

CHARTER REVIEW COMMITTEE

Report on Charter Review

to the

**Cape Cod Regional Government
Assembly of Delegates**

May 7, 2014

Table of Contents

<u>Item</u>	<u>Page</u>
A. Summary: Charter Review Committee Process.....	3
B. Recommendation: Existing Charter Changes (Structure of Governance).....	5
C. Recommendation: No Additional Charter Changes Proposed for 2014 State Ballot.....	19
D. Recommendation: Joint Meeting of Assembly of Delegates and Board of County Commissioners with a Facilitator.....	20

A. Summary: Charter Review Committee Process

On March 20, 2013 the Assembly of Delegates adopted Resolution 13-02 to establish a Charter Review Committee for the purpose of determining if any amendments or revisions to the Barnstable County Home Rule Charter were necessary or desirable.

The Resolution directed that Special Counsel be retained for purposes of this review and specified that a seven member committee be appointed by the Assembly Speaker who would serve as its Chair.

The composition of the Committee: the Speaker, one County Commissioner or their representative, two members of the Assembly, and three members at-large selected by the Speaker representing three distinct geographic areas of Cape Cod.

Committee Members:

Ronald Bergstrom, Chair	(Speaker, Assembly of Delegates, Chatham)
Suzanne McAuliffe, Vice-Chair	(Assembly of Delegates, Yarmouth)
Bill Doherty	(Barnstable County Commissioner, Harwich)
Julia Taylor	(Assembly of Delegates, Falmouth)
Ann Canedy	(Barnstable)
Linell Grundman	(Sandwich)
Austin Knight	(Provincetown)

The Committee met sixteen times in open session between May 2013 and April 2014 prior to finalizing this report on May 7, 2014. Several meetings were open to public comment and two meetings were held off-site in order to provide the public with a convenient geographic opportunity to make comments regarding potential changes to the governance structure of the County.

The County retained the services of Attorney Michael Curran as its special counsel for the Committee. The Committee also received supplemental support and assistance from Cape Cod Commission’s legal counsel Attorney Jessica Wielgus and the Assembly Clerk Janice O’Connell. All meetings of the Committee were videoed and meeting minutes were transcribed verbatim.

The initial meetings established a schedule, time frame, and topics for review. Early in the process the Committee decided that governance issues and models would be considered first prior to any review of other Charter issues.

Over the course of several months the Committee considered several governance options. On January 3, 2014 the Committee voted to recommend to the Assembly of Delegates changes to Article 2: Legislative Branch and Article 3: Executive Branch of the Barnstable County Home Rule Charter. These recommended changes were presented to the Assembly of Delegates on January 15, 2014 but failed to pass.

Additional observations and suggestions regarding Charter changes were considered by the Committee at subsequent meetings but not adopted by the Committee. On April 24, 2014 the Committee voted on two additional recommendations for consideration by the Assembly of Delegates:

- A joint meeting, of the Assembly of Delegates and the Board of County Commissioners using the services of a facilitator to examine the present Charter and its existing implementation; and
- No additional recommendations proposed for Charter changes for the 2014 state ballot cycle. Charter changes to Article 2 and 3, pertaining to governance, were recommended to the Assembly for timely consideration by the state legislature. However, the recommendation failed to get the support of the Assembly and therefore missed the deadline for filing.

A summary of each recommendation can be found on the subsequent pages of this report (refer to the Table of Contents).

The Committee finalized and authorized the release of this report to the Assembly of Delegates on May 7, 2014. All supporting documents, minutes and videos related to the charge and work of this committee are available on-line at www.barnstablecounty.org or by contacting the Assembly Clerk at 508-375-6761.

Respectfully submitted by:

Ronald Bergstrom, Chair
Suzanne McAuliffe, Vice-Chair
Bill Doherty
Julia Taylor
Ann Canedy
Linell Grundman
Austin Knight

B. Recommendation: Existing Charter Changes (Structure of Governance)

Proposed Article 2: Legislative Branch

(As submitted to the Assembly on 1/15/14; Assembly rejected recommendation by majority vote on 1/15/14)

SECTION 2-1: Composition, Eligibility, Mode of Election, Term of Office

(a) Composition - The legislative powers of Barnstable County shall be exercised by a county council consisting of eleven members. One member of the county council shall be elected by and from the voters in each of the legislative districts established as provided in section 2-11.

