

Appendices:

- A. 1846 Act
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stream, and eight feet in a transverse direction, and that this act shall in no wise affect the legal rights of any persons or corporations whatever. [*Approved by the Governor, March 17, 1846.*]

An Act to authorize the Union Wharf Company to erect a Wharf on Herring River. Chap 108.

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

The Union Wharf Company, in the town of Wellfleet, are hereby authorized to erect and maintain a wharf, to extend from land owned by them, on Herring River, to the edge of the channel of said river, and shall have the right to lay vessels at the end and sides of said wharf, and receive wharfage and dockage therefor: *provided*, that this grant shall not in any manner interfere with the legal rights of any persons whatever. [*Approved by the Governor, March 17, 1846.*]

Wharf may be built in Wellfleet to the channel, &c.

Provided, &c.

An Act to establish the City of Cambridge.

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

SECTION 1. The inhabitants of the town of Cambridge, in the county of Middlesex, shall continue to be a body corporate and politic, under the name of the City of Cambridge; and, as such, shall have, exercise and enjoy all the rights, immunities, powers and privileges, and shall be subject to all the duties and obligations, now incumbent upon, and appertaining to, said town, as a municipal corporation.

Cambridge to be a city.

SECTION 2. The administration of all the fiscal, prudential and municipal affairs of said city, and the government thereof, shall be vested in one principal officer, to be styled the mayor; one council of six, to be denominated the board of aldermen; and one council of twenty, to be denominated the board of common council; which two boards shall, in their joint capacity, be denominated the city council. A majority of each board shall constitute a quorum for the transaction of business. No member of either board shall receive any compensation for his services.

Administration, &c., to be vested in a mayor, 6 aldermen, and 20 common council, &c.; boards to serve without compensation.

The mayor and aldermen shall be chosen by the inhabitants of the city at large, voting in their respective wards.

Elections of mayor and aldermen.

The members of the common council shall be apportioned among the several wards, as nearly as may be, according to the number of inhabitants therein; and each ward shall elect the number of common council men to which it shall be entitled on such apportionment, from persons who shall be residents in the ward by which they shall be chosen.

Ratio and residence of common council men.

SECTION 3. The city of Cambridge hereby is, and shall continue to be, divided into three wards; and the bounda-

City divided into 3 wards.

Arrangement thereof to be revised every 5 years by the city council.

Apportionment of common council men therein.

Annual meeting of inhabitants, and term of city offices.

Warrants for ward and city meetings.

Election, qualification, and duties of wardens, clerks and inspectors of elections.

ries thereof shall be the same as the boundaries of the wards into which the town of Cambridge is now divided. But the city council shall, once in five years, and not oftener, revise the same, and may, by a vote of not less than two thirds of the members of each board present, and voting thereon, so alter the boundaries of said wards, as shall be most for the convenience of the inhabitants thereof. For the first five years after the passage of this act, the ward now known as ward number one, shall elect five members of the common council; the ward now known as ward number two, shall elect nine members of the common council; and the ward now known as ward number three, shall elect six members of the common council.

SECTION 4. The annual meeting of the inhabitants, for the choice of city officers, shall be holden on the first Monday in March; and all city and ward officers, who are chosen by the people, shall be chosen by ballot, and shall hold their respective offices for one year, from the first Monday in April succeeding the annual meeting, and until others shall be chosen and qualified to act in their stead.

SECTION 5. All meetings of the inhabitants for the purpose of voting at elections, or for the transaction of municipal affairs, whether in general or in ward meetings, shall be holden in pursuance of warrants for that purpose, which shall be issued by the mayor and aldermen, and shall be in such form, and served and returned in such manner, and at such time, as the city council, by any by-law, shall direct.

SECTION 6. Each ward, at the annual meeting, shall choose for itself a warden, clerk, and three inspectors of elections, who shall be sworn to the faithful and impartial discharge of their respective duties relative to elections; a certificate that said oath has been taken, shall be entered in the records of the ward by the clerk thereof.

The warden shall preside at all ward meetings, and shall be invested with all the powers, and shall perform all the duties of a moderator of town meetings. If, at any such meeting, the warden shall not be present, the clerk shall call the meeting to order, and preside until a warden pro tempore shall be chosen; and if the clerk shall not be present, a clerk pro tempore shall be chosen.

The inspectors of elections shall, at all meetings, aid and assist the warden in preserving order, and in assorting and counting the votes; and all votes shall be assorted, counted, recorded and declared, in open ward meeting.

The clerk shall record, in the ward records, the votes and proceedings of all ward meetings, and shall enter on said records the names of all persons voted for, and the number of votes given for each, in words at length, and shall, within twenty-four hours after each and every ward meeting holden for the purpose of any election, deliver to the city

clerk a true copy of the record of such election, certified by himself, the warden, and a majority of the inspectors. The clerk shall deliver to his successor in office, all the records, record books, journals, documents, papers, and other things, held by him in his capacity of clerk of the ward.

Each ward shall also, at the annual meeting, choose the number of common council men which it shall be entitled to elect. But if the choice of ward officers or common council men cannot be conveniently effected or completed on that day, the meeting shall be adjourned from day to day, to complete the choice. The clerk of the ward shall, within twenty-four hours after such choice, deliver to the respective persons elected common council men, a certificate of their election, signed by himself, the warden, and a majority of the inspectors.

Election of
common council
men.

SECTION 7. The qualified voters in each ward shall, at the annual meeting, give in, to the warden and inspectors, their votes for a mayor and six aldermen; a copy of the record of which shall be delivered to the city clerk, as provided in the preceding section. The city clerk shall, immediately after receiving said copies, enter the same, or a plain and intelligible abstract thereof, on the city records, and then lay said copies before the mayor and aldermen, who shall thereupon examine the same, and cause the persons who shall have been chosen mayor and aldermen respectively, by a majority of votes in all the wards, to be notified in writing of their election.

Proceedings at
and after meet-
ings for elec-
tions.

Record and
certificates of
election.

If a mayor, or the whole number of aldermen shall not have been so elected, or if either of the persons elected shall refuse to accept the office to which he was chosen, the mayor and aldermen shall make a record of the fact, and forthwith issue their warrant for another election; and the same proceedings shall be had, in all respects, as are provided in this section for the choice of mayor and aldermen; and the same shall be repeated, from time to time, until a mayor and the whole number of aldermen shall have been chosen.

Proceedings to
supply vacan-
cies in the offi-
ces of mayor
or aldermen.

Whenever the office of mayor shall become vacant by death, resignation or otherwise, the boards of aldermen and common council shall, respectively, by vote, declare the same and the cause thereof, and the expediency of filling such vacancy; and the two boards shall thereupon meet in convention, and elect a mayor to fill such vacancy for the time said cause shall continue, or until a new election.

SECTION 8. The mayor, aldermen and common council, shall, before entering on the duties of their office, be sworn to the faithful performance of the duties of their respective offices; and, for that purpose, shall meet in convention on the first Monday in April, in each year, at ten of the clock in the forenoon, when such oath may be administered to the

Administration
and record of
oaths of office.

mayor elect, if present, by any judge of any court of record in the Commonwealth, or by any justice of the peace for the county of Middlesex, and to the aldermen and common council men, by the mayor, he being first sworn as aforesaid, or by such justice of the peace. A certificate that such oath has been taken, shall be entered in the journal of the mayor and aldermen and of the common council, by their respective clerks. If, from any cause, the mayor, or any one or more of the aldermen or common council men, shall not be present on the first Monday in April, to take the oath required of them, the same may be administered to them at any time thereafter, before entering on the duties of their office.

Proceedings in case of absence of mayor, &c., elect, at the time for organization.

Duties of mayor.

SECTION 9. The mayor, thus chosen and qualified, shall be the chief executive officer of the city. He shall cause the laws and regulations of the city to be executed and enforced. He shall exercise a general supervision over the conduct of all the subordinate officers, and cause their violation or neglect of duty to be punished. He may call special meetings of the board of aldermen and common council, or either of them, when, in his opinion, the interests of the city require it, by causing a notification to be left at the usual dwelling-place of each member of the board or boards to be convened. He shall, from time to time, communicate to said boards respectively, such information, and recommend such measures, as the interests of the city shall, in his judgment, require. He shall preside in the board of aldermen, and in joint meeting of the two boards; but shall have a casting vote only. He shall have the exclusive power of nomination, in all cases in which appointments are directed to be made by the mayor and aldermen; but such nominations shall be confirmed or rejected by the board of aldermen. He shall be *ex officio* chairman of the school committee, and of the board of overseers of the poor. His salary, for the first year under this charter, shall be six hundred dollars, and no more. He shall afterwards receive for his services such salary as the city council shall determine, payable at stated periods, and shall receive no other compensation; but such salary shall not be increased or diminished during his continuance in office.

Compensation.

Sessions of mayor and aldermen.

SECTION 10. The mayor and aldermen shall compose one board, and shall sit and act together as one body, at all meetings of which the mayor shall preside, if present; but, in his absence, the board may choose a chairman for the time being. All their sittings shall be public, when not engaged in executive business.

Executive powers of mayor and aldermen.

SECTION 11. The executive powers of the city, and the administration of police, with all the powers heretofore vested by law in the selectmen of Cambridge, shall be vested in the mayor and aldermen, as fully as if the same

were herein specifically enumerated. They shall have full and exclusive power to appoint a city marshal and assistants, a constable or constables, and all other police officers; and to remove the same from office, for sufficient cause. They may require the marshal and constables, before entering on the duties of their office, to give bonds with sufficient sureties, to any reasonable amount; upon which the like proceedings and remedies may be had, as are by law provided in case of constables' bonds required by selectmen of towns in this Commonwealth. They shall have power to grant licenses to innholders and victuallers, and retailers, within the city, in the same manner as the mayor and aldermen of the city of Boston now have by provision of law. They shall prepare, revise, correct and post up, in the manner that selectmen of towns are required to do, an alphabetical list of voters in each ward of the city; and, for that purpose, shall have access to the assessors' books and lists, and be entitled to the aid and assistance of the assessors, collector, and other city officers, and shall deliver the lists so prepared and corrected, to the clerks of the respective wards, to be used at elections. And they shall do and perform all the duties which the selectmen of towns are, by law, required to do and perform within their respective towns, unless it be otherwise provided in this Act.

Power in respect to appointments, removals, bonds, licenses, &c.

Duties in respect to lists of voters.

SECTION 12. The mayor and aldermen shall, within two days after every meeting of the inhabitants holden for the choice of County, State or United States officers, examine and compare the copies of the record of votes returned from all the wards, and make out returns of the same, including the names of all the persons voted for, and the number of votes given for each; which returns shall be signed by the mayor and a majority of the aldermen, and countersigned by the city clerk, and shall be transmitted or delivered in the manner that similar returns are required to be made by selectmen of towns. They shall notify the persons, chosen to represent the city in the General Court, of their election, within three days after the choice; and if the whole number of representatives, determined upon by the city council, shall not have been chosen at any such meeting, they shall forthwith issue their warrant for a new election, conformably to the Constitution and laws of the Commonwealth.

Proceedings after meetings for election of County, State, or Federal officers.

The mayor and aldermen shall issue their warrant for a general meeting of the inhabitants, for any constitutional or legal purpose, whenever requested so to do, in writing, by thirty legal voters.

Warrants for city meetings.

The board of aldermen shall be the final judge of the election and qualifications of its members; and, whenever a vacancy shall occur therein by death, resignation or otherwise, may order a new election.

Aldermen to be judges of elections, &c., and may order new elections.

Fire department.

SECTION 13. An act establishing the fire department in the town of Cambridge, passed March seventeenth, one thousand eight hundred and thirty-two, and an act in addition thereto, passed March thirtieth, one thousand eight hundred and thirty-five, shall continue in force, and all the power and authority, now vested in the selectmen of Cambridge, in relation to the fire department in that town, shall be transferred to, and vested in, the mayor and aldermen.

Powers and duties of common council,

SECTION 14. The persons chosen and qualified as members of the common council shall sit and act together as one body, distinct from the mayor and aldermen, except when the two bodies are required to meet and act in convention. The said council shall, from time to time, choose one of its members to preside at all meetings of the board, and preserve order therein; and shall also choose a clerk, who shall be sworn to the faithful discharge of the duties of that office, and shall hold such office during the pleasure of the council. The clerk, so chosen and qualified, shall attend the common council when in session, and keep a journal of its acts, votes, and proceedings, and perform such other services in his said office, as the council may require. All sittings of the common council shall be public. The common council shall be the final judge of the election and qualifications of its members; and whenever a vacancy shall occur therein by death, resignation or otherwise, may order a new election.

and of their president,

and clerk.

