

**Charter Review Committee (CRC) Report-26 April 2004**

## **Portsmouth Home Rule Charter**

**Charter Review Committee (CRC) Report**

**26 April 2004**

## Charter Review Committee (CRC) Report-26 April 2004

### Background Information:

The Charter Review Committee (CRC) was appointed by the Town Council at the meeting of July 14, 2003, and received its direction from the Town Council at the 29 September, 2003 meeting. The following persons served as members of the CRC:

Thomas Harmon, Chairperson	Jean Lehane
Helen Mathieu, Vice Chairperson	John Loscocco
Stephen Grant, Secretary	John Martin
Charles Allott	Kathleen Melvin
Guy Bissonnette	Reginald Narciso
Gerald Cook	Frank Oliveira
Lawrence Fitzmorris	Frank Ottilge
Rene Ims	Jeffrey Richard
Leonard Katzman	Allen Shers
Paul Kesson	Peter Ungaro

Ms. Barbara Ripa was appointed Recording Secretary by Mr. Driscoll and attended her first meeting on 6 October.

The CRC met on the following dates in 2003/2004; 29 September, 6 October, 20 October, 3 November, 17 November, 1 December, 15 December, 5 January 20 January, 2 February 17 February, 1 March, 15 March, 5 April, and 19 April.

The CRC met a total of 15 times for a total of approximately 30 hours to review and discuss proposed changes to the Home Rule Charter. Copies of the Minutes taken for all of the meetings were provided to the Town Council, Town Administrator, and Town Clerk, and are available on the Town Website. Two Status reports were provided to the Town Council; the first on 21 November 2003 and the second on 27 February 2004.

### Approach:

The process used to review and recommend changes to the Home Rule Charter for forwarding to the Town Council was as follows:

1. Reviewed each individual Article/Section of the Charter, and discussed proposed changes.
2. Developed a "Charter Change Consideration Form", which was used to document all proposed changes. The form included current wording of the Section of the Charter, proposed change, and justification/reason for change.
3. Voted on each individual Article/Section to remain the same or to be changed. Majority vote prevailed and results of the vote were included on the Change form.

## Charter Review Committee (CRC) Report-26 April 2004

### Recommendations:

1. There are twenty-eight (28) areas of the Home Rule Charter that the CRC recommends be changed. Appendix A entitled “Proposed Changes To Home Rule Charter” contains a list of the proposed changes, and Appendix B entitled “Charter Change Consideration Forms” contains the detailed information on all proposed changes. Appendix C lists changes that were considered by the Committee but NOT APPROVED by the CRC.
2. The CRC recommends that after the voters approve any changes to the Home Rule Charter on the 2004 ballot the Charter be completely rewritten to reflect the 1972, 1983, 1994, and 2004 changes, and that the updated copy be made available on the Town website.
3. The CRC recommends that the Town Council ensure that all Town Ordinances are up to date as required in Section 904 of the Home Rule Charter, and that all Town Ordinances be made available on the Town website.
4. The CRC has concurred with the recommendation of the Town Finance Director to extend the time period for submission of the annual audited report from ninety (90) days following the close of the fiscal year to six (6) months. However, we believe it imperative that this date be met and that the results of the audit report be made available on the Town website.

### Comments:

Although the public was invited to attend all CRC meetings and Public Notices were posted at the Town Hall, Post Office, Library, and Clements Market a week before every meeting, very few individuals attended the meetings.

The CRC requests that we be notified when the Town Council plans to meet to discuss and vote on the CRC recommendations. We would be available to attend and answer any questions at the Town Council meeting and/or public hearing which must be held “not less than ten (10) days nor more than fifteen (15) days prior to said election” in accordance with Home Rule Charter Section 1102.

I would like to take this opportunity to thank all the members of the Charter Review Committee (CRC) for making my job as Chairperson go so smoothly. I think we were able to have some very frank and candid discussions on the Town Charter and our discussions were always done in a professional and respectful manner. All the members of the Committee would especially like to thank Barbara Ripa for providing support as Recording Secretary. Without her support the process could not have gone as well as it did.

