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Memorandum

TO: Mayor Sumbul Siddiqui, Cambridge City Council, City of Cambridge
Members of the Cambridge City Council, City of Cambridge
CC: Louis A. DePasquale, City Manager, City of Cambridge
FROM: Charter Project Team, Collins Center for Public Management
DATE: March 11, 2021
RE: First Memo on Cambridge Charter and Charter Review

Project Background

On September 23, 2020, at the request of the City Council, the Collins Center charter project team presented at a special Council meeting on charters and charter processes. Cambridge is one of only a dozen Massachusetts municipalities to still retain a “Plan” form of government, and one of only two remaining cities with a Plan E. The City has had this Plan E charter since it was adopted in 1940, and, to the Center project team’s knowledge, it has never been the subject of a formal review. Best practices suggest that a charter should be reviewed at least once every ten years.

Following the Center’s presentation, the Council has requested further information about what different charters and forms of government could look like in Cambridge and what charter review pathways might make the most sense. The Center responded with a proposal that included two memos:

1. A memo presenting major options of form of government available to Cambridge and the key differences between them;
2. A memo summarizing the Cambridge City Council’s feedback regarding the current charter and form of government, and providing options for pathways the Council could take

The proposal also included a presentation of the memos to the City Council, if the Council requests one.

After receipt of the proposal, the City Council unanimously passed Policy Order O-5 of November 23, 2020, which stated “That the City Manager be and is hereby requested to appropriate the funds necessary to procure the work of the Collins Center as outlined in their submitted proposal.” Upon signing of an intergovernmental services agreement, the Center commenced work on this memo, which is the Memo #1 for this project referenced above.

In this Memo

This memo includes:

1. Background on Charters and Forms of Government in Massachusetts
2. History of Cambridge Charter and Form of Government
3. Brief Review of Current Cambridge Charter and Form of Government
4. Potential Changes to Cambridge Charter and Available Options
5. Project Next steps

Background on Charters and Forms of Government in Massachusetts

“A charter is the foundation of a local government and functions as the municipal equivalent of a state or federal constitution, setting forth guiding principles for governance. Composed by citizens, a charter specifies the most fundamental relationships between a government and its community. It establishes the framework for how a local government operates in terms of its structure, responsibilities, functions, and processes. The way public officials are elected, the form of government, and the role citizens play in local government are just a few examples of the important choices articulated in a charter.”

-Guide for Charter Commissions, National Civic League, p. 5

As noted in the quote, the charter is the foundation of modern local government. In colonial times and in the initial years after the establishment of the Commonwealth, a “charter” referred to the state’s recognition and incorporation of a certain area of land as a “town.” State law dictated the duties of town officers and the conduct of town meeting. If a town wanted to change some aspect of the state’s requirements or to change to a city form of government (as began to occur in the early nineteenth century), it sought the permission of the state to make such changes via an act of the legislature. The passage of the Home Rule Amendment to the state’s constitution in 1966 changed the premise of a charter as defining the form of government and how it is to be structured.

From the first settlements of the Massachusetts Bay Colony through the beginning of the nineteenth century, all Massachusetts communities operated with is now called a town form of government. This consisted of a board of selectmen, an open town meeting, and numerous elected boards, committees, and positions.

In the early 1800s, Boston began to bring its concerns about the selectmen-town meeting form of government to the state legislature. Approaching 40,000 population, the residents of Boston found town meeting too unwieldy and asked the legislature to provide a city form of government. In response, in 1821, the Massachusetts Constitution was amended to allow towns over 12,000 population the ability to adopt a city form of government. Among the drawbacks of the amendment were:

- The term “City” was not defined;
- There was no statute to define how the amendment was to be implemented; and
- The Commonwealth did not provide model charters or general guidance for this process.

As a result of these omissions, throughout the nineteenth century, the only avenue available was for towns to petition the state legislature for a special act to establish a city form of government.

Boston’s first city government, enacted in 1822, provided for a “board of aldermen” serving as the legislative body. This Board consisted of 40 members and a mayor, all elected for one-year terms.

The city governments proposed in Massachusetts in the 19th century were all mayor-council. The majority had bicameral legislatures – a common council, elected by wards, and smaller board of aldermen, usually elected at large. This essentially mirrored the state’s own organization at the time:

- State: House of Representatives – State Senate – Governor
- City: Common Council – Board of Aldermen – Mayor

As the state legislature sought to keep the Governor somewhat constrained, so too city charters during that period mostly constrained the authority of the mayor, even to the point of assigning to the council some executive duties.

Advocates for cities began to receive a bit more support when the state legislature began to be elected by districts in 1858. Previously, each city and town had only one representative to the house of representatives, and senators represented some number of adjoining municipalities.