Sittings to be public, &c.

Powers vested in city council.

SECTION 15. All the powers now vested by law in the town of Cambridge, or in the inhabitants thereof, as a municipal corporation, shall be vested in the city council composed as provided in the second section, and shall be exercised by concurrent vote, each board having a negative on the other.

Power of city council to make by-laws, &c.

SECTION 16. The city council shall have power to make all such salutary and needful by-laws, as towns, by the laws of the Commonwealth, have power to make, and to annex penalties, not exceeding twenty dollars, for the breach thereof; which by-laws shall take effect and be in force from the time therein limited, without the sanction or confirmation of any other authority whatever. All such by-laws and all city ordinances shall be duly published, in such newspaper or newspapers as the city council shall direct. All fines and forfeitures for the violation of any by-law or ordinance of the city, shall be recovered by complaint before any justice of the peace for the county of Middlesex, and shall enure to such uses as the city council shall direct; but the party prosecuted shall have the right of appeal to the Court of Common Pleas, in the same manner, and upon the same terms and conditions, as are provided by law for appeals from the judgment of justices of the peace in other criminal prosecutions. It shall be suffi-

To publish by-laws.

Recovery and use of fines, &c.

Appeals from justices' court.

cient, in any such complaint, to set out the offence plainly and substantially; but the by-law or ordinance, on which the complaint is founded, need not be recited or set out.

Form of complaint.

SECTION 17. The city council shall take proper care that no money be paid from the city treasury, unless previously granted and appropriated; shall secure a just and prompt accountability from all persons entrusted with the receipt, custody or disbursement of the moneys or funds of the city; shall have the care and superintendence of the city buildings, and all city property, and the power to let or sell what may be legally let or sold, and to purchase property, real or personal, in the name and for the use of the city, whenever the interest or convenience of the city shall require it. The city council shall, once in every year, at least, publish, for the use and information of the inhabitants, a particular account of the receipts and expenditures of the city, and a schedule of the property and debts of the city.

Safe keeping, &c., of city property.

Accounts, &c. to be published annually.

SECTION 18. The city council shall have exclusive authority and power to lay out new streets or ways within said city, and to estimate the damage which any person shall sustain thereby; but all petitions and questions, relating to laying out, widening, altering or discontinuing any street or way, shall be first acted on by the mayor and aldermen. Any person, aggrieved by the decision or judgment of the mayor and aldermen, or of the city council, in relation to laying out, widening, altering or discontinuing any street or way, or in the estimate of damages, may, within six months thereafter, make complaint to the county commissioners in the county of Middlesex; upon which complaint, the same proceedings shall be had, as are provided in the twenty-fourth chapter of the Revised Statutes, in cases where persons are aggrieved by the decision or judgment of selectmen of towns.

Power of mayor, aldermen, and of city council in respect to streets and ways.

Estimate and recovery of damages.

SECTION 19. The city council shall have the power to construct drains and common sewers through any highways, streets, or private lands, paying the owners such damage as they shall sustain thereby; and to require all persons to pay a reasonable sum for the right to open any drain into such public drain or common sewer.

Power of city council in respect to drains and common sewers.

SECTION 20. All the power and authority now vested by law in the board of health for the town of Cambridge, shall be transferred to, and vested in, the city council, and shall be carried into execution by the appointment of health commissioners, or in such other manner as the city council shall determine.

Health officers.

SECTION 21. The city council shall have the power to provide for the appointment or election of all necessary officers for the good government of the city, not otherwise provided for, and to prescribe their duties and fix their compen-

City council to provide for the appointment, &c. of certain officers.

But not from
their own body.

sation; but no person shall be elected by the city council, or appointed by the mayor and aldermen, to any office of emolument, who, at the time of his election or appointment, shall be a member of the board of aldermen or of the common council.

Election, duties,
&c. of clerk.

SECTION 22. The city council shall, annually, in the month of April, meet in convention, and elect by joint ballot, a city clerk, who shall be sworn to the faithful discharge of the duties of his office, and shall hold his office one year, and until another shall be chosen and qualified; removable, however, at the pleasure of the city council. The city clerk shall be *ex officio* clerk of the board composed of the mayor and aldermen. He shall keep a journal of all the votes and proceedings of the mayor and aldermen, and also of the city council, when sitting in convention; and shall perform such other duties as the mayor and aldermen or the city council shall prescribe. He shall also perform all the duties, and exercise all the powers, incumbent upon, and vested in the town clerk of the town of Cambridge. He shall deliver to his successor in office, as soon as chosen and qualified, all journals, records, record books, papers, documents, or other things, held by him in his capacity of city clerk.

City council to
elect treasurer,
&c. fill vacan-
cies, &c. in
April.

SECTION 23. The city council shall also, in the month of April, annually, in convention and by joint ballot, elect a city treasurer, a collector of taxes, and all other subordinate officers, who are not chosen by the inhabitants or appointed by the mayor and aldermen; and shall also fill all vacancies which shall exist in the boards of assessors, assistant assessors, overseers of the poor, or school committee, by reason of a failure to elect by the inhabitants at the annual meeting. The candidates for filling such vacancies shall be determined in the manner provided by the Constitution of the Commonwealth for fixing upon candidates to fill vacancies in the State Senate.

Power of city
council to deter-
mine number of
representatives
in General
Court.

SECTION 24. The city council shall, annually, in the month of October, meet in convention, and determine the number of representatives which the city shall elect to the General Court, and publish such determination, which shall be conclusive; and the number thus determined, shall be specified in the warrant calling the meeting for the election of Representatives.

Power of city
council to deter-
mine number of
members of
common coun-
cil in the wards.

SECTION 25. The city council shall, in the month of January, in the year one thousand eight hundred and fifty-one, and once in every five years thereafter, determine the number of members of the common council which each ward shall be entitled to elect, as provided in the second section.

School Commit-
tee.

SECTION 26. The qualified voters of the city, at the annual meeting, shall choose seven persons for a school committee, two of whom shall be residents in ward number one, three in ward number two, and two in ward number three;

six persons to be overseers of the poor, two of whom shall be resident in each ward; three persons to be assessors, one of whom shall be a resident in each ward; and such number of assistant assessors as the city council shall determine. The assessors and assistant assessors shall be sworn to the faithful discharge of the duties of their office, and shall perform all such duties as the assessors of towns are required by law to perform; and the boards of school committee and overseers of the poor, with the mayor as chairman of each, shall perform all such duties as the school committees and overseers of the poor in towns are required by law to perform.

Overseers of the poor.
Assessors.

Assistant assessors.
Duties of same.

SECTION 27. All meetings of the inhabitants, for the election of County, State or United States officers, who are voted for by the people, shall be held in their respective wards, at the time fixed by law for those elections respectively.

Meetings for election of county, State and Federal officers.

SECTION 28. After the acceptance of this act by the inhabitants of the town of Cambridge, and during the month of April in the present year, the selectmen of said town, for the purpose of the first election under this charter, shall issue their warrant for a meeting of the inhabitants, in their respective wards, for the choice of all city officers who are directed to be chosen by the people, and such county officers as are to be voted for by other towns in the county of Middlesex, at their annual meeting in the present year. Such warrant shall be served seven days, at least, before the time appointed for said meeting, and shall designate the time and place of the meeting in the respective wards.

First election of city officers, &c.

At said meeting, the wards respectively shall choose a warden, clerk, three inspectors of elections, and the number of members of the common council, which they are entitled to elect, by the third section of this Act; and shall also give in their votes for a mayor, six aldermen, seven members of the school committee, six overseers of the poor, three assessors, and such county officers as are then to be voted for.

If the whole number of ward officers or common councilmen, in either ward, cannot be chosen on that day, the meeting may be adjourned from day to day, to complete the choice. The clerks of the respective wards shall deliver certificates to the persons elected members of the common council, and copies of the record of the election to said selectmen, within the time, and signed and certified in the manner, provided in the sixth section. The selectmen shall, within two days after receiving said returns, examine and compare the same, ascertain the result of the election, and give notice in writing to the persons chosen mayor and aldermen, of their election. If a mayor, or the whole number of aldermen shall not have been elected at such meeting, the selectmen shall forthwith issue their warrant for another meeting, as provided in this section; and the same proceed-

ings shall be had and repeated, until a mayor and six aldermen shall have been chosen. Any legal voter, in the respective wards, may call the said first meeting to order, and preside until a warden shall have been chosen.

Organization of city government.

SECTION 29. Immediately after the election of city officers, as provided in the preceding section, the said selectmen shall appoint a place and some day not later than the first Monday in June, of the present year, for the first meeting of the city council, and for the organization of the city government, established by this act; and shall give notice thereof in writing to all the city officers elect, and shall also publish a notice thereof in one or more newspapers printed in Boston.

The mayor, aldermen, members of the common council, and all other city officers elect, shall meet at the time and place designated in such notices, and shall respectively take the oath required of them by this act, and shall then enter upon and perform all the duties of their respective offices, in the same manner as if they had been elected prior to the first Monday in April of the present year.

Annual town meeting suspended.

SECTION 30. The annual town meeting of the town of Cambridge, for the present year, shall be suspended, and may be holden in the month of May or June, if this act shall not be adopted by the inhabitants of the town, as provided in the thirty-fourth section.

Delivery of records, &c., to city clerk.

SECTION 31. All officers of the town of Cambridge, having the care and custody of any records, papers, or property, belonging to said town, shall deliver the same to the city clerk, within one week after his entering upon the duties of his office.

Repeal of inconsistent provisions.

SECTION 32. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

Legislature may alter and amend this act.

SECTION 33. Nothing in this act contained shall be so construed, as to prevent the Legislature from altering or amending the same, whenever they shall deem it expedient.

Act to be void unless accepted by inhabitants, &c.

SECTION 34. This act shall be void, unless the inhabitants of the town of Cambridge, at a legal town meeting, called for that purpose, shall, by a majority of the voters present, and voting thereon, by ballot, determine to adopt the same within twenty days after its passage.

When to take effect.

SECTION 35. This act shall go into operation from and after its passage. [*Approved by the Governor, March 17, 1846.*]

AN ACT TO ASSIST THE TOWN OF TRURO IN MAINTAINING A SECTION OF ITS COUNTY HIGHWAY KNOWN AS BEACH POINT ROAD. *Chap. 363*

Be it enacted, etc., as follows:

SECTION 1. The county commissioners of the county of Barnstable shall, upon application of the selectmen of the town of Truro, expend a sum not exceeding five hundred dollars in any one year, for a period not exceeding ten years, from the funds of the county, for repairs and maintenance of the highway extending from the railroad crossing at the head of Moon pond meadow, so called, in the town of Truro, to the boundary line between the towns of Truro and Provincetown; the amount so used to be expended for the purpose specified in this act and for no other; and the sum actually expended shall be reimbursed from the treasury of the Commonwealth.

Repairs and maintenance of highway in Truro.

SECTION 2. This act shall take effect upon its passage.

Approved May 28, 1891.

AN ACT TO AMEND THE CHARTER OF THE CITY OF CAMBRIDGE. *Chap. 364*

Be it enacted, etc., as follows:

SECTION 1. The inhabitants of the city of Cambridge, in the county of Middlesex, shall continue to be a body corporate and politic under the name of the city of Cambridge, and as such, shall have, exercise and enjoy all the rights, immunities, powers and privileges, and shall be subject to all the duties and obligations provided for herein, or otherwise pertaining to said city as a municipal corporation.

City charter of Cambridge amended.

SECTION 2. The administration of the fiscal, prudential and municipal affairs of said city, and the government thereof, shall be vested in a mayor and a city council, which shall consist of a board of aldermen consisting, until the municipal year beginning on the first Monday in January in the year eighteen hundred and ninety-three, of ten members, and thereafter of eleven members, and a common council consisting of twenty members. Each branch shall sit separately, except when required to meet in joint convention by the provisions of this charter or by a concurrent vote. The mayor and aldermen shall be chosen by the qualified voters of the whole city. The city council shall apportion the members of the common council among the several wards as nearly as may be on the basis of population, and the qualified voters of each

Administration of affairs and government vested in mayor and city council.

ward shall elect from among their number the members of the common council to which it shall be entitled on such apportionment.