Thomas Harmon, Chairperson CRC

**Appendix A**  
**Portsmouth Charter Review Committee (CRC)**  
**Proposed Changes To Home Rule Charter**

<u>AREA OF CHARTER</u>	<u>DATE REVIEWED</u>	<u>RECOMMENDED CHANGE</u>	<b>Appendix B</b> <u>PAGE #</u>	<u>VOTE</u>
All Areas	29-Sep-03	Make Charter Gender Neutral (i.e., he & his become he/she & his/her etc.)	2	11-0-3
Article II-The Town Council Section 211. Conflict of Interest	6-Oct-03	Insert at the end of existing sentence: "or as set forth in Section 903 of this Charter."	3	13-0-0
Article II-The Town Council Section 201. Number, Term, Selection	3-Nov-03	Insert words in bold: (in alphabetical order, <b>in order the names are listed on endorsement papers by the local party town committees</b> , or in order determined by the Board of Canvasser by the drawing of lots).	4	18-0-1
Article II-The Town Council Section 208. Budget Line 6.	3-Nov-03	Insert words in bold: "of said duly qualified electors presented to the Town Clerk <b>who forwards the petition forthwith for further action by the Canvassing Board;</b> "	5	19-0-0
Article II-The Town Council Section 208. Budget New Item 8	17-Nov-03	8. The Town as a whole and departments individually, are prohibited from spending funds that are in excess of amounts provided for in the Town Budget as adopted by the Council. This provision shall not prevent the Council from transferring funds excess to requirements from one department to another within the same fiscal year, except that the Council may not transfer funds out of the School Department	6	8-7-0
Article III-The Town Administrator Section 301. Appointment	17-Nov-03	301. <u>Appointment</u> . The Town Administrator shall be appointed for an initial contract not to exceed three (3) years, by no less than four (4) affirmative votes of the Town Council. Renewal contracts shall not exceed three (3) years.	7 & 8	7-2-6
Article III-The Town Administrator Section 302. Qualifications	1-Dec-03	302. <u>Qualifications</u> . The Town Administrator shall meet the following minimum qualification requirements: 1.) Bachelors Degree with one (1) year administrative experience; or 2.) Two (2) years college with three (3) years administrative experience; or 3.) Five (5) years administrative experience.	7 & 8	15-0-1

**Appendix A**  
**Portsmouth Charter Review Committee (CRC)**  
**Proposed Changes To Home Rule Charter**

<u>AREA OF CHARTER</u>	<u>DATE REVIEWED</u>	<u>RECOMMENDED CHANGE</u>	<b>Appendix B</b> <u>PAGE #</u>	<u>VOTE</u>
		4.) The administrative experience required above shall include; preparation and management of budgets, contract negotiations, grant writing and personnel management commensurate with the needs of the town.		
Article III-The Town Administrator Section 303. Removal	1-Dec-03	303. <del>Removal</del> . The Town Council may remove the Town Administrator by a majority vote of the Town Council. The Council will adopt a resolution stating the reason for removal within (30) days of said action. The Town Administrator may respond in writing and may request a public hearing. Such request must be made within (10) days of the date of the resolution stating the reasons for removal. Such hearing shall be held before the Town Council no later than (10) days following the date of the request. After full consideration of the Administrator's written reply, and/or results of the public hearing, the council may adopt a final resolution by an affirmative vote of no less than four (4) members of the Town Council.	7 & 8	15-0-1
Article II-The Town Council Section 207. Powers, paragraph k.	1-Dec-03	Insert words in bold: "to appoint and to annually evaluate <b>in writing the performance of</b> the Town Administrator <b>within sixty (60) days after the end of the fiscal year.</b> "	9	9-7-0
Article III-The Town Administrator Section 304. Duties, paragraph c.	15-Dec-03	Change to paragraph c: "to present three to five qualified candidates, supported by written results of a uniform applicant review system, for all department heads and other officers provided for in this Charter, in applicable state law, or established by ordinance, whose appointment or election is not otherwise provided for. The Council will conduct interviews of these candidates and select their choice by a majority vote in accordance with appropriate personnel policies. The Town Administrator will recommend to the Town Council the removal of any department head or official."	10	15-0-0
Article II-The Town Council Section 207. Powers, paragraph l.	15-Dec-03	Change to paragraph l: add a period at the end of the word required and delete "as set forth per Section 304 (c) of this charter:" This change not necessary if 304 (c) change is not approved.	11	15-0-0