In 1915, the state legislature finally codified state law relating to the establishment and operation of city governments. Several factors influenced this step, including growth in metropolitan Boston (which contained a cluster of cities established in the 1800s, which had expanding populations) and the “progressive movement.”

At the local level, one piece of the “progressive movement” prominently featured was the council-manager form of government, which was viewed as an antidote to the “corruption” of large cities (Chicago being the most frequently used example), where ward councilors sought projects and other advantages for their wards, with little consideration of the city’s needs as a whole.

This progressive era cause energized good government advocates and led to the formation of the National Municipal League in 1894, which served as both a research and promotional arm for the city manager movement. This government form provided for all councilors to be elected at large, and a manager appointed by the council who was in charge of the operations of the city. The structure was deemed to be more efficient, to remove the temptation of favoring certain wards over others, to discourage “politics” in city decision-making, and to “run the city like a business”, in the words of the frequently-touted maxim. Its roots were primarily mid-western, where it remains a popular form, but it reached all areas of the country, especially as people became more mobile following WWII, and the country’s population increased.

The Massachusetts state government was likely not wholly sold on this approach as it radically departed from the state’s traditions and history, including distrust of forms of government that were less connected to the populace, significant state oversight of local functions, and continuing discomfort with a single chief executive with “too much power”, regardless of whether the position was a mayor or manager.

Nonetheless, there was enough momentum to provide a statute offering “plans of city government” in 1915. This became Chapter 43 of the General Laws. Chapter 43 had three distinct aims:

1. Provide a citizen petition process to adopt a city form of government;
2. Define the state’s requirements for city government; and
3. Provide several model plans for city government.

The statute initially provided four plans, which are summarized as follows:

- Plan A: “Strong mayor”; 2-year term
 - Council of 9 members elected at large for a 2-year term
 - School Committee elected at large (Mayor serves as chair), members served 4 years
 - Mayor made most appointments without council confirmation
- Plan B: “Weak mayor”; 2-year term
 - Council composed of ward and at large members; majority of members from wards, 2-year term
 - School committee elected at large (mayor on school committee) 2-year term

- Most mayoral appointments required council confirmation
- Plan C: Commission
 - An elected City Council (also referenced in the statute as Commissioners) of 5 members, with one serving as Mayor, are elected to serve as both the legislative and executive.
 - The Mayor had responsibility for the city's administrative and financial functions, while the other aldermen served as department heads.
- Plan D: Council – Manager
 - Council elected at large 2-year term (number of wards determines number of councilors)
 - School committee elected 4-year term
 - Council elects “Mayor” from among its membership
 - Council appoints manager
 - Manager responsible for the operations of all city departments, boards, offices, and commissions
 - 2/3 council vote required to remove the manager

Several decades later, two additional plans were added to Chapter 43. Plan E in 1938 and Plan F in 1959.

- Plan E:
 - Similar to Plan D except that it provides for:
 - Proportional representation
 - 2-year term for school committee
- Plan F:
 - Mayor and council elected for 2 year terms
 - Council size dependent upon number of wards; range from 7 to 15 members; majority of members are always from wards
 - Mayor makes all appointments and removals without council confirmation
 - Provides for a “partisan” city government, with candidates identified by party designation.

Twelve cities operate under on these plans today, in most cases in modified form:

- Operating under Plan A: Haverhill, North Adams, Quincy, Springfield
- Operating under Plan B: Brockton, Fitchburg, Marlborough, New Bedford, Revere, Salem
- Operating under Plan E: Cambridge, Lowell

No cities ever adopted Plans C, D, or F. Lawrence had a commission form of government created by special act that was similar to Plan C, but it was replaced in 1983 by adoption of a mayor-council government. Worcester adopted a home rule charter in 1985, but retained many of features of the city's prior Plan E government.

The statutory text devoted to each Plan is modest, because it was anticipated that cities would adopt ordinances to further define the functions and responsibilities of the city's government.

In general, the Plan forms provided did not enjoy significant popularity. Most cities seeking to revise existing charters, or towns seeking to become cities, continued to petition the state legislature for a special act. A majority of Massachusetts cities today are governed by special acts of the legislature.

Probably no city is operating today under a Plan as exactly defined in Chapter 43 (although Cambridge stands out for the small number of changes made to Plan E provisions). For example, Lowell adopted Plan

E but used the special act process to elect its councilors without proportional representation; Quincy modified Plan A by special act to provide for a council composed of both at large and district members; Springfield changed its council composition by special act following a suit brought against the city finding the city in violation of the federal Voting Rights Act; and Quincy, Revere, and Salem all used an optional provision of Chapter 43 to increase the mayoral term to 4 years.