To be divided into five wards.

SECTION 3. The city shall continue to be divided into five wards, which shall retain their present boundaries until the same shall be changed under the general law relating thereto. The present apportionment of councilmen shall be retained until October in the year eighteen hundred and ninety-five. The city council shall, in the month of October in the year eighteen hundred and ninety-five and every fifth year thereafter, apportion the members of the common council to the several wards, in accordance with the provisions of the preceding section.

Annual municipal election.

SECTION 4. An annual election for the choice of city officers shall be holden on the Tuesday next following the second Monday in December, and all officers who are chosen by the qualified voters shall be chosen by ballot; and such officers, except the assessors and the members of the school committee, shall hold their respective offices for the succeeding municipal year; to wit, beginning with the first Monday in January succeeding the annual election and continuing till the first Monday in January of the year following and until others shall be chosen and qualified to act in their stead. The qualified voters of the city shall at each annual election choose one of their number to be assessor for the term of three years, and one person from each ward as a member of the school committee for the term of three years, and shall, at such election, fill for the unexpired term such vacancies as occur at the end of the municipal year.

Assessors and members of school committee to be elected for three years.

Warrant for meetings for elections, etc., to be issued by the board of aldermen.

SECTION 5. All meetings of the qualified voters, for the purpose of voting at elections or for the transaction of municipal affairs, whether in city or in ward meetings, shall be holden in pursuance of warrants for that purpose, which shall be issued by the board of aldermen and shall be in such form and served and returned in such manner and at such time as the city council by ordinance shall direct. The board of aldermen shall issue their warrant for a general meeting of the qualified voters, for any constitutional or legal purpose, whenever requested to do so, in writing, by thirty such voters.

Non-election of mayor or the required number of members of city council.

SECTION 6. If at the annual election a mayor or the required number of members of the city council shall not have been elected, or if any person elected shall refuse to accept the office to which he was chosen, the board of

aldermen shall make a record of the fact and forthwith issue their warrant for another election, and the same proceedings shall be had as are provided by law for the original election; and the same shall be repeated from time to time until a mayor and the required number of members of the city council shall have been chosen. Whenever a vacancy shall occur in either office by death, resignation or otherwise, the board of aldermen may, and if such vacancy occur prior to the first of September in any year shall, forthwith issue their warrant for a new election. The removal of a person holding office from one ward to another shall not create a vacancy in such office, nor shall a change of ward boundaries create a vacancy in any office.

Vacancies.

SECTION 7. The mayor, aldermen and members of the common council shall, before entering upon their offices, be sworn to the faithful performance of their respective duties; and for that purpose shall meet in convention on the first Monday in January in each year at ten of the clock in the forenoon, when such oath may be administered to the mayor elect by any judge of any court of record in the Commonwealth or by any justice of the peace, and to the aldermen elect and common councilmen elect by the mayor, he being first sworn as aforesaid, or by any justice of the peace. A certificate that such oath has been taken shall be entered in the journals of the board of aldermen and of the common council by their respective clerks. If the mayor or any one or more of the aldermen or common councilmen shall not be present on the first Monday in January to take the oath required of them, the same may be administered to the mayor or aldermen at any meeting of the board of aldermen, and to the common councilmen at any meeting of the common council, thereafter, before entering upon office. A certificate that such oath has been taken shall be entered in the journal of the board at the meeting at which it was administered.

Mayor, aldermen and common councilmen to be sworn.

SECTION 8. The executive powers of said city and all the executive powers now vested in the mayor and in the board of aldermen, and in the surveyors of highways, shall be and hereby are, vested in the mayor, to be exercised through the several officers and boards of the city in their respective departments, under his general supervision and control. He shall at all times have the control and direction of the police force. He may call special

Executive powers of city to be vested in the mayor.

meetings of the board of aldermen and of the common council, or either of them, when in his opinion the interests of the city require it, by causing the notification to be left at the usual dwelling place of each member of the board or boards to be convened. He shall from time to time communicate to said boards respectively such information, and recommend such measures, as the interests of the city shall in his judgment require. He shall be ex officio chairman of the school committee but shall have no right to vote. The mayor shall cause the laws, ordinances, orders and regulations of the city to be executed and enforced. He shall exercise a general supervision and control over the official acts and conduct of all officers, and take proper action to cause every violation or neglect of duty to be punished. It shall be his duty to secure an honest, efficient, and economical conduct of the entire executive and administrative business of the city and the harmonious and concerted action of the different departments. The mayor may at any time summon heads of departments or subordinate officers for information, consultation, or advice upon the affairs of the city.

Mayor to be ex officio chairman of school committee.

May summon heads of departments, etc., for consultation, etc.

Resident citizens to be appointed to office by mayor, etc.

SECTION 9. All officers of the city not elected by the qualified voters shall be resident citizens of the city of Cambridge, and shall, except as herein otherwise provided, be appointed by the mayor, subject to confirmation by the board of aldermen, and for such terms respectively as are or may be fixed by law or ordinance, or, in case of an appointment to fill a vacancy, for the unexpired term. Subject to confirmation, as aforesaid, the mayor shall annually in the month of February appoint one person from each ward to be an assistant assessor for the term of one year, beginning with the first day of March of that year. No appointment made by the mayor shall be acted upon by the board of aldermen until the expiration of one week after such appointment is transmitted to said board, except by unanimous consent of said board.

Removal of officers.

SECTION 10. The mayor after due hearing may, with the approval of a majority of the board of aldermen, remove any member of the board of overseers of the poor or of the board of health, any assistant assessor, any member of the police force or fire department, and any other officer of the city, except the members of the city council and school committee and their clerks and attendants, the principal assessors, the city clerk, the

assistant city clerk, the city treasurer, the city auditor, the city messenger, clerk of committees, and city solicitor, for cause assigned by him.

SECTION 11. Every ordinance, order, resolution or vote to which the concurrence of the board of aldermen and of the common council may be necessary, except on a question of the convention of the two branches, and every order of either branch involving expenditure of money, shall be presented to the mayor. If he approve thereof he shall signify his approval by signing the same, but if not he shall return the same with his objections to the branch in which it originated, which shall enter the objections of the mayor, at length, upon its records and proceed to reconsider said ordinance, order, resolution or vote, and if after such reconsideration two thirds of the board of aldermen or common council, notwithstanding such objections, vote to pass the same, it shall be in force, unless it originally required concurrent action, in which case it shall, together with the objections, be sent to the other branch of the city council, where it shall also be reconsidered, and if approved by two thirds of such other branch, it shall likewise be in force. In all cases the vote shall be taken by yeas and nays. If such ordinance, order, resolution or vote shall not be returned within ten days after it shall have been presented to the mayor, the same shall be in force. He may except from his approval of any ordinance, order, resolution or vote of which he has the power of veto, any portion involving a distinct item of expenditure; in such case instead of returning the original he shall transmit a copy of such portion not approved, which portion shall be reconsidered in the manner and with the effect above provided. The mayor's approval shall likewise be required to, and he shall have a similar power of veto, and with like limitations, over any order or vote of the board of aldermen which involves the exercise of any of the powers conferred by law upon the mayor and aldermen, or upon the board of aldermen as a separate board, but nothing herein contained shall affect the powers of said board in relation to votes cast at elections, nor shall the veto power of the mayor extend to elections.

SECTION 12. The mayor shall have sole power to sign, seal, execute and deliver, in behalf of the city, deeds and leases of lands sold or leased by the city, and other deeds,

Ordinances,
orders, etc.,
subject to
approval by
mayor.

If not returned
by mayor
within ten days,
order, etc., to
be in force.

Mayor to
execute deeds
and leases.

agreements, contracts, leases, indentures and assurances on behalf of the city, except as herein otherwise provided.

To keep record of official acts.

SECTION 13. The mayor shall cause to be kept a record of all his official acts, and may, without confirmation by the board of aldermen, appoint a clerk, whose compensation shall be fixed by the city council. The mayor shall receive for his services such salary as the city council shall determine, payable at stated periods, and shall receive no other compensation; but such salary shall not be increased or diminished during his term of office.

Salary.

Existing powers vested in city council.

SECTION 14. All the powers now vested by law in the city of Cambridge, or in the inhabitants thereof as a municipal corporation, except as herein otherwise provided, shall be vested in the city council and shall be exercised by a concurrent vote, each branch having a negative on the other. A majority of each branch shall constitute a quorum for the transaction of business. No member of either branch shall receive any compensation for his services. All sittings of the city council, or of either branch thereof, except for the consideration of candidates for election and except the sittings of the board of aldermen for consideration of appointments by the mayor, shall be public. But all votes on elections and on confirmations shall be taken in public.

Sittings to be public except when in executive session.

City council may make ordinances and fix penalties.

SECTION 15. The city council shall have power to make ordinances and to fix penalties therein, as provided herein and by general law, which shall take effect from the time therein limited, without the sanction or confirmation of any court or justice thereof. All city ordinances shall be duly published, and in such newspaper or newspapers in said city as the city council shall direct. The city council may also by ordinance regulate the loads of vehicles using the streets of said city, and provide for the appointment, in accordance with the provisions of section nine, of public weighers, measurers and surveyors, surveyors of mechanics' work, inspectors of junk shops and of junk collectors, inspectors of pawnbrokers and of dealers in secondhand articles, and other needful officers, and define their powers and duties, and fix their compensation.

Laying out, altering, etc., streets, public drains and sewers.

SECTION 16. The city council shall have exclusive authority, subject to the veto power of the mayor, to lay out, alter, discontinue or fix the grade of any highway, street or town way, and to take land therefor and for the construction of public drains and common sewers, and to

estimate the damage which any person shall sustain thereby, but action upon said matters shall be first taken by the board of aldermen. Any person dissatisfied with the decision of the city council in the estimate of damages may, within one year thereafter, make complaint and application for a jury to the superior court in the county of Middlesex, upon which application the same proceedings shall be had as are or may be provided in sections one hundred and five, one hundred and six, one hundred and seven and one hundred and eight of chapter forty-nine of the Public Statutes, or any acts in amendment thereof.

SECTION 17. The city council may establish a fire department, with such officers, apparatus and regulations for the government thereof as shall from time to time be prescribed by ordinance not inconsistent with this act. The engineers of the fire department shall have the powers of firewards and all powers conferred by section four of chapter thirty-five of the Public Statutes, in like manner as if said city had accepted said section.

SECTION 18. The city council shall take care that no money shall be paid out from the city treasury unless previously granted and appropriated, and shall secure a just and proper accounting, in such manner as they may direct, from all boards and officers intrusted with the receipt, custody or disbursement of the moneys or funds of the city. The city council shall publish, once in every year at least, for the use and information of the inhabitants, a particular account of the receipts and expenditures of the city and a schedule of the property and debts of the city; the mayor and all officers and boards of the city shall make for such purpose such reports as the city council may request.

SECTION 19. The city council shall annually in the month of February, by concurrent vote, the board of aldermen acting first, elect by ballot a city clerk and assistant city clerk, each of whom shall be sworn to the faithful discharge of his duties and shall hold his office for one year from the first day of March of that year, and until another shall be chosen and qualified, but may be removed however at the pleasure of the city council. The city clerk shall be ex officio clerk of the board of aldermen. He shall keep a journal of the votes and proceedings of the aldermen, and also of the city council when

Damages.

Fire department.

City council to see that no money is paid out unless appropriated.

Election of city clerk and assistant.

Duties.

sitting in convention, and shall perform such other duties as the aldermen and the city council may prescribe. He shall also perform all the duties and exercise all the powers usually pertaining to said office. He shall deliver up to his successor in office, as soon as chosen and qualified, all journals, records, record books, papers, documents or other things kept or held by him in his capacity of city clerk. The city council shall also annually in the month of April, by concurrent vote, the board of aldermen acting first, elect by ballot a city messenger and clerk of committees, each of whom shall hold office for one year from the first day of May of that year, and until another is chosen in his place, subject to removal at any time, by the city council.

City messenger and clerk of committees.

Election of treasurer, who shall be collector of taxes, and a city auditor.

