# VOTE TAKEN AT SPECIAL TOWN MEETING HELD APRIL 2, 2019

The meeting was officially called to order by Moderator John Bowen at 7:35 p.m. with 315 people in attendance. The Constable's return of the Warrant was read by Town Clerk Ellen Sheehan. Four Tellers were sworn in: Sue Belliveau, Joyce Lucander, Betsy Haley-Cormier and Cindie Hastings-Brutvan. John Bowen then called for nominations to elect Dana Altobelli as interim moderator for this special town meeting. Dana Altobelli was elected interim moderator by Town Meeting, and he was then sworn in by Town Clerk Ellen Sheehan.

The following non-residents were given permission to address the town meeting when appropriate: Town Administrator Karen Murphy, Town Counsel, Brian Riley, Bernard Lynch of Community Paradigm Associates, Inc., Cemetery Superintendent Alan Mayo, Police Chief Michael McDonald and Stephen Wallace Town Planner.

***An affirmative vote was taken at this time to accept the provisions of MGL Chapter 39, Section 15, which allows the Moderator to dispense with a count in matters requiring a two-thirds vote by statute, where the vote is unanimous or clearly overwhelming at this Special Town Meeting.***

John Fairbanks, Chairman of the Town Government Study Committee (TGSC), asked to address Town Meeting with regard to errors that were found within Article 1. Town Meeting voted in favor of the corrections noted on each section of the attached ERRATA Amendment. It was also noted that any reference within the document to Section 5.2.2. should be to Section 5.2.1 as Section 5.2.2. does not exist.

A presentation on the proposed Town Charter was given by Bernard Lynch of Paradigm Associates, Inc., the consulting firm hired by the TGSC, to assist the Committee with its charge.

Representatives of various boards then offered their views on Article 1. Selectman Jim DeLisle acknowledged all the time and effort expended by the Government Study Committee in bringing forth this recommendation to town meeting.

The floor was then opened up to town meeting body. Several residents voiced comments and concerns about the proposed charter.

John Bowen spoke in opposition to the article and offered a Motion to Table the Main Motion under Article 1, including TGSC recommended amendments to the charter proposal, appearing on the town warrant. The motion carried at 9:45 p.m.

**(2/3 vote required)**
**Recognized 2/3 Vote by the Moderator**

## ARTICLE 1 WAS NOT VOTED ON DUE TO THE TABLING OF THE MAIN MOTION.

ARTICLE 1. **Did not vote** to authorize the Board of Selectmen to petition the General Court for a special act creating a Charter for the Town of Westminster, as recommended by the Town Government Study Committee in the form set forth below; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court; and, provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

## AN ACT ESTABLISHING A CHARTER FOR THE TOWN OF WESTMINSTER

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:*

Section 1. The following shall be the charter for the Town of Westminster:

### Chapter I – Incorporation, Powers, Rights and Obligations

### Section 1.1 Incorporation

All the inhabitants dwelling within the territorial limits of the town of Westminster shall continue to be a body politic and corporate under the name of the "Town of Westminster," which town shall hold and exercise all powers and privileges heretofore exercised, any additional powers and privileges conferred by this charter, and all powers and privileges conferred upon towns under the constitution and general laws of the Commonwealth of Massachusetts.

### Section 1.2 Powers

The town shall have all powers possible for a town to have under the constitution and laws of the Commonwealth of Massachusetts, as fully and completely as though they were specifically enumerated in this charter. The powers of the town under this charter shall be construed liberally in favor of the town, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general powers stated in this section. The town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or with the United States of America or any agency thereof.

### Chapter II - General Provisions

### Section 2.1 Definitions

The words listed below shall have the following meanings:

"ad-hoc committee" – any multiple-member body of the town established by the board of selectmen or other multiple-member body whose purpose is to accomplish narrowly defined objectives in a short time frame, usually one year or less.

"agency," any board, commission, committee, department, division, or office of the town government.

"annual town report," a report prepared annually that includes but is not limited to a summary of the financial state of the town and that identifies upcoming issues that will affect the town.

"board", or "permanent board" means any multiple-member body established by the charter, bylaw, or vote of town meeting, whether named a board, commission, or committee, other than an ad-hoc committee.

"charter," this charter and any amendments to it as may be approved from time to time.

"general law" or "Massachusetts General Laws," a statutory provision enacted by the general court of the Commonwealth of Massachusetts applicable to all cities and towns, or to all cities, or to all towns, or to a combination of not fewer than two cities and towns, to be cited as "M.G.L.".

"majority vote," a majority of the members of a board present and voting provided that a quorum is present.

"master plan," a plan revised or developed every 10 years by the planning board per Massachusetts General Laws.

"quorum," except otherwise required by law, a majority of the full authorized membership of a multiple-member body, regardless of vacancies.

"selectmen" – the board of selectmen of the town of Westminster, which board shall serve as the chief executive officer of the town and have all the powers and duties of such a board provided under the general laws, except as otherwise provided herein, and which board may be referred to as a "select board" or any other similar title, as determined by vote of the board.

"town," the town of Westminster.

"town manager," the chief administrative and operating officer of the town.

"town meeting," the open town meeting established in article 3 of this charter, whether annual or special.