(b) Eligibility - Any voter of the legislative district from which election is sought shall be eligible to hold the office of county councilor, who at the time of election, has been a resident of Barnstable County for a period of one year or more. A county councilor who during a term of office moves from the legislative district from which elected, shall, forthwith, be deemed to have resigned and the office shall be declared vacant by the remaining members of the county council.

(c) Election and Term - County councilors shall be elected at the biennial state election for overlapping terms of four years each. The term of office for county councilors shall begin on the first business day in January in the year following the year in which elected and shall continue until their successors have been chosen and qualified.

SECTION 2-2: Organization; Speaker; Deputy Speaker; Clerk

(a) Organization - The county council shall meet on the first business day in January of each odd numbered year for the purpose of organization. The members shall be called to order by the member present who is senior in years of service as a member of the county council, who shall preside; if two or more members have equal lengths of service the member present senior in both age and years of service shall preside. The county council shall then elect, from their own number, a speaker and a deputy-speaker and it shall also elect a person not a member of the county council to serve as clerk of the county council. The vote to elect such officers shall require the affirmative votes of six members of the county council.

(b) Speaker - The speaker shall preside at all meetings of the county council, regulate the proceedings and decide all questions of order and shall have the same right to vote on any matter coming before the county council as any other member. The speaker shall have such other powers, duties and responsibilities as may be provided by this charter, by ordinance or by other vote of the county council.

(c) Deputy-Speaker - The deputy-speaker shall serve as speaker during the absence or disability of the speaker and shall have such other powers, duties and responsibilities as may be provided by this charter, by ordinance or by other vote of the county council.

(d) Clerk of the county council - The clerk of the county council shall give notice of all meetings of the county council to its members and to the public, keep a journal and other records of all of its proceedings and perform such other duties as may from time

to time be assigned to the office by this charter, by ordinance, or by other vote of the county council. The clerk of the county council may be the county clerk.

SECTION 2-3: Compensation

The county council may, by ordinance, establish an annual salary for its members. No ordinance increasing such salary shall be effective however unless it has been adopted during the first fifteen months of the term for which county councilors are elected and it provides that the salary is to become effective at the commencement of the term of the next county council to be elected.

SECTION 2-4: Powers and Duties, In General

Except as is otherwise provided by law, or this charter, all legislative powers of the county shall be vested in the county council which shall provide for the exercise of all powers and the performance of all duties imposed upon the county in a manner consistent with the provisions of this charter.

SECTION 2-5: Exercise of Powers; Quorum; Rules of Procedure

- (a) Exercise of Powers - Except as is otherwise provided by this charter, or by law, the legislative powers of the county council may be exercised in a manner determined by it.
- (b) Voting - Except on procedural matters, all votes shall be taken by a call of the roll, if requested by any member.
- (c) Quorum - The presence of six members shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time. Except as otherwise provided by general law or by this charter the affirmative vote of six members shall be required to adopt any ordinance or appropriation order or to take any other official action as the county's legislative body.
- (d) Rules of Procedure - The county council may from time to time establish rules for its proceedings not inconsistent with the following:
 - (i) Regular meetings of the county council shall be held at a time and place fixed by ordinance.
 - (ii) Special meetings of the county council shall be held at the call of the county executive (as provided in section 3-8(b)), at the call of the speaker, or at the call of any three or more members, except in case of emergency, by written notice, delivered in hand, or to the place of residence or business of each member at least seventy-two hours in advance of the time set and which notice shall include the subjects to be acted upon at such special meeting.
 - (iii) Except as may otherwise be authorized by law, all meetings of the county council and any committee or sub-committee thereof shall at all times be open to the public and to representatives of the communications media.
 - (iv) Every matter which comes before the county council shall be put to a vote, the results of which shall be recorded. When requested by any **member** the vote shall be by roll call and the vote of each member shall be recorded in the journal.

(v) The clerk of the county council shall keep a full, accurate and up-to-date record of the proceedings of the county council and shall make it available for inspection by the public at any reasonable time.

SECTION 2-6: Prohibitions

No member of the county council shall individually, or collectively, seek to influence the county executive, or county administrator, to dismiss, to appoint, promote or to dismiss any person to any position in the executive branch of county government.

The members of the county council shall deal with county officers and employees solely through the county executive and the county administrator. All contact with county employees, all actions and communications concerning county government, administrative activity and provision of services shall be solely through the county executive and the county administrator, except as is otherwise provided in this charter.