SECTION 20. The city council shall also annually in the month of February, by concurrent vote, the board of aldermen acting first, elect by ballot a city treasurer, who shall be the collector of taxes, and a city auditor, each of whom shall be sworn to a faithful discharge of his duties, and shall hold his office for one year from the first day of March of that year, and until another shall be chosen and qualified, but may be removed however at the pleasure of the city council. The treasurer and auditor shall deliver up to their respective successors in office as soon as chosen and qualified, or to any person designated by the city council, on their ceasing to fill such office, all books, funds, papers or other things kept or held by them as such officers. The city council shall also annually in the month of April, by concurrent vote, the board of aldermen acting first, elect a solicitor for the city of Cambridge, who shall be a resident citizen of Cambridge and an attorney and counsellor of the courts of the Commonwealth, and who shall hold office for one year, but may be removed however at the pleasure of the city council.

City solicitor.

Overseers of the poor.

SECTION 21. The city council shall annually in the month of March, elect one person to be a member of the board of overseers of the poor, for the term of five years beginning with the first Monday in May of that year.

Treasurer may appoint deputy collectors of taxes.

SECTION 22. The city treasurer of the city of Cambridge may, as collector of taxes, appoint such deputy collectors of taxes as he may from time to time deem expedient, who shall give bonds with sufficient sureties for the faithful discharge of their duties, in such sums as the board of aldermen of said city shall from time to time

prescribe, and such deputies shall have the same powers as collectors of taxes of towns. He shall as such collector have all special powers conferred on a treasurer appointed collector by vote of a city council.

SECTION 23. All fees, charges and commissions of every kind and description allowed by law for the collection of taxes, betterments, rates and assessments of every kind, to any person or persons authorized to collect the same, upon any warrant or other command hereafter directed to the treasurer and collector of the city of Cambridge, in his capacity as treasurer or as collector, or as both treasurer and collector, shall be collected and paid into the treasury of said city and shall be the property of said city. The city may pay to such persons such compensation for services as the city council shall from time to time determine.

Fees, charges and commissions to be paid into the city treasury.

SECTION 24. The city council shall, in joint convention, fill for the remainder of the municipal year all vacancies which shall at any time arise in the board of assessors.

Vacancies.

SECTION 25. Neither the city council nor either branch thereof, nor any member or committee thereof, or of either branch thereof, nor the board of aldermen acting in any capacity in which said board may act separately under special powers conferred upon it, nor any member or committee of said board acting in any such capacity, shall directly or indirectly take part in the employment of labor, nor, except as otherwise provided in this act, in the appointment or removal of any officers or subordinates for whose appointment and removal provision is herein made. No person shall be elected or appointed to any office of emolument who at the time of his election or appointment shall be a member of the board of aldermen or of the common council.

City council, etc., not to take part in the employment of labor.

Not to be appointed to office of emolument.

SECTION 26. The board of aldermen shall be the final judge of the election and qualification of its members and of the members of the school committee. The board of aldermen shall choose one of its members as president, who shall preside at the meetings of the board and at joint conventions of the two branches of the city council. He may at any time call a special meeting of the board of aldermen by causing a notice to be left at the usual dwelling place of each member. The mayor shall not be a member of, nor preside at any of the meetings, nor appoint any of the committees of the board of aldermen.

Board of aldermen to be final judge of election of its members and of members of school committee.

Aldermen may authorize the construction of sidewalks, etc.

SECTION 27. The board of aldermen may authorize the construction of sidewalks or the completion of any partially constructed sidewalk in said city. Such sidewalks may be with or without edgestones, and covered with brick, flat stones or concrete; and the expense of such edgestones and covering materials shall be assessed upon the abutting lands in just proportions, and shall constitute a lien thereon and be collected in the same manner as taxes on real estate. Such sidewalks when constructed and covered with brick, flat stones or concrete, as aforesaid, shall afterwards be maintained at the expense of the city.

May fix number and compensation of police force, etc.

SECTION 28. The board of aldermen shall from time to time fix the number and compensation of the members of the police force, and establish general regulations for its government. They shall have power to grant licenses to innholders, victuallers and retailers, and to grant other licenses for which provision is or shall be made by general law or ordinance, and may at any time revoke any license granted by them. They shall do all acts and perform all the duties which the selectmen of towns or the boards of aldermen of cities are by law required to do and perform, unless otherwise provided by general law or in this act.

President and clerk of the common council.

SECTION 29. The common council shall choose one of its members as president, who shall preside at its meetings, and shall choose a clerk, who shall be sworn to the faithful discharge of the duties of his office and shall hold office during the pleasure of the council. The clerk so chosen and qualified shall attend the common council when in session and keep a journal of its acts, votes and proceedings, and perform such other service in such office as the council may require. The common council shall be the final judge of the election and qualification of its members.

Filling of vacancies.

SECTION 30. The city council, the board of aldermen, and the common council may respectively fill for the unexpired term any vacancy arising by reason of the death, resignation or removal of any officer elected by them.

School committee to elect teachers of the public schools and a superintendent.

SECTION 31. The school committee and overseers of the poor shall respectively perform all such duties as the school committee and overseers of the poor in towns are required by law to perform. The school committee shall annually elect a superintendent of schools and the teachers of the public schools, any of whom shall be removable by

vote of the committee. The mayor shall appoint the janitors of school-houses, subject to confirmation by the school committee, and may remove them at pleasure for cause assigned; and such janitors shall perform their duties under the direction of the school committee. The overseers of the poor shall annually on the first Monday of May meet and organize, and shall choose such subordinate officers and agents as they may deem expedient, and define their duties and fix their salaries; but no members of the board shall be eligible to be chosen by said board to any position of emolument.

Mayor to appoint janitors of school-houses.

Overseers of the poor.

SECTION 32. The city council, the board of aldermen, the common council, and the school committee, may severally employ such clerks and attendants as they may deem proper for the suitable conduct of their business, and may remove the same at pleasure.

Employment of clerks and attendants.

SECTION 33. Every officer of the city shall, unless sooner removed, continue after the expiration of his term of service to hold his office until his successor is appointed or elected and duly qualified.

Officers to continue until successors are qualified.

SECTION 34. All heads of departments and boards of the city, except the chief of police and the chief engineer of the fire department, shall appoint their respective subordinates, for such terms of service respectively, as are or may be fixed by law or ordinance, which appointments shall be forthwith certified by them to the mayor; the said officers and boards may remove such subordinates for such cause as they shall assign in writing in the order for removal, which order shall be forthwith communicated to the mayor.

Heads of departments to appoint subordinates, except chief of police and engineer of fire department.

SECTION 35. The several executive boards of the city and officers at the head of departments shall in their respective departments make and execute all necessary contracts for the employment of labor, the supply of materials, and the construction, alteration and repair of all public works and buildings, and have the entire care, custody and management of all public works, institutions and buildings, and other property, and the direction and control of all the executive and administrative business of said city. All executive boards and officers shall be at all times accountable for the proper discharge of their duties to the mayor as the chief executive officer. They and all subordinate officers shall at all times furnish such information as to matters under their control as the mayor

Contracts for labor and supply of materials for construction of public works.

Contracts.

or the city council may request. Every contract made in behalf of the city, in which the amount involved exceeds three hundred dollars, shall require the approval of the mayor before going into effect. No expenditures shall be made and no liability shall be incurred or be binding upon the city for any purpose beyond the appropriation previously made therefor. This section shall in no wise be construed as limiting or restricting the powers given to the school committee by the Public Statutes or any amendment thereto.

Heads of departments, etc., to furnish to mayor estimates of money required.

SECTION 36. The heads of departments and all other officers and boards having authority to expend money shall annually before the twentieth day of January, furnish an estimate to the mayor of the money required for their respective departments and offices for one year beginning with the first day of December preceding, and the mayor shall examine such estimates and submit the same with his recommendations thereon to the city council on or before the first day of February. The city council shall thereupon make the appropriation for the financial year beginning with the first day of December preceding.

Ordinances to remain in force unless inconsistent, etc.

SECTION 37. All ordinances of the city of Cambridge, or portions thereof, inconsistent with the provisions of this act are annulled, but such portions as are not inconsistent herewith are continued in force until amended or repealed by the city council.

Not to affect provisions of 1886, 108; 1888, 70; 1889, 439.

SECTION 38. Nothing contained herein shall affect the provisions of chapter one hundred and eight of the acts of the year eighteen hundred and eighty-six, of chapter seventy of the acts of the year eighteen hundred and eighty-eight, of chapter four hundred and thirty-nine of the acts of the year eighteen hundred and eighty-nine, or the enforcement of the provisions of chapter three hundred and twenty of the acts of the year eighteen hundred and eighty-four or of acts in amendment thereof, or of the rules made by the commissioners appointed thereunder, and none of the provisions of this act, except those relating to the power of removal, shall affect the tenure of office of any person now holding any office or position in the city, or the present powers of the board of health therein. Except as herein provided, the Cambridge water board and the commissioners of the Cambridge cemetery shall continue to have and exercise all powers, and be subject to all duties now conferred or imposed

Water board and commissioners of Cambridge cemetery to continue to exercise powers, etc.

upon them by law or ordinance until the same shall be modified or repealed.

SECTION 39. Chapter one hundred and thirty-nine of the acts of the year eighteen hundred and thirty-two, chapter eighty-seven of the acts of the year eighteen hundred and thirty-five, chapter one hundred and nine of the acts of the year eighteen hundred and forty-six, chapter ninety-nine of the acts of the year eighteen hundred and fifty-one, chapter one hundred and fifty-five of the acts of the year eighteen hundred and fifty-three, the provisions of section one of chapter forty-four of the acts of the year eighteen hundred and fifty-five relating to method of appointment and removal of cemetery commissioners, and of section three of said chapter relating to execution of deeds by the city clerk, chapter one hundred and twelve of the acts of the year eighteen hundred and fifty-six, chapter seventy-five of the acts of the year eighteen hundred and fifty-seven, chapter one hundred and thirty-seven of the acts of the year eighteen hundred and fifty-nine, chapter one hundred and ninety-one of the acts of the year eighteen hundred and sixty-three, chapter sixty-eight of the acts of the year eighteen hundred and sixty-seven, chapter three hundred and thirty-six of the acts of the year eighteen hundred and sixty-nine, chapter two hundred and twenty-nine of the acts of the year eighteen hundred and seventy, chapters three hundred and thirty-seven and three hundred and forty-five of the acts of the year eighteen hundred and seventy-three, chapter forty-one of the acts of the year eighteen hundred and seventy-seven, chapter one hundred and two of the acts of the year eighteen hundred and seventy-eight, chapter one hundred and ninety of the acts of the year eighteen hundred and seventy-nine, chapters one hundred and three, one hundred and ninety-three and two hundred and thirteen of the acts of the year eighteen hundred and eighty-six, and chapter two hundred and sixty of the acts of the year eighteen hundred and ninety, are hereby repealed; but such repeal shall not revive any act heretofore repealed, nor shall the repeal of said acts or the annulling of ordinances inconsistent herewith affect any act done, liability incurred, or any right accrued or established, or any suit or prosecution, civil or criminal, to enforce any right or penalty or punish any offence under the authority of said acts or ordinances.

Subject to acceptance by a majority vote of the voters.

SECTION 40. This act shall be submitted to the qualified voters of the city of Cambridge for acceptance at the next annual municipal election held therein, and the affirmative votes of a majority of the voters present and voting thereon shall be required for its acceptance.

When to take effect.

SECTION 41. So much of this act as authorizes the submission of the question of its acceptance to the voters of said city shall take effect upon its passage, but it shall not further take effect unless accepted by the voters of said city as herein provided. *Approved May 29, 1891.*

Chap. 365

AN ACT TO ESTABLISH A COMMISSION TO PROMOTE RAPID TRANSIT FOR THE CITY OF BOSTON AND ITS SUBURBS.

Be it enacted, etc., as follows:

Rapid transit commission to be appointed.

SECTION 1. The governor with the advice and consent of the council shall, within thirty days from the passage of this act, appoint three persons, none of whom shall be residents of the city of Boston, who, together with the mayor and city engineer of the city of Boston *ex officio*, and the persons hereafter appointed by said mayor, under the order for a rapid transit commission passed by the city government of Boston, which was approved by the mayor on the twenty-eighth day of February in the year eighteen hundred and ninety-one, shall constitute a commission to consider the question of rapid transit for passengers and freight in the city of Boston and its suburbs.

To investigate subject of rapid transit for passengers and freight in Boston and its suburbs.