A few cities have adopted special acts changing the form of government after operating under a plan. For example, Medford operated under Plan E until adoption of a mayor-council special charter in 1988, and Gloucester operated under Plan E until adoption of a home rule charter in 1974. Additionally, a few cities adopted more than one Plan. For example, Revere adopted Plan B in 1965 after operating under Plan E.

In 1962, then-Governor Peabody proposed a Home Rule Amendment to the state's constitution. After some modification of the text, and a citizen petition process demonstrating support for the concept, the Home Rule Amendment to the state's constitution was adopted in 1966. The amendment provided a wholly local process for charter adoption and specifically defined the state's role in relation to municipalities. This was a significant departure from the long-established state role in local government.

Following the amendment's adoption, the process for adopting a Plan government was repealed, meaning that it has not been legally possible for a municipality to adopt a Plan form of government like Cambridge's since 1966. (Municipalities can write their own charters to include some Plan features, and several have, but with the passage of the Home Rule Amendment in 1966, state law repealed the process provided for adopting new Plan governments.)

The Massachusetts amendment provides what is referred to as "limited home rule." That is, the state retains its authority to act within specific spheres of the law (e.g., the conduct of all elections) and its authority to enact uniform state laws (applying to all cities, all towns, all cities and towns, or a class of not less than 2,) as well as laws of "compelling state interest" (laws can be both uniform and of compelling state interest, but not always). The reference to "class" may have anticipated that Massachusetts would adopt classification of municipalities (often by population), but that has not happened to date.

The Home Rule Amendment serves several purposes:

- Provides a local process for the adoption of a charter;
- Identifies those spheres of law solely within the jurisdiction of the state;
- Identifies how the state may act in relation to cities and towns; and
- Reaffirms the right of cities and towns to petition the state legislature.

For the purposes of the charter discussion, this last bullet means that adopting a charter under the Home Rule Amendment is not mandatory; it is optional, and municipalities still retain the right to petition the legislature for approval of a locally-written charter.

The Home Rule Amendment lays out the procedures for a city or town to adopt a charter. The highlights of this process are:

1. Citizen petition process requiring 15% of voters to sign a petition calling for the municipality to adopt a charter;
2. Election of a 9-member charter commission to prepare a proposed charter;
3. Completion and distribution of a draft charter within 16 months of election of the commission;
4. Review of the draft charter by the Attorney General to determine consistency with the constitution and laws of the commonwealth;

5. Preparation of a proposed charter (also referenced as the final report) within 18 months of the election of the commission;
6. Distribution of the proposed charter to every household with a registered voter 2 weeks prior to the municipal election;
7. Voters adopt or reject the charter in its entirety; and
8. Charter takes effect as the charter provides.

The 55-year history of charter activity under the amendment lands at about a 50% acceptance rate overall, although there have been periods when that rate has been slightly higher and others when it has been lower. There are currently 86 cities and towns operating under home rule charters (i.e., charters adopted using the procedures of the Home Rule Amendment).

The process is considered burdensome and/or risky by some due to:

- The high petition signature requirement;
- Who gets elected to the charter commission is unpredictable (which could lead to those who only seek to protect the “status quo” being elected or only those who are interested in proposing a totally new form of government voters would likely reject or an irreconcilable combination of two opposing views); and
- What some perceive as a “lack of clarity” by the state.

This lack of clarity is due to incomplete follow-up after the passage of the Home Rule Amendment. Once it was adopted, the legislature immediately formed a Special Commission for the Implementation of Home Rule. Two major recommendations came from the Commission:

- Enact an implementing statute for the amendment; and
- Undertake an examination and recodification of state laws affecting cities and towns to bring them into harmony with the amendment.

The legislature quickly acted on the first recommendation, enacting Chapter 43B, the Home Rule Procedures Act, in 1967. But no action was ever taken on the second recommendation, leaving some murky areas for charter commissions to face regarding what is a “uniform state law” or a “state law of compelling interest” – most of these can be worked around, but there is still discomfort in some quarters. Regarding the judicial history of the amendment, there have been relatively few cases on the Amendment, the Procedures Act, or individual charter provisions. In general, the state courts have looked favorably on the amendment and its purpose.

On balance, it is clear that the amendment has not proved to be particularly popular or that it has had a significant catalytic effect in changing the fundamentals of Massachusetts local government. While more towns have become cities using this process, the vast majority of towns still operate under the laws of the commonwealth with only occasional special acts making specific and discrete changes. Also, the roughly 50% success rate can be seen by some a deterrent, given the investment of time and effort in this endeavor.