This section shall not prohibit the county council from conducting an inquiry into any act or problem of county administration as provided in section 2-7.

No member of the county council shall, during the term of office for which elected, or, within twelve months following the expiration of such term, hold any appointed compensated office, position or employment in or under the county government. This provision shall not, however, prevent a former county officer or employee who has taken a leave of absence during service on the county council from resuming such office or employment at the expiration of the term of office for which elected.

SECTION 2-7: Inquiries and Investigations

The county council may at any time upon a request filed by any of its members request a report on any aspect of the county by making such a request, in writing, to the county executive.

The county council may require the board of county executive and the county administrator to appear before the county council sitting as a committee of the whole and to bring before the county council such records and reports, and such officials and employees of the county as the county council shall deem necessary to insure clarification of any matter under study.

The county council may summon witnesses to attend and to testify and to produce books and papers at a hearing before it, or a special committee of the county council, in the same manner and with the same penalties as is provided for other multiple member bodies by sections eight to eleven, inclusive, of chapter two hundred and thirty-three of the General Laws.

The county council may, by a vote of six members, delegate any number of its members as an ad hoc committee to consult with the board of county commissioners or the county administrator on any matter and to report back to the full county council with the results of such meeting.

SECTION 2-8: Exercise of Powers

(a) In General. - The legislative powers of the county vested in the county council shall be exercised by the adoption of ordinances, except as provided in section (b), below.

(b) Exception, Resolutions. - The following matters may be provided for by resolution and shall not be deemed to require an ordinance:

- (i) The establishment of an advisory council on any subject;
- (ii) The conduct of an inquiry or an investigation;
- (iii) The adoption of rules governing the conduct of its own business;
- (iv) The establishment of times and places for special meetings of the county council;
- (v) The establishment of the county council as a committee of the whole and the delegation of its members as an ad hoc committee; the election, appointment and removal of such, officers and employees as the county council is permitted by this charter, or otherwise;
- (vi) Approval of contracts presented by the board of county commissioners;
- (viii) Actions specified as resolutions;
- (ix) The expression of such policies or opinions as requires no formal action.

(c) Form of Ordinances - Every proposed ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause shall be: "Barnstable county hereby ordains:".

(d) Acts Required to be by Ordinance - In addition to such other acts as this charter or any other provision of law requires to be by ordinance, the following acts of the county council are required to be by ordinance:

- (i) Establish, alter or abolish any county department, office or agency;
- (ii) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (iii) Make appropriations, or transfer appropriations from the account of one county agency to another;
- (iv) Grant, renew or extend a franchise;
- (v) Regulate the rate charged for any service provided to any other governmental unit;
- (vi) Authorize the borrowing of money;
- (vii) Authorize the conveyance or lease of any real estate belonging to the county;
- (viii) Authorize bilateral or multilateral contracts with other governmental units within the county or contiguous to the boundaries of the county for the joint performance, or for performance by one governmental unit on behalf of another or others of any governmental function or activity;
- (ix) Adopt, with or without amendment, ordinances proposed by voters in accordance with the initiative procedures as provided in Article 7;
- (x) Amend or repeal any ordinance previously adopted;

(e) Procedures - A proposed ordinance may be introduced by any member of the county council, or by the board of county commissioners, at any regular or special meeting of the county council. The clerk of the county council shall forthwith distribute copies of the proposal to each city councilor present, to any of the county commissioners present, and to the county administrator, if present. After an ordinance has been introduced and unless it is rejected at the same meeting by the affirmative votes of 6 county councilors, the clerk of the county council shall promptly cause the proposed ordinance to be published together with a notice stating the time and place at which a public hearing will be held on consideration of the proposal.

f) Public Hearing. - The public hearing on any proposed ordinance shall follow the required publication by at least one week. At the public hearing copies of the proposed ordinance shall be available for distribution to interested persons and all persons present shall be given the opportunity to be heard.

(g) Action by county council. - The county council may adopt, with or without amendment, or reject, any proposed ordinance following the public hearing.

(h) Publication of Adopted Ordinances. - As soon as practicable following adoption of any ordinance it shall be printed and published.

(i) Time of Taking Effect. - Except as otherwise provided by this charter every adopted ordinance shall take effect on the thirty-first day following its adoption, unless a later date is specified in the ordinance.

