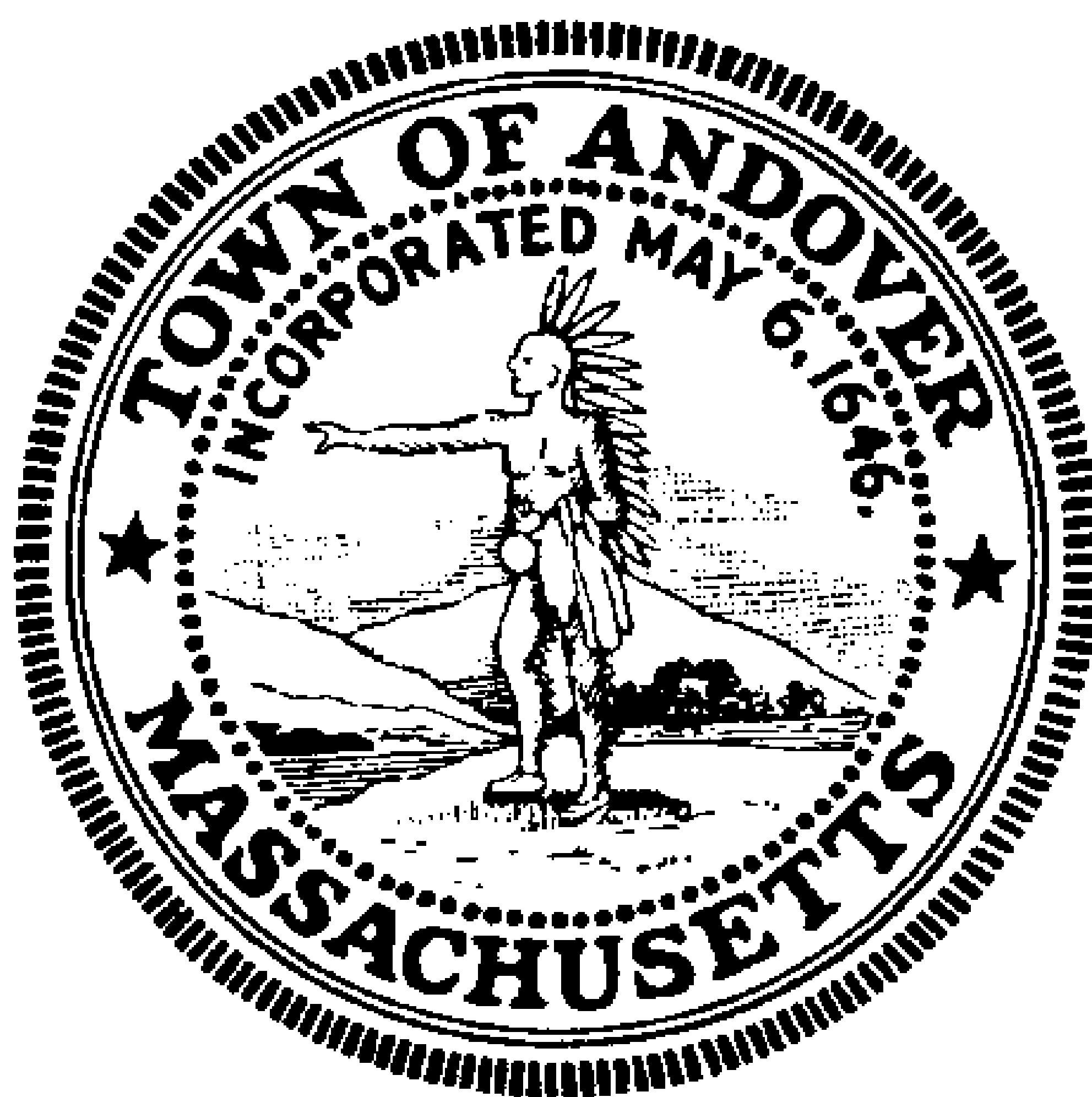


Final Report of the Town Government Review Committee

July 24, 2002



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TABLE OF CONTENTS

Foreword	v
Summary	vii
I. Preamble	1
II. Background	1
III. Scope	2
IV. Approach	2
V. Areas for Committee Consideration	3
1. Major Structural Changes to Government	3
A. Selectmen-Town Manager	
B. Town Meeting or Town Council	
C. Open Town Meeting or Representative Town Meeting	
D. Decision by Ballot	
2. Top-Level Changes within Existing Governmental Structure	8
A. Strategic Planning Task Force	
B. Audit and Oversight	
C. Responsibilities for School Construction	
D. Term of Office	
E. Number of Selectmen	
F. Selectman on the School Committee	
G. Holding of Multiple Offices	
H. Selection of Members of the Finance Committee	
I. Frequency of Town Meeting	
J. Recall of Elected Officials	
K. Timing of Elections	
L. Community Preservation Act	
M. Inter-Departmental Review	
3. Organizational Changes	13
A. School Custodians	
B. Community Services	
C. Capital Improvement Program	
D. By-Laws of the Trustees of the Library	
E. Privatization and Regionalization	
4. Procedural Changes	15
A. Approval of Town Manager Appointments	
B. Performance Review of the Town Manager	
C. Size of the Reserve Fund	
D. Transfer of Funds	
E. Conduct of Open Town Meeting	

F. Government Review	
G. Andover's Documentation	
H. Communications and Planning	
5. Other Changes	19
A. Planning Board of Appeals	
B. Gender-Neutral Wording in Charter	
VI. Recommendations	19
A. Recommendations for Change	19
B. Recommendations for No Change	21
APPENDICES	
A. Studies of Andover Town Government	23
B. Committee Guests	23
C. Government in Massachusetts	24
D. Town Meeting Procedures	27
NOTES	30

FOREWORD

On October 2, 2000, the Board of Selectmen approved the town manager's formation of the Town Government Study Committee. The Committee's charge was and is "... to review the town charter and form of government, evaluate whether any changes would be beneficial to the town and submit their recommendations and report to the Board of Selectmen by November, 2001."

In another context and in another time, it was once said of Winston Churchill, "The first time you meet Winston, you see all his faults, and the rest of your life you spend in discovering his virtues." At our first meeting on October 23, 2000, we saw the "faults" of our mission when we began to appreciate the sheer size, scope and complexity of our challenge. However, just as with Winston, I am happy to say that we spent our 21 months of Committee life discovering the "virtues" of our mission, of our town's government, of the people who serve our town, and of the town itself. Our challenge turned out to be very educational, most rewarding, and, believe it or not, lots of fun.

Twenty-first century American society finds itself beset by powerful and sometimes horrific change: Enormous personal wealth, unprecedented ethical and moral crises, a volatile world economy, international terrorism, the all-pervasive presence of the entertainment industry -- the tremendous effect of these and other influences have served to undermine too many of our business, religious and governmental institutions in recent years and months.

It is within this much larger context that this Committee has diligently pursued its charge to find out what "changes would be beneficial to the town." A few, very few, have stated that the Committee's refusal to recommend dramatic change in Andover's town government might somehow be seen as a failure on its part. But, after twenty-one months of hard work and research, it is clear to the Committee that major changes in municipal government are almost always a reaction to a municipal government that has failed in some significant fashion and lost the confidence of its voters. Andover's government has not failed. To the contrary, in many, many areas it is a model for municipal governments all over Massachusetts and New England. Change, for the sake of change, makes little sense. It is clear to us, as we think it would be to any objective observer, that our 356-year-old open town meeting and our 46-year-old charter have served us well and will continue to do so for the foreseeable future. We have made several recommendations that we think will improve, modernize, and clarify these institutions. What is also clear, however, is that our institutions, like our entire town government, like democracy itself, are imperfect and are surely works in progress which require periodic and consistent examination and evaluation and, finally, must never, ever be taken for granted.

It is readily apparent to any examiner of our town's history that generations of our fellow townspeople have invested their energies, their talents and their treasure in making Andover the wonderful community it is today. This is both our custom and our legacy. The deep threads of stewardship and volunteerism run down through the centuries to all of us. The result of all of this sacrifice and effort has been a strong and vibrant tradition that has safeguarded our town and its people and that, at least to this point, has successfully helped us to avoid political and financial pitfalls that plague so many other municipalities and has made us a leading community by almost any standard.

Democracy has not come easily. Rather, at Bunker Hill and at Spotsylvania Courthouse and at many other places, it has even been earned by the very blood of our townspeople. Clearly, the efforts, both large and small, of our fellow townspeople over the centuries have made it evident to each wave of newcomers gracing our community that they have been entrusted with something fine and enduring and that they must do their part to make it even better and stronger. This obligation has always been cheerfully and intelligently shouldered by each succeeding generation of Andoverites.

In the course of our deliberations, our Committee received the thoughts and opinions of scores of townspeople as well as many fine people who work for the Town of Andover. One of the very first people to appear before us was the late Mary French. For many years, Mary served as the Director of Special Education in our school system. She was often an advocate for children who had no other advocate. Ultimately as a selectman, Mary became an advocate for all of us. She's both the embodiment and the symbol of what Andover volunteers can be at their very best.

Our Committee made an honest and sincere attempt to live up to the standards and levels of excellence set by all of the Mary Frenches and by all of the other volunteers who have served on our town's boards and committees through the years. It is for others to judge how well we succeeded. What is certain, however, is that our Committee addressed and discussed every one of the hundreds of ideas presented to it. It examined thousands of pages of documents. It invested hundreds of member-hours of discussion, argument and disagreement. Its deliberations were unfailingly civil and respectful; they were always thoughtful, often creative and, throughout, were marked by intelligence underlined by great amounts of laughter. (In that vein, we apologize for missing the Selectmen's very optimistic November 2001 reporting deadline by a mere eight months!)

At the very least, the Committee has a sincere hope that its investigations, determinations, conclusions and recommendations have accurately reflected the state of Andover town government at the beginning of the twenty-first century and that the next group to examine our town government will find our records, documentation and recommendations (all of which will be preserved by the Town Clerk's Office) useful as a resource and baseline for their own deliberations.

Lastly, I would ask the reader's indulgence by allowing me to individually recognize and thank the members of this Committee.

Our secretary, Julie Pike, faithfully used her gentle form of discipline to keep matters on course. Mark Merritt and Paula Trespas consistently questioned sometimes-ancient assumptions and conclusions and forced each of us to continually ask why a given matter was so. Rusty Dunbar fortified us with her great accumulation of facts and figures and as a self-styled "government junky" made sure that we examined ourselves against the structure of many other progressive communities. John O'Brien, with his intelligence and wit, always forced us to look higher and further for truth and accuracy and not to take ourselves too seriously. Paul Dow approached all of our issues in an organized and methodical manner. Paul also proved to be a wonderful writer who was able to summarize all of our work in a clear and cogent manner and is the primary author of our report. Jim Doherty served as our historic link with the history of our town's government. With much patience and good humor he listened long and well as the Committee ruminated and in the end, often came to conclusions that he had come to many years previous. Randy Hanson has to be one of the best Town Clerks in New England. Her competence, effort and commitment to the Committee's affairs was enormous. Our recorder, Lynn Spitalere's performance for the Committee was outstanding as is her performance as a terrific town employee and proud member of the Massachusetts Army National Guard.

To the Board of Selectmen and the Town Manager, we thank you for giving us the opportunity to serve our community. We sincerely hope that our report will be of use to our great town.

For the Town Government Study Committee

Michael W. Morris, Sr., Chair
July 4, 2002

SUMMARY

The Town Government Review Committee was formed at the direction of the Board of Selectmen to review the Andover town government and to make any recommendations for change. This is a summary of our final report.