"treasury warrant," the document required to approve payment for services or supplies rendered to the town as contemplated under the provisions of M.G.L. c.41, §56.

"town officer," a person having charge of an office or department of the town who, in the exercise of the powers or duties of that position, exercises some portion of the sovereign power of the town.

"voters," registered voters of the town.

"warrant," the document required to warn and notify voters to meet at a specific time, date and place to act on particular subject matters relating to town governance or to elect town officers and bring in their votes on particular questions.

**Section 2.2 Charter review and amendment**

This charter may be amended in the manner prescribed by law or the constitution.

Within five years of the effective date of the charter, and then at least once in every 10-year period after that, the selectmen shall establish an ad hoc charter review committee which shall review the charter, hold at least one public hearing, and make any recommendations for its amendment that the committee deems appropriate. The committee shall present its report and any proposed charter amendments to the selectmen.

**Chapter III – Elections**

**Section 3.1 Elections of officers**

The annual election of municipal officers shall be without party or political designation and shall be held at such time and in such manner as prescribed in the town's bylaws, consistent with state law.

**Section 3.2 Elected town officers**

The following town officers shall be elected by the voters to 3-year alternating terms:

a) Board of Selectmen – 3 members;
b) Ashburnham–Westminster regional school district school committee, 10 members, of which 5 members shall be voters of the town of Westminster, or otherwise in accord with the regional school district agreement as it may be amended from time to time;
c) Town moderator; and
d) Board of trustees of the Forbush Memorial Library – 5 members.

**Section 3.3 General provisions**

a) Compensation - Elected officials shall be compensated in such manner, if any, as the town meeting shall determine, except that the school committee members shall not be compensated. Elected officials may be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

b) Organization - At the first meeting after the annual town election, each elected board shall meet and elect a chairperson and otherwise organize and fix the time and place of their regular meetings. Such boards may from time to time adopt their own rules of procedure.

c) Limitations - Elected officials shall hold no other elective town office or compensated town employment during the term for which elected, nor any compensated appointive town office or employment for 1 year after the expiration of their elected term or sooner resignation or removal.

No action, other than a vote to adjourn or to fix the time and place of the next meeting, may be taken by less than a quorum of an elected body.

**Chapter IV - Open Town Meeting**

**Section 4.1 Annual and special town meetings**

The annual town meeting for the transaction of all business, with the exception of the election of town officers and the determination of such matters as legally require a vote by ballot, shall be held on such date as set forth in the town bylaws. Special town meetings may be called from time to time by the selectmen.

The selectmen, the chairperson of each other board of the town, the town manager, and the head of each town agency, shall attend the business portion of every town meeting.

The town clerk shall post the warrant on the town's web site at least seven days before the annual town meeting and at least fourteen days before a special town meeting, and in such manner as may otherwise be required by the bylaws.

**Section 4.2 Quorum**

There shall be no required quorum for the transaction of business at town meeting unless established by bylaw.

**Chapter V- Town Officers**

**Section 5.1 General provisions**

a) Board membership - No person shall serve as a member of an elected or appointed board, except a board established pursuant to an intermunicipal or regional district agreement, who is not a voter at the time of election or appointment and for the duration of the elected or appointed term.

b) Role of individual members - Individual members of boards shall have no authority to represent their respective boards, unless specifically so authorized.

c) Role of elected and appointed boards - Nothing in this charter shall be construed to authorize any individual member of an elected or appointed multiple-member body, nor a majority of members of such body, to become involved in the day-to-day operation and administration of any town agency. It is the intention of this section to affirmatively establish that such bodies shall act only through the adoption of broad policy guidelines that are to be implemented by town officers and employees serving under such body, and further that such bodies shall not interact with town employees concerning matters of day-to-day operations and administration.

d) Town counsel – The town counsel shall represent the town in all matters authorized by the selectmen; provided, however, that special counsel may be appointed by the selectmen or the town manager, or, by any officer or board specifically authorized by the General Laws to retain the services of an attorney if that officer or board has a specific appropriation sufficient to pay for such services.

**Section 5.2 Elected Officials**

**Section 5.2.1 Board of Selectmen**

The selectmen shall have all powers and duties given to selectmen as may be authorized by the constitution and laws of the Commonwealth, the charter, bylaws or other town meeting vote, except those powers granted to the town manager under this charter, and shall have the following specific responsibilities:

a) Be the chief executive officer and chief policy making agency of the town;
b) Be the licensing authority for the town in connection with licenses typically issued by boards of selectmen, including serving as the "licensing authority" under section 1 of chapter 140 of the General Laws and the "local licensing authority" under section 1 of chapter 138 of the General Law, but specifically excluding authority to issue licenses under the statutory jurisdiction of another board; provided, however, that the selectmen may delegate its responsibility under this subsection other than the issuance and enforcement of liquor licenses;
c) Serve as the road commissioners, park commissioners, cemetery commissioners, water commissioners, and sewer commissioners of the town for strategic and policy-making purposes, including fee and rate setting, provided, however, that operational and administrative responsibility for the statutory functions of such boards shall be borne by the department and director of public works;
d) Upon the recommendation of the town manager, approve or reject the award for all contracts for goods or services in excess of $1,000,000; contracts of less than $1,000,000 may be procured, awarded and executed by the town manager, provided, however, that the manager shall report promptly to the selectmen any contracts so procured, awarded and executed;
e) Approve and periodically amend and update personnel policies and compensation and classification plans applicable to all town employees, except to the extent that collective bargaining agreements or employment agreements are inconsistent with such policies and compensation and classification plans;
f) Approve collective bargaining agreements negotiated by the town manager;
g) Appoint and remove the town manager in accordance with section 5 and annually review in writing and at an open meeting, the performance of the town manager;
h) In accordance with Section 7.4 of the charter, work with the town manager to develop and review a strategic plan;
i) In conjunction with the town manager, annually define and prioritize goals and performance objectives for the ensuing year, based upon and consistent with the strategic plan, and reflective of the actions the selectmen and the town manager determine to be necessary for the proper operation and welfare of the town;