Cities for the most part still prefer to petition the legislature to revise their existing charters or make specific changes to existing charters. In addition to being reluctant to use the Home Rule Charter route, given the strictures of the Home Rule Amendment noted previously, the special act route remains popular for several additional reasons:

- It is usually faster, without the specific timelines of the home rule amendment;

- A city or town can determine a process and timeline that is responsive to the community; and
- The question of “who get elected to the charter commission?” is not an issue as a mayor or council (or board of selectmen) can appoint an advisory committee to make recommendations.

The process for enacting a special act charter is more or less as follows (please see Appendix G for “Charting a Route for Charter Change” article):

1. The city council votes to send a special act charter (prepared by the council, or by a committee established by the council), to the legislature;
2. Upon passage by the council, the proposed special act is given to the city’s legislative delegation for filing with the state legislature;
3. A hearing is held by the Joint Committee on Municipal and Regional Government (the committee may refer portions of the bill with other committees [e.g., provisions relating to elections may be sent to the Elections Committee for review]). The council usually provides both written and in person testimony at the hearing;
4. The Municipal and Regional Government Committee will make a recommendation on the bill to send to the full legislature for a vote;
5. Once enacted by the House and Senate, it is sent to the governor for signing; and
6. Once signed by the Governor, it will take effect in the city as the act provides. It is common for the voters to approve a new charter or any major charter changes (e.g., change council composition, change from manager to elected mayor) by ballot vote.

Regardless of the method used, charter activity has ebbed and flowed over the decades, and it is dependent to a great degree on community conditions. For example, passage of Proposition 2 ½ in 1980 led many towns to begin to centralize their town governments through charter adoption to achieve greater efficiencies and strengthen financial practices. Other cities and towns may have considered increasing population, new responsibilities imposed on local government by both federal and state actions, and decreasing town meeting participation as factors influencing the need for change. The decade of the 1980s was the most active in the charter arena, given the factors noted here. In recent years, there has been modest activity in both the election of charter commissions to prepare charters, and the enactment of charters via special legislation. Charter amendments follow a similar pattern, as local conditions will be the main factor in determining the need for them.

History of Cambridge Charter and Form of Government

The first reference passing reference to Cambridge (or Newe Towne, as mentioned) in the colonial records is dated July 26, 1631. A year and a half later, on December 24, 1632, an early form of town meeting begins to take some formal shape with a signed agreement that there would be a monthly meeting of all of the people included in the agreement, and that all would be required to attend or face fines. (The name Cambridge does not appear in official colonial records until September 8, 1636, and the town was not formally renamed until May 2, 1638.)

For roughly 215 years, Cambridge remained a town with a board of selectmen and town meeting. Cambridge adopted a city form of government in 1846 by a special act of the legislature (St. 1846, Chapter 109). (See Appendix A for actual text.) This charter provided for:

- Mayor
- Common Council of 21 members elected by ward
- Board of Aldermen of 6 members elected at large

- School committee of 7 members elected by ward

In 1891, Cambridge adopted a new charter by a special act (St. 1891, Chapter 364). (See Appendix B for actual text.) This charter provided for:

- A common council of 20 members, a board of aldermen of 11 members, and a mayor, all elected for 1 year terms
- A school committee of 5 (1 elected from each of the city's wards); mayor serves as chair *ex officio*; term of school committee members was 3 years
- Majority vote of the board of aldermen required for removal of certain mayoral appointments

In 1911, a special act providing a commission form of government was rejected by the voters.

In 1915, the City adopted a Plan B mayor-council government, which provided for the election of:

- Mayor
- City Council of 15 members (11 by ward, 4 at large)
- School Committee of 7 members
- Elections were held annually until the city adopted the now more common schedule effective in 1921, electing officials for 2 year terms

In 1938, 50 professors, industrialists, merchants, legionnaires, white collar workers, and laborers organized a campaign to adopt a Plan E form of government to replace the mayor/council form. After contentious legal and political wrangling, the question to adopt Plan E was placed on the ballot, but it failed. In 1940, the question to adopt Plan E was again placed on the ballot, and it was adopted. (There is a lengthy article in Collier's magazine that contains significant detail about these efforts. See Appendix C for article.)

In the 80 years since adoption of this Plan E form of government, the project team found only one special act making slight modification to Plan E requirements. Chapter 701 of the Acts of 1987 allows the city manager to appoint as chair of the board of assessors a director of assessment administration. (The director also supervises the other 2 assessors.) Beyond that, the project team found three instances of modest additional structural change made via special acts:

1. The City sought state authorization to adopt a Fair Housing Ordinance -Chapter 413 of 1991, and to establish a Housing Trust Fund with a board of trustees appointed by the manager (and the manager serving *ex officio*).
2. The City used the special act process to establish a Department of Traffic and Parking and accompanying Commission for same -- Chapter 435 of the Acts of 1961.
3. A Public Health Commission was established by special act in 1996 (c.147), creating the "Cambridge Health Network" and providing for the administration/operation of Somerville Hospital. (This is specific to the set of circumstances in the health care market at that time with only modest tie-in to the more familiar public health activities we associate with municipalities.)