In broadest terms, the Committee has asked itself the question, does the government of the Town of Andover perform effectively, and, if not, what changes can be made to improve it? To answer this question we have relied not only on our own knowledge and experience but also on the advice and recommendations of many townspeople, town officials and others who have appeared at our meetings, thirty-two in number, and two public hearings, and those who have written to us.

It is our general observation that Andover is well managed and well governed. The town provides excellent services to its residents in areas such as public schools, public safety, public works, public health, planning, zoning and many others. Andover is in excellent financial health, with a Aaa bond rating, with reserves sufficient to handle the unexpected, with a tax rate that is reasonable compared to similar towns, and with a solid mix of commercial and residential property.

We also conclude that the authors of our town charter, over 40 years ago, showed extraordinary wisdom in their choice of government in both its general concept and in its details. As a document, the charter is relatively short compared to modern town charters, yet it set a framework that we believe has allowed Andover to become the outstanding town that it is today. Consequently we have made few recommendations for significant change; we believe that the form of government that has existed in Andover for the past four decades is well suited to carry us forward for many years to come.

Specifically we reaffirm that the selectmen-town manager-open town meeting form of government works effectively in Andover. Under this form of government Andover has become one of the most desirable towns in Massachusetts in which to live and to work.

In Andover, the selectmen are the makers of policy of town government and should assume a leadership position in town-wide issues. The town manager is responsible for carrying out that policy and for managing the personnel in nearly all non-elective positions (except school employees). The clear lines of authority and responsibility that result enable town government to be efficient, responsive and effective. The fact that nearly all of these positions are appointive rather than elective also serves to insulate these boards and committees from the political influences that have created problems in other towns.

Much of the discussion that has taken place before this Committee has concerned itself with the legislative body of the town: Should the open town meeting be replaced with a representative town meeting or a town council? Open town meeting has served the town well for over 350 years; we are the largest town in terms of population in Massachusetts with this form of government. The town meeting has changed with the times and will continue to evolve to meet the needs of the future. It is and should be a participatory form of government in which the voters are involved. Voters have the opportunity to study the issues, attend the meeting and make their own decision. People who cannot find the time to inform themselves in advance can still attend, make decisions after listening to debate, and vote as town boards recommend, if they wish. Or they can stay home and accept the judgment of those who do attend. The choice is theirs. With a representative town meeting or town council, people do not have this choice and the elected representatives are able to ignore the wishes of the people, at least until the next election. At open town meeting the voters can directly affect the outcome of a warrant article, even if the outcome is contrary to the recommendations of town officials, as we have seen many times at town meeting. Voters also have the right of free petition; of bringing a private warrant article before the open town meeting, whether the selectmen want it or not; once again the voters have the final say.

The open town meeting has made sound decisions over the years. We have no reason to believe that a representative town meeting or a town council would make better decisions. We certainly have found no evidence that Andover would be better off with a city form of government, nor have we found any desire on the part of the townspeople for such a change.

No summary of Andover town government would be complete without a word about our town's volunteers. Andover is indeed fortunate to have a large number of hard working, conscientious, dedicated and well-informed volunteers who perform essential roles in our town government. They include the members of town boards, commissions, committees, councils, advisory groups, and trustees. The willingness of public-spirited Andover citizens to volunteer for these assignments, and to spend much of their precious free time in serving their fellow townspeople, is just one of the features that makes Andover such a successful town. We have been careful to evaluate any potential changes in terms of how they would affect the willingness of our citizens to volunteer their services. One factor that appears to contribute to the enthusiasm for volunteer service in Andover is the relative lack of political pressures on the operation of town government. Simply put, Andover does not suffer from the effects of patronage and political histrionics that plague many communities in Massachusetts. Changes in the form of government, such as the town council approach (which if enacted, would be a significant step toward making Andover a city), might have the effect of increasing the overall "political" aspect of the town and have the negative and unintended result of diminishing interest in volunteer service. The loss of long-term, dedicated volunteers would be a significant detriment to the operation of the town and would be a sharp blow to the spirit of Andover volunteerism, which has made the community great. We should be making every effort to retain, encourage, and develop these valuable resources.

We have reviewed most, if not all, aspects of town government. We have heard many recommendations for change, as well as recommendations to leave things as they are. We have considered all those recommendations as well as others that we proposed ourselves. In this summary we briefly state the major items that should not change, and then we list our major recommendations for change. The full report contains a detailed discussion of every item that we considered, whether we recommended a change or not.

Recommendation for No Change:

Andover should remain a town with the selectmen-town manager form of government and with open town meeting.

There should continue to be only one regularly scheduled annual town meeting, and it should be held in the spring.

There should be no change in the term of office, or in the number, of our elected town officials, or in the term of office of the town manager.

There should be no change in the method of selection of the members of the Finance Committee or of any other of the appointed officials.

Recommendations for Change:

This Committee believes that the Strategic Planning Task Force process is highly beneficial to the town and that the current practice of regular meetings is desirable and should continue and that it should be encouraged. We recommend that its authority be broadened and its membership be excluded from the multiple office restriction in the town charter. We also recommend that the chair of the Strategic Planning Task Force alternate at six-month intervals between the town manager and the superintendent of schools.

We recommend a change to the multiple office section of the charter to permit representation by members of the Board of Selectmen, the School Committee, and the Finance Committee on joint committees and task forces, to allow them to take advantage of other opportunities for voluntary town service, and to allow members of these three committees to serve as election officials. This recommendation is subject to the provisions of section 20 of the state conflict of interest law (M.G.L. c. 268A).

We encourage the Board of Selectmen to exercise their leadership and policy-making roles forcefully and unambiguously in town-wide issues in conformance to the Charter.

We recommend creation of an Audit and Oversight Committee, with its members to be appointed by the town manager in such a way as to ensure independence of action. This Committee should (1) review the external audit, hold public hearings, and make recommendations; and (2) review the results of town meeting votes to insure that all actions directed by town meeting are carried out, and make its report to the next town meeting.

Given the importance of volunteer boards and committee members, we recommend to the Board of Selectmen and the town manager that they investigate ways of maintaining and increasing the pool of willing and able volunteers.

We recommend that the zoning by-law be re-drafted in order to mandate that the Inter-departmental Review (and site review process) be implemented prior to the filing of plans with the Zoning Board on special permit petitions for multi-family use in apartment districts.

We recommend that the Board of Selectmen and town manager be sensitive to the issues of privatization and regionalization and pursue such opportunities where they might be effective.

We recommend that the town reexamine the extent and scope of the support and assistance, financial and otherwise, which it provides to its citizens. In addition we make the following specific recommendations: (1) that the town manager consider changing the name of the Division of Community Services (DCS) to more accurately reflect its mission; (2) that the town manager examine reorganization of Community Services, Elder Services and Youth Services into a single department; and (3) that an advisory board be appointed for the DCS.

We recommend that all members of town government make every reasonable effort to improve communication and planning at all levels.

We recommend that the town manager invite citizens to participate in the valuable and beneficial Capital Improvement Plan (CIP) process by submitting petitions for private capital projects to be reviewed at the same time such projects are submitted by town departments. We also recommend that all approved CIP items in the budget and in special articles be clearly identified and delineated, along with the recommendations of the appropriate boards, and that private articles that do not utilize this process be clearly identified. Finally, to emphasize the importance of the CIP, we recommend that the Finance Committee Report include an explanation of the CIP process, including the use of out-year cost projections in budget planning and forecasts.

We recommend that the Town Counsel review the provisions of Massachusetts General Laws regarding the number of library trustees and formulate a recommendation, in consultation with the town manager and the library trustees, which will properly reconcile the apparent inconsistency between the General Laws and the by-laws of the trustees.

The Committee recommends adoption of the following procedures, among others, to improve the conduct of Andover's town meeting (details can be found in Appendix D):

- Make use of “pro and con” microphones;
- Adopt a time limit of five minutes for presentation of an article and three minutes for each subsequent speaker;
- Hold at least one session of town meeting on Saturday;
- Keep opening ceremonies and speeches short;
- Continue the practice of displaying the wording of motions on screens;
- Urge all boards to make their recommendations in time to be incorporated in the Fin Com Report;
- Explore providing transportation for the elderly to the meeting;
- Investigate ways of accommodating the elderly and disabled who cannot attend;
- Improve access to parking; make satellite parking available and easy to use; and
- Publicize information about town meeting, including debates, in news media and by mailing flyers to voters along with tax bills, for example.

We recommend that, as a “housekeeping” item, reference to a Planning Board of Appeals be deleted from the charter.

We recommend that the charter be revised to be gender-neutral.

The Committee believes that when there is a need to review and update the Charter that this will be apparent to our town's leaders and they will take the steps necessary to do so. We do not believe that implementing the recommendations of this report requires the creation of a charter commission.

ANDOVER TOWN GOVERNMENT REVIEW COMMITTEE FINAL REPORT

The happiness of the people is the purpose of government and therefore that form of government is best which produces the greatest amount of happiness for the largest number.

– John Adams

I. Preamble

This Committee was formed at the direction of the Board of Selectmen to review the town charter and the form of town government, to evaluate whether any changes would be beneficial to the town, and to submit its recommendations to the selectmen. The Committee submitted a preliminary report in October 2001. This final report of the Committee contains all recommendations and relevant discussion, so that it is unnecessary for the reader to refer to the preliminary report.

II. Background

Andover has been governed by a selectmen-town manager plan since the present charter was approved by the Legislature in 1956 and accepted by the town in 1958. Since then Andover's population has multiplied, its budget has grown, and its town manager, boards, commissions, committees, department heads and division heads are forced to face many challenges that were not anticipated at that time. The selectmen determined that after forty-two years under the present form of government it was important for an independent group of citizens to conduct a review to see if any changes might be appropriate.

During that time the residents of Andover have seen many changes in town, one of the most impressive changes being the affluence of the town and its citizens. Coupled with this is the expansion in the breadth and magnitude of all government, not just town government, in all aspects of our lives.

Some of the problems encountered by Andover's government are due to the fact that the scope of business conducted by the town has expanded drastically, at the same time that the budget has increased by over 70 percent in the last ten years. Our budget now exceeds \$100,000,000.

The list of issues that come before the Board of Selectmen, School Committee and Finance Committee is extensive and growing. Examples of these matters are capital improvement, conservation questions, roads, personnel appointments, block parties, sewer and water, and so on. There are an enormous number of topics that are brought before the three boards.

Ironically, at the very time that government has become bigger, busier and more pervasive, many of our citizens find it difficult to participate and take interest in their government. The people who do volunteer deserve to be commended.

The need to communicate and to cooperate is a serious matter; this is an ongoing challenge to the Board of Selectmen, School Committee and Finance Committee. They need to coordinate, interrelate and cooperate on town issues, not just in preparation for town meeting, but throughout the year.

Vision and priorities of a large community can easily get lost in a “bureaucratic quagmire”; there is the potential for the future vision and direction of Andover to be lost in the tedium of sidewalk or road projects and the daily minutia of town administration.

III. Scope

The charge of the Town Government Review Committee by the town manager is “to review the town charter ... and form of government, and evaluate whether any changes would be beneficial ...” In carrying out this responsibility the Committee has reviewed the charter, the town's by-laws, charters and by-laws of other communities, state statutes affecting the town, and controlling documentation. In addition, the Committee, through its members, has observed aspects of town government including the town meeting.

In viewing itself and its mission, the Committee feels that it is unencumbered in making recommendations wherever it sees fit. This vast responsibility is coupled with a self-imposed obligation to give reasons for its recommendations whether they are for change or to maintain the status quo.