SECTION 2. The said commission shall forthwith proceed to investigate and consider the subject of rapid transit for passengers and freight in the city of Boston and its suburbs, including elevated, underground and surface routes, by any practicable method. The commission shall also consider all questions and details of construction, operation and maintenance; the cost of the same; the damages to property; routes, whether in the streets or elsewhere; the location of terminal facilities and way stations; the terms of any franchise to be granted to any corporation building or operating said roads, including in the terms of the franchise the compensation, if any, that shall be paid to the cities and towns through which it is constructed; what property, if any, should be taken, and if so whether by eminent domain or purchase; rates of fare to be paid upon the roads; and all other matters pertaining to the problem of rapid transit in said city and suburbs, the best method of accommodating the travelling public,

Cambridge Civic Journal Forum

September 24, 2020

HOW TO BREAK A POLITICAL MACHINE – Collier’s Magazine, Jan 31, 1948

Filed under: [Cambridge](#), [Cambridge government](#), [City Council](#), [history](#) — Tags: [Cambridge](#), [City Council](#), [City Manager](#), [history](#), [Plan E](#) — Robert Winters @ 1:31 pm

The following article was referenced at the Sept 23, 2020 City Council meeting on possible Charter review.

HOW TO BREAK A POLITICAL MACHINE [Collier’s Magazine, January 31, 1948]

Cambridge’s Board of Directors, which replaced the old City Council after the professors finished their reform wave, has reduced the city debt from twelve to three million, built the highest-paid group of employees in any city of comparable size, reduced taxes and increased and streamlined all the city services

BY JOSEPH F. DINNEEN

The taxpayers of Cambridge, Massachusetts, were paying far too much for far too little until a group of college professors and plain citizens got together and took on the local political machine. It was a tough and glorious scrap, but today Cambridge is one of the best-run cities in the land

WE WANT you, Dean Landis, to become the active, working head of a committee to change the charter of the City of Cambridge.” The dean of the Harvard Law School was sympathetic, but not interested. He looked at Attorney George McLaughlin and the committee sent to persuade him. “You want me to become a Cambridge city politician,” he said, “and I have neither the time nor the inclination to do that. Why pick on me?”

“Because we need a big name. And we need somebody with your kind of ability to head up the fight.”

Dean Landis shook his head. “Count me out. I have enough to do without trying to reform the City of Cambridge. Harvard and the city have been fighting for years.”

“That’s no reason why Harvard and the city should keep on fighting,” McLaughlin persisted. “It’s time they got together. If they don’t, the city will go bankrupt and the professors who live here will find that just as tough as the rest of us. We have a plan to save it, but we want you to help us put it across.”

“Why me? And what’s the plan?” The plan which McLaughlin outlined on that day in July, 1938, was simple. But putting it into operation started one of the fanciest political slugging matches the old city across the Charles River had ever seen.

The reason McLaughlin had helped organize forty-nine professors, industrialists, merchants, legionnaires, white-collar workers and laborers into a Committee of Fifty to back the plan, was that they well knew the sad state into which the City of Cambridge had fallen: They had seen the firemen in discarded letter carriers’ uniforms answering alarms with equipment so old it often broke down before it reached the fire; they had driven over the rutted and littered streets and had been stopped cold when unremoved snow made them impassable in winter; they had smelled the city when garbage and refuse lay for days without being collected. And they had felt it in their pocketbooks as the taxes inched higher and higher.

The Committee of Fifty had been organized after the first move to correct these abuses had been taken by a team of Harvard experts in government and progressive Massachusetts legislators. This step had been to get the state

legislature to pass an act allowing any city to adopt Plan E, the city-manager form of charter, if it voted to do so.

Previously this form of government, which had been pioneered in Cincinnati, Ohio, and had been replacing corrupt municipal machines with streamlined, efficient administration in various other cities throughout the country ever since, had been unavailable to Massachusetts cities. Now that Plan E was available, the Committee of Fifty proposed to arouse the citizens of Cambridge to the point where they'd toss out the city administration and charter and vote in a new order. They well knew that they had a fight ahead of them.

"Mayor John W. Lyons doesn't know yet that Plan E is poison to him and to all other political bosses," McLaughlin told Landis. "But as soon as we start working to get the people to vote for it, he will. His political machine will start rolling to kill it and he'll fight as he never fought before because Plan E means his finish."

Dean Landis accepted the job of heading the Committee of Fifty.

McLaughlin was right. Mayor Lyons, Paul Mannos, his chief contractor, who was being investigated by the district attorney and the members of the city council woke up screaming.

The first moves of the opposition made them laugh. James McCauley Landis was going around Cambridge, dropping in at taverns and saloons, chatting with truck drivers and bartenders, talking to them about Plan E, explaining it, discussing it, sounding them out. James Michael Landis, they called him, a comparison to James Michael Curley that they knew he would not like.

A Machine of Nonpoliticians

Nevertheless the new kind of machine that was growing in Cambridge bewildered Mayor Lyons. Its leaders were not politicians. None of them had ever been elected to public office; they were a collection of educators and businessmen swelled by an assortment of nobodies from all wards. They sponsored no candidate, but he knew they were out to defeat him. They didn't say so. They held political rallies, advocating the adoption of a new and fantastic form of city charter. Dean Landis, the three lawyer McLaughlins, George, Walter and Charles, were a flying squadron buzzing around to clubrooms, the Y.M.C.A. and church groups explaining it in detail, while speakers from the League of Women Voters were missionaries among the women.

Mayor Lyons examined the proposed city-charter and was astonished. It deprived a mayor of all power and made him merely the ceremonial head of the city. It would end a system of contract awards and city contractors. It would make the city council a board of directors of the city corporation and pay each one of them an unheard-of \$4,000 a year. It did away with the system of marking a cross on a ballot and permitted every voter to vote for every candidate in a system known as proportional representation. The voter simply put a number one after his first choice, number two after the second and so on down the list.

It was election year and the proponents were trying to get the charter on the ballot. That required the signatures of 10 per cent of the voters —5,000 persons. The mayor and the city contractors were determined to keep it off the ballot at any cost.

"This is a bold and barefaced attempt to overturn our form of government," the mayor shouted from platforms and street-corner rostrums. "This is Communism. This system was designed in Moscow and approved by Stalin. This is a pernicious attempt by the Harvard Reds to destroy the American way."

The brothers McLaughlin, Charles, George and Walter (left to right), were ringleaders in the fight to organize a group which could oust the political machine. All lawyers, they handled their forces like generals

"There's nothing Communistic about it," the McLaughlins, Dean Landis and a growing corps of speakers answered from the same and other platforms. "It was adapted from democratic systems in Ireland and England by Charles P. Taft to cure corruption and mismanagement in Cincinnati 15 years ago. He added American improvements and refinements and it put Cincinnati back on its feet." As Election Day came nearer, the fight became hot and bitter. Public speakers for Plan E making whirlwind campaign tours around the city came out of

meeting places to find the air let out of their tires. A paving block was hurled through the window of the home of one of the speakers. But the Civic Association, which had grown out of the Committee of Fifty, kept on growing.

Already there were more than enough signatures to put on the ballot the question: “Shall Cambridge accept Plan E?” The signatures were filed as required with the State Ballot Law Commission, and verified. There was a deadline established by law —Saturday, October 8th, midnight— when all legal election forms must be completed in time to have ballots printed and distributed. Time was running out and suddenly the Committee of Fifty spotted an unintended booby trap in the state law covering referendums. This was a provision that “the city clerk upon the vote of the council” must transmit a petition for a referendum to the Secretary of State.

“How do we lick this one?” George McLaughlin asked the dean of the Law School. “How can we compel a hostile council to vote a proposal to wipe itself out?”

“A writ of mandamus?” the dean suggested.

“A writ of mandamus is an instrument to compel an official to do a purely administrative act, like making a police chief appoint a cop from a civil service list. Has a writ of mandamus ever been issued to compel a legislative body to pass a yes or no vote?” McLaughlin asked. “I doubt it.”

“The courts never interfere with the legislative branch of the government, I’ll agree,” Landis said, “but in this case it can be argued. Is this particular vote a legislative or administrative act? You’ll have to reason your way through that one.”

On the Tuesday before deadline, the city council met and adjourned without taking any action on the petition. Its next regular meeting would not be held until the Tuesday after the deadline had passed; but Boston and Cambridge newspapers were so scornful and there was now such an impressive number of Plan E supporters throughout the city that the council became uneasy. The president of the council announced that he would call a special meeting to act on the petition on Friday, 24 hours before deadline.

On Friday the strategy of the opposition became clear. Groups of citizens appeared at the Ballot Law Commission to question the validity of signatures on the Plan E petition, alleging wholesale forgeries. The commission protested the lateness of the hour and inquired indignantly why the objections had not been made earlier; but the charges had to be investigated. The commission set 10 o’clock next morning for a hearing.

That night the council met again and refused to vote to send the petition along to the Secretary of State.

“We couldn’t,” members said. “The petition is now in litigation. It may turn out to be invalid.”

Writ of Mandamus Sought

There was a council of war in the cellar of George McLaughlin’s house. “What do you suggest now?” McLaughlin asked Dean Landis. “You’re the chairman of this committee.”

“We’ll go after the writ of mandamus.”

“Good!” McLaughlin agreed. “I’ve been canvassing that possibility all week. I can’t find a single important legal mind in Boston or Cambridge who thinks it can be done. They all say you can’t get a writ of mandamus for that purpose and they all say there isn’t time. The courts move too slow.”

Landis nodded. “Let’s speed them up.”

Harvard Law School’s Dean Landis was a hard man to convince, but finally he got mad

Organization began right away. Judges were consulted and lawyers enlisted that night. At five o’clock the following morning, the three McLaughlins were in their office facing Suffolk County Courthouse in Boston typing out subpoenas for every person who filed an objection to signatures and for all thirteen members of the

city council. There were two jurisdictions involved, Suffolk, which is Boston, and Middlesex, Cambridge. Fifteen lawyers with 15 constables attached were deployed in strategic places around the city, at the Statehouse, the two courthouses, in a district attorney's office, in drugstores by pay stations and in police stations.

It was their job to channel and chart the case through the Ballot Law Commission and all of the courts to the Supreme Court before the stroke of midnight. In the early morning hours, constables and lawyers were combing Cambridge picking up the objectors and city councilors, and by 10 o'clock that morning they had all been herded before the commission—all except those objectors who apparently lived on vacant lots or were unknown at the addresses given. Some who were awakened in their beds or were disturbed at breakfast didn't know what their objections were nor how to sustain them.

Justice on the Move

Three lawyers had been assigned to the Ballot Law Commission, and as they called witnesses, one by one their objections dissipated. By 11 o'clock in the morning, the petition was cleared and made legal. The wheels of justice had been speeded up as they never had been in local judicial history. While the ballot law hearing was going on, three more lawyers were piloting the petition for a writ of mandamus through to the courts.

According to the timetable, the court orders directing the councilors to appear should have been in Boston in time to serve them upon the city councilors as the Ballot Law Commission hearing broke up; but the orders were late, or the hearing ended too soon, and the councilors got away. Not far, though. The legal squadron knew where to pick them up from hour to hour.

By 1 o'clock the preliminary hearing on the writ of mandamus before a single justice was over, and he agreed to convene the full bench of the Supreme Court by 3 o'clock. Once again the three lawyers opposite the Boston courthouse began typing—this time turning out writs for the other 12 lawyers to serve on the councilors.

Harvard was playing Princeton that afternoon. Each Cambridge city councilor is entitled to two seats for every Harvard stadium game. As each councilor walked over the Larz Anderson Bridge that afternoon, a lawyer spotted him, pointed him out to his constable. The constable stepped up, saluted the councilor with "Greetings!" and slapped the writ in his hand.

At 3 o'clock a disappointed, dejected and bewildered city council was standing before Supreme Court Justice Dolan. The full bench had already reviewed the petition and Justice Dolan had been assigned to hear the arguments and dispose of the case. City Solicitor Richard C. Evarts, a good lawyer, represented the council, but he had had no time to prepare his case. Justice Dolan issued the writ directing the council to meet before midnight.

There was still one loophole. The councilors might refuse to hold a meeting because they had not been served legal notice of the court's order. Once again the typewriter battery of lawyers went to work, and that evening, while the councilors were home for dinner, notice was served upon each of them.

The council met at 7:30 that night, and although there was nothing the members could do but pass the order, they debated it for two and a half hours. The deadline was then two hours away and the order still had to be written and signed. The city clerk was a trustworthy and efficient official, but the eyes of a company of lawyers were upon him from the moment he received the document until he left the building. When he came out of City Hall to drive to the Statehouse, he found himself boxed on all sides by accompanying cars. The Plan E committee was taking no chances that something untoward might befall him. He arrived to deposit the document with the Secretary of State exactly 15 minutes before deadline.

