

Town of Southbridge

CHARTER REVIEW COMMISSION

41 Elm Street
Southbridge, MA 01550

April 7, 2003

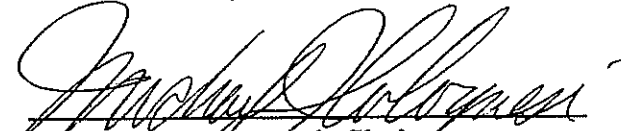
Stephen L. Delaney
Acting Town Manager
Town Hall
41 Elm Street
Southbridge, MA 01550


Re: Southbridge Charter Commission
Final Report


Dear Mr. Delaney:

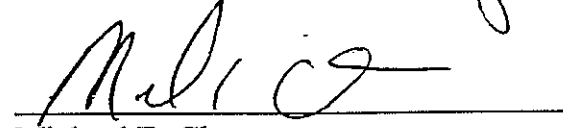
In accordance with the provisions of Article LXXXIX of the Amendments to the Constitution of the Commonwealth of Massachusetts and Chapter 43B of the General Laws of the Commonwealth, we, the members of the Charter Commission elected in June of 2002, hereby submit to you our Final Report.

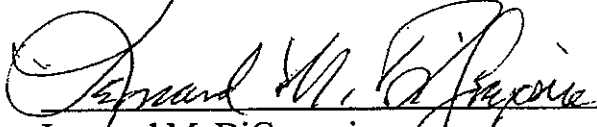
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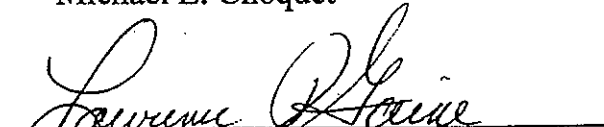

Michael J. Colognesi, Chair

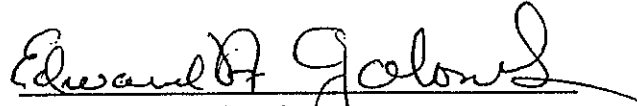

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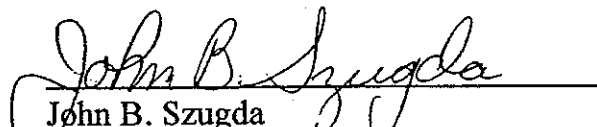

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FINAL REPORT OF THE SOUTHBRIDGE CHARTER COMMISSION

APRIL 7, 2003

The annual town election on June 7, 2002, resulted in an overwhelming 6:1 vote approving the formation of a Charter Commission. While the mandate to review the town's 30-year old charter was clear, the Commission proceeded cautiously in making major revisions. Under the terms of Article LXXXIX of the Articles of Amendment of the Constitution of the Commonwealth of Massachusetts (the Home Rule Amendment) and Chapter 43B of the General Laws, the Southbridge Charter Commission recommends this revised charter to the citizens of the Town of Southbridge.

The proposed charter retains our current form of government, but with greater clarity, efficiency, and effectiveness. In addition, we have streamlined several areas which became unnecessary given State statutory provisions enacted subsequent to the adoption of our charter in 1973. We believe we have applied sound principles of government, including accountability, checks and balances, and clear division of responsibilities, to recommend a structure which will meet both the demands of the majority of the citizens and the standards of good government.

The adoption of our current charter in 1973 changed our form of government from an open town meeting and board of selectmen to a town council and town manager. The drafters recognized the significance of the voice of the people in their final report:

To assure that the town people would not lose their say in the operation of town government, a number of checks were written into the functions of the town council. First, a strong check on the town manager was included. The town manager serves at the will of the town council. The major appointments made by the manager must have the approval of the town council. Second, the charter provides for two councilors coming from each of the five precincts. ...[to] make it easier for a large majority of the town people to have a more direct access to officials running the town....the charter [also] includes: a guarantee of every citizens' right to speak at a council meeting, initiative petition, referendum and recall of officers. These serve as a citizen's check on the town council.

This Commission seeks to follow in the footsteps of the original drafters as expressed in the quoted language while also bringing our charter into the twenty-first century.

The Town Manager: In revising the position of town manager, the Commission was mindful that the public favored greater accountability in this position to our elected representatives. The voters elect key decision and policy makers, while day-to-day responsibility of implementing those decisions is turned over to a professional selected on the basis of education and experience.