It is the Committee's understanding that its charge grew out of a concern on the part of some individual selectmen, that the town's charter, or at least their understanding of it, might not have kept pace with Andover's growth over the last four decades. Upon further review, and after learning that Andover's open town meeting was not addressed in the document commonly referred to as the charter, it was decided that the study of the charter should be expanded to include town meeting and Andover's “...form of government...” These additional obligations multiplied the Committee's responsibilities significantly and complicated the challenges of its mission proportionately. Nonetheless, the Committee, individually and collectively, has accepted this responsibility and has carried it out to the best of its ability.

IV. Approach

The Committee began by reviewing the town charter and the reports of previous groups and committees that had addressed these or related issues. These include the study in 1955, which led to the present charter; a follow-up study in 1963 that made additional recommendations; and studies of town meeting that were conducted in 1971, 1988, and 1999. These reports are listed in Appendix A.

We have also reviewed the charters of many other Massachusetts towns and the study reports of towns that have conducted reviews similar to ours. In addition we have met with town officials of some of our neighboring towns.

The Committee has also met with as many of the managers and elected and appointed officials of the Town of Andover, past and present, as is deemed necessary or desirable, and has solicited their observations and comments regarding the effectiveness of the present form of government as it pertains to their areas of responsibility. The Committee has met with members of the town's committees and commissions to elicit any suggestions, advice or recommendations that they wished to offer. Finally, the Committee has insured that the public's opportunity to contribute their ideas during its meetings and forums was given the highest priority.

Since its first meeting on October 23, 2000, the Committee has held thirty-two meetings, including two general forums, all of which have been open to the public. Those who have met with the Committee at its meetings include present and former selectmen, members of the School Committee, the chair of the Finance Committee, the superintendent of schools, the town manager, department heads, directors, chairs of boards and commissions, the League of Women Voters, state legislators, representatives from other towns, and others. (The complete list is contained in Appendix B.) As stated, televised public forums were held on June 21, 2001, and May 8, 2002, at which time much useful citizen input was received.

Each comment, suggestion, piece of advice and recommendation offered by the guests at our meetings and by the voters at the public hearings, as well as written comments by citizens, have been carefully considered by the Committee during its deliberations.

In this final report we discuss all, or nearly all, of the possibilities for changes or improvement to town government that we have considered. In many cases, as will be seen, we have recommended no change. Nevertheless, we have attempted to present the reasons for each potential change and discuss its merits, whether or not we finally recommend it.

In Appendix C, we have included a description of town government in Massachusetts, which provides additional information on the various forms of municipal government and town meeting that are used in the Commonwealth.

V. Areas for Committee Consideration

For convenience in dealing with the wide range of possibilities that the Committee has considered, they have been grouped into the following general categories. In each category the change being considered is described, the arguments for and against its adoption are presented, and the Committee recommendation is given.

1. Major Structural Changes to Government

By “major structural changes to government” we refer to the two significant features that define our form of government in Andover. First, should Andover retain its identity as a town, with the selectmen-town manager form of government, or should it become a city? Second, should Andover retain the open town meeting? Before discussing these possibilities, we believe it is important to observe the fact that most communities change their form of government only after suffering substantial problems in government operations and, even then, they seem to change only after much fractious and often hostile debate. Our thorough interviews of a wide range of people, in and out of government, gave no indication that this situation exists in Andover.

A. Selectmen-Town Manager – Hardly anyone who has appeared before the Committee has even suggested, much less recommended, that Andover abandon the selectmen-town manager form of government. Nor does it appear that the solution to any of the issues raised to the Committee requires such action. In fact, it is apparent that the community is most satisfied with its classification as a “Town.” This form of government has the potential disadvantage of diffuse leadership. The charter of the Town of Andover states that “The Board of Selectmen shall be considered the makers of policy of the town government ...” We believe that the selectmen are not only the policy makers but also the leaders of the town and have the responsibility to take the lead in town-wide issues. This fact has been lost on a few, very few, past selectmen and we wish to reinforce and re-state the matter.

The Committee recommends that Andover maintain its status as a town and that it continue with the selectmen-town manager form of government. We encourage the Board of Selectmen to exercise its leadership and policy-making roles forcefully and unambiguously in town-wide issues in conformance to the charter.

B. Town Meeting or Town Council – Massachusetts currently has 309 towns and 42 cities. Eight of these towns have town councils, 263 towns hold open town meetings, and 38 towns hold representative town meetings. The legislative body in Massachusetts towns is either the town meeting or

the town council. The town meeting may be either open or representative. We will consider the town council first.

There are many possible combinations that make up the “town council” form of government. Some communities have a manager, some have a mayor, and one even has five selectmen and a manager, as well as a town council of 26 members. According to Andover’s town counsel, “It is fair to say that these forms of government have more in common with a city form than a traditional town form of government.”¹

Nevertheless, the town council offers certain advantages. The small size of its membership means that votes can be recorded and its members held responsible and accountable to the voters of the town. It also suggests that a small legislative body, adequately assisted by a competent staff, should be able to shorten debate, prepare amendments, and reach decisions more expeditiously than either a representative town meeting or open town meeting. The obvious disadvantage is that, as a representative body, it removes the voter from direct personal participation in the legislative process.

One proposal made to the Committee was to abolish the finance committee and vest its authority in an enlarged board of selectmen, creating in effect a form of town council. This proposal comes dangerously close to mandating that Andover become a city. This proposal was most unusual in that it retained the town meeting. How the legislative authority of the town council and town meeting would be divided was not explained. We feel that this proposal was of doubtful legality and, in any event, was not consistent with the feelings of Andover residents as we understand them.

The members of the Committee and, we believe, the residents of the town, want Andover to remain a town, in character as well as in form of government. Throughout our review of the operation of Andover's town government, we have consistently observed a high level of dedication from those in volunteer service to the town. Many of the appointed boards have members with decades of service experience, demonstrating an extraordinary commitment to the effective operation of town functions. We have noted that this pattern of long-term volunteer service has been a significant factor in establishing boards that provide stable and consistent judgment, with a balanced perspective of the best interests of the town.

One factor that appears to contribute to the enthusiasm for volunteer service in Andover is the relative lack of political pressures on the operation of town government. Simply put, Andover does not suffer from the effects of patronage and political histrionics that plague many communities in Massachusetts. Changes in the form of government, such as the town council approach, which have the effect of increasing the overall “political” aspect of the town may have the negative and unintended result of diminishing interest in volunteer service. The loss of long-term, dedicated volunteers would be a significant detriment to the operation of the town; would be a sharp blow to the spirit of Andover volunteerism which has made the community great; and we should be making every effort to retain, encourage, and develop these valuable resources.

The Finance Committee is a case in point, and any change that would eliminate it, or diminish its effectiveness seems to us to be an undesirable and unwise move.

We recommend that Andover retain the town meeting, and we recommend against adopting a town council form of government in any of its configurations. The town council may be a logical first step for a town that expects eventually to become a city; it may also be the best choice for a town that has become dissatisfied with the representative town meeting. We see no benefit to Andover in adopting the town council form of government and therefore oppose it.

Given the importance of volunteer boards and committees, we also recommend to the Board of Selectmen and the town manager that they investigate ways of maintaining and increasing the pool of willing and able volunteers.

C. Open Town Meeting or Representative Town Meeting – Andover, with a population of over 31,000, is the largest town in both Massachusetts and all of New England to employ an open town meeting. In addition, and as far as anyone knows, Andover may well be the largest community anywhere employing an open town meeting. Its most popular alternative is the representative town meeting. We will discuss each of these in turn.

- i. Open Town Meeting – Open town meeting has many strong advocates. It is the community's legislative body. They see it as the purest form of democracy, where debate and discussion are followed by decision. It enables town meeting voters to see their town officers in action, to question them, and to hold them accountable.

Towns that have abandoned the open town meeting, or made other major changes in their form of government, have usually done so in response to some “trigger,” such as population growth or voter dissatisfaction with one or more specific aspects of government affecting their community, or because of poor attendance.

The objections to open town meeting are well known, and are common to communities with open town meetings. Reasons would include, but are not limited to: the aforementioned poor voter attendance; voters – especially new residents – sometimes feel unwelcome and intimidated; meetings dominated by a few; meetings manipulated by special interests; and a perception that not all voters have an opportunity to be heard.

Critics of open town meeting question whether the small percentage of voters who attend are truly representative of the electorate and whether they make decisions which are in the public interest. Often the disabled and the elderly can't come, and single mothers can't come. It has been stated that some attendees have been affected negatively by a perceived hostile atmosphere.

In his study of New England town meetings, Joseph F. Zimmerman finds that these perceptions and stereotypes of the New England open town meeting advanced by its critics are a serious distortion of reality. He shows that voter superintendence of town affairs has proven to be effective, and there is no empirical evidence that thousands of small towns and cities with elected legislative bodies are governed better. Whereas relatively small voter attendance seems to suggest that special interests can control town meetings, their influence has often been offset effectively by the development of town advisory committees, particularly finance committees, planning boards and other groups which are effective counterbalances to special interests.²

Zimmerman posits that the open town meeting is a *de facto* representative legislative body in which attendees are self-appointed representatives of the town.

- ii. Representative Town Meeting (RTM) – Towns with a population in excess of 6000 are eligible to adopt RTM; the first to do so was Brookline, Massachusetts, in 1915. The theory of the representative town meeting for large towns is supported by logic, but the system has generally not been the panacea for the problems of the open town meeting that had been

anticipated. A few of the towns which adopted the RTM became dissatisfied with it and changed back to the open town meeting or abandoned it for a town council. But meanwhile other towns occasionally adopt it, so that the total number of towns with a RTM has stayed fairly constant in recent years.³

RTM is said to have as many problems and dissatisfactions as open town meeting. Attendance is a problem with RTM, especially at second sessions of a meeting and at special town meetings. Finding candidates to run for office is a problem in some precincts; in many cases there is no competition; all those who choose to become candidates are elected. Significantly, and often, a disproportionate number of members of RTM are town employees (police, fire, and teachers). Although critics occasionally maintain that town employees dominate RTM and vote themselves higher wages and shorter working hours, there appears to be no evidence to support this complaint.⁴ Some students of town government are disappointed by the limited amount of debate. In theory, it was expected that RTM members would spend the time needed to familiarize themselves with the issues and become better informed than the voters at open town meeting, but this does not always appear to occur in practice.⁵

Towns that have adopted RTM appear, for the most part, to be satisfied with their choice. For the larger towns, it still allows a relatively large number of citizens to conduct the business of town meeting and reduces the influence of cliques and interest groups.⁶

In deciding between the two forms of town meeting, the Committee has considered each of the objections that have been raised to the open town meeting. First is the claim that attendance is poor and that those who come are not representative of all the voters. Our answer is that all voters are certainly free to attend, and that those who do attend are usually conscientious voters whose decisions in the past have nearly always been in the best interests of the town. People who choose not to attend have, in effect, voted also. They have voted not to participate. Second is the claim that special interests control town meeting. To this we say that unbiased advice is available to all voters well in advance of the meeting from the non-political appointed members of town advisory committees. Controversial issues are well known to the voters, and an equal opportunity to attend is available to those on each side of the debate. There are countless examples of “special interests” being defeated in Andover’s town meeting. Opponents or proponents have numerous opportunities to weigh in on an issue long before it gets to the floor of town meeting. Most often, issues that reach the floor of town meeting are the result of much study and compromise. Some find the environment of the town meeting to be unfriendly; we agree that there is always room for improvement and have addressed those issues later in this report. We have been told that there is no hall big enough to hold all the voters. We know that is true, but the town has always been able to accommodate all the voters who do come.