Early in the morning after election, when the last vote had been counted. Dean Landis was sitting on a table in Plan E campaign headquarters, swinging his legs idly, drinking a cup of stale coffee from a near-by urn, looking down at the floor thoughtfully, surrounded by a group of disconsolate campaign workers. Plan E had lost.

"What do we do now?" one of them asked.

The dean got down from the table. “Now we start working to put this over two years from now. Get out the cards. Organize the mailing list. Announce the next meeting and arrange it. We lost fairly. We weren’t counted out. We didn’t have enough votes. Next time we’ll have enough votes.”

Before the next campaign had arrived, District Attorney Robert Bradford had closed in on Mayor Lyons and Contractor Mannos and sent them to jail for soliciting bribes, a conviction that helped make him governor. The Cambridge Civic Association had swelled to overwhelming proportions, and the campaign was even more bitter. On a night in late October, Dean Landis and George McLaughlin were sitting in an automobile on the fringe of an opposition rally, listening to a councilor plead and fight for votes. The councilor espied Landis and pointed him out to the crowd.

“There’s Dean Landis in an automobile over there with Georgie McLaughlin,” he said. “James Michael Landis. He came to me the other day and he said to me: ‘If you’ll support Plan E, I’ll deliver to you the support of the Cambridge Civic Association,’ and I said to him, ‘No, Dean. You can’t bribe me.’ “

Accusation Stirs Landis

The dean was reaching for the door and at the same time shucking off his coat. “He can’t get away with that,” he said.

McLaughlin pulled him back. “Wait a minute! Cool off.”

“He’s a bar,” the dean struggled to get loose.

“The people he’s talking to know that. What are you going to do? Mix it up with him? Clip him on the chin? That’ll give you a lot of personal satisfaction tonight, and tomorrow you’ll be all over front pages for having a brawl with a candidate.” The dean subsided and McLaughlin drove away.

Plan E won that year, and the following year the Civic Association put the plan into operation. The first board of directors, which took the place of the city council, hired as city manager John B. Atkinson, World War I veteran, Boston College graduate and an experienced executive in the shoe business. He had never been in politics and had never managed a city. The first thing he did was to throw all of the city contractors and hangers-on out of City Hall. Then he called all city employees before him.

“The city,” he told them, “is now under new management. No city employee is going to be fired. From now on, you don’t need any political influence to hold your job and political influence won’t get you advancement or more money. What you’re going to be paid depends upon what you do and how you do it. Everybody working for this city is getting a raise in pay right now. The cost of living is going up—and you need it—but you’re going to earn it.

“From now on you’re going to do all the work that has to be done in this city – including the work that has been done in the past by city contractors and subcontractors and their employees. From now on, you’ll get a raise every year until you’re the best-paid city employees in the country. From there on, the size of your salary is up to yourself.”

The employees liked that. The local unions did not; but they couldn’t do much about it. Atkinson needed a number of specialists in city administration and picked them among city employees, even sending them to colleges for special training. The new city road builders got their fundamental training in techniques in road building and surfacing at Massachusetts Institute of Technology, whose professors and instructors had a stake in Cambridge city government. He appointed college professors, specialists and instructors to nonpaying advisory posts. The city’s postwar plan, advanced and ambitious, was designed by Professor Frederick J. Adams of MIT, who became the head of the Cambridge Planning Board.

During the past seven years every job done in Cambridge has been done by its own hired hands with this result: Since 1941 the city reduced its debt from \$12,000,000 to \$3,000,000, and at the same time raised the salaries of

all of its city employees \$1,300,000, actually making them the best paid in any city of comparable size in the world. It reduced its tax rate from \$48 to \$35.50 without raising the values of its taxable properties. While cutting the city's debt 75 per cent and reducing its tax rate—unheard of and considered to be impossible during war and postwar years when all costs were climbing—the city also did this:

Built eleven playgrounds and a new bathing beach; junked all of its obsolete fire-fighting and police equipment, replacing it with the latest and best apparatus obtainable, including the last word in two-way radio transmitters and receivers; modernized, re-equipped and enlarged its City Hospital, including the latest and most elaborate X ray; bought a fleet of sanitation trucks that are washed down daily and repainted white frequently; hired architects for G.I.s and built 1,200 modern housing units for them (not obsolete barracks, jerry-built shacks or Quonset huts); resurfaced more yards of streets in five years than all other cities of comparable size in 15 years.

Cambridge has its own printing plant, manned and operated by city employees. It prints everything for the city from stationery to books. It has its own photostat plant, which turns out copies of documents, plans and blueprints for city departments. The city incinerator was always an expensive loss, as was the garbage-disposal plant. The incinerator now pays the city a profit of \$36,000 a year, while the garbage-disposal plant turns in a profit of \$8,500. By businesslike methods, it increased the income of its City Hospital from \$121,000 to \$360,000 a year.

City employees do everything: painting, paper hanging, plumbing, repairing and building. The city furnishes the materials; the employees do the rest. Cambridge employs a staff of buyers who roam and scour the country picking up supplies in competition with contractors and private business. For \$200,000 recently these roving purchasing agents picked up from Army and Navy surplus stores supplies that would otherwise cost \$2,000,000.

The Cambridge City Corporation is hardboiled and tough with its debtors. Its crack law department collects every penny owed the city by the State of Massachusetts and by surrounding cities and towns in water, electric, transit and other tax adjustments. The law department fights rather than settles all doubtful claims against the city. For example, claims from people tripping over sidewalks have dropped from \$48,000 a year to \$15,000 a year because the city lawyers will fight the full distance to the Supreme Court if necessary. The city is just as tough with its own delinquent taxpayers and collects 99 per cent of its taxes from them. On last August 1st, it had less than one per cent miscellaneous taxes outstanding, and a phenomenal zero outstanding real-estate and personal taxes.

Speculators and Rent Gougers Hit

Valuations of homes, industrial and business establishments were left severely alone, except when speculators and rent gougers were involved. When a man sold for \$12,000 a place that was worth \$2,500 on the city's tax books, they looked into it right away. If it was worth \$12,000 to the new buyer it was worth almost that to the tax collector and the speculator was promptly slugged with the new tax bill. If a property owner raised rents, he was treated the same way. New businesses and new industries have been crowding Cambridge so fast that it's a problem to find quartet's for them.

The city doesn't borrow any long-term money. It saves the interest. Its credit is probably better than that of any other city in the country.

Cambridge has become a phenomenal experiment in city government. The resources and laboratories of MIT test all of its building and road materials, equipment and machinery. Problems in physical improvement are for MIT students to solve. The Littauer School of Government, with Professor Morris Lambie as adviser, helps on problems of government and city betterment.

Hand in glove with the Civic Association is the Cambridge Research Association to examine all aspects of city government. Dr. Karl T. Compton, president of MIT, his administrative assistant, Robert Kimball, and Bernice Cronkhite, former dean of Radcliffe College, are members of the board of directors of the Research Association while President James Bryant Conant of Harvard is an ordinary, dues-paying member of the Civic Association.

Meetings of the Civic Association are almost unbelievable. A federal judge sits between a truck driver, and a housemaid, and a professor of archaeology drapes himself over a radiator next to a cop.

The old system dies hard, but in Plan E, according to Professor Lambie, the entrenched politician skilled in yesteryear's technique can see the curtain falling on the city-boss type of government. "A political machine can't operate under Plan E," says Lambie. "Good or bad government originates with the people of any community, but the fact that the people of a community want good government doesn't mean that they'll get it. They'll get good government only if there is a charter and an election system in power through which they can function."

THE END

Municipality	County	2018 Pop.	2017 Income Per Capita	FY20 Tax Levy As % of Budget	FY20 Operating Budget	CEO	Mayoral Term	Council Member ship	At-Large	District	Term	District Size (for those with districts)	School Cmte Member-ship	At-Large	District	Term	Mayor a member	Mayor is Chair
BOSTON	Suffolk	694,583	50,746	70.21	3,573,105,779	Mayor	4	13	4	9	2	77,176	7	See note1			No	No
WORCESTER	Worcester	185,877	22,458	40.30	784,435,392	Manager	n/a	11	6	5	2	37,175	7	6	0	2	Yes	Yes
SPRINGFIELD	Hampden	155,032	15,424	30.28	714,460,519	Mayor	4	13	5	8	2	19,379	7	6	0	2	Yes	Yes
CAMBRIDGE	Middlesex	118,977	60,415	56.31	778,127,829	Manager	n/a	9	9	0	2	n/a	7	6	0	0	n/a	n/a
LOWELL	Middlesex	111,670	22,686	33.96	407,340,917	Manager	n/a	9	9	0	2	n/a	7	6	0	2	Yes	Yes
BROCKTON	Plymouth	95,777	21,946	32.66	456,138,690	Mayor	2	11	4	7	2	13,682	9	1	7	2	Yes	Yes
NEW BEDFORD	Bristol	95,315	18,149	32.03	404,503,245	Mayor	4	11	5	6	2	15,886	7	6	0	4	Yes	Yes
LYNN	Essex	94,654	21,782	36.64	372,304,928	Mayor	4	11	4	7	2	13,522	7	6	0	2	Yes	Yes
QUINCY	Norfolk	94,580	35,784	60.69	398,667,484	Mayor	4	9	3	6	2	15,763	7	6	0	2	Yes	Yes
FALL RIVER	Bristol	89,661	17,783	31.29	341,174,635	Mayor	2	9	9	0	2	n/a	7	6	0	2	Yes	Yes
NEWTON	Middlesex	88,904	154,628	69.44	520,535,596	Mayor	4	24	16	8	2	11,113	9	9	0	2	Yes	No
SOMERVILLE	Middlesex	81,562	43,411	53.90	311,324,423	Mayor	2	11	4	7	2	11,652	9	0	9	2	Yes	No
LAWRENCE	Essex	80,376	16,671	20.98	353,226,790	Mayor	4	9	3	6	2	13,396	7	0	6	2	Yes	Yes
FRAMINGHAM	Middlesex	73,123	35,111	56.42	347,649,977	Mayor	4	11	2	9	See note2	8,125	9	0	9	2	Yes	No
HAVERHILL	Essex	64,041	29,525	47.38	226,931,743	Mayor	2	9	9	0	2	n/a	7	6	0	2	Yes	Yes
WALTHAM	Middlesex	62,962	38,805	61.47	311,795,315	Mayor	4	15	6	9	2	6,996	7	7	0	4	Yes	Yes
MALDEN	Middlesex	61,036	28,509	45.19	209,158,921	Mayor	4	11	3	8	2	7,630	9	1	8	2	Yes	Yes
MEDFORD	Middlesex	57,765	40,052	58.59	201,463,183	Mayor	2	7	7	0	2	n/a	7	6	0	2	Yes	Yes
WEYMOUTH	Norfolk	57,719	35,048	54.75	203,747,757	Mayor	4	11	5	6	2	9,620	7	7	0	4	Yes	No
TAUNTON	Bristol	57,296	26,003	41.30	260,265,830	Mayor	2	9	9	0	2	n/a	9	8	0	2	Yes	No
CHICOPEE	Hampden	55,582	20,595	40.11	221,707,452	Mayor	2	13	4	9	2	6,176	11	2	9	2	No	No
REVERE	Suffolk	53,821	25,170	40.11	225,508,767	Mayor	4	11	5	6	2	8,970	7	6	0	2	Yes	Yes
PEABODY	Essex	53,278	33,293	57.87	191,387,008	Mayor	2	11	5	6	2	8,880	7	6	0	2	Yes	Yes
METHUEN	Essex	50,698	30,929	52.32	178,355,380	Mayor	2	9	3	6	2	8,450	7	6	0	2	Yes	Yes
EVERETT	Middlesex	46,880	21,614	37.63	247,492,808	Mayor	4	11	5	6	2	7,813	9	3	6	2	No	n/a
ATTLEBORO	Bristol	45,117	32,722	48.62	160,982,239	Mayor	2	11	5	6	2	7,520	9	3	6	2	No	No
BARNSTABLE	Barnstable	44,460	41,358	57.75	222,323,050	Manager	n/a	13	0	13	4	3,420	5	5	0	4	n/a	n/a
SALEM	Essex	43,559	31,153	59.54	174,041,488	Mayor	4	11	4	7	2	6,223	7	6	0	2	Yes	Yes
PITTSFIELD	Berkshire	42,533	27,421	50.04	179,450,940	Mayor	4	11	4	7	2	6,076	7	6	0	2	Yes	No
BEVERLY	Essex	42,312	43,565	69.32	155,832,595	Mayor	2	9	3	6	2	7,052	7	0	6	2	Yes	No
LEOMINSTER	Worcester	41,823	28,631	45.20	166,088,894	Mayor	2	9	4	5	2	8,365	9	3	5	2	Yes	No
WESTFIELD	Hampden	41,680	27,181	47.12	162,329,923	Mayor	2	13	7	6	2	6,947	7	6	0	4	Yes	Yes
FITCHBURG	Worcester	40,882	20,223	33.49	166,236,952	Mayor	2	11	5	6	2	6,814	7	6	0	2	Yes	Yes
WOBURN	Middlesex	40,397	39,914	65.76	171,849,662	Mayor	2	9	2	7	2	5,771	7	7	0	2	No	No
HOLYOKE	Hampden	40,358	17,138	33.52	165,558,802	Mayor	2	15	8	7	2	5,765	9	2	7	2	No	No
CHELSEA	Suffolk	40,160	19,021	28.54	215,338,751	Manager	n/a	11	3	8	2	5,020	9	1	8	2	n/a	n/a
MARLBOROUGH	Middlesex	39,825	37,223	58.36	186,853,583	Mayor	2	11	4	7	2	5,689	7	6	0	2	Yes	Yes
AMHERST	Hampshire	39,503	19,545	57.89	94,901,798	Manager	n/a	13	3	10	2	3,950	5	5	0	2	n/a	n/a
BRAINTREE	Norfolk	37,250	43,387	57.46	167,134,420	Mayor	4	9	3	6	2	6,208	7	7	0	4	Yes	No
WATERTOWN	Middlesex	35,954	45,794	69.04	169,647,545	Manager	n/a	9	5	4	2	8,989	7	7	0	4	See note3	n/a
RANDOLPH	Norfolk	34,398	27,819	54.21	120,997,008	Manager	n/a	9	5	4	2	8,600	7	6	0	4	n/a	n/a
FRANKLIN	Norfolk	33,230	50,169	55.83	145,086,684	Manager	n/a	9	9	0	2	n/a	7	7	0	2	n/a	n/a
GLOUCESTER	Essex	30,401	37,750	64.70	134,640,663	Mayor	2	9	4	5	2	6,080	7	6	0	2	Yes	No
NORTH ATTLEBOROUGH	Bristol	29,349	40,348	53.48	113,625,943	Manager	n/a	9	9	0	2	n/a	7	7	0	3	n/a	n/a
AGAWAM	Hampden	28,854	29,484	56.27	114,675,350	Mayor	2	11	11	0	2	n/a	7	6	0	2	Yes	Yes
WEST SPRINGFIELD	Hampden	28,747	27,775	50.39	124,937,240	Mayor	2	9	5	4	2	7,187	7	7	0	2	Yes	No
NORTHAMPTON	Hampshire	28,726	36,175	49.33	125,348,065	Mayor	4	9	2	7	2	4,104	10	2	7	2	Yes	Yes