Recruiting and selecting a local government administrator is one of the most important responsibilities of a local governing body. It requires careful planning, astute evaluation of candidates and a clear understanding of the relationship between the local government and the administrator. The qualification of two years prior experience is increased to three years, and the revised charter mandates that the council chairperson appoint a search committee of five members, three of whom are citizens.

Perhaps most significantly, the revised charter requires the town council to enter into a written contract with the manager. A mutually satisfactory agreement reached between the town representatives and a town manager protecting both parties is no longer the exception but the rule, and therefore should attract professional applicants.

Council approval over the major appointments by the manager is extended to include both the town auditor and the town attorney. This continues to serve as a check on the manager in the manner established by the original drafters of the charter. The Commission believes this is also in the spirit of fostering an open and cooperative working relationship.

The Town Council: The Southbridge town council, as the legislature and representatives of the people, is the most important body in town government after the people. It received the most amount of attention by the Charter Commission in our attempt to both strengthen it and make it more representative of the people. Accordingly, the Commission vested all general, corporate, legislative, policy making, and appropriations powers of the town in the council, except where the charter provides otherwise. Of these powers, the most note worthy is that of appropriations. This will allow the council to increase, as well as to decrease, an appropriation over the amount recommended by the town manager. It is important to note that the ability of the council to increase a recommended appropriation requires a two-thirds (2/3) vote of the entire council (i.e., 6 votes) Again we feel this will promote open deliberations and cooperation among our elected representatives and their appointed manager and places the policy making power of the budget in the hands of the elected council. In addition, the Commission recommends major structural changes to the size, the basis of representation, and the term of the town council.

The revised charter reduces the town council to nine members elected at large to serve three year staggered terms. A reduced council was favored by the public and unanimously agreed to by the Commission. The size of the town council is clearly an important factor in its effectiveness both in formulating town policies and laws and in directing their appointed manager. We believe that a council of nine members will foster more individual participation by councilors in debate and will enhance the importance of membership on the council. To address the concern that a smaller council will by necessity carry too burdensome of a subcommittee load, the Commission proposes a charter section allowing the council to establish "committees, sub-committees and advisory

committees" which may include non-councilors as the council "deems reasonable and necessary". We strongly believe that the participation of citizens with particular backgrounds and skills in the areas of a committee's responsibilities will ease the burden on individual councilors and will enhance the effectiveness of various committees by providing independent expertise not otherwise available to the council.

With respect to the elimination of precinct councilors, the Commission could not ignore the more compelling arguments in favor of at large representation only. In combination with a reduced council, at-large representation will result in more competitive annual elections with, hopefully, a larger pool of qualified candidates. With the reduced council and election at large, each resident will be represented by 9 councilors that make up 100% of the entire council. All members of the council will be elected by all the voters. Lastly, the Commission believes that councilors should serve and vote for the interests of the town as a whole. Virtually all councilors, past and present, who appeared before the Commission stated that they served the interests of the town, and not merely those of the precinct.

The proposal for councilors to serve staggered three year terms is based upon a number of considerations. A division of the total council into thirds is simple and direct; election day will mean a vote for three councilors to each serve a three year term. The balance between continuity and change is weighted toward the former as a majority, or two-thirds, of the councilors will serve a full two years together. Several past councilors who appeared before the Commission noted that the first year of service was a breaking in period; a three year term will promote a more seasoned and informed councilor who has more time to see his or her efforts come to fruition.

The revised charter includes a new provision which limits the terms of councilors to three consecutive terms. Once past the initial transition period, assuming reelection, a councilor may serve a maximum of nine years continuously. That same councilor would be eligible again following a year off of the council.

Since public sentiment on the issue of compensating town councilors was divided, the revised charter makes compensation discretionary and leaves the issue to be decided by future councils.

A number of other issues were addressed by the Charter Commission as well:

First, the intent behind the existing charter language to the effect that councilors interact with municipal employees solely through the town manager has been clarified so as not to preclude councilors from "asking questions, seeking information, or conducting conversations" with such employees. We believe that our elected representatives should have as much access to municipal employees as any private citizen.

Second, the Commission proposes a new section which provides for the removal of the council chairperson by a two-thirds vote of the entire council (i.e., 6 votes).