**Appendix A**  
**Portsmouth Charter Review Committee (CRC)**  
**Proposed Changes To Home Rule Charter**

<u>AREA OF CHARTER</u>	<u>DATE REVIEWED</u>	<u>RECOMMENDED CHANGE</u>	<b>Appendix B</b> <u>PAGE #</u>	<u>VOTE</u>
Article II-The Town Council Section 207. Powers, paragraph m.	15-Dec-03	Change to paragraph m: first sentence delete "whose appointment was originally made by the Administrator with Council approval" This change not necessary if 304 (c) change is not approved.	12	15-0-0
Article III-The Town Administrator Section 304. Duties, paragraph e.	15-Dec-03	Change paragraph (e) to read: "to assign additional duties as needed to offices, agencies or departments established by the Charter; provided, however, that any duties assigned by this Charter to any specific office, agency or department may not be discontinued nor may they be reassigned to a different office, agency or department."	13	15-0-0
Article III-The Town Administrator Section 304. Duties, paragraph i.	15-Dec-03	Change to paragraph i: delete "and to conduct a wage survey at least every three (3) years by a professional personnel organization"	14	14-0-0
Article III-The Town Administrator Section 306. Administrative Powers and Duties	15-Dec-03	Amend Section 306 title by adding the word "Additional": "306. <b>Additional</b> Administrative Powers and Duties."	15	14-0-0
Article II-The Town Council Section 208. Budget, line 7.	15-Dec-03	Change line 7 from: "not be less than ten (10) nor more than twenty (20) days" to: "not be less than <b>forty (40)</b> nor more than <b>fifty-five (55)</b> days"	16	13-0-0
Article V-Town Officials Section 502. Tax Assessor	5-Jan-04	Add: "pursuant to Section 304 (c)" This reflects change made to Section 304 (c). If change to 304 (c) is not approved this change would not be necessary.	17	16-0-0
Article V-Town Officials Section 505. Town Sergeant	5-Jan-04	Repeal Section 503 and eliminate the Town Sergeant position	18	16-0-0
Article V-Town Officials Section 507. Building Official	5-Jan-04	Add: "pursuant to Section 304 (c)" This reflects change made to Section 304 (c). If change to 304 (c) is not approved this change would not be necessary.	19	16-0-0
Article VII-School Department Section 712. Budget	2-Feb-04	Change requires income and/or other tuition payments be reported as revenue. The same as federal and state grants are applied against the school budget.	20	12-2-0

Article VI-Town Departments  
Section 604. Public Welfare  
Not in CRC Appendix B. For detailed information

Change the word shall to **may** and eliminate the words relating to the "poor, defective, aged and dependent persons".

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Appendix A  
13-0-0  
CRC Final Report dtd 26 April 2004