Municipality	County	2018 Pop.	2017 Income Per Capita	FY20 Tax Levy As % of Budget	FY20 Operating Budget	CEO	Mayoral Term	Council Member ship	At-Large	District	Term	District Size (for those with districts)	School Cmte Member-ship	At-Large	District	Term	Mayor a member	Mayor is Chair
MELROSE	Middlesex	28,193	51,990	60.74	109,689,464	Mayor	4	11	4	7	2	4,028	7	6	0	4	Yes	No
BRIDGEWATER	Plymouth	27,395	32,778	62.81	74,458,543	Manager	n/a	9	2	7	3	3,914	Regional	n/a	n/a	n/a	n/a	n/a
GARDNER	Worcester	20,719	21,314	37.55	74,259,642	Mayor	2	11	6	5	2	4,144	7	6	0	4	Yes	Yes
WINTHROP	Suffolk	18,688	34,774	51.27	66,677,532	Manager	n/a	9	6	3	4	6,229	7	7	0	4	See note4	n/a
NEWBURYPORT	Essex	18,202	61,352	65.63	90,676,796	Mayor	4	11	5	6	2	3,034	7	6	0	4	Yes	No
AMESBURY	Essex	17,569	38,431	61.82	69,741,579	Mayor	2	9	3	6	2	2,928	7	6	0	4	Yes	Yes
GREENFIELD	Franklin	17,460	22,293	52.71	66,119,799	Mayor	4	13	4	9	4	1,940	9	8	0	4	Yes	Yes
SOUTHBRIDGE	Worcester	16,931	21,159	32.00	68,540,478	Manager	n/a	9	9	0	3	n/a	7	7	0	3	n/a	n/a
EAST LONGMEADOW	Hampden	16,296	44,995	59.66	71,797,255	Manager	n/a	7	7	0	3	n/a	5	5	0	3	n/a	n/a
EASTHAMPTON	Hampshire	15,987	30,618	56.77	52,747,596	Mayor	2	9	4	5	2	3,197	7	6	0	2	Yes	No
NORTH ADAMS	Berkshire	12,904	16,956	40.34	45,279,305	Mayor	2	9	9	0	2	n/a	7	6	0	2	Yes	Yes

Appendix E - Descriptions of Worcester, Barnstable, and Chelsea forms of government

Worcester

Population: 185,143 (2019)

Form of government: Council-Manager

Current Charter: Home Rule Charter, 1985 (many provisions based on prior Plan E government in effect from 1947-1985)

Council:

- 11 members: 5 from districts, 6 at large; 2-year term;
- Mayor is chosen from among the at-large candidates willing to serve as mayor; highest vote total at municipal election; mayor is chair of council and chair of school committee;
- Similar duties as Cambridge mayor;
- Council elects city auditor, city clerk, and citizens' complaint officer (complaint officer eliminated by charter amendment approved by voters);
- Council conducts annual evaluation of the city manager's performance; and
- Transfer of appropriations requires 2/3 council vote.

City Manager:

- Duties similar to Plan E;
- Manager makes all appointments;
- Multiple member bodies identified as executive (set policy and/or operate departments), regulatory (application of state laws and city ordinances), or advisory;
- Other features of appointments:
 - Council approves appointments to advisory multiple-member bodies by majority vote;
 - Citizens advisory council appointed by manager for advice/consultation re: appointments to multiple-member bodies; advisory council members appointed to 3-year term; 2 term (6 year) limit; and
 - Manager required to make appointments reflecting geographic diversity in board membership (i.e., representation from each of the city's five council districts).

Other Provisions:

- Organization/Reorganization provisions (Note: This is a feature of almost all charters, allowing for the creation, dissolution, and combining of municipal department and offices. Some provisions require that the proposed plan demonstrate that the changes lead to greater efficiency and effectiveness in the use of resources and personnel. None of the "Plan" governments in MGL Chapter 43 provided for organization/reorganization by local governments);
- Initiative and referendum provisions included in the charter (Note: These were optional in the "Plan" governments, and the initiative and referendum provisions of MGL Chapter 43 (the "Plans") did **not** identify certain actions as not being subject to initiative or referendum; such prohibitions are now an established feature of all initiative and referendum provisions adopted by Massachusetts cities and towns); and
- Charter identifies special acts of the legislature relating to the organization of City departments, indicating which are repealed upon charter adoption and which are specifically retained (similar provisions appear in most, but not all, charters).

Barnstable

Population: 44,006 (2019)

Form of government: Council-Manager

Current Charter: Home Rule Charter, 1989

Council:

- Council composed of one councilor from each precinct (presently 13);
- Councilors serve 4-year terms with half of the council elected at each municipal election (staggered terms);
- Term limit of 3 consecutive terms or 12 consecutive years;
- Council appoints all multiple-member bodies (NOTE: School committee and housing authority continue to be elected);
- Council conducts annual performance evaluation of the manager;
- Council may remove members of appointed multiple-member bodies for (1) absence of 3 or more months unless member received permission from committee chair; (2) felony conviction; or (3) absence of one year notwithstanding permission of the committee chair; and

School Committee:

- School committee composed of 5 members with 4-year terms, staggered to elect roughly half of the membership at each municipal election.

City Manager:

- Appointed by council by majority vote;
- Residency requirement of residence within the town within 6 months; time period may be extended by the council but not waived;
- Manager appoints department heads, officers, and employees; council approves appointments;
- Manager may consult with affected boards re: certain appointments;
- Manager may present organization/reorganization plans to council;
- Manager to prepare and present annual budget policy to guide budget deliberations to the city council and school committee, meeting jointly; and
- Manager prepares and presents to the council a five-year financial forecast.

Other Provisions:

- Initiative, referendum, and recall* provisions; (requires 20% voter participation at elections where initiative, referendum, and/or recall questions are on the ballot); (*160 towns authorize recall for elected officials (with a few exceptions for certain offices – e.g., Board of Library Trustees). There is no state statute authorizing recall. Cities and towns authorize recall by home rule charter, special act charter, or a special act authorizing recall in a particular city or town); and
- Identifies special acts of the legislature relating to local government organization which are specifically retained.

Chelsea

Population: 39,992 (2019)

Form of government: Council-Manager

Current Charter: Special Act Charter, 1994

Council:

- Council composed of 11 members: 8 from districts, 3 at large; all serve 2-year terms;
- Council president elected by council; presides at council meetings and “performs ceremonial functions”; and
- Council conducts annual performance review of the manager.

School Committee:

- 9 members: 8 from districts, 1 at large; 2-year term.

City Manager:

- Affirmative vote of 7 council members to appoint or to remove;
- City manager and council enter into employment agreement with minimum term of 2 years;
- Residency requirement that may be waived by council;
- Manager makes all appointments; council may reject appointments to multiple-member bodies by a majority vote;
- Manager to prepare and present annual budget policy to guide budget deliberations to the city council and school committee, meeting jointly; and
- Manager prepares and presents to the council a five-year financial forecast.

Other provisions:

- Charter includes organization/reorganization article;
- Charter establishes a licensing commission and a traffic and parking commission;
- Initiative and referendum provisions (require 30% voter participation at elections where initiative and/or referendum questions appear on the ballot);
- Recall provision (requires 40% voter participation requirement at elections where recall is on the ballot);
- Any person with a felony conviction may not seek or serve in any elective or appointive office; and
- Periodic charter review required.

Appendix F: Examples of types of reasons for review

Ensure that the government is responsive to the needs and preferences of the current population, demographics, and business base:

- Does the size and composition of the council allow it to be responsive to and representative of the current population?
- For cities with mayors, does the term for mayor allow for planning and implementation of initiatives?

Ensure that the charter is kept consistent with changes in state or federal law:

- HR laws (both state and federal)
- Procurement law (state)
- Open meeting law (state)

Ensure that the charter is keeping up with changes in values or cultural changes:

- Many modern charters no longer include pronouns entirely (or at least add “or she” to “he”, etc.)
- Many municipalities are changing the names of boards and committees to remove gendered reference (e.g., Aldermen to Council, Board of Selectmen to Selectboard)

Clarify any text that has caused confusion or dispute over interpretation:

- Are the recall, initiative and referendum provisions clear and complete?
- Have all the key terms been defined?



The Official Website of the Department of Revenue (DOR)

Department of Revenue

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Charting a Route for Charter Change

Massachusetts citizens should take pride in the fact that the [Constitution of the Commonwealth](#) is the oldest written Constitution in continuous use in the world - a document that predates and provides the basis for our [federal Constitution](#). What many people in the state may not realize is that there is a good chance that their local government already existed at the time of the drafting of the Massachusetts Constitution in 1780. In fact, 110 of the Commonwealth's current 351 cities and towns - almost a third! - had been granted charters that marked the geographical boundaries of the community and established a rudimentary local government before the Massachusetts Constitution went into effect.

Just as [the boundaries](#) were in many cases quite different, the structure and role of local government have evolved too. When the citizens of a community want to change the charter that serves as the "constitution" of their local government in order to meet evolving responsibilities and demands, they must follow one of the charter change processes spelled out in the Massachusetts Constitution.