Several critics of the open town meeting have pointed to the very recent Proposition 2-1/2 override attempt (April and June, 2002) as an example of a disconnection between the judgment of the town meeting and the will of the majority of the voters in a ballot vote. The town meeting in April passed the override warrant article by an ample margin, but the question was resoundingly defeated at the subsequent ballot vote in June. Some voters contend that this experience is evidence that open town meeting is not sufficiently representative of the collective will of the voters, and advocate a switch to representative town meeting as an alternative that will provide better representation.

The Committee feels that this override experience is in fact a good example of sound democratic decision-making, and that the disparity in voting results is a natural outcome of the process mandated by Proposition 2-1/2. Every voter who participated in the June ballot vote had a reasonable opportunity to

cast that same vote at the town meeting in April. Proponents of the override recognize that an affirmative vote is necessary at both the town meeting and at the subsequent ballot vote, and hence these voters are naturally motivated to attend town meeting. Opponents of the override recognize that there are two opportunities to defeat the article – once at town meeting, and once at the ballot vote. This group therefore has less inherent motivation to vote their position at town meeting, and a large number appear to have deferred casting their vote until the June ballot.

The mechanics of Proposition 2-1/2 apply uniformly to towns, regardless of whether they employ an open town meeting or a representative town meeting (RTM). The Committee expects that this same override defeat phenomenon would be experienced with a RTM legislature, unless the representatives were particularly effective at determining the will of the voters whom they represent. We have looked at the results of override votes in a number of other towns and we see no clear correlation between the form of government and the success or failure of overrides and debt exclusions. There does appear to be a higher likelihood that a debt exclusion will be approved compared to an override, and this is true regardless of the form of government. This pattern also prevailed in Andover with the passage of debt exclusion votes for two new schools and the replacement of the public safety center in 2000, and the defeat of the override in 2002. On the whole, the Committee feels that the RTM does not inherently provide a more representative legislative body than the open town meeting, and that either form is likely to be contradicted by the ballot vote required for an override of Proposition 2-1/2.

The Committee recommends that Andover retain the open town meeting. We do not believe that elected representatives of the voters will make better decisions than the voters themselves who now attend our meetings. To suggest that open town meeting should be retained is not to say that there is no room for improvement. We will return to that point later in this report.

D. Decision by Ballot – One significant potential change to town meeting would be to adopt some form of ballot referendum. For example, town meeting could be limited to “discussion only” of certain warrant articles, which would be specified in advance. Final action on these articles would be taken by secret ballot at an election following a few days after the town meeting. Such a system, known as the “Official Ballot” referendum bill, is already in effect in some New Hampshire towns, and has met with mixed results.⁷

Another method, used in some Massachusetts towns (e.g. Marblehead, Wakefield), is the referendum petition. This procedure allows voters who are dissatisfied with the results of town meeting action on a warrant article to petition for a referendum in which the article in question is voted on by secret ballot at a special election.⁸ A similar procedure is provided for with RTM. Every RTM act or charter grants voters power, with few exceptions, to veto actions taken at a representative town meeting by means of a protest referendum.⁹

Potential drawbacks exist with these ballot procedures. In New Hampshire towns where the official ballot is used, attendance at the discussion part of the town meeting is miniscule, suggesting that when voters reach the ballot box they are not fully informed on the issues. In addition, the number of voters who do go to the polls is also low, so there is not a great improvement over the low attendance at the open town meetings where both debate and voting take place.

Another danger is giving naysayers the opportunity to disapprove spending or other articles without hearing the debate, without offering an alternative, and without taking public responsibility for their speech and actions.

In considering the referendum option it should be kept in mind that in Andover voters already have the option to call a special town meeting if they are dissatisfied with the outcome of the vote on a town meeting article (or for any other legitimate reason). To do this requires a petition signed by 200 registered voters; the selectmen must call the meeting within 45 days.¹⁰ While this provides an opportunity to reconsider an article, it is still a town meeting and is not the same thing as a referendum.

In addition, voters at an open town meeting always have the ability to move that an article be voted by a secret ballot. Such a motion requires approval by 25 percent of those voting.

Finally, we note that Proposition 2-1/2 forces some taxation decisions to be determined by ballot, following an affirmative vote at town meeting. This statute effectively places bounds on the authority of the town meeting (or other form of town or city government) to raise tax revenues above previous-year levels. Thus Proposition 2-1/2 strikes a balance by allowing the town meeting to make the vast majority of the decisions relating to the operation of the town, but forces a ballot referendum for financial decisions that exceed the specified threshold. While this statute can introduce anomalous behavior in the town meeting process (where ballot referendums strongly override town meeting decisions), it also insures that major fiscal decisions are thoroughly representative.

We recommend against decision by ballot. The Official Ballot Referendum would have the effect of turning town meeting into an informational session. We believe the limited success of this procedure in New Hampshire suggests little or no potential benefit. The Referendum Petition, which allows reconsideration at the polls of an article voted on at town meeting, could also lead to weakening town meeting. The possibility of virtually unlimited opportunities to overturn town meeting votes could result in legislative chaos. We oppose both of these options.

2. Top-Level Changes within Existing Governmental Structure

Included within this category are those potential changes which may require a charter or by-law change, but which do not alter the basic selectmen-town manager form of government. These would include the following:

A. Strategic Planning Task Force – This Task Force was formed in 1999 to act as a vehicle to look at the long-range and short-range financial picture of the town. It consists of representatives of the Board of Selectmen, Finance Committee and School Committee, as well as the town manager, assistant town manager, finance director, school superintendent representative, school business manager, and the chief of police as a representative of the town senior staff.

The Task Force meets, at least monthly, throughout the year. The meetings are well attended, and oftentimes include representatives of the League of Women Voters, the town-wide PTO, and local newspapers.

There is nearly unanimous agreement among those with whom we have spoken that the existence of this task force and the practice of holding regular meetings are beneficial in helping each part of town government to understand better the problems and needs of the others.

However, the Strategic Planning Task Force is not a formally recognized body in Andover town government. The question arises as to whether its authority should be formalized in order to catch up to its actual practice. In addition, there are those who believe the Strategic Planning Task Force works effectively now because those who participate want to make it work. If that attitude does not prevail

with future boards, even a by-law or charter change may not make it prevail. We are unable to judge whether that is true.

There is also a concern that meetings of the Strategic Planning Task Force may be in violation of the Charter's multiple-office restriction, and that this needs to be clarified. (We will return to this point in section V.2.G.)

This Committee believes that the Strategic Planning Task Force process is highly beneficial to the town and that the current practice of regular meetings is desirable and should continue, and that it should be encouraged. We recommend that its authority should be formalized and its membership be excluded from the multiple-office restriction. We also recommend that the chair of the Strategic Planning Task Force alternate at six-month intervals between the town manager and the superintendent of schools.

B. Audit and Oversight – The Committee believes there are two areas where the need cries out for greater oversight. Currently Andover hires an outside firm annually to audit the financial affairs of the town. Its report and any action on its recommendations are not currently reviewed by any agency outside town government. The creation of an internal audit and oversight committee would strengthen the formal structure of the town.

The second area needing oversight is the follow-up of town meeting decisions. We have heard complaints that actions taken by town meeting are not always followed, or are not followed in timely fashion, or that if they are followed, actions taken are not made known in a convenient fashion to the voters. Here again, an independent entity that could review the status of town meeting actions would result in stronger town government.

We recommend creation of an Audit and Oversight Committee, with its members to be appointed by the town manager in such a way as to insure independence of action. This Committee is to (1) review the external audit, hold public hearings, and make recommendations; and (2) review the results of town meeting votes to insure that actions directed by town meeting are carried out and report to the next town meeting.

C. Responsibilities for School Construction – Currently the town manager is responsible for decisions regarding school construction, subject to the approval of the School Committee, with respect to the plans for the construction or improvement of school buildings or property.¹¹ The charter was most recently amended to call for one member of the School Committee and an administrative representative of the superintendent of schools to be appointed by the School Committee to serve on the School Building Committee.¹² The question has been raised whether the School Committee should have full responsibility for school construction, rather than the town manager. Putting the School Committee in charge would seem consistent with its overall responsibility. However, keeping the town manager responsible is consistent with his responsibility as the chief fiscal officer of the town of Andover. In addition, the present arrangement provides a good balance and a crosscheck. Significantly, the present process increases opportunities for communication between the town and school administrations.

We recommend no change in the current responsibilities for school construction.

D. Term of Office – Should the term of office of the selectmen and/or the town manager be changed? At the present time, there are five selectmen elected to staggered terms of three years. The selectmen appoint a town manager for a term of five years.¹³ It has been suggested that the term of the town manager should be limited to three years, to match the term of the selectmen. Since the selectmen

can remove the town manager before the end of his term, the reasons for limiting this term to three years are not apparent. An advantage to the five-year term for the manager is that it will not coincide with the elective term of any selectman and to that extent will tend to keep the position out of politics. Another advantage is that a longer term is more attractive to an incumbent and should encourage more well-qualified managers to apply when the office becomes vacant.

We recommend no change in the term of office of either the selectmen or the town manager.

E. Number of Selectmen – Should the number of selectmen be changed? The Committee has heard suggestions that there should be additional selectmen, for example: three more, each of whom would represent a specific district of the town. But there seems to be more of a consensus that the number of selectmen is about right at five. The present system requires each selectman to be an at-large representative of the entire community. We see this as a great benefit and as a unifying force.

We recommend no change in the number of selectmen.

F. Selectman on the School Committee – As will be discussed later, we note the critical importance of good communications among branches of town government. One suggestion which we have considered is to require that one member of the Board of Selectmen be formally designated a voting member of the School Committee. Although we understand the need for these two important committees to be able to appreciate each others problems and to work together to resolve them, we believe that there are other means which are just as effective to accomplish these desirable goals. The Strategic Planning Task Force is one example, and the practice of having a non-voting representative of each committee attend the meetings of the other is a second example.

We recommend no change in the membership of the School Committee; no member of the Board of Selectman should be a voting member of the School Committee.

G. Holding of Multiple Offices – Should the restriction against holding multiple offices which now exists in the charter for certain officers, be modified or eliminated? A member of the Board of Selectmen, the School Committee, or the Finance Committee is ineligible, while in office, to hold any other elective or appointive town office. It is felt by many that this provision has worked extremely well for Andover. (A charter exception exists for a member of the School Committee to serve on the School Building Committee.)¹⁴ There are a number of instances where members of these three elected committees meet as representatives of their respective committees (see the Strategic Planning Task Force above) or as members of *ad hoc* task forces. There is concern that these memberships, which we find beneficial to the town, are in violation of the multiple-office restriction. We believe that the charter should be clear on this issue and that clarifying language allowing this participation should be adopted. In the case of the Strategic Planning Task Force, we believe, as previously stated, that its existence and regular meetings should be formally encouraged and authorized.

We are also aware that these three committees are made up of citizens who contribute much of their time and talent to the town and who, in the absence of this restriction, might be willing to contribute even more if they were allowed to join other boards and committees or take on duties now denied to them, such as serving as election officials, for example. On the other hand, the possibility of a conflict of interest could exist if the restriction were removed completely.

We recommend a change to the multiple-office section of the charter to permit representation by members of the Board of Selectmen, the School Committee, and the Finance Committee on joint committees and task forces, to allow them to take advantage of other opportunities for voluntary town serv-

ice, and to allow members of these three committees to serve as election officials. This recommendation is subject to the provisions of section 20 of the state conflict of interest law (G.L. c. 268A).