j) Vote within 14 days to confirm or deny the appointment by the town manager of the police chief, fire chief, public works director, town accountant, treasurer/collector, finance director (if any), and town counsel, provided that failure to act within said period shall constitute confirmation for purposes of this section;
k) Appoint, or approve appointment, of members of the various boards of the town in accordance with provisions of section 5.3.1 the charter.
l) Appoint the town's representative to the Montachusett Regional Vocational Technical School;
m) Create and appoint, or delegate to the town manager authority to appoint, committees to advise the selectmen or the town manager on any matter, establishing the charge, composition and term of any such committee;
n) Cause an independent audit to be made annually of all accounts of the town, a preliminary version of which shall be provided to the town manager and town accountant, and the final version of which shall be sent to each selectman and advisory board member, the town clerk, town manager, finance director (if established), and town accountant; an electronic copy of the audit and management letter shall be posted the town's web site.

**Section 5.2.3 Regional School Committee**

The Ashburnham-Westminster Regional School District School Committee shall, so long as it is in existence, and consistent with the agreement between the towns establishing the regional school district, have all powers conferred upon it by the constitution and general laws of the commonwealth, this charter and the regional school district agreement. In addition, to the extent consistent with the agreement, the committee shall exercise general supervision over all matters concerning the public schools not otherwise provided for. The regional school district shall not be subject to the sections of this charter addressing personnel or procurement.

**Section 5.2.4 Moderator**

The moderator shall preside at all sessions of annual and special town meetings. At all town meetings the moderator shall regulate the proceedings, decide all questions of order, make public declaration of all votes, and may exercise such additional powers and duties as may be authorized by law, this charter, bylaw, or other vote of the town meeting. The town moderator shall designate the personnel required for proper conduct of town meeting and shall appoint the members of the advisory board. From time to time the moderator shall appoint a bylaw review committee as set forth in section 5-3-2(h) of this charter.

**Section 5.2.5 Board of Trustees of Forbush Memorial Library**

The Board of Trustees of the Forbush Memorial Library shall have all powers and duties conferred upon library trustees by state statute pursuant to M.G.L. c.78 and any other applicable laws except as otherwise provided by this charter.

**Section 5.2.6 Recall of elected officials**

Any holder of an elective office in the town of Westminster with more than six months remaining in the term of office may be recalled therefrom by the registered voters of the town as herein provided.

a) Any twenty-five registered voters of the Town of Westminster may initiate a petition by filing with the town clerk an affidavit signed under the penalty of perjury containing the name of the officer sought to be recalled, the office held, and a statement of the grounds for recall. Said town clerk shall thereupon prepare recall petition blanks demanding such recall and notify the first signer of the affidavit, the lead petitioner, that copies of petition blanks are available. Such blanks shall be issued by said town clerk with the town clerk's signature and official seal attached thereto. Such blanks shall be dated, addressed to the selectmen, and contain the names of the first twenty-five registered voters

whose signatures are certified on the affidavit, the name and office of the person whose recall is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor in the office. A copy of the petition shall be entered in a record book to be kept in the office of said town clerk. Said recall petitions shall be returned and filed with said town clerk within 20 days following the first business day after the date the town clerk notifies the lead petitioner that the recall petitions are available, which petitions shall be signed by at least 15 percent of the registered voters of the town as of the date of the previous annual election, who shall add to their signatures the street and number, if any, of their residence. Said town clerk shall within 24 hours of receipt, submit the petitions to the registrars of voters who shall certify thereon the number of signatures which are names of voters of said town within 3 business days.

b) If the petition shall be certified by the town clerk to be sufficient:

1) the town clerk shall forthwith submit the same with the town clerk's certificate to the selectmen;

2) the selectmen within 5 working days shall give written notice of the receipt of the certificate to the officer sought to be recalled;

3) the selectmen shall, if the officer does not resign within 5 working days thereafter, order an election to be held on a date fixed by them on a date not less than 60 nor more than 90 days after the date they called for the election; provided, however, that if any other town election is to occur within 90 days after the date of the clerk's certificate, such recall election may be held on the same date as such other election, but the recall election shall be conducted as a separate special election.

