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## Memorandum – 1

**TO: Plymouth Charter Commission**  
**FROM: Collins Center Charter Project Team**  
**DATE: April 29, 2022**  
**RE: Memorandum 1 – Committee of Precinct Chairs (COPC) and Related Topics**

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### Overview

This memo (Memorandum-1) addresses topics discussed at the Commission’s 4/25/22 meeting. Included are the Committee of Precinct Chairs’ (COPC) overall role/mission, some potential new tools and functions for COPC, and a related topic that was discussed as part of COPC’s role but also goes beyond it (i.e., charter enforcement mechanisms). The project team is *\*not\** addressing potential finance-related roles and powers of the COPC (e.g., potential role in emergency spending decisions) in this memo, as the team believes these subjects are best addressed in conjunction with the Commission’s discussions and ideas related to the Advisory and Finance Committee.

### Committee of Precinct Chairs (COPC)

Per the discussion in the Commission’s 4/25/22 meeting, the Center project team believes it may be useful to define an explicit role for the Committee of Precinct Chairs (COPC). It was understandable that this was left a bit amorphous when COPC was first introduced. Going forward, clarifying the COPC’s mission and role may assist in the construction of additional potential powers during the Commission’s work and will help the public better understand the COPC’s role. To that end, the project team provides the following first attempt at an explicit statement of the COPC’s role in the charter by rewriting the first section that references the COPC (2-3-4).

New proposed draft of 2-3-4 text:

2-3-4 The Committee of Precinct Chairs described in Section 2-11-4 shall function as a standing committee of Town Meeting whose purposes are to provide legislative branch continuity between Town Meetings, to keep Town Meeting Members informed about warrant articles, and to make recommendations concerning Town Meeting rules and procedures. The Committee shall do this by ensuring oversight and follow-up on articles passed by Town Meeting, reviewing Town bylaws, reviewing Town Meeting rules and procedures, and participating in other such activities as the Committee or Town meeting shall deem appropriate.

The Committee of Precinct Chairs may from time to time appoint subcommittees of itself or committees of Town Meeting Members to fulfill its duties under this section.

At least quarterly, the Committee shall report to all Town Meeting Members, the Town Moderator, and the Select Board.

For comparison, here is the current version of the 2-3-4 text:

2-3-4 The Committee of Precinct Chairs described in Section 2-11-4 may from time to time appoint subcommittees of itself or committees of Town Meeting members to review town by-laws, town meeting rules, the status of past Town Meeting actions, and for such other purposes as they shall deem appropriate and shall make recommendations to the Representative Town Meeting and/or the moderator at least annually. The committee also may perform other duties designated to facilitate the business of town meeting. In addition to any other powers conferred upon it by the representative town meeting, the Committee of Precinct Chairs shall periodically review the rules of procedure that govern the conduct of the representative town meeting and report its finding to the representative town meeting at least annually.

### **Warrant Article Oversight Committee**

In addition to a desire to include warrant article oversight as part of the role of the COPC, the Commission expressed an interest in establishing a procedure in the charter for following up on approved Town Meeting warrant articles and reporting on their implementation (which follows the establishment of this as part of its mission above).

There are many reasons that a town meeting warrant article's implementation may be delayed or only partially completed. The executive branch is permitted to exercise some discretion as to the best timing of implementation. The Town Manager or relevant department may be waiting for the appeal period to expire or for further instruction from town counsel, from the Massachusetts Office of the Attorney General, or from another committee's work. For example, upcoming sewer work may cause road repairs to be delayed until the sewer work is completed so the roadwork does not need to be repeated. Or, the Town Manager may learn that a recent court case or attorney general opinion potentially conflicts with a zoning bylaw change. There may also be insufficient financial resources or personnel to implement the warrant article in a timely fashion. Additionally, the article itself could be unclear, impractical, or open to interpretation. And, on rare occasions, the Select Board or Town Manager may have chosen to indefinitely delay implementation due to conflicting priorities.

The implementation of town meeting warrant articles can be complex and involve many departments. An oversight approach that includes both the executive and legislative branches on a Warrant Article Oversight Committee will encourage dialogue among the branches to understand any issues causing delays or partial implementation. Such a committee can flag issues for further analysis to aid Town Hall in implementing the articles and help Town Meeting members understand the practicality of implementing their decisions.

The following is a draft of a charter provision proposal seeking to address the issue of warrant article oversight.