**Appendix A**  
**Portsmouth Charter Review Committee (CRC)**  
**Proposed Changes To Home Rule Charter**

<u>AREA OF CHARTER</u>	<u>DATE REVIEWED</u>	<u>RECOMMENDED CHANGE</u>	<b>Appendix B</b> <u>PAGE #</u>	<u>VOTE</u>
Article IX-Miscellany Section 904. Codification and Revision of Ordinances	17-Feb-04	Change the responsibility for codification and revision of Town ordinances from the Town Solicitor to the Town Clerk.	22	14-0-0
Article III-The Town Administrator Section 304 (g) Audited Report	20-Jan-04 1-Mar-04	Change 304 (g): 1) change wording to reflect the requirement for an annual "audited report" but also require an "Annual Report" that shows not only the financial condition of the Town but also contains information on the performance of Town Departments and "general information of interest" to citizens. 2) Change completion date for report from 90 days after fiscal year to 6 months.	23	16-0-0 18-0-0
New Article 912. Property Transfer.	1-Mar-04	Add a new section to the Charter that addresses the transfer of Town property. Any transfer of more than two acres shall require majority vote of the voters at a regularly scheduled election.	24	13-3-2
Article VII-School Department Section 714. School Purchasing, Financial Records, and Vouchers	15-Mar-04	Increase purchasing authority for non-competitive procurement from \$750 to \$1,000.	25	13-0-0
New Article 913. Municipal Bonds and Notes.	5-Apr-04	Add a new section to the Charter that addresses how Bond funds should be used. Requires Bond or Notes to be used only for stated purpose(s) approved by voters, and requires majority Town Council approval for any change to use of funds.	26	8-7-0
Article VIII-Personnel Section 806. Right to Organize	19-Apr-04	1. Delete wording that allows the Town Council to delegate signature authority to the Town Administrator and School Superintendent for signing negotiated agreements. 2. Add requirement to hold negotiations in public when permitted by state law. 3. Add restriction that persons assigned to negotiate for the Town cannot belong to the union or organization with which the Town is negotiating.	27 & 28	14-3-0
Article IX-Miscellany Section 903. Conflict of Interest	19-Apr-04	The proposed change is a complete rewrite of the Section and includes a simplified version of what is contained in State law and establishes in writing in the Town Charter what is expected of elected and appointed officials.	29-31	17-0-0

Note: See Appendix B for detailed information

# Appendix B

## **Charter Change Consideration Forms**

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Guy Bissonnette

<b>Date:</b>
29 September 2003

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
Entire Charter

<b>Current wording of Article/Section/Paragraph:</b>
Currently the Charter is written with male pronouns (i.e., he, his etc.).

<b>Proposed Change:</b>
Revise Charter to make "gender neutral" (i.e., he/she, his/her, etc.).

<b>New wording of Article/Section/Paragraph:</b>
Pertains to entire Charter.

<b>Discussion/Justification for change:</b>
While the Charter is being changed and rewritten now is the time to remove male dominated pronouns.

<b>Vote of Charter Review Committee: Accept 11 Reject 0 Abstain 3</b>
The motion was presented at the 29 September meeting and passed 11-0-3

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Larry Fitzmorris

<b>Date:</b>
6 October 2003

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
Article II-The Town Council Section 211. Conflict of Interest

<b>Current wording of Article/Section/Paragraph:</b>
211. <u>Conflict of Interest</u> . No member of the Town Council shall vote on any matter which will, directly or indirectly, bring personal benefit to the member.

<b>Proposed Change:</b>
Insert "or as set forth in Section 903 of this charter" at the end of the sentence.

<b>Proposed wording of Article/Section/Paragraph:</b>
211. <u>Conflict of Interest</u> . No member of the Town Council shall vote on any matter which will, directly or indirectly, bring personal benefit to the member or as set forth in Section 903 of this charter.

<b>Discussion/Justification for change:</b>
Additional wording references section 903 of Charter where conflict of interest is further explained in more detail.

<b>Vote of Charter Review Committee: Accept 13 Reject 0 Abstain 0</b>
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The motion was presented at the 6 October meeting and passed 13-0-0

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Charles Allott

<b>Date:</b>
3 November 2003

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
Article II-The Town Council Section 201. Number, Term, Selection

<b>Current wording of Article/Section/Paragraph:</b>
201. Number, Term, Selection. Second Sentence The name on the ballot shall be listed under their respective party designations (in alphabetical order, or in order determined by the Board of Canvassers by the drawing of lots).

<b>Proposed Change:</b>
Second Sentence, Add: "in order the names are listed on endorsement papers by the local party town committees"

<b>New wording of Article/Section/Paragraph:</b>
201. Number, Term, Selection. Second Sentence The name on the ballot shall be listed under their respective party designations (in alphabetical order, in order the names are listed on endorsement papers by the local party town committees, or in order determined by the Board of Canvassers by the drawing of lots).

<b>Discussion/Justification for change:</b>
There was confusion on how the process was done until the head of the Board of Canvassers explained it. This better explains the actual process used.