4) If a vacancy occurs in said office after a recall election has been so ordered, the election shall nevertheless proceed as provided for in this section.

c) Any officer whose recall is sought may be a candidate to succeed themself at the recall election without further nomination by notifying the town clerk in writing by the deadline for filing nomination papers. The nomination of all other candidates, the publication of the warrant for the recall election, the holding of any election to fill the vacancy caused by a recall election, and the conduct of the same shall all be in accordance with the provision of law relating to elections unless otherwise provided by this act.

d) The incumbent shall continue to perform the duties of the office until the recall election. If then reelected, the officer shall continue in office for the remainder of the unexpired term subject to recall as before, except as provided in this section. If not reelected in the recall election, the officer shall be deemed removed. If the successor fails to qualify within ten business days after receiving notification of election, the office shall thereupon be deemed vacant.

e) Ballots used in a recall election in said town shall submit the following propositions in the order indicated:

1) For the recall of (name of officer, title of office)

2) Against the recall of (name of officer, title of office)

f) Adjacent to each proposition there shall be a place to mark a vote. After the propositions shall appear the word "candidates" and directions to the voters as required by section 42 of chapter 44 of the general laws, and beneath this, names of candidates nominated as herein provided. If the majority of the ballots cast in the recall election are in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If the majority of votes on the question is in the negative, the ballots for candidates to fill the potential vacancy need not be counted.

g) No recall petition shall be filed against an officer of said town within ninety days after the officer takes office, nor in the case of an officer subjected to a recall election and not recalled thereby, until at least 90 days after the election at which the officer's recall was submitted to the voters.

h) No person who has been recalled from an office or who has resigned from office following the filing of a recall petition shall be appointed to any town office within one year after such recall or resignation.

**Section 5.3 Appointed boards, commissions, committees**

**Section 5.3.1 General provisions**

a) All multiple-member boards shall have an odd number of members, with the exception of a committee created pursuant to an inter-municipal agreement.
b) Members of boards referenced in the general laws, charter or bylaws, except for ad-hoc committees, shall be appointed for rotating terms of 3 years, with as nearly as possible equal numbers expiring each year, with the exception of the Housing Authority, which shall be appointed for staggered terms of five years, or any board or committee created pursuant to an inter-municipal or regional agreement. Terms of office for members of all appointed boards provided for by the general laws, this charter or bylaws, shall begin on July 1 and expire on June 30.
c). Each board specifically provided for in the Massachusetts General Laws shall be organized and charged with the powers and duties specified in the Massachusetts General Laws except as otherwise provided by special law or this charter.
d) Each board shall at the first meeting after July 1, organize by electing a presiding officer and clerk and notify the board selectmen and town clerk of such action. Each such board shall make a written annual report of its activities and file the report with the selectmen and town clerk.
e) No resignation of any town officer, including members of a board referenced in the general laws, charter or bylaws, shall be deemed effective until filed with the town clerk or on such later date as may be specified in the resignation filed with the clerk.
f) In the event an appointed board member misses 3 consecutive meetings without the permission of the chairperson, the board shall notify the appointing authority, which appointing authority may, after opportunity for a hearing, deem such position vacant.
g) The appointing authority may remove any member of a board, whether appointed for a fixed or indefinite term, for cause and after the opportunity for a hearing.

**Section 5.3.2 Establishment of and appointment authority for various boards and offices**
a) The following multiple-member bodies shall be appointed by the town manager with the approval of the selectmen in accordance with section 5.2.2(j) of this charter:
1) board of assessors of 3 members;
2) board of health of 3 members;
3) housing authority of 5 members (with such number of appointments to be made by the town to be consistent with M.G.L. c.121B, §5 as it might be amended from time to time);
4) planning board of 5 members;
5) recreation commission of 9 members; and
6) personnel board of 5 members advisory to the board of selectmen and town manager;

b) The following multiple-member bodies shall be appointed in whole or in part, as specified, by the town manager:
1) agricultural commission of 5 members;
2) board of registrars of 4 members, one of whom shall be the town clerk;
3) capital planning committee of 5 members advisory to the selectmen and town manager, composed of one member of the selectmen designated by the selectmen, one member of the advisory board designated by the advisory board, and three citizens-at-large appointed by the town manager;
4) conservation commission of 5 members;
5) council on aging of 9 members;
6) cultural council of 7 members;
7) historical commission of 7 members, including the duties of the former memorial committee;
8) zoning board of appeals of 5 members;
9) any other multiple-member body whose appointment is not addressed herein or otherwise set by bylaw or vote of the town meeting.

c) The following multiple-member bodies shall be appointed by the town moderator:
(1) advisory board of 5 members who shall hold no other office in the town except as specifically provided in the charter; and
(2) bylaw review committee of 5 members, appointed from time to time as appropriate.

**Section 5.4 Appointment of the town manager**

The board of selectmen shall appoint a town manager who shall be a person especially qualified by education, training and experience to perform the duties of the office. Minimum qualifications shall include a bachelor's degree in public administration or a related field, and 5 or more years of experience as a town manager, town administrator, assistant town manager, or assistant town administrator or similar position. The town manager need not be a resident of the town or of the Commonwealth.

During the 12 months prior to appointment, the town manager shall not have held any elected office in the Town of Westminster. The selectmen shall be authorized to enter into a contract with the town manager setting forth the terms and conditions of employment for a term of up to 3 years, and the manager may be appointed for successive terms. The town manager shall be appointed without regard to political beliefs. The town manager shall be compensated no more than the amount appropriated by town meeting for such purposes.