In terms of the executive branch, the City has had nine city managers since the adoption of Plan E. In recent decades, the City has had two managers with long tenures: one who served from 1968 to 1970 and again from 1974 to 1981 (8 years), and another who served from 1981 to 2013 (32 years). Since 2013, Cambridge has had two additional managers. Both of these were internal candidates (chosen by the Council after search processes), meaning that since 1981 there has been continual internal succession of city managers.

Brief Review of Current Cambridge Charter and Form of Government

As noted, Cambridge is one of only two Plan E forms of government operating in Massachusetts. (Lowell is the other.) This section provides a brief overview of the major features of Cambridge's Plan E government.

The Plan forms of government are all found in Chapter 43 of the Massachusetts General Laws, which contains both: (a) generic provisions applicable to all city governments operating under Plans (with some exceptions for Plans D, E, and F), which are sections 17 through 45, and (b) provisions specific to the operation of each Plan. For Plan E, the relevant sections are 93 through 116.

The discussion below addresses both the generic and specific provisions of Chapter 43. It is important to remember that state law was highly directive and specific, keeping local discretion as to procedures and requirements quite limited.

Provisions Relating to the Council:

In Plan E, the city council elects a mayor and vice chairman from among its membership, although this position is typically thought of as a "weak mayor" position and is more akin to a council president.

The primary powers and duties of the city council include:

- Appoint city manager;
- Adoption of ordinances and other measures;
- Establish and amend council rules;
- Adoption of the budget (as provided by MGL Chapter 44, which applies all city councils in Massachusetts);
- Appoint city clerk for a 3-year term; and
- Appoint city auditor for a 3-year term.

To accomplish its duties, Chapter 43 provides details on council procedures, including providing:

- that the council may request that the manager (or other subordinate representing the manager) attend council meetings to address specific issues. The council must provide one week notice to the manager;
- for regular meetings of the city council, as well as the calling of special meetings. Meetings to be open, and council rules must provide that "citizens and employees shall have a reasonable opportunity to be heard at any such meeting in regard to any matter considered thereat." (Section 98);
- procedures for amendment and repeal of ordinances, including specific conditions for the passage of emergency ordinances, and passage of ordinances in one council meeting. Majority vote required for passage of ordinances;
- appointment of manager by council; manager serves at pleasure of council; council sets salary for manager. (Note: The manager may have employment contract as authorized by MGL, Chapter 41, Section 108N.); and

- for council to set its own salary and the salary for manager. If a city employee is serving on the council, such individual receives the employee salary in lieu of the councilor salary, but not both.

Provisions Relating to the Mayor:

Plan E provides that the mayor is recognized as head of government for:

- Ceremonial purposes;
- By the courts for service of civil process;
- By the governor for military and emergency purposes (Note: Powers to direct the militia pursuant to MGL, c. 33 were repealed by St. 2014, c. 307); and
- In time of public danger or emergency, and with the consent of the council, may “take command of the police, maintain order and enforce laws.”

Provisions Relating to the Manager:

According to the plan text, the primary powers and duties of the manager include:

- Administration of affairs of the city;
- Execute ordinances, rules and regulations;
- Make recommendations to council on matters as manager deems “desirable”;
- Periodically report to council on city affairs;
- Keep council advised of city’s financial condition and future needs;
- Prepare and submit budget to council; and
- Make all appointments and removals; report to council on all appointments and removals.

Other provisions relevant to the manager’s role include:

- The manager may delegate appointment and removal authority to department heads; and
- The manager (or a designated subordinate) may attend any council meeting and address the council on any subject.
- The Council may not interfere with manager’s duties and responsibilities in matters of appointments and removals and may not give orders to any subordinate of the city manager. (Violations of s. 107 of MGL, c. 43 punishable by fine, imprisonment, or both. Also subject to removal from office and loss of eligibility to “ever again” seek any elective city office.)

Provisions Relating to the School Committee:

Plan E provides the following provisions related to the school committee:

- Election of a school committee;
- Organization of a school committee;
- Duties of a school committee (since superseded by St. 1993, c. 71 – “Education Reform Act”);
- Requirements for the location and building of schools (in Plan E cities, approval of both school committee and city manager are required); and
- Filling of vacancies on the school committee.