(j) Published, Defined. - As used in this section the term "published" means:

(i) That at least a brief summary of the proposed ordinance or adopted ordinance has been published, along with public notice that a public hearing is to be held, in local newspapers.

(ii) That copies of the proposed ordinance or adopted ordinance, have been made available to representatives of the communications media.

(iii) That copies of the proposed ordinance or adopted ordinance have been distributed to the clerks of every municipality in the county for posting on municipal bulletin boards.

(iv) That a reasonable number of copies of the proposed ordinance have been printed for free distribution to any interested person requesting the same, or in the case of an adopted ordinance, for sale, at a cost not to exceed the actual cost thereof to persons requesting the same.

SECTION 2-9: Emergency Ordinances

The county council, in appropriate circumstances to meet a public emergency affecting life, health or property, may adopt emergency ordinances. No emergency ordinance shall be used to grant, renew or extend a franchise; to regulate the rate charged for any service; or to authorize the borrowing of any money.

Emergency ordinances shall be submitted in the same manner as other proposed ordinances, but, every emergency measure shall be plainly designated as such and shall contain a preamble, which shall be separately voted upon, which declares that an emergency exists and which describes the emergency in clear and specific terms.

The affirmative vote of eight county councilors shall be necessary to adopt any emergency ordinance.

Every emergency ordinance shall automatically stand repealed on the sixty-first day following its adoption.

SECTION 2-10: Filling of Vacancies

If a vacancy shall occur in the office of county councilor with more than six months remaining of the term for which delegates are elected, a successor shall be chosen in accordance with the following procedure:

If a vacancy shall occur in the office of county councilor during the first eighteen months of the term for which county councilors are elected, a temporary successor shall be chosen by the remaining members of the county council to serve until the next biennial state election at which time the balance of the then unexpired term shall be filled by the voters. If a vacancy shall occur in the office of county councilor too late to appear on the ballot at the election held during the first twenty-three months of the term, a temporary successor shall be chosen by the remaining members of the county council to serve until the next biennial state election. The candidate elected to the office of county councilor from that district, chosen at that election, shall, forthwith assume the office and shall serve for the then remaining unexpired term, in addition to the term for which elected.

Section 2-11: Legislative Districts, How Established

At least once in every ten years the territory of Barnstable county shall be divided into eleven legislative districts so established as to consist of as nearly an equal number of inhabitants in each district as is possible. Each such legislative district shall be composed of voting precincts otherwise established in accordance with general laws. The division into districts shall be established by an ordinance adopted by the county council.

Temporary Ordinance

Until such time as the county council shall, by ordinance, establish a method for the division of Barnstable County into legislative districts, the legislative districts for the election of county councilors shall consist of those depicted on the map attached. This map was prepared for the charter review committee by the Cape Cod Commission. This map was prepared using a computer program which was directed to produce a division of the county into districts as nearly equal in population as possible, using the existing precincts prepared as required by general law (c. 54, section 6), and no other objective or subjective criteria. The division which met the criteria established by following this method produced the eleven districts shown on the attached map. The districts meet, or exceed, the court imposed guidelines that to be compliant with the "one person-one vote" requirements in the constitutions of both the United States and Massachusetts, legislative districts should not deviate more than 5 percent above, or below, the population 'norm'. The charter review committee is grateful to the CCC for its technical assistance.

Amend article 8, section 3, in the second paragraph by striking out office of “assembly of delegates” and substituting “county councilor” and changing 10 voters of the municipality to 100 voters of the legislative district

Transitional provisions

1 County councilors shall be considered successors to the assembly of delegates and service as a delegate shall be construed as service on the county councilor and the salary and benefits received by delegates shall, initially, be the salary and benefits received by councilors.

Proposed Article 2: Executive Branch
(As submitted to the Assembly on 1/15/14; Assembly tabled recommendation by majority vote on 1/15/14)

SECTION 3-1: County Executive

(a) County Executive - The executive powers of Barnstable County shall be exercised by a county executive. A county executive shall be elected for a term of four years at alternate biennial state elections.

(b) Compensation - The county council shall, by ordinance, establish an annual salary for the county executive. The salary shall be reasonable and commensurate with the duties of the office and may not be lowered during a term of office. No ordinance changing the salary for the county executive shall be effective unless it has been adopted during the first fifteen months of the term for which county councilors are elected and it provides the new rate of compensation is to be effective upon the reorganization of the county government in January of the year following the biennial state election.