H. Selection of Members of the Finance Committee – In Andover, as in three-quarters of the towns in Massachusetts, the members of the Finance Committee are appointed. In the remaining one-quarter, the members are elected. In towns where they are appointed, this is usually done by the moderator, but in some towns the appointment is made by a committee consisting (usually) of the moderator, the chair of the Board of Selectmen, and the chair of the Finance Committee.¹⁵

In recent years the Finance Committee and its recommendations have become increasingly influential in most towns. Because many voters at the open town meeting lack the time or the inclination to study the issues thoroughly in advance, they rely heavily on town committees for advice and guidance, especially the Finance Committee, whose recommendations are usually followed. Because the Finance Committee is so influential in town affairs, it has been suggested that its members should be elected rather than appointed. However, this Committee has heard little support for that idea and has heard several arguments to the contrary.

In selecting a Finance Committee there is a need for careful selection of a diverse group with the appropriate background. That, coupled with the difficulty which one could expect in finding candidates willing to run for election to the office of Finance Committee, were the most persuasive to this Committee in choosing not to recommend changing it to an elective office. The alternative to appointing the Finance Committee members by a committee rather than by the moderator alone was also considered. We question the benefit of committee action in such a decision. The voters who elect the moderator should understand that one of his or her most important duties is the appointment of the Finance Committee. Once elected by the voters to perform his or her duties, the moderator should be given a free hand to carry them out. We feel that the independence and integrity of the Finance Committee in Andover has been greatly enhanced by the present system.

We recommend no change in the method of selection of the members of the Finance Committee.

I. Frequency of Town Meeting — Current by-laws call for an annual town meeting in the spring, with special town meetings to be held as the selectmen may designate.¹⁶ The question has been raised whether there should be a regularly scheduled town meeting in the fall. Occasionally such a meeting has been called by the selectmen as a special town meeting, and some voters believe it would be beneficial to do this routinely. It is believed this would reduce the number of articles to be considered at the spring town meeting and to allow for more rapid consideration of articles which otherwise could wait as long as a year to be voted on by the town. This Committee is mindful of the cost of holding town meetings and the fact that special town meetings can always be called with 45 days notice, not only by the Board of Selectmen but also by petition of the voters. We also understand that some voters might find it convenient to know that there would always be a fall town meeting. On balance, we believe the current practice of calling a special town meeting only when necessary is the best solution.

We recommend no change in the town meeting schedule; there should be no regularly scheduled town meeting in the fall.

J. Recall of Elected Officials – Under the present charter, Andover has no means to recall an elected officer. Although cities are enabled to recall officials under provision of the general laws, towns have no such ability unless it is contained in its charter.¹⁷ Recall procedures are found in most new charters that have been adopted by towns under the home rule provisions, and other towns adopt such procedures from time to time as a special act of the legislature. The absence of a recall provision in

Andover is seen by a few as an omission that should be corrected.

In 1996 a private article was placed on the warrant of the annual town meeting (Article 85) for the recall of elected officers. This article was disapproved by both the selectmen and the School Committee and was defeated by a majority vote. This Committee also notes that there has not been an occasion in Andover when, in our opinion, use of a recall procedure would have been necessary or appropriate. This has not been true of some other towns, however. Although we believe that the availability of the recall petition is a sensible provision of local government, we are also sensitive to the danger of a recall procedure being used for inappropriate or frivolous reasons, and the difficulty of writing a procedure that is both effective and tamperproof. We recognize further that it was defeated at the town meeting in 1996 and we are not aware of any change that would produce a different outcome at this time. Therefore we make no recommendation to adopt it now.

We do not recommend adoption of a recall procedure in Andover.

K. Timing of Elections – We have considered the timing of town election of selectmen in relation to the timing of the town meeting and the budget preparation cycle. Currently the election is held in March and the town meeting is held in April. The preparation of the budget and the town meeting warrant articles begin several months earlier, in the previous fall. The budget considered by the town meeting is one in which the newly elected board members have played no official role. Although some believe this puts them at a disadvantage, we believe they have had the opportunity, if not the obligation, to make their positions known to the voters before election day.

We recommend no change in the timing of town elections in relation to the time of town meeting.

L. Community Preservation Act – An article to accept the Community Preservation Act (CPA), General Law 44B, was on the Warrant of the Andover 2002 Annual Town Meeting. The Board of Selectmen recommended approval and the Finance Committee recommended disapproval. The article was defeated by majority vote. Although this Committee has held discussions on the CPA, given the action taken by town meeting, we make no recommendation on CPA.

M. Inter-Departmental Review – The inter-departmental review (IDR) process was instituted eighteen years ago in Andover by the present planning director. It remains a fairly unusual provision in state government since not many other Massachusetts municipalities have such a process. Essentially, it calls for representatives of several municipal departments to meet on either an informal (upon request of the developer) or formal (in the event that the meeting is mandated by our sub-division rules and regulations or by land use by-law) basis with the developer in order to provide comments, criticisms and suggestions for the developer's plan. The IDR process is a sterling example of the success that a coordinated and cooperative approach will bring to an issue.

Currently, the zoning by-law does not require that the IDR (and site review process) be implemented prior to the filing of plans with the Zoning Board on special permit petitions for multi-family use in apartment districts. As a result, a petitioner may require the Zoning Board to hear his petition and **then** go through the IDR and site plan review process with the Planning Board. Under the present procedure, it's not clear that any changes recommended by the IDR or by the Planning Board must be part of the plan, if, in fact, the Zoning Board has already voted on the matter. (This issue has arisen on three occasions in the recent past.) By eliciting recommendations from the IDR and the Planning Board prior to the filing of plans with the petition to the Zoning Board, we would have a much more logical, useful and orderly process.

We recommend that the zoning by-law be re-drafted in order to mandate that the IDR (and site review process) be implemented prior to the filing of plans with the Zoning Board on special permit petitions for multi-family use in apartment districts.

3. Organizational Changes

In its review, the Committee has seen no instances where major organizational changes in town government are called for. We considered a few suggestions, however, which we discuss here, along with our recommendations.

A. School Custodians – It has been suggested that since the Plant & Facilities Department is responsible for school maintenance, it would be more efficient if the school custodians reported to the head of the Plant & Facilities Department rather than to the School Department. Such an arrangement, however, has the potential for divided responsibilities between the principal and the Plant & Facilities Department over the day-to-day duties of the custodian and his or her activities during the school day. Most importantly, the Education Reform Act of 1993 mandates that all personnel are the responsibility of the building principal. Since the increased efficiency is probably minimal and the present arrangement appears to be working satisfactorily, we see no reason to recommend a change.

We recommend no change in the responsibility for supervising the school custodians.

B. Community Services – The name of the Division of Community Services (DCS) implies a broader range of responsibilities than its actual mission. More than most town agencies, the DCS receives inquiries and requests for assistance regarding a variety of matters from townspeople who need help but are not sure where to turn. Perhaps a name change would clarify what the division's functions are.

The Committee also asks a broader question: Is the town doing as much as it can do and should do to meet the social service needs of its citizens? We recognize that in addition to the DCS there are also a Division of Elder Services and a Division of Youth Services. Society and its needs have grown more complex, and the Committee is concerned that we may not have kept pace. The Committee was surprised, but gratified, to learn that the DCS has budget items (however small) for significant matters such as mental health counseling, for example.

We also know that some elderly citizens with low income experience an ever-increasing burden from their real estate taxes, to the point of deciding they can no longer afford to live in Andover. Although a number of options are available to assist them with these burdens, we hear demands that the town do more to help. These are just a few examples of instances in which the town could perhaps do more for the residents of Andover.

We also realize that this is not so much a question of the form of town government as it is an issue for those who govern to decide what the character of the Town of Andover should be.

We recommend that the town reexamine the extent and scope of the support and assistance, financial and otherwise, which it provides to its citizens. In addition we make the following specific recommendations: (1) that the town manager consider changing the name of the DCS to more accurately reflect its mission; (2) that the town manager examine reorganization of Community Services, Elder Services and Youth Services into a single department; and (3) that an advisory board be appointed for the DCS.

C. Capital Improvement Program – Since 1991 the town manager has been required to prepare a five-year Capital Improvement Program (CIP) for review by the Board of Selectmen, the Finance Committee and the School Committee and following a public hearing, final approval by the Board of Selectmen.¹⁸ This program provides an orderly method for identifying future potential capital expenditures and provides a mechanism for them to be planned and budgeted well in advance. It also gives voters the opportunity to see how financial decisions on such items made at town meeting, along with other expenditures and commitments, may affect their tax rate. From time to time, private articles are placed on the town meeting warrant for capital expenditures that have not gone through the CIP review process, thus circumventing the intent of the CIP. Examples are private articles for sidewalk construction, sewers, and recent articles associated with the youth center and senior center.

We feel that circumventing the CIP process is inimical to good community and financial planning. However, because of the concept of free petition, which is a hallmark of our open town meeting, every Andover voter has the right to petition town meeting for, among other things, funds for capital projects. Therefore, the positive and beneficial influence of the CIP process oftentimes comes into conflict with this dearly held right of free petition.

We believe the solution to this conflict is relatively simple: change the CIP process to facilitate voter participation. This could be done by inviting citizen petitions for CIP requests at the same time they are received from town departments and officials. Such citizen petitions would be made through the same petition process as a town meeting article, but would be done earlier, and would have to be incorporated in the CIP plan, along with the recommendation, positive or negative, of those who review and approve the plan. Each such petition would then be presented as a separate (private) article in the town meeting warrant.

We recommend that the town manager invite citizens to participate in the CIP process by submitting petitions for private capital projects to be reviewed at the same time such projects are submitted by town departments. We also recommend that all approved CIP items in the budget and in special articles be clearly identified and delineated in the Finance Committee Report, along with the recommendations of the appropriate boards, and that private articles that do not utilize this process be clearly identified. Finally, to emphasize the importance of the CIP, we recommend that the Finance Committee Report include an explanation of the CIP process, including the use of out-year cost projections in budget planning and forecasts.

D. By-Laws of the Trustees of the Library – The Committee has reviewed the by-laws of the Board of Trustees of the Memorial Hall Library, and find that they are not in compliance with the General Laws of the Commonwealth insofar as they define the number of trustees. The by-laws specify that the Board of Trustees “shall consist of seven (7) trustees.” According to the General Laws, a free public library, owned by the town, must have “a board of trustees consisting of any number of persons, male or female, divisible by three, which the town determines to elect.”¹⁹

We recommend that the Town Counsel review the provisions of M.G.L Ch. 78, Sec. 10, and formulate a recommendation, in consultation with the town manager and the library trustees, that will properly reconcile the apparent inconsistency.

E. Privatization and Regionalization – Andover already participates with other towns in the region for services such as water exchange, mutual aid in the Fire Department, the vocational technical high school, trash incineration and sewage treatment. Such regionalization efforts can provide economies of scale if properly managed. Similar economies may be possible in some situations by

using private contractors, as is done now for trash pick-up and snow removal, to provide services, rather than town employees.

We recommend that the Board of Selectmen and town manager be alert and sensitive to the issues of privatization and regionalization and pursue opportunities for the services where they might be effective.

4. Procedural Changes

We have considered a number of procedural changes in this, our fourth category, which we discuss in this section.

A. Approval of Town Manager Appointments – The charter requires the selectmen to approve all appointments by the town manager.²⁰ Many of the appointments to lower-level positions hardly seem to justify the expenditure of time by the selectmen for their approval, with the result that oftentimes the approval is *pro forma*. Many towns require the selectmen to approve only top-level appointments by the town manager; other towns do not require selectmen approval but do allow the selectmen to veto any appointment. However, the Committee has heard no strong objection to the present practice in Andover, and since it has worked successfully and appears to present no problems, we are reluctant to change it.