Pending the filling of a vacancy in the office of the town manager, or during the temporary disability of the town manager, a temporary or acting town manager shall be appointed in accordance with section 5.4.2.

**Section 5.4.1 Powers and duties of the town manager**

a) In addition to the specific powers and duties provided in this charter, the town manager shall have the general powers and duties enumerated in this section and such other powers and duties as the board of selectmen shall determine.

b) The appointment authority of the town manager, in addition to that set forth in section 5.3.2 of this charter, shall be as follows:

(1) Subject to approval of the selectmen within 14 days of appointment as provided in section 5.2.2(j) of this charter: police chief (for a term of no more than 3 years), fire chief (for a term of no more than 3 years), public works director, treasurer/collector, town accountant, finance director (if established), Admin Assessor, Health Agent, Town Planner, Library Director, and town counsel;

(2) Except as otherwise provided by this charter and subject to the applicable requirements of the civil service law, upon merit and fitness alone, the head of each department, including the town clerk, provided that for department heads that work directly with an appointed or elected board, the town manager shall consult with that board with respect to the recruitment and interview of candidates for appointment; and

(3) All other employees and officers of the town whose manner of appointment is not otherwise addressed in this charter, including up to 3 constables; provided however, that department heads shall have authority to appoint employees within their departments subject to approval by the town manager and appropriation by town meeting for such purposes.

c) The town manager shall supervise and direct the administration of all agencies of the town, regardless of the manner of selection of such agencies.

d) In accordance with this charter and except as otherwise prohibited by the General Laws, the town manager with the approval of the selectmen may reorganize, consolidate or abolish any agency, department, board, or office under their direction and supervision.

e) The town manager shall fix the compensation of all town officers and employees, in accordance with the compensation and classification plans approved by the selectmen, and in accordance with any contracts or collective bargaining agreements, all subject to appropriation.

f) The town manager shall be responsible for negotiating all collective bargaining agreements, subject to approval by the selectmen.

g) With the human resources director or other appropriate employee, the town manager will administer all human resources functions of the town except for the school department, including personnel performance evaluations, employee discipline or termination, and administration of the personal policies and classification and compensation plans as approved by the board of selectmen.

h) The town manager shall attend all regular and special meetings of the selectmen and of the town meeting, unless otherwise excused by the selectmen.

i) The town manager shall work with the selectmen to develop and review a strategic plan as required in section 7.4 of the charter.

j) The town manager shall keep full and complete records of the office and shall render, as often as may be required by the selectmen, a full report of all operations during the period reported.

k) The town manager shall keep the selectmen fully advised as to the needs of the town and shall recommend to the selectmen for adoption such measures requiring action by them or by the town as the town manager may deem necessary or expedient.

l) The town manager shall keep the selectmen and advisory board fully informed as to the financial condition of the town and make recommendations to the selectmen and other elected and appointed officials as the town manager deems necessary and expedient.

m) The town manager shall have overall jurisdiction over, and be responsible for, the planning, construction, reconstruction, alteration, repair, improvement, maintenance, use and rental of all town property.

n) The town manager shall be the chief procurement officer of the town, as that term is defined under chapter 30B of the General Laws. The town manager shall purchase all supplies, materials and equipment and shall award and execute all contracts for all departments and activities of the town except as otherwise provided for by this charter, except that contracts greater than $1,000,000 shall also require approval of the selectmen as set forth in section 5.2.1 of this charter. The town manager may delegate portions of this responsibility to department heads or other qualified employees to the extent consistent with law.

o) The town manager shall administer, either directly or indirectly through a person or persons appointed by the town manager in accordance with this charter, all provisions of general and special laws applicable to the town, all bylaws of the town and all regulations of the selectmen.

p) With the approval of the selectmen, the town manager shall have the authority to prosecute, defend and compromise any claim or litigation to which the town is a party, and to employ special counsel whenever necessary.

q) The town manager shall have access to all town books and papers for information necessary for the proper performance of the town manager's duties and may, without notice, cause the affairs of any department or activity or the conduct of any officer or employee to be examined.

r) The town manager shall prepare and recommend to the selectmen and the advisory board an annual comprehensive fiscal plan.

s) Unless otherwise provided, the town manager shall serve as the town's chief information officer.

t) The town manager shall perform such other duties consistent with the office as may be required by the bylaws or vote of the town or by vote of the selectmen.

**Section 5.4.2 Temporary or acting town manager**

The town manager may designate, by letter filed with the selectmen and town clerk, a qualified officer or individual of the town to serve as the temporary town manager to perform the town manager's duties during a temporary absence or disability of less than four weeks. If the town manager fails to make such a designation, or the absence or disability extends beyond four weeks, the selectmen may designate an officer or employee of the town, or other individual, to perform the duties of the town manager until the town manager shall return, or the disability shall cease.

If the office of the town manager becomes vacant as a result of death, removal, resignation or otherwise, or if the town manager is granted a leave of absence exceeding 4 weeks, the selectmen shall appoint a qualified individual to serve as acting town manager. Any vacancy in the office of the town manager shall be filled as soon as possible by the selectmen.

**Section 5.4.3 Removal of the town manager**

The selectmen, by a majority vote of the full membership of the board, may remove the town manager upon notice and hearing and in accordance with the terms of any contract between the town and the town manager; provided, however, that the non-renewal of any contract of employment at the expiration thereof shall not be considered a removal subject to notice and hearing.