Provisions Relating to Procedures and Other Requirements:

Plan E provides the following provisions related to procedures and other requirements:

- Procedures for administering oath of office to elected officers;

- Requirement for newspaper publication of ordinances;
- Interest in city contracts prohibited;
- Filling of vacancies in elective offices;
- Penalties for solicitation of campaign contributions from city employees;
- Date of municipal election;
- Implementation of proportional representation – nomination papers; form and contents of ballot, directions to voters, counting of ballots; and
- No increase or reduction in salary can take effect in the year in which it is adopted, and no change in salary may be enacted between the time of an election of a new council and the taking of office of a new council.

Comparison of Plan E to Typical/Generic Recent Massachusetts Municipal Charters

Typical Massachusetts municipal charters written in the last 30 years contain nine or ten articles, often in the same order. The charter below provides a comparison of what is included in each common article of modern charters with what Plan E includes to address the topic.

Typical Article	Content of Typical Charter Article	How Plan E Addresses The Topic
Incorporation, etc.	Affirms the status of municipalities and their authority under state law; identifies the form of government	Implied, as Plan E authorized by state law
Legislative	Composition, term, powers and duties of the council	Plan E contains all of these features, term, powers and duties of the council
Executive	Identifies mayor or manager as chief executive; defines authority and responsibilities	Plan E identifies the city manager as having authority/responsibility for all city functions
School Committee/Other Elected Officials	Composition, term, powers and duties of the school committee	Plan E contains all of these features
Organization	Provides for adoption of ordinances or administrative code defining departments, boards, offices, etc. Allows for combining, dissolving, or similar organizational changes	Not addressed in the Plan governments
Finance	Describes budget process and timelines, capital plan requirements, preparation of financial forecasts, approval of budget transfers. Some recent charters include process for setting yearly budget policy, preparing financial forecast	Plan E: the roles of the city manager and council in the process are defined; contains none of the features of more recent charters
Elections	Describes process for preliminary and general elections, including signature collection requirements, timeline, ballot position	With the exception of the explanation of proportional representation, the Plans do not focus to a great degree on election procedures as most are governed by state law; Plan

Typical Article	Content of Typical Charter Article	How Plan E Addresses The Topic
		governments could provide for preliminary elections
Citizen Relief	Procedures for free petition, initiative, referendum, and recall. Timeline, signature collection, action by council, timeline for election. Many also include a voter threshold requirement for the results of these elections to be valid	Plan E contains procedures for initiative and referendum. Note that the state's election laws were recodified in the 1970s, and state law relative to petition requirements were changed in the 1980s. Cambridge provisions should be updated to provide greater clarity and assure adherence to state requirements
General Provisions	Contains provisions relating to requirements and procedures of wide applicability across the city government (e.g., procedures for multi-member bodies, amending the charter, periodic charter and ordinance review)	Plan E contains certain of these provisions, but lacks most of the provisions noted
Transition Provisions	Most important when changing the form of government, but also of value to assure that adjustments made to timelines and procedures that may be affected by charter adoption or revision	MGL, Chapter 43 provided transitional guidance for those communities adopting one of the Plans. This is particularly important when changing the form of government

As the chart above demonstrates, there are significant differences between Plan E (and, in fact, the Plan forms of government generally) and charters written in the last 30 years. In particular, Plan lacks quite a few provisions now standard in Massachusetts city charters. These include:

- Few references to public participation in government other than voting;
- No explicit reference to council oversight of the manager (e.g., yearly evaluation);
- No authority to organize/reorganize departments;
- No substantive description of financial practices;
- No council role in confirming manager appointments; and
- No requirement for periodic review of the charter.

Given that Plan E was adopted by Cambridge in 1940, when state law addressing the responsibilities of cities and towns was highly prescriptive (and intended to constrain local action within the parameters of state law), and when the only avenue for any municipality to change such prescriptions was a special act of the legislature, it is not surprising that Cambridge's charter contains few of the features now associated with charters enacted after the passage of the Home Rule Amendment in 1966.

Comparison of Form of Government to Other Cities in Massachusetts

There are 59 cities in Massachusetts and 292 towns. Fifteen cities have council-manager forms of government and 44 have mayor-council forms. (Please see Appendix D for basic structural information on all Massachusetts 59 cities, and Appendix E for more detailed descriptions of three council-manager forms.)

Of the ten most populous municipalities in Massachusetts (all of which are cities), seven have mayor-council forms of government. As noted previously, Cambridge and Lowell are the two Plan E council-manager forms, and Worcester has a home rule charter that is very similar to Plan E.