We recommend no change in the approval process of town manager appointments.

B. Performance Review of the Town Manager – There is no explicit requirement in the charter or by-laws for the selectmen to prepare a performance review of the town manager. The question has been raised whether a performance review should formally be added to the duties of the Board of Selectmen as defined in the charter. We observe that the charter requires the selectmen to appoint the town manager, authorizes them to remove the town manager, and empowers them to determine his or her compensation.²¹ We do believe that for the selectmen to exercise their authority properly they must conduct periodic performance reviews of the town manager.

We recommend no formal change to the duties of the selectmen with regard to evaluating the performance of the town manager.

C. Size of the Reserve Fund – The Reserve Fund, which is established by the voters at the annual town meeting, is intended for extraordinary or unforeseen circumstances. Transfers from the Reserve Fund require the approval of the Finance Committee. The amount appropriated annually by the Town of Andover has been \$200,000 for many years. It has been suggested that a larger amount would be desirable. Although obtaining Finance Committee approval for a justifiable use of the funds is normally not a problem, if a serious financial emergency required more than the balance available in the fund, a transfer of funds from some other account would be required. However, this action can only be done by town meeting, and would involve a delay of several weeks.

The size of the Reserve Fund under our present form of government is determined each year by the town manager, reviewed by the selectmen and the Finance Committee, and finally approved by vote of the town meeting. This Committee does not believe that a recommendation from us on the size of the Reserve Fund is appropriate, and therefore we recommend no change in the present process.

D. Transfer of Funds – As discussed in the previous item, the Reserve Fund provides a mechanism for funds to be transferred to another account with the approval of the Finance Committee.

The question has been asked, would it be desirable for the town manager to be able to transfer funds among line items in the budget? While this would give greater flexibility to the town manager, it would in effect make the budget approval process of town meeting meaningless. We believe the town manager has sufficient flexibility now, and that such a change is unnecessary and would not serve the people well.

We recommend no change in the process for transferring funds.

E. Conduct of Open Town Meeting – Many of the comments and suggestions that the Committee has heard pertain to aspects of the open town meeting. As stated earlier in this report, some towns have decided to adopt other forms of legislative government because of dissatisfaction with open town meeting. Before deciding to replace the open town meeting, we believe we should examine the criticisms and problems and find solutions for them.

Rules and procedures for the conduct of town meeting are contained in the general laws of the Commonwealth²² and in the town by-laws.²³ The official Web site of the Town of Andover contains several pages to help voters understand town meeting. The Finance Committee Report also contains a section that explains town meeting rules and procedures and contains other explanatory information.

For long-time voters of Andover, who regularly attend town meeting, these information sources may be adequate. To the resident who has recently moved to Andover, or anyone else who decides to attend town meeting for the first time, they may not. The moderator as presiding officer of the town meeting has great latitude in its conduct, as long as he stays within the rules. Consequently each town has established customs as part of its procedures, and not all of these have been properly memorialized. This is a source of confusion to some voters when they are not familiar with the customs of the town, especially if they are not available in written form and consistently applied.

Some towns have spelled out detailed procedures in their charter, by-laws and other regulations. Some of these include time limits for speakers, scheduling high-interest articles for a time-certain, and “pro” and “con” microphones.

There are other town meeting proposals that some believe would make members feel more welcome, and which would encourage and enable more voters to participate. These include holding at least one session of the meeting during the day on a Saturday or Sunday, instead of at night on a weekday, as is done presently.

Still other possibilities that have been discussed to increase voter participation are the use of absentee ballots or some form of proxy voting for those unable to attend in person. Because the final wording of many articles is not known until just before the meeting, and the motion to be voted on may be amended on the town meeting floor, the use of an absentee ballot may not be feasible for town meeting. The use of a proxy may be a possibility, although we are not aware of any town where this has been employed.

Although Andover town meetings are accessible to the handicapped, there may still be some additional things that could be done to facilitate their participation.

With today's technology, it would be possible to record votes electronically in the meeting hall. This would greatly speed up the process, which now requires a standing count for many articles, and would also allow secret votes to be conducted more easily and quickly. In addition, electronic voting while watching the town meeting proceedings on television at home is theoretically possible. These

methods of electronic voting raise a number of questions, among them the cost, reliability, and logistical requirements. Watching and voting from home raises the further question of whether such voters are truly engaged and participating in the meeting.

In an earlier section we discussed the use of the referendum petition to call for a vote at the polls after action is taken at the town meeting. Another method for citizens to have a second chance with their vote, currently not employed in Andover, is the use of reconsideration of an article on the warrant. This requires a vote by a majority of the town meeting to call for an article to be reconsidered, either at the same or a later session of the same meeting. We do not recommend either of these procedures.

The Committee recommends adoption of the following procedures, among others, to improve the conduct of Andover's town meeting (more details can be found in Appendix D):

- *Make use of “pro and con” microphones;*
- *Adopt a time limit of five minutes for presentation of an article and three minutes for each subsequent speaker;*
- *Hold at least one session of town meeting on Saturday;*
- *Keep opening ceremonies and speeches short;*
- *Continue the practice of displaying the wording of motions on screens;*
- *Urge all boards to make their recommendations in time to be incorporated in the Fin Com Report;*
- *Explore providing transportation for the elderly to the meeting;*
- *Investigate ways of accommodating the elderly and disabled who cannot attend;*
- *Improve access to parking; make satellite parking available and easy to use; and*
- *Publicize information about town meeting, including debates, in news media and by mailing flyers to voters along with tax bills, for example.*

F. Government Review – Andover town government is defined and controlled by the General Laws of the Commonwealth, Special Acts of the Legislature that affect the town, and the town by-laws. The “Andover Town Charter” is itself a Special Act of the Legislature that established the selectmen-town manager form of government that Andover currently enjoys.²⁴ The Committee feels that periodic reviews of our form of government can only be beneficial to our town. There are at least two ways to accomplish this objective:

- i. Government Study Committee – Obviously this is the review mechanism that is being currently employed. This is a relatively informal process, created by the Board of Selectmen and staffed by volunteers appointed by the town manager. The Committee can make recommendations for change and bring them to the Board of Selectmen and/or town meeting. Properly done, this method should be employed whenever the citizenry through its Board of Selectmen feels it is necessary to do so.
- ii. Charter Commission – The Legislature passed home rule legislation that allows a municipality to elect and fund a charter commission to study, codify and propose changes to a community's charter. This is a much more formal and structured mechanism than the Government Study Committee above. Commonly, when a community is of a mind to make deep and dramatic change to its government structure it will employ the charter commission mechanism. We do not feel that Andover needs a charter commission at this time.

The Committee believes that when there is a need to review and update the charter that this will be apparent to our town's leaders and they will take the steps necessary to do so. We do not believe that

implementing the recommendations of this report requires the creation of a charter commission and we see no need for such a commission at this time.

G. Andover's Documentation – There is a statutory requirement that Massachusetts municipalities publish their charters every ten years. As far as we can determine, the requirement appears to be universally ignored by the Commonwealth's cities and towns. Further, we are reliably informed that many communities do not keep their charter, which is made up of their by-laws and special acts of the legislature that affect them, in a well-organized manner which can be easily accessed by the interested reader. In Andover, the town clerk's office has done an admirable job collecting, codifying and maintaining our by-laws and special acts that comprise our charter. These documents are readily available at the clerk's office for review during office hours, although they are not published pursuant to the statute. In fact, the town clerk will soon be making the material available on the town's Web site.

The Committee feels that to collect the town's charter documentation and to publish it according to law is an unnecessary expense, particularly in view of its accessibility.

H. Communications and Planning – As the complexities of our society broaden and deepen, the importance of better communication and planning has never been more necessary. It probably goes without saying that no matter what form of government exists in a town, its effectiveness will be reduced unless good communication exists among its various parts. Equally important to good town government is planning. The Committee is pleased to observe the frequent use of the Strategic Planning Task Force and Interdepartmental Reviews as two positive examples of effective communications in the Town of Andover. We also observe the practice of regular planning meetings between the superintendent of schools and the School Committee as an example of good planning and good communications.

Another good example is the weekly staff meeting of the town manager. These meetings give each of the department heads an opportunity to hear and understand the problems and issues which each of them shares, and encourage a mutual spirit of cooperation in dealing with them. The Committee understands that the superintendent of schools does not regularly attend these meetings and believe his or her presence would help to improve the working relationship between the school and other departments.

Preparation of the annual budget and the Capital Improvement Program are other examples where effective communication between the town side and the school side are crucial to good government.

On the subject of communication, the Committee has heard comments regarding two documents that are important for achieving communication between the town and its citizens. These are the Finance Committee Report and the Annual Town Report. The Finance Committee Report is comprehensive in its scope and contains all, or nearly all, the information that any but the most diligent voter will need to prepare for participation at town meeting. The Finance Committee Report has received favorable ratings statewide and we wish to add our expression of satisfaction for the professional manner in which the report is prepared. It is another example of effective communication in the Town of Andover. Another good example is the Annual Town Report, which is prepared by the town manager as required by the by-laws.²⁵ Currently it is the practice to incorporate a shortened version of the Annual Town Report in the Finance Committee Report that is distributed to all households in the town. Copies of the full report are available at the town offices. The Committee commends this practice.

While not strictly a matter of the structure of the government of the Town of Andover, we recommend that all members of town government make every reasonable effort to improve communications and planning at all levels.

5. Other Changes

A. Planning Board of Appeals – There is reference in the charter to a “Zoning Board of Appeals” and a “Planning Board of Appeals.”²⁶ It has been explained to us that this is redundant and that as implemented in Andover, the Zoning Board of Appeals performs the functions of both.

We recommend that, as a "housekeeping" item, reference to a Planning Board of Appeals be deleted from the charter.

B. Gender-Neutral Wording in Charter – The Committee notes that the wording of the charter is gender specific. This is hardly surprising in a document written nearly half a century ago, and we believe it is appropriate to bring it up to date in that respect.

We recommend that the charter be revised to be gender-neutral.

VI. Recommendations

The Committee recommendations are summarized here: first, recommendations for change; and second, potential changes that we have considered but decided to recommend no change.

A. Recommendations for Change

1. This Committee believes that the Strategic Planning Task Force process is highly beneficial to the town and that the current practice of regular meetings is desirable and should continue and that it should be encouraged. We recommend that its authority be formalized and its membership be excluded from the multiple-office restriction. We also recommend that the chair of the Strategic Planning Task Force alternate at six-month intervals between the town manager and the superintendent of schools.

2. We recommend a change to the multiple office section of the charter to permit representation by members of the Board of Selectmen, the School Committee, and the Finance Committee on joint committees and task forces, to allow them to take advantage of other opportunities for voluntary town service, and to allow members of these three committees to serve as election officials. This recommendation is subject to the provisions of section 20 of the state conflict of interest law (M.G.L. c. 268A).

3. We encourage the Board of Selectmen to exercise its leadership and policy-making roles forcefully and unambiguously in town-wide issues in conformance to the charter.

4. We recommend creation of an Audit and Oversight Committee, with its members to be appointed by the town manager in such a way as to insure independence of action. This Committee is to (1) review the external audit, hold public hearings, and make recommendations; and (2) review the results of town meeting votes to insure that actions directed by town meeting are carried out, and make its report to the next town meeting.