<b>Vote of Charter Review Committee: Accept 18 Reject 0 Abstain 1</b>
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The motion was presented at the 3 November meeting and passed 18-0-1

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

**Name of person submitting change:**

Helen Mathieu

**Date:**

3 November 2003

**Article/Section/Paragraph to be changed (not applicable if new addition to Charter):**

Article II-The Town Council  
Section 208. Budget

**Current wording of Article/Section/Paragraph:**

208. Budget.

Line 6. Within two (2) weeks of the adoption of the final Town Budget, a Town Meeting of the duly qualified electors of the Town may be called, by petition of not less than ten (10%) of said duly qualified electors presented to the Town Clerk; the purpose of said Town Meeting shall be limited to a reconsideration of the final budget of the Town as adopted by the Town Council and said Town Meeting may increase or decrease the total amount of either the School Department Budget, or the Town Budget, or both.

**Proposed Change:**

208. Budget. Line 6

Insert: "who forwards the petition forthwith for further action by the Canvassing Board;"

**New wording of Article/Section/Paragraph:**

208. Budget.

Line 6. Within two (2) weeks of the adoption of the final Town Budget, a Town Meeting of the duly qualified electors of the Town may be called, by petition of not less than ten (10%) of said duly qualified electors presented to the Town Clerk who forwards the petition forthwith for further action by the Canvassing Board; the purpose of said Town Meeting shall be limited to a reconsideration of the final budget of the Town as adopted by the Town Council and said Town Meeting may increase or decrease the total amount of either the School Department Budget, or the Town Budget, or both.

**Discussion/Justification for change:**

The Board of Canvassers is responsible to review the list of signatures and to certify and validate that the individuals are registered to vote in Portsmouth. This ensures the Town Clerk forwards the petition to the Board of Canvassers in a timely manner.

**Vote of Charter Review Committee: Accept 19 Reject 0 Abstain 0**

The motion was presented at the 3 November meeting and passed 19-0-0

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Larry Fitzmorris

<b>Date:</b>
3 November 2003

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
Article II-The Town Council Section 208. Budget

<b>Current wording of Article/Section/Paragraph:</b>
N/A-New Paragraph

<b>Proposed Change:</b>
New Paragraph 8:

<b>New wording of Article/Section/Paragraph:</b>
8. The Town as a whole and departments individually, are prohibited from spending funds that are in excess of amounts provided for in the Town Budget as adopted by the Council. This provision shall not prevent the Council from transferring funds excess to requirements from one department to another within the same fiscal year, except that the Council may not transfer funds out of the School Department.

<b>Discussion/Justification for change:</b>
a. The purpose of this addition is to prevent departments expending funds beyond the level authorized by the official Town Budget. b. The School Department exception to fund transfers is to preserve the independence of the School Committee and its financial management duties. c. This proposed change is intended to prevent deficit spending, and will prohibit individual departments adopting budgets that exceed the Town's official budget. d. School Department funds that are not spent at the end of the fiscal year are currently required to be transferred to the next fiscal year's budget.

<b>Vote of Charter Review Committee: Accept 8 Reject 7 Abstain 0</b>
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The motion was presented at the 17 November meeting and passed 8-7-0

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Frank Oliveira

<b>Date:</b>
17 November 2003

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
Article III-The Town Administrator Section 301. Appointment and Removal Section 302. Qualifications

<b>Current wording of Article/Section/Paragraph:</b>
<p>301. Appointment and Removal. The Council shall appoint the Town Administrator for a one (1) year probationary period, during which time it may dismiss him at any time by a majority vote of its members without a hearing. If at the end of the probationary period, the probationer proves to be satisfactory, and the Council so affirms by resolution, then his appointment shall be for an indefinite term. He may however, be removed by a majority vote of the members of the Council according to the following procedure. At least thirty (3) days before such removal shall become effective, the Council shall by a majority vote of its members adopt a preliminary resolution stating the reasons for his removal. The Town Administrator may reply in writing, and may request a public hearing. Such request must be made within ten (10) days of the date of the preliminary resolution. Such hearing shall be held before the Council no later than ten (10) days following the date of the request. After full consideration of the Administrator's written reply, if any, and of the results of the public hearing, if one is requested, the Council may adopt a final resolution of removal. By the preliminary resolution, the Council may suspend the Town Administrator from duty, but in any case he shall be paid full salary for the period commencing with the date of the preliminary resolution and for two (2) calendar months following the adoption of the final resolution.</p> <p>302. Qualifications. a. The Town Administrator shall be or become and remain a qualified elector of the Town of Portsmouth. b. The Town Administrator shall be chosen by the Council on the basis of his previous executive and administrative experience.</p>

