municipal election in the office of councilor at-large, the next highest candidate serves until the next municipal election. If there is no eligible and willing candidate from the most recent municipal election, then the seat remains vacant until the next regular municipal election. The person elected shall fill the vacancy for the remainder of the unexpired term and the term to which elected. The city clerk shall administer the oath of office to them at the next meeting of the city council.
- (b) Ward Councilor - If a vacancy occurs in the office of ward councilor more than 180 days prior to any regular municipal election, the city council shall immediately order a special election to fill the vacancy for the remainder of the unexpired term. If a vacancy occurs 180 days or less prior to any regular municipal election, the seat shall remain vacant until the next regular municipal election for the office and the person elected shall fill the vacancy for the remainder of the unexpired term and the term to which elected. The city clerk shall administer the oath of office to the person at the next meeting of the city council.

Maintain Council Vacancy Process

Recommendation #12: Maintain the vacancy process for at-large and ward city councilors.

Current Text: SEC 7: Filling of vacancies

If the full number of members in the office of councilor-at-large has not been elected, or if a vacancy occurs in the office of councilor-at-large for any cause, the city clerk shall within five calendar days notify the city council and the chairperson of the board of election commissioners of the vacancy. Within five calendar days after notification, the chairperson of the board of election commissioners or a designee shall certify, in writing, to the city clerk that the defeated candidate for the office of councilor-at-large with the next highest number of votes at the regular municipal election at which councilors-at-large were elected for the term in which the vacancy occurs shall serve as councilor-at-large. If the person is eligible and willing to serve, the city clerk shall administer the oath of office to the person within 15 calendar days after certification and the person shall serve for the remainder of the unexpired term. If the person who is eligible declines the office, is not eligible and willing to serve or fails to take the oath of office within the time period set forth in this section, then the person with the next highest number of votes at the election who is eligible and willing to serve shall fill the remainder of the unexpired term in the manner set forth in this section. If there is no defeated candidate eligible and willing to serve who has taken the oath of office and the vacancy occurs more than 180 days prior to any regular municipal election, the city council shall immediately order a special election to fill the vacancy for the remainder of the unexpired term.

Maintain Council Vacancy Process

Recommendation #12: Maintain the vacancy process for at-large and ward city councilors.

Current Text: SEC 7: Filling of vacancies

- If the full number of members in the office of councilor elected by ward has not been elected or if a vacancy occurs in the office of councilor elected by ward for any cause more than 180 days prior to any regular municipal election, the city council shall immediately order a special election to fill the vacancy for the remainder of the unexpired term.
- If a vacancy occurs 180 days or less prior to any regular municipal election in the office of councilor-at-large, for which there is no defeated candidate eligible and willing to serve and who has taken the oath of office, or in the office of councilor elected by ward for any cause then the person elected at the next regular municipal election for the office shall fill the vacancy for the remainder of the unexpired term and the city clerk shall administer the oath of office to the person at the next meeting of the city council.

Change Mayoral Vacancy Process

Recommendation #17: Change the vacancy process for mayor.

- The committee recommended changing the vacancy process for the mayor based on a 4-year term. If a vacancy occurred in the first 17 months of the term there would be a special election, in months 18-21 there would be a mayoral election added to the regular city election, in months 22-42 there would be a special election, and in months 42-46 the mayoral election will be the regular scheduled election. The City Council President will serve as acting mayor until the election is decided in all cases.
- The committee recommended this change to ensure mayoral vacancies are filled in the most transparent and representative way for the residents.

Change Mayoral Vacancy Process

Recommendation #17: Change the vacancy process for mayor.

- Policy Considerations: The committee sought to ensure the vacancy process prioritizes accountability to voters and fills the role in a timely manner. The committee considered several other factors when deliberating about a mayoral vacancy, specifically: 1) how much time there is until the upcoming election, 2) what has worked well in other communities with 4-year mayoral terms, and 3) how to ensure the City could best function with an acting mayor.
- Community Feedback: There was no community feedback on mayoral vacancy.