SECTION 3-2 Executive Powers

The executive powers of the county shall be vested solely in the county executive and may be exercised either directly by such officer, or through the several county agencies under its direction and supervision. The county executive shall cause this charter, the laws and the ordinances and orders for the government and administration of the county to be enforced.

The county executive shall exercise a general supervision and direction over all county agencies, unless otherwise provided by law. Each county agency shall furnish to the county executive, forthwith when so requested, any information, materials or otherwise as the county executive may request and as the needs of that office and the interest of the county may require.

SECTION 3-3 Powers and Duties

The county executive shall have, possess and may exercise all the powers, rights and duties commonly associated with the office of chief executive officer of a local governmental unit. The powers and duties of the county executive shall include, but are not limited to, the following:

- (a) Prepare and submit, simultaneously to the county council and to the advisory board on county expenditures, an annual operating budget, and a capital outlay budget, as provided in Article 5.
- (b) Supervise the care and custody of all county property, institutions and agencies;
- (c) Supervise the collection of all county revenues and the disbursement of all county funds;
- (d) Supervise the selection of the depositories for all county funds.
- (e) Keep the assembly of delegates and the public fully informed as to the financial and administrative condition of the county by filing reports with the county council, at least semi-annually, summarizing such condition.
- (f) To make at any time such recommendations to the county council for actions required to be taken by it as the county executive deems necessary for the improvement of the county and the welfare of its residents.
- (g) Sign all deeds, contracts, bonds or other instruments requiring the consent of the county.
- (h) At any time to inquire into the conduct of office or performance of duty of any county officer, department head or employee.
- (i) The identification of emergency situations;
- (j) The declaration of emergencies;
- (k) Designation of newspapers to be used to give notice of county matters to the public;

SECTION 3-4: Delegation by County Executive

The county executive may authorize the county administrator, or any subordinate officer or employee of the county to exercise any power, function or duty assigned by this charter to the county executive provided, however, that all acts which are performed under any such delegation shall be deemed to be the acts of the county executive.

SECTION 3-5: Appointments by County Executive

The county executive shall appoint and in appropriate circumstances may remove, \ subject to the provisions of any collective bargaining agreements as may be applicable, all county officers, department heads, members of multiple member bodies and all county employees for whom no other method of selection is provided by this charter.

SECTION 3-6: Temporary Appointments to County Office

Whenever any vacancy occurs in a county office whether temporary or permanent and the needs of the county require that such office be filled, county executive may designate the head of some other county office or agency or a county officer or employee to perform the duties of the office on a temporary or acting basis until such time as the incumbent resumes the duties of the office or the position has been filled in the manner provided by this charter, or by county ordinance.

SECTION 3-7: Communications: Special Meetings

(a) Communications to County Council

Annually, at the first regular business meeting of the county council held in each calendar year the county executive shall in person, or in writing, submit to the assembly of delegates a report on the state of the county including an indication of such plans and

proposals for changes in county programs and services as the county executive intends to propose during the ensuing year. The county executive shall, from time to time throughout the year, in person, or in writing, submit to the county council specific proposals to be considered for adoption by the county council as the county executive deems to be necessary or desirable.

(b) Special Meetings of the County Council

The county executive may at any time and for any purpose call a special meeting of the county council by causing a notice of such meeting to be delivered in hand or to the place of residence or of business of each member of the county council. Except in cases of special emergency, of which the county executive shall be the sole judge, such notice shall be delivered at least seventy-two hours in advance of the time set and public notice shall be given as otherwise required by this charter or by law.

SECTION 3-8: Approval of the County Executive, Exception

Every order, ordinance, resolution or other vote of the county council pertaining to the business and affairs of the county (but not including matters relating to the internal affairs of the county council or resolutions merely stating an opinion of the county council) shall forthwith following its adoption be presented to the county executive. If the county executive approves of such measure, the signature of the county executive shall be affixed to the said measure and it shall, subject to the provisions of article 7, be deemed to be in effect. If the county executive disapproves of such measure, the county executive shall within ten days following the date the approved copy of the measure is filed in its office return the measure to the county council with specific reasons for such disapproval, in writing, attached thereto.