**Chapter VI - Financial Provisions**

**Section 6.1 Comprehensive fiscal plan and budget**

The town manager shall establish no later than September 30 of each year a calendar which shall have as its objective the submission of a balanced comprehensive fiscal plan including the annual budget and capital improvement plan to be presented to the advisory board no later than March 1 for the ensuing fiscal year.

Elements of the calendar shall include but not be limited to the following, including proposed dates for each action:

a) Establishment of estimated revenues;
b) Establishment of operating and capital expenditure budget guidelines, to be approved by the selectmen and the advisory board, to support the comprehensive fiscal plan that includes the annual budget, capital improvements plan, as well as other appropriations for the support of the various departments;
c) Submission to the town manager of departmental operating budget requests consistent with the operating budget guidelines, which requests shall include detailed estimates of the amounts requested, and of all probable items of income to their departments which may be received during the ensuing fiscal year;
d) Submission to the town manager of departmental capital improvements budget requests;

e) Submission to the capital planning committee of the draft capital improvements plan prepared by the town manager; the committee shall complete its review not less than 30 days before the deadline for submission of the comprehensive fiscal plan to the advisory board;
f) Submission to the advisory board of the town manager's comprehensive fiscal plan for the ensuing fiscal year including the operating budget, with a column reflecting departmental budget requests, capital improvements plan, 5-year budget and capital projections, and all proposed appropriations in excess of $1,000; the advisory board shall prepare a report with recommendations on all articles, including financial articles, which report shall include the town manager's proposed budget and the advisory board's recommendations thereon, and shall be made available to the voters no less than 7 days prior to the first session of the annual town meeting; and
g) Projected date of availability of the annual town meeting warrant with the advisory board's recommendations.

The main motion under the budget article(s) of the annual town meeting shall be the budget proposed by the town manager.

**Section 6.2 Capital Improvement Program**

The town manager, in consultation with the capital planning committee and the departments, shall develop a capital improvements plan detailing requested and necessary capital improvements over a period of not less than the ensuing 5 years. The capital improvement plan shall include:

(a) a clear general summary of its contents;
(b) a list of all capital improvements proposed to be undertaken during the ensuing five fiscal years;
(c) cost estimates, recommended time schedules, and methods of financing of each improvement.

**Section 6.3 Financial and public records**

At least 7 days prior to the date of the annual town meeting, copies of the annual town report, the entire proposed budget, capital improvement program, annual town meeting warrant and advisory board recommendations shall be posted on the town web site and be made available for review at the town hall and the library during normal business hours.

**Section 6.4 Treasury warrants and collections**

The town manager shall be authorized to sign treasury warrants and shall report such doings to the selectmen with such frequency as the selectmen shall require. In the absence of the town manager or in the event of a vacancy in the office, the selectmen, or a single member thereof so authorized, shall execute treasury warrants.

**Chapter VII - Administrative Provisions**

**Section 7.1 Bylaws, rules and orders**

The town meeting shall have the power to adopt and amend such bylaws as it deems desirable, consistent with state law and this charter.

The selectmen shall have the power to promulgate such rules and orders deemed necessary and appropriate to carry out their responsibilities under and consistent with state law, this charter or bylaws.

**Section 7.2 Organization**

(a) Public Works Department.
(1) There shall be a public works department responsible for the management of all public works operations of the town not assigned to other departments, including, but not limited to, the powers and duties of the following boards and officers under state law: water commissioners; sewer commissioners; the selectmen, road commissioners, highway surveyors and superintendents of streets, cemetery commissioners, park commissioners as to all matters relating to public works, streets, and highways; engineering services for the maintenance and repair of public buildings and property, trees and moths; and other related construction and operations as may be assigned from time to time by the town manager, with the approval of the board of selectmen, when deemed necessary or desirable.
(2) The public works department shall be under the direct control and supervision of a public works director who shall be appointed by the town manager under section 5.2.2(j) of this charter. The public works director shall supervise and direct the operations and employees of the public works department; provided, however, in the event of an absence of, or vacancy in the office of public works director, authority to supervise and direct such operations and employees shall be exercised by the town manager.

(b) Police and Fire Department
Except as otherwise expressly provided herein, there shall be a police department consistent with the provisions of G.L. c.41, §97 and a fire department consistent with the provisions of G.L. c.48, §42.

(c) Reorganization
The town manager, subject to the approval of the selectmen as set forth herein, may reorganize, consolidate or abolish any agency, department, board, commission, committee, or office under the town manager's direction and supervision in whole and in part, but may not eliminate any of the positions or functions specified herein, and may transfer the duties, powers and appropriation of any agency, department, board, commission, committee, or office to another. The town manager may establish such new agencies, departments, boards, committees, or offices, as the town manager deems necessary but subject to appropriation by the town meeting when such action by the town manager shall require an increase in total appropriation voted by the town meeting for the functions at issue. The powers described in this subsection shall be known as a reorganization plan and any such reorganization plan shall be accompanied by an explanatory message when submitted to the selectmen. No such reorganization shall be effective until approved by the selectmen; provided, however, that no amendment to the reorganization plan as submitted shall be made by the selectmen unless with the consent of the town manager. When any appointed board is abolished or consolidated, the town manager shall issue a written directive to the appropriate person or persons relative to the disposition of records, property and equipment. The town manager shall annually prepare a table of organization reflecting the current organization of the town and shall publish the table of organization in the town's annual report.