Maintain School Committee Structure

Recommendation #18: Maintain the current composition of school committee.

- The committee recommends keeping the current school committee composition: 7 ward members, mayor and city council president serve ex-officio.
- Policy Considerations: A ward based school committee has served the Somerville community well, ensuring representation and ease of access to each member. Multiple committee members expressed concerns regarding converting entirely to an at-large structure.
- Community Feedback: There was no community feedback on the composition of school committee

Maintain School Committee Structure

Recommendation #18: Maintain the current composition of school committee.

- Proposed Text: SECTION 4-1: COMPOSITION; TERM OF OFFICE; ELIGIBILITY
(a) Composition – There shall be a school committee of nine members. Seven members shall be nominated and elected by the municipal voters of the city, one member elected from each ward. The mayor and the president of the city council shall serve, *ex officio*, with the same powers and duties as other school committee members, but neither shall serve as chair.
- Current Text: Sec. 28. - Composition; election; terms; vacancies.
The school committee shall exercise the powers conferred and discharge the duties imposed by law upon school committees. The committee shall consist of the mayor and the president of the city council, *ex officio*, neither of whom shall serve as chairman, and seven other members, elected as follows; one member shall be elected by and from the voters of each ward at each regular municipal election to serve for the term of two years next following.

Maintain School Committee 2 Year Terms

Recommendation #19: Keep school committee terms at 2 years.

- The committee makes this recommendation with the belief that a 2-year school committee terms have many benefits, including: a) closer accountability to voters for a policy making body, b) shorter terms allow people who may not be able to commit to 4 years to run for office, especially for a part-time role, and c) the vast community support for keeping the terms 2 years.
- Policy Considerations: Twenty of the twenty three Massachusetts municipalities with a population greater than 50,000 have a 2-year term for school committee members.

Maintain School Committee 2 Year Terms

Recommendation #19: Keep school committee terms at 2 years.

- The committee considered staggered terms but rejected them. Staggered terms can only exist in 3 or 4 year terms to ensure there is not an election every year. For 3 year terms, every other cycle it would be the same year as a state or federal election, meaning the election could not be in November. For 4 year terms, the same seats would always fall off cycle from the mayor's election, which could cause a constant imbalance in turnout for certain seats.
- Community Feedback: 69% of respondents to the community survey supported 2-year terms for school committee members.

Maintain School Committee 2 Year Terms

Recommendation #19: Keep school committee terms at 2 years.

- Proposed Text:SECTION 4-1: COMPOSITION; TERM OF OFFICE; ELIGIBILITY

(b) Term of Office – The term for the school committee shall be two years, beginning on the first business day in January following the municipal election.

- Current Text: Sec. 28. - Composition; election; terms; vacancies.

The school committee shall exercise the powers conferred and discharge the duties imposed by law upon school committees. The committee shall consist of the mayor and the president of the city council, ex officials [ex officio], neither of whom shall serve as chairman, and seven other members, elected as follows; one member shall be elected by and from the voters of each ward at each regular municipal election **to serve for the term of two years next following.**

Maintain School Committee Vacancy Process

Recommendation #20: Maintain the vacancy process for school committee members.

- The committee recommends that if more than 1 year remains in the term, there will be a special election; if less than 1 year remains in the term the school committee will appoint a replacement, however if the next city election is within 120 days, seat will remain vacant until the election and the newly elected member will start immediately.
- Policy Considerations: The priority was to keep the representation of residents as much as possible without overly burdensome special elections. The committee weighed the pros and cons of special elections, noting potential costs for the city, but after input from city officials the committee concluded that keeping the process for a special election if a vacancy occurs at the beginning of a term is the best practice to ensure resident voices are heard.
- Community Feedback: Concerns about cost for the city, but nominal after discussion with election and city officials.

Maintain School Committee Vacancy Process

Recommendation #20: Maintain the vacancy process for school committee members.