In conformity with the original drafters, the revised charter retains with minor modifications the guarantee of every citizens' right to speak at a council meeting, initiative petition, referendum, and recall of officers to serve as a citizen's check on the town council. With respect to the initiative petition, the Commission increased the signature requirement from 2% to 5%, thereby making it more in accord with the standard of the Commonwealth. The process is also more efficient; once certified, the petition moves to the voters should the town council continue to reject the proposed legislation. Proposed revisions to the referendum include increasing the voted expenditure of \$20,000.00 to \$250,000.00, thereby reflecting inflation since 1973, and increasing the necessary voter participation from 10% to 25% to reverse the council action at issue, thereby making it consistent with the recall process. Lastly, the revised charter includes a new provision making some measures ineligible for the initiative and referendum procedures. The Commission endorses this to promote finality, and to foster trust in the informed judgment of our elected officials over matters of urgency or of great complexity.

Streamlined or Eliminated Provisions: The current charter provision dealing with the removal of the town manager is simplified to one sentence, that "final removal...[is] effected" by a vote of at least five members of the council (a majority vote of the entire council). Any additional details surrounding such removal are to be and should be terms negotiated between the council and the manager in the contract of employment, not the charter.

The provisions dealing with the Department of Public Works which were eliminated in the initial report of this commission, upon reflection and advise of the Office of the Attorney General and other governmental officials, have been reinstated in this charter.

The provisions regarding purchasing and executive sessions in our current charter were entirely eliminated; they are unnecessary given state laws enacted subsequent to the adoption of the charter.

Town Audit: Our current charter makes the performance of a town audit discretionary with the town council. The revised charter makes an annual audit mandatory. The town manager must appoint a town auditor and this appointment must be confirmed by the council.

Future Charter Review: The Commission retains our current charter provision authorizing the appointment of a Charter Review Committee every five years, and extends this provision to authorize the same with respect to a town by-law review. The periodic review and update of both the charter and by-laws is essential to the town's efficient operation.

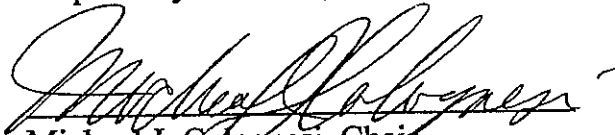
Transition: If a majority of the voters approve this revised charter, the town will transfer to the new government on the first day of July of the following year. At that time, all unexpired terms of the councilors will end. The election will establish the nine member town council composed of the three candidates in receipt of the highest number of votes to serve three year terms, the three candidates in receipt of the fourth, fifth and sixth greatest number of votes to serve two year terms, and the three candidates in receipt of the seventh, eighth, and ninth greatest number of

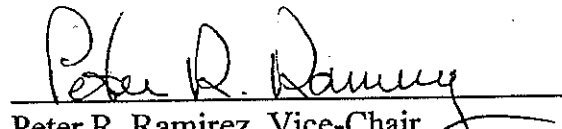
votes to serve one year terms. At all future elections, three councilors will be elected each year to serve three year terms. In this manner, if the revised charter is adopted in June 2003 and the new nine member council is voted in June 2004, all councilors will be serving three year terms by 2006.

CONCLUSION:

The Charter Commission proposes structural changes to our town government, yet retains the foundations built by the drafters of our current charter. This charter more clearly defines the roles of the town council and the town manager and creates a stronger, more independent council accountable to the voters. A leaner, more efficient council will enhance its ability to legislate for the common good and position the councilors serving on the council to lead the way into the twenty-first century.

Respectfully submitted,


Michael J. Colognesi, Chair

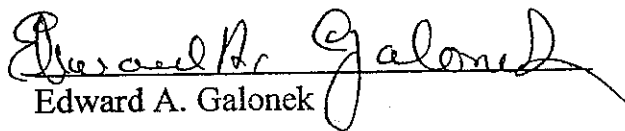

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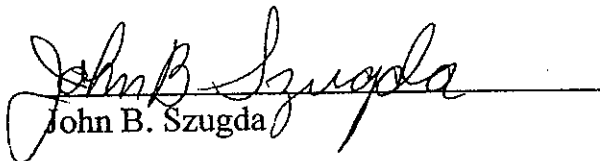

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