The county council shall upon receipt of notice of disapproval from the county executive forthwith reconsider the measure. If the county council shall, notwithstanding the objections of the county executive, by a vote of its members representing two-thirds of the population of Barnstable County, taken by roll call vote, again pass the measure, the measure shall, subject to the provisions of article 7, be deemed to be in effect.

If the county executive has not signed nor returned a measure adopted by the county council to the county council within ten days following its receipt, said measure shall, subject to the provisions of article 7, be deemed to be in effect at the expiration of such time notwithstanding such failure by the county executive. If the county council has not acted upon a message of disapproval filed with it by the county executive within fourteen days of such filing the measure shall be deemed to have been rejected by the county council at the expiration of such period.

SECTION 3-9: Vacancy in Office of County Executive

If a vacancy occurs in the office of county executive during the term for which such office is chosen the county council shall order the office to be filled at the next regular biennial state election to be held one hundred and twenty or more days following the date such vacancy occurs.

Forthwith when a vacancy in the office county executive occurs, the county council shall act to temporarily fill such vacancy by electing some suitable person, who shall serve in such office until a successor is chosen at the next biennial state election. Upon the election of a successor by the voters, such person shall forthwith assume the duties of the office and shall serve as county executive for the period between the election and the organization of the government on the first business day in January following, in addition to the term for which elected.

Nothing in this section shall be deemed to prevent a member of the county council from being chosen to serve as temporary county executive or from being a candidate for the office of county executive.

Whenever a member of the county council becomes the temporary county executive pursuant to this provision, a vacancy shall be deemed to exist on the county council from the district such person had represented.

SECTION 3-10: County Administrator, Qualifications, Term of Office; Compensation

(a) Appointment, Qualifications, Term of Office - The chief administrative officer of the county shall be a county administrator, who shall be appointed by the county executive to serve for an indefinite term. The county administrator shall be a person especially fitted by education, training and experience in public administration to perform the duties of the office. The county administrator need not be a resident of Barnstable County at the time of appointment to the office but, the county administrator shall establish a residence in the county within a reasonable time. The county administrator shall devote full time to the office and shall hold no other public office, elected or appointed, except as an unpaid member of a municipal multiple member body, nor be actively engaged in any other business, occupation or profession while serving as county administrator.

(b) Compensation - The county executive shall fix the compensation of the county administrator within the sum appropriated for that purpose, annually. The salary shall be reasonable and commensurate with the duties of the office and may not be lowered during the tenure of an incumbent.

(c) Administrative Powers - The county administrator shall exercise a general supervision and direction over all county agencies, unless otherwise provided by law. Each county agency shall furnish to the county administrator, forthwith when so requested, any information, materials or otherwise as the county administrator may request and as the needs of that office and the interest of the county may require.

SECTION 3-11: Powers and Duties

The county administrator shall have, possess and may exercise all the powers, rights and duties commonly associated with the office of chief administrative officer of a local governmental unit. The powers and duties of the county administrator shall include, but are not limited to, the following:

(a) To prepare and submit to the county executive for consideration and further action an annual operating budget, and a capital outlay budget, as provided in article 5.

- (b) To establish the schedules and procedures to be followed by all county departments, offices and agencies in connection with their budgets and supervise and administer all phases of the budgetary process following adoption of the budget by the assembly of delegates and throughout the fiscal year.
- (c) To be responsible for the conduct of all negotiations with county employees concerning wages, hours and other conditions of employment and the negotiation of all other contracts proposed to be entered into by the county.
- (d) To develop, install and maintain centralized procedures applicable to all county agencies, including, but not limited to purchasing, budgeting and personnel administration.
- (e) To be responsible for recommending personnel actions to the county executive including the appointment and removal of officers and employees appointed by the county executive.
- (f) To keep the county executive, the county council and the public fully informed as to the financial and administrative condition of the county by filing reports with the county council, at least semi-annually, summarizing such condition.
- (g) To make at any time such recommendations to the county executive for actions required to be taken by the county executive as the county administrator deems necessary for the improvement of the county and for the welfare of its residents.
- (h) To review and make recommendations to the county executive concerning all contracts, bonds or other instruments requiring the consent of the county.
- (i) To review, analyze and forecast trends of county services, programs and finances and make such recommendations to the county executive, department heads and other personnel affected as the county administrator shall deem necessary, desirable or expedient.
- (j) To inquire at any time into the conduct of office or performance of duty of any county officer, department head or employee.
- (k) To require any county agency to prepare and to submit such reports, records and summaries of operations and activities as may be necessary to assist in the proper administration of the county.
- (l) To perform any other duties as may be required to be performed by the county administrator by this charter, by county ordinance or by other direction from the county executive.