**Section 7.3 Strategic plan**

The selectmen, with the town manager, shall develop a strategic plan incorporating the master plan, capital improvement plan, five-year financial projections, and other information and materials relevant to establishing strategic direction for the community. The strategic plan shall be formally reviewed and updated at least every 3 years. The selectmen, with the town manager, shall annually develop a statement of annual goals that are consistent with and advance the provisions of the strategic plan. The town manager shall be evaluated by the selectmen annually on progress towards implementation of those goals. The town manager shall advocate for actions that advance the provisions of the strategic plan, including providing information on the strategic plan to department heads, boards, and to the community at large.

**Section 7.4 Rules and regulations**

A copy of all rules and regulations adopted by any town agency shall be filed in the office of the town clerk and any such rule or regulation shall become effective on the date of such filing, unless otherwise provided for by law or bylaw. Copies of all such rules and regulations shall be posted on the town's website and made available for review in accordance with the public records law.

The police and fire chiefs may from time to time make suitable regulations governing their respective departments and the employees and officers thereof, provided that such regulations are not inconsistent with other applicable policies, collective bargaining agreements, rules, or regulations of the town. The establishment of any such regulations of these departments shall be subject to the approval of the town manager; provided that such regulations shall become effective without such approval upon the failure of the town manager to take action thereon within thirty days after they have been submitted by the respective chief. The police and fire chiefs shall be in immediate control of all town property used by their respective departments and of the employees and officers whom the chiefs shall assign to their respective duties and who shall obey the chiefs' respective orders.

Section 2. Continuation of existing laws

Except as specifically provided in this charter, any special laws, town bylaws, votes, rules, and regulations of or pertaining to the town consistent with the provisions of this charter shall continue in full force and effect until amended or rescinded by the course of law or expire by their own limitation.

Section 3. Bylaw review

Within 90 days after the election at which the charter set forth in section 1 of this act is adopted, the moderator shall appoint a 5-member bylaw review committee to review the existing town bylaws. The committee shall report to the next annual town meeting its recommendations to bring the town bylaws into conformity with this charter.

Section 4. Continuation of boards and agencies

Except as specifically provided in the charter established under section 1 of this act, all town agencies in existence on the effective date of this act shall remain in existence and their incumbents shall continue to perform their duties until not reappointed or reelected or until successors to their respective positions are duly appointed or elected or their duties have been transferred.

Section 5. Reduction in membership of certain multiple-member bodies

(a) Forbush Memorial Library board of trustees. Following the effective date of this act, the number of members of the Forbush Memorial Library board of trustees shall be reduced from 6 to 5 members as follows: at the first town election held more than 64 days after the effective date of this act, the number of board of trustee positions to be placed on the ballot shall be reduced by 1; provided, however, that if a vacancy sooner arises on the board of trustees, the vacancy shall not be filled and such position shall not thereafter appear on the ballot.

(b) Advisory board. Following the effective date of this act, the advisory board shall be reduced from 7 members to 5 members, such that any vacancies that arise after the effective date of this act, whether due to expiration of term or other vacating of office, shall not be filled until the total membership of the board is five members.

Section 6. Officers or agencies not continued

(a) Liquor Commission. The incumbent members of the liquor commission serving as of the effective date of this act shall continue to serve and exercise their powers and duties until December 31 of the year in which the charter established under section 1 of this act is adopted, at which time the unexpired terms of the members of the commission shall be terminated and the commission abolished; all powers and responsibilities of the commission shall thereupon be transferred to the selectmen by operation of law.

(b) Public Works Commission. The incumbent members of the public works commission serving as of the effective date of this act shall continue to serve and exercise their powers and duties until June 30 of the year in which the charter established under section 1 of this act is adopted, at which time the unexpired terms of the members of the commission shall be terminated and the commission abolished; all powers and duties of the commission except as otherwise addressed in this act shall thereupon be transferred by operation of law to the department and director of public works. Notwithstanding the first sentence of this paragraph, however, on July 1 of the year in which the charter established under section 1 of this act is adopted the incumbent members of the public works commission as of the effective date of this act shall be reconstituted as a public works advisory board to serve until December 31 of the same year, which board shall serve in an advisory capacity to the director with respect to operational issues and during that period shall further have authority to set rates for water, sewer and other services.

(c) Cemetery Commission. The incumbent members of the cemetery commission serving as of the effective date of this act shall continue to serve and exercise the duties of their office until July 1 following the adoption of the charter established under section 1 of this act, at which time the terms of the incumbent members of the cemetery commission shall thereupon be terminated and the cemetery commission abolished. The rate setting and policy duties of such commission shall pass by operation of law to the board of selectmen, and responsibility for operation and administration of town cemeteries shall pass by operation of law to the department and director of public works.