One major reason for the popularity of the mayor-council form is historical. In the nineteenth century, as more cities were being incorporated, the only form proposed was mayor-council. The state did not acknowledge other options until the passage of Chapter 43 in 1915. The tradition of voters choosing the executive leadership in Massachusetts cities is thus well established. A further enhancement, begun in Newton in 1970, is the 4-year mayoral term. Its popularity has increased in recent years, and there are now 20 mayors (45% of all Massachusetts mayors) serving 4-year terms. Voters have become comfortable with electing an individual who combines both management and political accountability. There are drawbacks, including: (1) mayors who serve for decades, sometimes without serious opposition, which can influence the “pace of change” in a community, (2) circumstances of rapid turnover where mayors continue to serve 2-year terms, which may lead to frustration and/or missed opportunities for progress, and (3) cases where mayors remained politically popular while providing poor management over municipal operations or finances.

Nonetheless, these possible difficulties aside, several towns in recent years have chosen to adopt a mayor-council form of government as they left behind a town form of government. Examples include Braintree, Framingham, and Weymouth. Other towns choosing to take city forms of government have moved to the council-manager form. Examples include Amherst, East Longmeadow, and North Attleborough.

Looking at council construction, across all Massachusetts cities council size generally ranges between nine and 15. The high outlier is Newton, with 24 councilors and the low outliers are Medford and Palmer, both with 7 members. (Medford elects 7 at-large, Palmer has 4 district and 3 at-large members.)

Beyond Cambridge, there are 12 additional cities with all councilors elected at large. In mayor-council cities, the council is most often composed of at-large and district (ward) members; the majority of such councils have more district members. Again, this reflects long-standing Massachusetts practice, assuring that all areas of the city are represented. It is also noted that a district council race may be less arduous for the candidates in terms of both time and funding for a campaign. In council-manager cities, there is a pretty even split between those that have all at large councilors and those that have a mix of at large and district councilors. (One city, Barnstable, has all district councilors.)

Cambridge remains the only city in Massachusetts using proportional representation, although the relatively new council-manager charter in Amherst has set it on a path toward ranked-choice voting.

Potential Changes to Cambridge Charter and Available Options for Change

Cambridge has been a continuously-operating entity for roughly 390 years. In that time, as far the project team can discern, the municipality has had five distinct forms of government: town (1631-1846), mayor-bicameral council (1846-1891), mayor-council (1891-1915), Plan B mayor-council (1915-1941), and Plan E council-manager (1941-present). The current Plan E charter has been in place virtually unchanged since 1941, with only the minor modification relating to the appointment of the Board of Assessors noted above.

Whether the current charter has been reviewed systemically in the last 80 years is unclear, but the project team understands that there has been no systemic review in the last decade. Although Cambridge's population is only 7% larger in 2020 than it was 1940 when the current charter was enacted, the demographics are significantly different. The city is significantly more racially and ethnically diverse (e.g., the city was 95% white in 1950, and was 67% white in 2010, according to a community profile on the City's website), and it has shifted dramatically away from being primarily families (e.g., 87% of households in 1950 were family households, compared with 40% in 2010). Equally important, the operating environment in which municipal governments function is extremely different, whether in terms of services provided, technology available, state and federal laws, resident expectations, etc. Moreover, if anything, the pace of change is accelerating.

Most Massachusetts municipal charters written in the last 30 years include a mandated periodic review of the charter, usually at 10-year intervals. This is intended to guarantee that the charter is reviewed regularly.

As the Center project team described in its September presentation, there are five very broad and overlapping types of reasons for a charter review:

1. Ensure that the government is keeping up with a modern understanding of best practices;
2. Ensure that the government is responsive to the needs and preferences of the current population;
3. Ensure that the charter is kept consistent with changes in state or federal law;
4. Ensure that the charter is kept consistent with changes in values or cultural changes; and
5. Clarify any text that has caused confusion or dispute over interpretation.

For generic examples of these types of reasons, see Appendix F.

It is important to emphasize two points about reviewing a charter. First, the need to review a charter does not, in and of itself, imply the need to modify a charter. Municipal charter reviews frequently end with no major changes proposed to the charter. This does not mean that these reviews were failures or wasteful. The act of the review itself is valuable in multiple ways, independent of whether major changes are made. For example, minor changes to charter text can improve clarity for local officials and employees, as well as the public, or mitigate the possibility of political or legal disputes due to confusion or differing views on interpretation of charter provisions. Additionally, the project team has seen issues and frustrations surfaced during charter reviews lead to operational changes that do not require charter changes but that would probably not have been addressed without the attention focused on them that the charter review provided.

Second, although it may be self-evident, it is worth emphasizing that even when a charter review leads to significant proposed changes, that is not necessarily an indictment of the existing charter or the current individuals leading and managing the municipal government. Sometimes, changes are needed simply due to changing circumstances, and this desire for changes is not mutually exclusive with recognizing the successes of an existing charter and form of government.