5. Given the importance of volunteer board and committee members, we also recommend to the Board of Selectmen and the town manager that they investigate ways of maintaining and increasing the pool of willing and able volunteers.

6. We recommend that the zoning by-law be re-drafted in order to mandate that the Inter-departmental Review (and site review process) be implemented prior to the filing of plans with the Zoning Board on special permit petitions for multi-family use in apartment districts.

7. We recommend that the Board of Selectmen and town manager be sensitive to the issues of privatization and regionalization, and pursue opportunities for the services where they might be effective.

8. We recommend that the town reexamine the extent and scope of the support and assistance, financial and otherwise, which it provides to its citizens. In addition we make the following specific recommendations: (1) that the town manager consider changing the name of the Division of Community Services (DCS) to more accurately reflect its mission; (2) that the town manager examine reorganization of Community Services, Elder Services and Youth Services into a single department; and (3) that an advisory board be appointed for the DCS.

9. We recommend that the town manager invite citizens to participate in the valuable and beneficial Capital Improvement Plan (CIP) process by submitting petitions for private capital projects to be reviewed at the same time such projects are submitted by town departments. We also recommend that all approved CIP items in the budget and in special articles be clearly identified and delineated in the Finance Committee Report, along with the recommendations of the appropriate boards, and that private articles that do not utilize this process be clearly identified. Finally, to emphasize the importance of the CIP, we recommend that the Finance Committee Report include an explanation of the CIP process, including the use of out-year cost projections in budget planning and forecasts.

10. We recommend that the Town Counsel review the provisions of Massachusetts General Laws regarding the number of library trustees and formulate a recommendation, in consultation with the town manager and the library trustees, which will properly reconcile the apparent inconsistency between the General Laws and the by-laws of the trustees.

11. We recommend adoption of the following procedures, among others, to improve the conduct of Andover's town meeting (more details can be found in Appendix D):

- Make use of "pro and con" microphones;
- Adopt a time limit of five minutes for presentation of an article and three minutes for each subsequent speaker;
- Hold at least one session of town meeting on Saturday;
- Keep opening ceremonies and speeches short;
- Continue the practice of displaying the wording of motions on screens;
- Urge all boards to make their recommendations in time to be incorporated in the Fin Com Report;
- Explore providing transportation for the elderly to the meeting;
- Investigate ways of accommodating the elderly and disabled who cannot attend;
- Improve access to parking; make satellite parking available and easy to use; and
- Publicize information about town meeting, including debates, in news media and by mailing flyers to voters along with tax bills, for example.

12. We recommend that all members of town government make every reasonable effort to improve communication and planning at all levels.

13. We recommend that, as a “housekeeping” item, reference to a Planning Board of Appeals be deleted from the charter.

14. We recommend that the charter be revised to be gender-neutral.

15. The Committee believes that when there is a need to review and update the charter that this will be apparent to our town's leaders and they will take the steps necessary to do so. We do not believe that implementing the recommendations of this report requires the creation of a charter commission.

B. Recommendations for No Change

1. The Committee recommends that Andover maintain its status as a town and that it continue with the selectmen-town manager form of government.

2. We recommend that Andover retain the town meeting and we recommend against adopting a town council form of government in any of its configurations. The town council may be a logical first step for a town that expects eventually to become a city; it may also be the best choice for a town that has become dissatisfied with the representative town meeting. We see no benefit to Andover from the town council form of government and therefore oppose it.

3. The Committee recommends that Andover retain the open town meeting. We do not believe that elected representatives of the voters will make better decisions than the voters themselves who now attend our meetings.

4. We recommend against decision by ballot. The Official Ballot Referendum would have the effect of turning town meeting into an informational session. We believe the limited success of this procedure in New Hampshire suggests little or no potential benefit. The Referendum Petition, which allows reconsideration at the polls of an article voted on at town meeting, could also lead to weakening town meeting. The possibility of virtually unlimited opportunities to overturn town meeting votes could result in legislative chaos. We oppose both of these options.

5. We recommend no change in the current responsibilities for school construction.

6. We recommend no change in the term of office of either the selectmen or the town manager.

7. We recommend no change in the number of selectmen.

8. We recommend no change in the membership of the School Committee; no member of the Board of Selectman should be a voting member of the School Committee.

9. We recommend no change in the method of selection of the members of the Finance Committee.

10. We recommend no change in the town meeting schedule; there should be no regularly scheduled town meeting in the fall.

11. We recommend no change in the approval process of town manager appointments.

12. We recommend no change to the duties of the selectmen with regard to evaluating the performance of the town manager.

13. We do not recommend adoption of a recall procedure in Andover.

14. We recommend no change in the timing of town elections in relation to the time of town meeting.

15. We recommend no change in the responsibility for supervising the school custodians.

16. We recommend no change in the present process for determining the size of the Reserve Fund.

17. We recommend no change in the process for transferring funds between town departments.

18. The Committee feels that to collect the town's charter documentation and to publish it according to law is an unnecessary expense, particularly in view of its accessibility.

APPENDIX A

STUDIES OF ANDOVER TOWN GOVERNMENT

- Report of Town Government Study Committee*, Howell Stillman, Chairman, December 1955.
- Report of the Committee to Study and Analyze the Town’s Present Form of Government*, Harris N. Sanfilippo, Chairman, February 11, 1964.
- Town Government Study Committee, Report of the Findings of the Committee*, William J. Dalton, Chairman, appointed May 21, 1971.
- Report of the Town Meeting Improvement Committee*, Norma A. Gammon, Chairman, July 25, 1988.
- Review of Town Meeting Positions*, League of Women Voters of Andover/North Andover, 1999.

APPENDIX B

COMMITTEE GUESTS

Name	Position
Brian Major	Selectman
Ted Teichert	Selectman
Reginald Stapczynski	Town Manager
Mary French	Selectman
Jim Sutton	Library Director
Mary Donohue	DCS Director
John Hess	Selectman Presentation of CPA Liaison/CPA Task Force
Tony Torrisi	Finance Director
Jerry Silverman	Former Selectman
Bruce Symmes	Assessor
Jeanne Madden	Council on Aging
Barbara Morache	Information Services
Elaine Shola	Purchasing
David Reilly	Collector/Treasurer
William Downs	Former Selectman
Jack Petkus	DPW Director
Joe Piantedosi	Plant & Facilities Director
Brian Pattullo	Chief of Police
Charles Murnane	Fire Chief
Joanne Marden	Finance Committee Chair
Lolli Sumberg	League of Women Voters
Donald Cooper	Conservation Commission Chairman
Jim Greer	Conservation Administrator
Barry Finegold	Former Selectman/State Representative
Dan Casper	ZBA Chairman

Mike Curran	Lawyer/Charters
Claudia Bach	Superintendent of Schools
Peter Hechenbleikner	Reading Town Manager
Larry Larsen	Former Selectman
Richard Bowen	Former Town Manager
William Duffy	North Andover Selectman
Steven Bucuzzo	Assistant Town Manager
Randall Hanson	Town Clerk (Also a Review Comm Member, spoke to Committee as a Dept. Head)
Raymond Hender	Selectman
Norma Gammon	Librarian/Former Selectman
Tina Girdwood Eric Nadworny Gerald Gustus	School Committee Members
Ronald Hajj	Andover Housing Authority/ Andover Housing Partnership Committee
Steve Colyer	Director/Planning Division
Candace Hall	Director/Human Resources
Victor Mill, Sr.	First Town Manager
Elizabeth Carey	Tewksbury Town Clerk
Susan Tucker	State Senator
Mary Lyman	Selectman
Everett Penney	Director/Health Division
Karen Herman	CPA Task Force
Lisa LaGrasse	Planning Division
Tom Urbelis	Town Counsel

APPENDIX C

GOVERNMENT IN MASSACHUSETTS

I. Andover

Andover has had the selectmen-town manager-open town meeting form of government for more than four decades. The town has five selectmen who are elected to staggered terms of three years. Other elected officials include, among others, the moderator and a five member School Committee. The Board of Selectmen are the makers of policy of the town government. They appoint, among others, the town manager, the Zoning Board of Appeals and the town accountant. The moderator appoints the Finance Committee. The town manager, subject to approval of the selectmen, appoints nearly all other town officers, boards, committees and employees.

Andover has an Open Town Meeting form of government meaning that any registered voter may vote at town meeting. It is the legislative body of the town and it convenes, at least annually at the time and place designated by the selectmen. Town meeting considers and adopts an annual operating budget. It also considers and acts upon other matters that require town meeting action such as zoning changes, street acceptances, by-law additions and amendments. The business of each town meeting is contained in a document known as “the warrant” which includes all matters on which the town must act. The warrant is published in at least one local

paper and mailed to all registered voters within a Finance Committee Report in advance of the town meeting. Articles are inserted in the warrant by the Board of Selectmen and by Citizen Petition. The order is determined by the selectmen.

What form of government existed in Andover previously and what forms of government are possible now, if Andover were to decide to change? The answers to these questions are found in the Massachusetts General Laws and the Commonwealth's Constitution that govern the forms of government that a community may choose to adopt. Andover's present form of government was created by a special act of the Legislature in 1956. Prior to that time Andover had an open town meeting and was governed by a board of selectmen; there was no town manager. There are four different ways that local government can be created for a Massachusetts municipality.

- **SPECIAL ACT OF THE LEGISLATURE:** A city or town can adopt a charter by submitting a proposed charter for approval by the state legislature and governor. The Act Establishing a Selectmen-Town Manager Plan for the Town of Andover was adopted by the Legislature as Chapter 571 of the Acts of 1956, and was accepted in 1958. It was revised in 1974.

- **HOME RULE CHARTER:** A municipality can adopt a charter by procedures available to them in the Home Rule Amendment to the State Constitution and Massachusetts General Laws adopted in 1966.

- **PLANS OF GOVERNMENT (cities only):** Prior to the adoption of the Home Rule Amendment, cities could choose to adopt one of the “plans of government” provided in Massachusetts General Laws.

- **LEGAL BASE:** This method is used by 213 towns. A town's legal base, sometimes referred to as the “existing charter,” is composed of Massachusetts General Laws which determine the structure of all towns in the Commonwealth operating without a Home Rule charter or Special Act charter; Special Acts affecting town organization; and by-laws.

II. History

All Massachusetts communities were originally established as towns by the legislature. In 1820, the Massachusetts legislature authorized any town above 12,000 population to adopt a city form of government. The first city government in Massachusetts was established in Boston in 1821; the most recent are the communities of Amesbury, Easthampton and West Springfield, which adopted home rule charters in the last few years, establishing city government. City government was slow to evolve in Massachusetts, with most communities preferring the town government structure of a board of selectmen and town meeting.

III. Town Government in Massachusetts

There are two major forms of government available to towns in the Commonwealth of Massachusetts. The town meeting form of government, with either a representative or open town meeting, and the council manager form of government.

1. The Town Meeting Form

Towns must elect a board of selectmen (three or more members), which serves as the town's chief executive, a school committee, a moderator (in open town meeting towns), and the town meeting representatives (if a representative town meeting is the legislative body). All other officers may be elected or appointed. However, if the town does not have a Home Rule Charter or a Special Act Charter,

town officials would need to use enabling provisions available in Chap. 41 or seek permission from the state legislature to change any office, position, board, or commission from elected to appointed.

A. Representative Town Meeting – Thirty-eight towns have a representative town meeting (RTM), whereby residents are elected by precinct to serve as the town's legislative body. The state constitution sets a requirement of a minimum of 6,000 population to adopt a representative town meeting. Most RTM members serve three-year terms, with one-third of the precinct membership elected yearly. The “average” size of a representative town meeting is 200 voters.