## Warrant Article Oversight Committee

1. Purpose: There shall be a Town Meeting Warrant Article Oversight Committee to track the status of articles passed by Town Meeting.
2. Composition: The Committee shall be comprised of 5 members as follows: three (3) members of the Committee of Precinct Chairs, the Town Manager or designee, and the Town Clerk or designee.
3. Information Requests: In furtherance of its purpose, the Committee may interview a member of a multiple-member body or a Town Department Head and/or request any information that is within the scope of responsibility of that person in relation to Town Meeting Warrant Articles.
4. Report Requirement: The Committee shall provide three (3) status reports to all representative town meeting members regarding the status of implementation of Town Meeting Warrant Articles and any information regarding implementation or challenges to implementation. Such reports shall be filed as follows:
  - First Report: 100 days following Town Meeting
  - Second Report: 200 days following Town Meeting
  - Third Report: 300 days following Town Meeting
5. Special Town Meetings: The Committee shall provide two (2) status reports to all representative town meeting members regarding the status of implementation of Special Town Meeting Warrant Articles and any information regarding implementation or challenges to implementation. Such reports shall be filed as follows:
  - First Report: 100 days following Special Town Meeting
  - Second Report: 200 days following Special Town Meeting

## **Other Topics – Mechanisms for Enforcement of Charter Provisions**

Another topic raised during the 4/25/22 meeting was a desire for options to enforce the charter when there are perceptions of noncompliance. Although this topic was initially set within the discussion of COPC powers, as the discussion evolved, the desire for an enforcement process and accountability was a clear priority. The Commission was receptive to various methods of addressing noncompliance, but the COPC was identified as a way of preserving objectivity and impartiality as the legislative branch is generally not involved in operational government functions.

As discussed, charter enforcement (and failure to enforce) is a challenging topic in many communities, and it is important to recognize that enforcement options within the charter itself are relatively limited. In many scenarios, the best way to address noncompliance with charter provisions may be a political solution, such as recalling or replacing at a future election the officials directly or indirectly responsible for the government entity not following provisions of the charter. The project team understands that this may be an unsatisfactory answer to this question.

Furthermore, remedies for charter breaches may vary, depending upon the provision and alleged breach. Therefore, it is difficult to find a one-size-fits-all system for enforcement.

The project team provides the two following examples of enforcement provisions from other town charters. Although neither example may be particularly strong, they are the most concrete examples of attempts to address the issue in charters that the project team has seen. ***(Note: The project team has \*not\* had any conversations with officials in either town to understand how these sections have worked in practice, but the team could do so, if the Commission is interested.)***

From the Chapter 10, Section 3 of the Orleans charter:

§ 3. Enforcement 10-3-1

Clause 3-3-3 requires the Board of Selectmen to enforce the Charter. Ten or more voters shall have the right to petition the Board of Selectmen for enforcement of the Charter or to obtain a formal opinion from Town Counsel regarding any Charter enforcement issue. The forgoing enumeration shall not limit or restrict the exercise of rights of enforcement set forth in the General Laws of the Commonwealth.

From Article 9, Section 1 of the Falmouth charter:

§ C9-1. Enforcement. [Added ATE 5-21-2013]

A. Any person who has reason to believe that a town official or governmental body has violated any provision of this charter by action or failure to act may file a written complaint with the Town Clerk, setting forth the circumstances which constitute the alleged violation.

(1) The written complaint shall identify the official or governmental body, specify the date and time of the alleged violation and cite the section of the charter allegedly violated.

(2) The written complaint shall be filed within six (6) months of the alleged violation. Upon receiving the written complaint, the Town Clerk shall forward a copy thereof to the official or the chairperson of the governmental body with a further copy to the Town Manager and the Board of Selectmen.

B. The official or chairperson of the governmental body shall file a reply with the Town Clerk.

(1) It shall either acknowledge the alleged violation with proposed remedial action if appropriate and feasible, or deny the alleged violation with a statement of reasons therefore.

(2) The reply shall be so filed by an official within 30 days of receipt of a copy of the complaint. In the case of a governmental body, its chairperson shall file a reply within thirty (30) days of the receipt of the copy of the complaint or within ten (10) days after the second regularly scheduled meeting of the governmental body following receipt of the copy of the complaint, whichever is greater.

(3) The Town Clerk shall forward a copy of the reply to the complainant with a copy of the reply to the Town Manager and the Board of Selectmen.

C. A complainant who is aggrieved by the reply may pursue any remedy available at law or in equity.

Beyond these examples, the project team will continue to research and evaluate other potential options for charter enforcement mechanisms that could be included in the charter itself.