In Cambridge's specific case, some examples of items that could potentially worth considering in a charter review include the following:

1. Is the overall form of government still the optimal one for Cambridge?
2. Does the construction of the council still work for residents and for councilors?
 - a. Is the number of councilors optimal?
 - b. Is there any value in having district representation on the council?

- c. Is the term of office of the council optimal, or should an increase to four years be considered?
- 3. How do the Council’s goals and priorities get integrated and prioritized into the City Manager’s budget?
- 4. Is the current structure responsive to resident needs and priorities?
 - a. Are participation mechanisms and practices effective in gathering resident views?
- 5. Where does the “vision” for the City reside?
 - a. Is there a mechanism for the City to create and maintain a vision?
 - b. Are there mechanisms for linking strategies, goals, and steps to such a vision?
 - c. Are there mechanisms for establishing metrics to monitor those goals and steps, and creating accountable for working toward them?
- 6. Should a regular charter review process be formalized?

Obviously, the most fundamental change that could be considered would be whether the city should move from its council-manager form (with a mayor elected from council) to a mayor-council form of government. (Theoretically, Cambridge could also move back toward a town form of government, but no city in the history of Massachusetts has chosen to return to town form of government, and Cambridge’s population would make it as large as the next two most populous towns (Brookline and Plymouth) combined.)

There are many complicated and intertwined considerations in comparing mayor and manager forms. The project team has created the chart below as a very simplistic starting point for considering the two forms of city government now operating in Massachusetts, and how those structures differ in theory.

Comparison of Generic Mayor and Manager Forms of Government		
Item	Mayor	Manager
Appointment/Election	Elected by voters.	Appointed by Council.
Residency	Must be a resident of the city.	May come from anywhere. Charter may include a residency requirement.
Qualifications	None, but determined by popularity among voters.	The council can look for someone with the specific qualifications the municipality wants at that point. General qualifications may be put into charter.
Accountability	Accountable only to the voters (election or recall).	Accountable to the Council. Council may review performance on a regular basis.
Relationship with Council	Dependent upon the circumstances. Acts independently of council in most cases.	Appointed by and can be dismissed by the Council.
Veto Power	Can typically veto certain Council actions.	Has no veto power.
Term	Unless term-limited, serves in increments of terms until voted out of office or leaves office.	Manager may serve a long tenure or may be terminated by the Council at

Comparison of Generic Mayor and Manager Forms of Government		
Item	Mayor	Manager
		any point. Other limiting factors can be put in employment contract.
Future Planning	Mayor may have a vision, but must be able to execute within his or her tenure. May be less likely to make tough short-term decisions with long-term benefits.	Manager might have the ability to plan for future issues, but may not have a mandate from the people or the power to execute a vision.
Political Aspects	Generally more political as an elected official. Some time may be spent campaigning for subsequent terms.	Typically not seen as political, but rather managerial. No time spent campaigning.
Power Elements	Generally more powerful than a manager. May have more clout outside of the city. Only beholden to the voters.	Generally less formal power than a Mayor. Power generally rests with personality, relationship building, or given by the council.
Trends	Becoming less popular across the country. However, very common in larger cities in Massachusetts.	Becoming more popular around the country.

Beyond the substantive questions noted above, there is the notion that the residents of Cambridge might want to draft a charter that, even if it makes no major substantive changes, is a document that was written by and for Cambridge residents and that reflects their voice and values, rather than relying on standard text taken from an 80-year-old template provided in state law.

As described earlier, there are two options for charter change provided in Massachusetts.

- Electing a home rule charter commission following the Home Rule Amendment and Chapter 43B
- Petitioning the state legislature for special legislation ("the home rule petition").

While the two routes to charter change lead to the same aim - a new or revised charter - the procedures and timeline are quite different. For a detailed description of these pathways, please see Appendix G "Charting a Route for Charter Change" article. Cambridge could consider using either process, depending on the City's needs, interests, and other factors.

Project Next Steps

The next step in this project is for the Center project team to meet individually with each City Councilor in order to answer any questions about this memo and to understand what charter-related issues might be of particular importance or concern.

Following those meetings, the project team will draft a follow-up memo that will expand on areas in this memo where councilors had questions, and make recommendations on what process (or processes) and potential substantive topic areas the Council could consider, if there seems to be interest on the Council for undertaking further work on the charter.

Appendices:

- A. 1846 Act
- B. 1891 Act
- C. Colliers article
- D. Other cities comparables chart
- E. Descriptions of Worcester, Barnstable, and Chelsea
- F. Examples of types of reasons for review
- G. “Charting a Route for Charter Change” article