B. Open Town Meeting – All other towns in the Commonwealth have an open town meeting, except the council-manager towns described below. Any registered voter in the town may attend and participate in the meeting, and may vote on all questions before the town meeting. An elected board of selectmen of three to five members serves as the chief executive. The open town meeting is the legislative body for 263 towns.

2. The Council Manager Form – The council manager form of government has a town manager appointed by the council as the chief executive. The town manager is responsible for the town's operation and management, including appointment of boards, commissions, and department heads, and preparation of the operating budget and capital plan. Councils may have the authority to approve town manager appointments, and must enact all ordinances and the manager's proposed budget. Councils, composed of at-large and district/ward members, are usually elected for two-year terms. A few communities have three- or four-year terms.

IV. City Government in Massachusetts

There are now 45 municipalities in Massachusetts with a city form of government. Of these municipalities, five refer to themselves as towns although they have a mayor-council structure. (This ambiguity leads to some confusion in compiling the numbers of cities and towns.) These two government structures are described briefly below:

1. Mayor-Council government is characterized by the election of a single chief executive, the mayor, usually for a two-year term. Councils (sometimes called boards of aldermen) are usually composed of a combination of at-large and district members, although several cities are composed only of at-large councilors. Councilor terms are two years. The mayor is responsible for the city's operation and management, including appointment of boards, commissions, and department heads, preparation of the operating budget and capital plan, and approval of ordinances. Councils may have the authority to approve mayoral appointments, and must enact all ordinances and the mayor's proposed budget.

2. Council-Manager government has a city manager appointed by the council as the chief executive. Councils, composed of at-large and district/ward members, are usually elected for two-year terms. A few communities have three or four year terms. The council elects one of its members as “mayor” or “council president” for a one-year term to preside over the council. These elected councils appoint a manager to serve as the administrative head of government. The manager's extent of authority is defined by the charter, although most are responsible for daily oversight and management of city departments, and budget preparation. The manager's powers are similar to those of a mayor.

APPENDIX D

TOWN MEETING PROCEDURES

The Committee considered the following list of town meeting procedures. A brief comment and our recommendation, if any, is given for each item.

1. Use of consent calendar: The consent calendar is a list of like items that are grouped together on the warrant and voted on as a whole, but a specific item in the group can be pulled out and discussed separately, if needed (i.e. street acceptances, revolving account). This procedure is already in use in Andover and is considered by the Committee as a desirable approach.
2. High-interest warrant articles scheduling practice: This item suggests that articles that anticipate a high level of interest from the townspeople be addressed at specific times to accommodate those who cannot attend the entire town meeting. Andover tries to put high-interest articles as a priority, but does not give them a specific time. The committee does not feel such a scheduling practice would suit Andover's town meeting and will not pursue this further.
3. Articles determined by lottery: Andover's town manager, town clerk and moderator review the articles and make recommendations to the Board of Selectmen as to what order they feel the articles should go in, and the Board of Selectmen make the final decision. They do not feel lottery is a good practice because it is too unpredictable for the petitioners, board members, etc., and there could be problems with like articles (zoning), that have a dependency on the outcome of others. There will be no recommendation to adopt the lottery.
4. Pro and con microphones: The Committee recommends the use of pro and con microphones for town meeting. This was done at the April 2002 town meeting for the high-interest articles and the Committee believes it was extremely effective in maintaining an orderly debate, demonstrating a sense of fairness to both sides of issues, and cutting down on repetitive speeches.
5. Time limits for presentation of motion and for length of debate: The Committee believes that most attendees at town meeting want to see reasonable limits on the length of presentations as well as on discussion by individual voters. While there is a reluctance to impose legal restrictions in the form of a by-law, the Committee believes that definite guidelines will assist the moderator in conducting the meeting. We recommend the following limits: Five minutes for the initial presentation by the proponent of the article, and three minutes for each speaker, pro or con, after the presentation, subject to modification at the discretion of the moderator. These guidelines should be given to the presenters ahead of time, so they can prepare an appropriate presentation.
6. Appointment of procedure resource person: This is a person that citizens could go to with questions regarding procedure at town meeting. Andover has an Ombudsman at each town meeting, and his role is to act as the 'go to' person for inquiries.
7. Boards/Committees should make effort to answer every question posed: The Committee believes it is the obligation of the appropriate board to address every question and answer it as best it can, and that the moderator ensure that the boards take that responsibility.
8. Do not take up any new business after 10 p.m.: In the past, Andover has not taken up any new articles after 10:10 p.m., but this year, with the exception of the last night of town meeting, the moderator is not planning on taking up any new articles after 9:50 p.m. The Committee agreed that no new articles should be taken up after 9:50.

9. Facilitate and expand process of voting by secret ballot: A secret ballot is required if a motion is so made and approved by 25 percent of the voters. If approved, all doors are closed and secured by the police to ensure no one leaves during the vote. The only people who are allowed to leave their seats during the vote are those who are in line to get their ballots. The ballots are yes/no cards, and the voter puts one into the ballot box and the other gets discarded into a separate box. Once the vote is complete, the tellers will take the ballot boxes aside to count the votes. The moderator will announce the results and then move on to the next article. This is a lengthy process. The majority of the Committee feels that there is no other way of making the secret ballot process any smoother.

10. Convene Town Meeting on the weekend: The Committee recommends that Andover should hold one session of town meeting on a Saturday to see what the turnout would be. Articles that would normally be come up on the third or fourth night of town meeting could be addressed on a Saturday afternoon, say 2-4:30 p.m. Perhaps a different group of people than those who attend nighttime meetings might turn out for an afternoon meeting.

11. Child care program: Andover provides babysitting until 10:00 p.m., but it is underutilized.

12. Transportation for elderly: Andover offers limited transportation for the elderly to town meeting. The Committee recommends that Elder Services consider some program for driving the elderly to town meeting.

13. No voter shall speak twice on any subject: The Committee does not feel that this issue could be enforced and will not make any recommendation on it.

14. Cut back on ceremonial introductions at beginning of town meeting: The Committee believes that the opening ceremonies have been too long in the past. The posting of the colors and the singing of the opening songs are done on the first night, but other ceremonies, such as awards, etc., could be done on the other nights of town meeting

15. Inform voters when the wording of a motion has been changed: The Committee believes that any changes in a motion from what is written in the warrant should be available in written form at town meeting. (At the April 2002 Town Meeting this was done successfully by projecting all motions on screens visible to the voters.)

16. All boards make recommendations on articles: The Finance Committee makes recommendations only on financial articles, and the other boards report on articles for which they have responsibility. The Committee feels that all recommendations should be made prior to town meeting and should be put into the Finance Committee Report.

17. Issue of “scope” in regard to articles that may overlap, such as vying for same land: The Committee feels that there should be a way of linking related articles so that people get all of the information needed to make informed decisions.

18. Best sound system is a must; problems with microphones: The problem in the past was having more than one microphone on at the same time, which picks up background noise and makes it difficult to hear. This issue has been addressed and will be rectified for future town meetings.

19. Identification of officials on dais at town meeting: Normally the moderator introduces a member of a town board or other official on the stage when they intend to address the meeting. If not introduced by the moderator, the speakers should be required to introduce themselves just as any other voter is expected to do, so that the public will know who is speaking.

20. Move volunteer Talent Bank Form to the front of the Finance Committee Report: Putting this form at the front of the FinCom Report may help attract more volunteers for the towns committees. The form could be overlooked at the back.

21. Report by committees of disapproved articles: The Committee feels that the results of all committee votes on warrant articles should be reported in the Finance Committee Report, and every board should give reasons why they disapprove an article. If their reasons are not printed in the Finance Committee Report, they should explain them at the meeting. If the board or committee is divided, they should also report that fact.

22. Speakers should mention any self-interest: Andover has a by-law that states all speakers at town meeting must declare who they are and what self-interest they have in an article. We recommend that the moderator remind all voters of this by-law.

23. Absentee ballots in certain circumstances: The Committee agrees that absentee ballots cannot be used for town meeting under any circumstances because articles can be amended on town meeting floor. If an article is amended, the absentee voters do not have the option to change their minds about how they voted.

24. Town meeting broadcast live: One of the problems that could arise by a live broadcast would be that people would watch from home, and when the article that they have an interest in draws near, people would flood into the meeting and disrupt the proceedings. Other town clerks have done live broadcasts and have concurred that it gets chaotic. The Committee recommends to the Council on Aging, Cable Advisory Group and the Commission on Disability that they try to come up with ways of accommodating the elderly or disabled who cannot physically get to or sit through a long town meeting.

25. Tight seating; sell water, rent cushions. There is usually a group who sells candy and water, and the building inspector requires the tight seating.

26. Electronic voting; "Remote participation"– vote from home: The Committee believes that although this suggestion has merit, and existing technology may permit it, there are significant security issues regarding the identity of voters and the risk of mischief, and that it is not feasible at this time. The Committee also believes that personal interaction is the essence of a legislative body. If every voter stayed home to watch the meeting on TV there would be no meeting and no discussion.

27. How do we encourage citizen involvement? We note that many things are done now to help inform the voters and prepare them for the meeting. The warrant is posted on the town Web site, along with information about town meeting procedures. The League of Women Voters conducts pre-town meeting debates that are televised. More should be done to publicize these; we encourage a more concerted effort to announce the TV schedule of debates and the web site address, both in the media and by including an information sheet in a mailing to all voters, for example along with the tax bill or the census form.

28. Parking: Lack of adequate parking is a frequent complaint, especially on the first night of town meeting. The use of remote or satellite parking with shuttle bus service has been tried, but voters do not use it. Perhaps better publicity about remote parking, better signs directing drivers, and more police traffic control are needed to make this more useable.

NOTES

- ¹ Urbelis, Thomas J. , letter to Randall L. Hanson, Feb. 22, 2002.
- ² Zimmerman, Joseph F., *The New England Town Meeting, Democracy in Action*, Praeger Publishers, Westport, CT, 1999 pp. 184-191.
- ³ Zimmerman, pp. 180-183.
- ⁴ Zimmerman, p. 148.
- ⁵ Zimmerman, pp. 180-181.
- ⁶ Zimmerman, p. 183.
- ⁷ Zimmerman, p. 73.
- ⁸ *Wakefield Home Rule Charter*, dated Jan. 20, 1999, Sec. 2-10.
- ⁹ *Massachusetts General Laws*, chap. 43A, § 10.
- ¹⁰ *Massachusetts General Laws*, chap. 39, §§ 9-10.
- ¹¹ *Andover Town Charter*, § 10(f).
- ¹² *Andover Town Charter*, § 5.
- ¹³ *Andover Town Charter*, § 1 and § 6.
- ¹⁴ *Andover Town Charter*, § 5.
- ¹⁵ Zimmerman, p. 41.
- ¹⁶ *Andover General By-Laws*, Art. II, § 1.
- ¹⁷ *Massachusetts General Laws*, chap. 39, §8A.
- ¹⁸ *Andover General By-Laws*, Art. XII, § 34.
- ¹⁹ *Massachusetts General Laws*, Title XII, chap. 78, § 10.
- ²⁰ *Andover Town Charter*, § 3(d).
- ²¹ *Andover Town Charter*, §§ 6, 8, 9.
- ²² *Massachusetts General Laws*, chap. 39
- ²³ *Andover General By-Laws*, Art. II.
- ²⁴ *Commonwealth of Massachusetts, Chapter 571 of the Acts of 1956, as revised in 1974*
- ²⁵ *Andover General By-Laws*, Art. II. § 4.
- ²⁶ *Andover Town Charter*, § 3(b).