Definition of "Charter"

"Charter, when used in connection with the operation of city and town government shall include a written instrument adopted, amended or revised pursuant to the provisions of chapter forty-three B which establishes and defines the structure of city and town government for a particular community and which may create local offices, and distribute powers, duties and responsibilities among local offices and which may establish and define certain procedures to be followed by the city or town government. Special laws enacted by the general court applicable only to one city or town shall be deemed to have the force of a charter and may be amended, repealed and revised in accordance with the provisions of chapter forty-three B unless any such special law contains a specific prohibition against such action." ([MGL, Chapter 4, Section 7](#))

The Two Main Charter Change Routes

[The Home Rule Amendment](#) to the state's constitution provides several routes for preparing or revising a charter. The most familiar are:

- Electing a home rule charter commission
- 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.

Option one is election of a home rule charter commission, which leads to what is often referred to as a "home rule charter." A commission of nine members may be elected to "frame a charter" or "revise its present charter" for a city or town upon petition of 15 percent of the municipality's voters. Chapter 43B of the Mass General Laws provides a specific framework, timeline, and set of responsibilities for the charter commission to fulfill. The commission has a maximum of 16 months to produce a preliminary report, and a maximum of 18 months to produce a final report. The statute requires that two public hearings be held. Both the preliminary and final reports must be printed and distributed.

Beyond the provisions of Chapter 43B, the commission as an elected local body operates under the provisions of [MGL, Chapter 39, Section 23](#) ("the open meeting law") [1]. The charter commission may examine any and all features relating to the municipality's structure and may propose a form of government that they determine will be responsive to the city or town.

About the Home Rule Amendment

The Home Rule Amendment (HRA) provides limited home rule to Massachusetts cities and towns. Simply stated, the

limitations encompass those powers that the state has reserved to itself (e.g., conduct of elections, determination of what constitutes a crime), and continues to have the authority to impose uniform state laws applicable to all cities, all towns, or a class thereof. When the *Home Rule Procedures Act* (MGL, c. 43B) was amended in 1984 by the addition of Section 20, a modest amount of flexibility was included to mitigate the "uniform state law" provision of the HRA as follows:

- Most local officers, boards, and commissions may be either elected or appointed. (Mayors, boards of selectmen, legislative bodies, school committees, and the moderator must be elected.)
- Appointments may be made by the official named in the charter
- Terms of office can be determined by the charter, not to exceed five years
- Appointments may be confirmed by the official(s) named in the charter
- Boards can be of any size, with the caveat that they contain an odd number of members
- Powers, duties, and responsibilities of municipal offices and departments may be divided or merged according to procedures provided in the charter

Option two is the "home rule petition" route, which leads to what is often referred to as a "special act charter." Section 8 of the Home Rule Amendment provides that cities and towns may use a "home rule petition" to achieve change in structure. This "petition" route was the only route available for cities and towns to make structural change prior to passage of the Amendment.

Section 8 does not provide detailed instructions regarding the preparation of a "home rule petition" charter. A mayor or board of selectmen may appoint a study committee, or such committees may be created by a city council or by a vote of a town meeting. Such actions may set a timeline for such committees to report back to the appointing body, but there is no state requirement for a specific timeline. There is also no requirement for printing and distribution of any proposal. There are no public hearing requirements, per se, although some study committees do provide a public forum for discussion of its recommendations, and town meetings or city council meetings where such changes would be considered are public meetings. In recent years, however, some study committees have made use of the city/town website to publicize their recommendations.

After completing its work, the committee submits its recommendations to the local legislative body, which must decide whether to approve a "home rule petition." In cities, such approval must also have the concurrence of the mayor. If the petition is passed by the legislative body (and receives the mayor's approval, where necessary), it is then treated as a piece of proposed legislation - i.e., it is filed with the House or Senate clerk, assigned to a legislative committee, passed by the House and Senate, signed by the Governor, and returned to the city or town. In most instances where a significant change is proposed, the legislation will be subject to ratification by the municipality's voters prior to taking effect.

Periodic Review of the Charter by a Charter Review Committee

Once a community has a charter, there is often a provision for the periodic appointment of a charter review committee. The committee undertakes an examination to determine the charter's ongoing utility and accuracy. Such committees do NOT have the powers, duties, and responsibilities of an elected charter commission. Such committees are formed to review the charter and to make recommendations to its appointing body (e.g., board of selectmen, city council) regarding the need for additions, deletions, clarifications, or other amendments that would improve the charter.

The term for such an advisory committee is usually one year. Recommendations of the committee may take the form of a proposed special act or a proposed charter amendment, but the local legislative body must act upon the recommendations before they take effect. The committee may also find, for example, that the charter's intent is clear, but related bylaws or ordinances may need clarification. The role of such committees can be important in assuring that the charter is working as intended, but the charter review committee has no assigned role in achieving any change beyond its recommendation to its appointing body.

Recent Charter Reform Activity

Since the adoption of the Home Rule Amendment in 1966, over 180 charter commissions have been elected, and 88 "home rule charters" are now in effect; 68 in towns and 20 in cities. Currently, 63 municipalities; 21 in towns and 42 in cities operate under special act charters and 17 towns have adopted special acts establishing the position of town manager or town administrator only.

Three recent examples of the special act route are the Towns of Randolph and Bridgewater, and the City of Melrose.

Randolph operated with the representative town meeting/board of selectmen/executive secretary government. But in the fall of 2008, representative town meeting approved a "home rule petition" to place two charter proposals before the Town's

voters in the spring of 2009 - a town council/manager charter and a representative town meeting/board of selectmen/town manager charter. The "home rule petition" was enacted by the state legislature as Chapter 2 of the Acts of 2009, and the Town's voters chose the town council/manager option in the spring of 2009. In the fall of 2009, voters elected the Town's first council.

Borrowing from the Randolph example, the Town of Bridgewater proceeded via "home rule petition," proposing that two charters be brought to the town's voters - a town council/manager charter and an open town meeting/board of selectmen/town manager charter. In the spring of 2010, the Town's voters chose the town council/manager option, and the town will be electing its first council later this year.

The City of Melrose, operating under a charter enacted in 1899 (and subject to numerous amendments and additions since then) also sought to make changes in 2004. The mayor appointed a citizen government study committee to make recommendations on how the charter needed to be changed. The initial recommendations of this study committee evolved into a complete revision of the City's original charter. Among the major changes were: adding the mayor to the school committee's membership, providing a four-year term for the mayor, reducing the size of the school committee, and giving the mayor authority for department organization/reorganization via adoption of an administrative code. The city's voters approved this special act charter at the 2005 municipal election.

Two examples of communities that have recently elected charter commissions to propose charters are Southbridge and Winthrop.

In 2002, Southbridge's voters elected a home rule charter commission to revise the home rule charter that the town had adopted in 1973. The charter commission worked to clarify and update the 1973 charter, but it also proposed a major change in the composition of the town council. The 13-member council was composed of both district and at-large members; the 2002 charter commission proposed that the council be reduced to 9 members, all elected at large. The Town's voters approved this charter revision.

The Town of Winthrop's voters elected a charter commission in spring of 2003. At that time, the Town operated with a representative town meeting/board of selectmen/executive secretary. The charter commission proposed a council/manager charter that was approved by the voters in the spring of 2005.

Beyond these examples, several municipalities have elected more than one charter commission and adopted successive home rule charters - e.g., Billerica, Hudson, Methuen, Palmer, Provincetown, Seekonk, and Southbridge.

Amesbury and Easthampton adopted representative town meeting/board of selectmen/manager charters via home rule charter adoption in the 1980s and elected subsequent commissions in 1995, resulting in mayor/council charters that were adopted.

The towns of Abington and Plymouth replaced earlier home rule charters with subsequent adoption of special act charters.

Other towns have used subsequent special acts to revise or replace earlier special act charters. For example, Danvers replaced its special act charter adopted in 1949 by use of the special act process, approving a new special charter in 1997; the town of Amherst replaced its 1951 special act providing for a manager and its 1936 special act authorizing representative town meeting with a single comprehensive act defining the Town's governance structure in 2001.

In two instances, Braintree and Randolph, adopted a city form of government (mayor/council and council/manager, respectively) using the special act process.

Pros and Cons of the Two Routes to Reform

In the 44 years since the adoption of the Home Rule Amendment, more communities have preferred electing a home rule charter commission than the "home rule petition" as the route for considering change. While the preference tilts toward home rule charter adoption (88 home rule charters vs. 63 special act charters), the totals for each route demonstrate that communities use and find benefit in both.

The route to charter change is a choice of the city or town. In the case of the election of a charter commission, the Home Rule Amendment provides more specific direction and a timeline, reflecting the premise that the process should be deliberative, provide opportunities for participation and comment by the municipality's voters, and that the final decision be solely a choice of the voters. While the Attorney General reviews the preliminary report to determine its consistency with state law, the intent of the Home Rule Amendment is to assure that local decision-making is the foundation of the charter adoption process.

Many factors may influence the route chosen. A populace and leadership already "on the same page" regarding the change needed in the structure of the government may find the "home rule petition" route more efficient and timely; a city or town seeking to weigh the advantages of several options before determining a particular course may find the more deliberative approach of electing a charter commission to undertake this examination more appealing. Municipalities with the experience of having a successful charter commission in the past may have more inclination to use this route again,

while towns that did not find the charter commission route responsive may want to use the "home rule petition"/special act route.

The general belief is that the "special act route" is faster, since the local legislative body approval and state legislature/governor approval can be achieved in one year, while a charter commission taking the maximum amount of time available (18 months) will not see its proposal on a ballot until 2 years following its election. However, study committees may take longer than one year. For example, the committee in Bridgewater worked for almost two years before presenting its proposals to the town meeting in the fall of 2009.

Commonalities in the Charter Reform Processes

Whether it is an elected charter commission, an appointed study committee, the chief executive, or the local legislative body, some entity must direct the charter preparation process. While an elected charter commission has certain powers and duties as defined in statute, such a commission has no special status regarding what can be included in a charter. Thus, almost all home rule and special act charters address the same subject matter, most often in very similar ways. The fulcrum questions of such undertakings often include:

- The legislative body: If it is a representative body, such as a representative town meeting or city/town council, the issues of size, composition, and term must be addressed.
- The chief executive: In a town, the size of the board of selectmen may be an issue; in cities, the issue of combining the political and managerial responsibilities in an elected mayor vs. the preference for a professional focus on operations, fiscal conditions, and development by establishing a manager position will be crucial. Electing a mayor and the appointment of a chief operating officer could address both of these preferences.
- Centralization vs. dispersion of authority: Whether voters continue to elect certain offices, boards, and commissions is also a subject of deliberations. The overwhelming trend in charter adoption is to eliminate many elected offices and replace them with appointments by the chief executive. Most charters do provide transitional provisions allowing those in office at the time the charter is adopted to complete the term to which elected before the appointment provisions take effect. Some of the impetus for this type of change reflects the emphasis on professional training and experience, as well as certification, and ongoing continuing education requirements in many municipal positions.

To Avoid Reinventing the Wheel

As the Home Rule Amendment marks its 44th year in effect, the examples from which communities can learn are now numerous and cover the gamut from very small towns to some of the larger cities. The Department of Housing and Community Development also maintains a repository of all home rule charter proposals (adopted or not) and has a collection of many of the special act charters as well. There is also the guidance available from the responses the Attorney General provides to charter commissions regarding the proposal's consistency with state law.

Communities contemplating charter change ought to speak with officials in nearby communities who have undertaken charter change and/or now operate under a home rule or special act charter. Such practical advice from those who have undertaken the exercise is a valuable source of information for those looking to do the same.

The process of adopting or revising a charter is a challenging one for municipalities. This is partially deliberate, to ensure that it is difficult for mistakes to make it into a municipality's fundamental structure, but it is also partially a result of the accumulation of hundreds of years of evolving state and local laws and procedures in the Commonwealth.

Despite the challenges, every year a handful of municipalities undertake charter revisions or reforms and others undergo regularly-scheduled charter reviews. Understanding the legal options for charter change and the specific pros and cons of each option is critical for any public official or citizen contemplating an effort to change the charter of a Massachusetts municipality.

Stephen McGoldrick is the deputy director of the Edward J. Collins, Jr. Center for Public Management at the University of Massachusetts Boston, Marilyn Contreas is a senior program and policy analyst at the Massachusetts Department of Housing and Community Development, Michael Ward is an associate at the Collins Center.

Editor's note: this article represents the opinions and conclusions of the author and not those of the Department of Revenue.

[1] This Open Meeting Law is only effective through June 30, 2010. As of July 1, 2010, the new Open Meeting Law is M.G.L. c. 30A, §§ 18-25.