- Proposed Text: SECTION 4-6: FILLING OF VACANCIES

If a vacancy on the school committee occurs with 1 year or more remaining in the term, the city council shall order a special election to fill the vacancy. If a vacancy on the school committee occurs with less than 1 year before the end of the term but more than 120 days before any regular municipal election, the school committee shall appoint a replacement to serve for the remainder of the term from the qualified statewide voters of the ward. The school committee shall publicly post a public notice of the vacancy and solicitation of nominations, and appoint the replacement in accordance with school committee policy. If a vacancy occurs within 120 days of a regular municipal election, the vacancy shall be filled by the regular election and the newly elected school committee member's term shall begin on the first day following the election. The person elected shall fill the vacancy for the remainder of the unexpired term and the term to which elected. The city clerk shall administer the oath of office to them on or before the next meeting of the school committee.

Maintain School Committee Vacancy Process

Recommendation #20: Maintain the vacancy process for school committee members.

- Current Text: Sec. 28. - Composition; election; terms; vacancies.

If a vacancy in the office of school committeeman shall occur one year or more prior to any regular municipal election, the city council shall forthwith order a special election, and the same proceedings shall be had in all respects as are hereinbefore provided for the election of such school committeeman. But, if the vacancy in the office of school committeeman shall occur less than one year prior to any regular municipal election, it shall be filled for the remainder of the term by ballot of the remaining members of the school committee, the member so elected to be a qualified voter of the ward in the representation of which on said committee the vacancy exists.

Maintain Elected Official Eligibility Requirements

Recommendation #29: Maintain current eligibility requirements to run for office.

- The committee recommends no change to eligibility requirements to run for municipal office.
- Policy Considerations: The committee deliberated expanding eligibility to run for municipal elections. No other municipality in Massachusetts or the country have made changes due to State and federal employment law.
- Community Feedback: There was no community feedback on this topic.

Maintain Elected Official Eligibility Requirements

Recommendation #29: Maintain current eligibility requirements to run for office.

- Proposed Text: SECTION 2-1: COMPOSITION; TERM OF OFFICE; ELIGIBILITY
(c) Eligibility - Any statewide voter shall be eligible to hold the office of councilor-at-large. Any statewide voter in the ward from which election is sought shall be eligible to hold the office of ward councilor. If the city council determines that a ward councilor or a councilor-at-large has removed from the city during the councilor's term, that office shall immediately be deemed vacant and filled in the manner provided in section 2-12. A ward councilor who removes from the ward in which the councilor was elected and who remains a municipal voter of the city may continue to serve the balance of the current term.
- SECTION 3-1: MAYOR: ROLE; TERM OF OFFICE; ELIGIBILITY
(c) Eligibility – Any statewide voter in Somerville, shall be eligible to hold the office of mayor. The mayor shall devote full-time to the office and shall not hold any other elective public office.

Maintain Elected Official Eligibility Requirements

Recommendation #29: Maintain current eligibility requirements to run for office.

- Proposed Text (cont.): SECTION 4-1: COMPOSITION; TERM OF OFFICE; ELIGIBILITY
(c) Eligibility – A school committee member shall be a statewide voter in the ward from which election is sought. If a school committee member removes from the city during the committee member’s term, that office shall immediately be deemed vacant and filled in the manner provided in section 4-6. If a school committee member removes to another ward in the city, the member may continue to serve for the balance of the current term.

Maintain Elected Official Eligibility Requirements

Recommendation #29: Maintain current eligibility requirements to run for office.

- Current Text: Article VI Sec. 3. - Requirements for nomination.

Any person who is qualified to vote at any regular or special election for a candidate for any elective municipal office in said city, and who is a candidate for nomination thereto, shall be entitled to have his name as such candidate printed on the official ballot to be used at a preliminary election for nomination therefor; provided, that if he is a candidate to be voted for in a single ward he is a registered voter in the ward wherein he is a candidate;