SECTION 3-13: Delegation of Authority

The county administrator may authorize any subordinate officer, department head or employee of the county to exercise any power, function or duty assigned by this charter to the county administrator provided, however, that all acts which are performed under any such delegation shall be deemed to be the acts of the county administrator.

SECTION 3-14: Acting County Administrator

(a) Temporary Absence - The county administrator shall by letter filed with the county clerk, designate a qualified county officer, department head or employee to

exercise the powers and perform the duties of county administrator during a temporary absence.

(b) Vacancy - Any vacancy in the office of county administrator shall be filled as soon as possible by the county executive but pending such appointment the county executive shall designate a qualified county officer, department head or employee to perform the duties of the county administrator on an acting basis, or, may appoint a qualified retired county officer, department head or employee to serve as acting county administrator. The appointment of an acting county administrator shall be for a term not to exceed three months, provided however, one renewal thereof, not to exceed an additional three months, may be made.

(c) Powers and Duties - The powers of a temporary or acting county administrator, under (a) or (b) above, shall be limited to matters not admitting of delay and shall include authority to make temporary, emergency appointments or designations, to county office or employment, but no appointments or designations of a permanent nature shall be made.

SECTION 3-15: Removal and Suspension

The county executive may, terminate and remove, or suspend, the county administrator from office in accordance with the following procedure:

(a) The county executive shall issue a preliminary resolution of removal which must state the reason or reasons for removal. This preliminary resolution may suspend the county administrator for a period not to exceed forty-five days. A copy of the resolution shall be delivered to the county administrator forthwith.

(b) Within five days after receipt of the preliminary resolution the county administrator may request a public hearing by filing a written request for such hearing with the county clerk. This hearing shall be held not later than thirty days after the request is filed, nor earlier than twenty days. The county administrator may file a written statement responding to the reasons stated in the resolution of removal provided the same is received at the office of the county clerk at least forty-eight hours in advance of the public hearing.

(c) The county executive may adopt a final resolution of removal, which may be made effective immediately, not less than ten nor more than twenty-one days following the date of delivery of a copy of the preliminary resolution to the county administrator, if the county administrator has not requested a public hearing; or, within ten (10) days following the close of the public hearing if the county administrator has requested one. Failure to adopt a final resolution of removal within the time periods as provided in this section shall nullify the preliminary resolution of removal, and the county administrator shall, at the expiration of said time, forthwith resume the duties of the office.

The county administrator shall continue to receive a salary until the effective date of a final resolution of removal.

All authority and responsibility for such suspension or removal shall be in the county executive.

Amend Article 8, section 8-3 by striking out “board of county commissioners’ and substituting “county executive”.

Section 10-5 Time of Taking Effect.

This charter shall not become fully effective until the first Wednesday in January in the year following the year in which this charter has been ratified by the voters of Barnstable County.

Upon its ratification by the voters, this charter shall become effective for the limited purposes as otherwise provided in this section:

(a) Forthwith following the enactment of this chapter, the secretary of the commonwealth shall cause to be prepared nomination forms for the office of county councilor in each of the 11 legislative districts to be established in Barnstable County for each town in Barnstable County to be elected at the state election in the current year. Nomination papers shall be issued by the said secretary to the several town clerks, along with a calendar indicating the dates on which nomination papers are to be returned, the time for review by boards of registrars of voters in said towns and the final date by which each such the town clerk shall certify to the said secretary the names and addresses of candidates to be listed on the state election ballot.

Notwithstanding section 8-3, in the current year only, every nomination paper of a candidate for assembly delegate shall be submitted to the registrars of voters of the municipality where the signers appear to be voters on or before five o'clock post meridian of the fourteenth day preceding the day on which it must be filed with the county clerk. The names of candidates for assembly delegate shall not be included on the ballots at the state primary election to be held in September.

(b) County councilors shall be deemed to be successors to the members of the assembly of delegates. Until such time as the assembly of delegates shall act, in accordance with section 2-3, to establish a different level of compensation, each member of the assembly of delegates shall receive an annual salary of one thousand dollars.

(c) Until such time as the assembly of delegates shall act, in accordance with section 3-1(b), to establish a different level of compensation, each member of the board of county commissioners shall continue to receive the same salary as a member of such board as was in effect prior to the adoption of this home rule charter.