(d) Parks and Recreation Commission, Hager Park Commission and Crocker Pond Committee. The incumbent members of the Parks and Recreation Commission, the Hager Park Commission and the Crocker Pond Committee as of the effective date of this act shall continue to serve and exercise the duties of their offices until July 1 following the adoption of the charter established under section 1 of this act, at which time the terms of the incumbent members of the commissions shall thereupon be terminated and the commissions abolished. The duties and responsibilities of such commissions shall be transferred by operation of law to the recreation commission provided for by section 3.2(a) of the charter established under section 1 of this act.

Section 7. Continuation of employment

Any person serving in the employment of the town shall retain such position and shall continue to perform the duties unless provisions shall have been made in accordance with this charter for the performance of the said duties by another person or agency.

Section 8. Effect on obligations, taxes, etc.

All official bonds, recognizances, obligations, contracts, and other instruments entered into or executed by or to the town before the adoption of this charter and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the town, shall be enforced and collected and all writs, prosecutions, actions and cause of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the charter and no legal act done by or in favor of the town shall be rendered invalid by reason of the adoption of this charter.

Section 9. Transfer of records and property

All records, property, and equipment of any agency, or part thereof, the powers and duties of which are assigned in whole or in part to another agency pursuant to the charter established by section 1 of this act, shall be transferred forthwith upon the effective date of this act or at such later time as set forth in this act to the agency to which such powers and duties are assigned.

Section 10. Role of board of selectmen and interim town manager in transition

(a) Board of Selectmen. Upon the date of taking effect of this act, the selectmen shall continue to exercise the executive functions of the town except as otherwise provided in this act.

(b) Interim Town Manager. The incumbent town administrator, or such other person as may be designated by the board of selectmen in the event the incumbent shall decline the position, shall serve as the interim town manager. Such interim town manager shall take such action as is necessary and appropriate to begin the process of implementing the charter established under section 1 of this act, provided, however, that neither the interim town manager nor the board of selectmen shall take any action inconsistent with that charter.

(c) Town Meeting. The town shall hold any scheduled annual or town meeting following the adoption of the charter. If an annual town meeting is so held, the budget article presented to that town meeting shall be the budget prepared and recommended by the advisory board.

Section 11. Severability

The provisions of the charter established under section 1 of this act are severable, and if one provision is found to be invalid by a court of competent jurisdiction, the other provisions of the charter shall not be affected thereby.

Section 12. Time of taking effect

This charter shall be presented to the voters of the town at an annual or special election in the form of the following question, "Shall an act enacted by the General Court in 2019 entitled, 'An Act Establishing a Charter for the Town of Westminster,' take effect?". A fair and concise summary of the act, prepared by town counsel, shall follow. If a majority of the voters voting in said election vote in favor of this question, then sections 1 through 11 of this act shall take effect, but not otherwise.

Section 13. This act shall take effect upon passage.

Town Meeting adjourned at 9:46 p.m.

Respectfully submitted,

Ellen M. Sheehan

Ellen M. Sheehan
Town Clerk

# ERRATA AMENDMENTS

***I move that Article 1 be approved as forth in the Special Town Meeting warrant, with the following revisions*:**

1. **Section 5.2.1 Board of Selectmen,** subsection l):
a. Currently reads: l) Appoint the town's representative to the Montachusett Regional Vocational Technical School.
**b.** Change to read: l) Appoint the town's representative to the Montachusett Regional Vocational Technical School **per the applicable regional school agreement.**

2. **Section 5.3.2 Establishment of and appointment authority for various boards and offices**
a. Currently reads: b)8) zoning board of appeals of 5 members;
b. Change to read: b)8) zoning board of appeals of **3 members and 4 associate members**;

3. **Section 5.4.1.Powers and duties of the town manager**, subsection b) (1):
a. Currently reads:

b) The appointment authority of the town manager, in addition to that set forth in section 5.3.2 of this charter, shall be as follows:

(1) Subject to approval of the selectmen within 14 days of appointment as provided in section 5.2.2(j) of this charter: police chief (for a term of no more than 3 years), fire chief (for a term of no more than 3 years), public works director, treasurer/collector, town accountant, finance director (if established), Admin Assessor, Health Agent, Town Planner, Library Director, and town counsel;

b. Change to read:

b) The appointment authority of the town manager, in addition to that set forth in section 5.3.2 of this charter, shall be as follows:

(1) Subject to approval of the selectmen within 14 days of appointment as provided in section 5.2.2(j) of this charter: police chief (for a term of no more than 3 years), fire chief (for a term of no more than 3 years), public works director, treasurer/collector, town accountant, finance director (if established), **Conservation Agent**, Admin Assessor, Health Agent, Town Planner, Library Director, and town counsel;

4. **Section 7.2 Organization,** subsection (a) (2) Public Works Department:
a. Currently reads:

(2) The public works department shall be under the direct control and supervision of a public works director who shall be appointed by the town manager under section 5.2.2(j) of this charter. The public works director shall supervise and direct the operations and employees of the public works department; provided, however, in the event of an absence of, or vacancy in

the office of public works director, authority to supervise and direct such operations and employees shall be exercised by the town manager.

b. Change to read:
(2) The public works department shall be under the direct control and supervision of a public works director who shall be appointed by the town manager under section **5.4.1 b)(1)** of this charter. The public works director shall supervise and direct the operations and employees of the public works department; provided, however, in the event of an absence of, or vacancy in the office of public works director, authority to supervise and direct such operations and employees shall be exercised by the town manager.