(d) Forthwith following the certification of the election results of the first election of delegates under this charter, the members elected shall be called together by the secretary of the commonwealth who shall present to each member a certificate of election, swear the members to the faithful performance of their duties and shall preside pending the temporary organization of the assembly of delegates.

Forthwith following its temporary organization, the members of the first assembly of delegates shall provide for the preparation of temporary rules and regulations governing the conduct of its meetings, provide for temporary officers and committees, and shall initiate procedures governing its formal organization in January of the year following the year in which elected.

(d)[e] Notwithstanding the provisions of article 4 of this charter, the offices of county treasurer and register of deeds shall not be filled by appointment until the expiration of the term of office to be filled by another election for each such office next following the adoption of this charter; provided, however, that if following such election a vacancy shall occur in either of said offices for any reason the provisions of article 4 of this charter with respect to such office shall forthwith take effect.

(e)[f] Notwithstanding any provision of this charter to the contrary, the advisory committee on county expenditures, as currently established under the provisions of section twenty-eight B of chapter thirty-five, shall continue until the last day of June in the year following the year in which this charter is adopted by the voters. During the period following the inauguration of the first members of the assembly of delegates until the said last day of June the members of the advisory committee on county expenditures and the assembly of delegates shall jointly exercise the appropriation and other fiscal powers of the county which are assigned to either of them. Public hearings on the proposed budget for the county as submitted by the board of county commissioners shall be held jointly, any committees or subcommittees established to investigate any portion or portions of the proposed budget shall consist of an equal number of members, casting equally weighted votes, from each such body. All votes taken shall require a vote of the combined bodies representing a majority of the population of Barnstable County times two. The speaker of the assembly of delegates and the chairperson of the advisory committee on county expenditures shall jointly preside at all such meetings and hearings, but, in the event of a disagreement between them, the ruling of the speaker of the assembly of delegates shall prevail.

SECTION 2. In Barnstable county, in addition to the excise imposed on deeds, instruments and writings pursuant to the provisions of section twenty-three of chapter sixty-four D of the General Laws and chapter five hundred and forty-six of the acts of nineteen hundred and sixty-nine, the Barnstable county assembly of delegates with the approval of the Barnstable county board of county commissioners may adopt an additional excise on such deeds, instruments and writings filed with the register of deeds of said county at a rate up to but not exceeding the rate imposed by the commonwealth under such statutes. The revenue provided by this additional excise shall be retained by Barnstable County. Provided, however, that the provisions of section four of chapter sixty-two F of the General Laws shall not apply to this section.

SECTION 3. The state secretary shall cause to be placed on the official ballot to be used in Barnstable county at the biennial state election to be held in the year nineteen hundred and eighty-eight the following question: "Shall an act be passed by the general court in the year nineteen hundred and eighty-eight entitled ' An act relative to a charter for the county of Barnstable', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative this act shall take full effect, but not otherwise.

C. Recommendation: No Additional Charter Changes Proposed for the 2014 State Election Ballot

The Committee made no additional recommendations for Charter changes other than recommended changes to the governance structure under Article 2 and 3 of the Home Rule Charter. Charter changes to Article 2 and 3 were recommended to the Assembly for timely consideration by the state legislature for inclusion on the 2014 state ballot but failed to get the support of the Assembly and therefore missed the deadline.

D. Recommendation: Schedule a joint meeting of the Assembly of Delegates and Board of County Commissioners to review each Article and Section of the Barnstable County Home Rule Charter. The joint bodies should solicit the services of a facilitator for the purposes of conducting the meeting.

The joint meeting will create an opportunity for both bodies to examine the existing Charter and discuss together the content and meaning behind each provision within the Barnstable County Home Rule Charter.

Discussions may result in an improvement to the general governing process of each body and the identification of specific items that are working well for the County or items that may need to be changed. Any suggested changes that might be made to the existing Charter as a result of the joint meeting will be addressed by a future Charter Review Committee for consideration and submission to the 2016 state election ballot.

The Committee acknowledges that the citizens of Cape Cod may use an electoral process as an alternative to a Charter Review Committee process to promote and seek Charter changes. This process is outlined in the Barnstable County Home Rule Charter: Article 7 adopted on November 8, 1988 and revised by Ordinance in 2000 and 2010.