<b>Proposed Change:</b>
Establishes a three (3) year term for the Town Administrator rather than the "indefinite term" and requires the Town Council to review and renew the contract every three years.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form (con't)**

**New wording of Article/Section/Paragraph:**

301. Appointment. The Town Administrator shall be appointed for an initial contract not to exceed three (3) years, by no less than four (4) affirmative votes of the Town Council. Renewal contracts shall not exceed three (3) years.

302. Qualifications. The Town Administrator shall meet the following minimum qualification requirements:

- 1.) Bachelors Degree with one (1) year administrative experience; or
- 2.) Two (2) years college with three (3) years administrative experience; or
- 3.) Five (5) years administrative experience.
- 4.) The administrative experience required above shall include; preparation and management of budgets, contract negotiations, grant writing and personnel management commensurate with the needs of the town.

303. Removal. The Town Council may remove the Town Administrator by a majority vote of the Town Council. The Council will adopt a resolution stating the reason for removal within (30) days of said action. The Town Administrator may respond in writing and may request a public hearing. Such request must be made within (10) days of the date of the resolution stating the reasons for removal. Such hearing shall be held before the Town Council no later than (10) days following the date of the request. After full consideration of the Administrator's written reply, and/or results of the public hearing, the council may adopt a final resolution by an affirmative vote of no less than four (4) members of the Town Council.

**Discussion/Justification for change:**

The Charter currently has an "an indefinite term" for the Town Administrator. This change would establish a 3 year term for the Town Administrator position and require the Town Council to review and renew the contract every three years.

**Vote of Charter Review Committee: Accept    Reject    Abstain    (See Below)**

The motion was presented on Section 301 at the 17 November meeting and passed 7-2-7.  
The motion was presented on Section 302 at the 1 December meeting and passed 15-0-1.  
The motion was presented on Section 303 at the 1 December meeting and passed 12-3-1.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

**Name of person submitting change:**

Thomas Harmon

**Date:**

20 November 2003

**Article/Section/Paragraph to be changed (not applicable if new addition to Charter:**

Article II-The Town Council,  
Section 207. Powers, Paragraph (k)

**Current wording of Article/Section/Paragraph:**

k. to appoint and to annually evaluate the Town Administrator:

**Proposed Change:**

Require a written evaluation of the Town Administrator's performance and require that it be completed within sixty (60) days after the end of the fiscal year.

**New wording of Article/Section/Paragraph:**

k. to appoint and to annually evaluate in writing the performance of the Town Administrator within sixty (60) days after the end of the fiscal year:

**Discussion/Justification for change:**

Currently there is no requirement to have a written performance evaluation for the Town Administrator. Having a written performance evaluation would formally document the performance of the Town Administrator. Performance objectives could be established and standards could be used to rate the annual performance of the Town Administrator (i.e., Outstanding, Acceptable, Marginal, or Unacceptable). This rating system could be used to justify pay increases, performance bonuses or be used to show cause for the removal of the Town Administrator if his/her performance is unacceptable.

**Vote of Charter Review Committee: Accept 9 Reject 7 Abstain 0**

The motion was presented at the 1 December meeting and passed 9-7-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Frank Oliveira

<b>Date:</b>
15 December 2003

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
Article III-The Town Administrator Section 304. Duties, paragraph c.

<b>Current wording of Article/Section/Paragraph:</b>
304. <u>Duties</u> , paragraph c. to appoint all department heads and other officers provided for in this Charter, in applicable state law, or established by ordinance, whose appointment or election is not otherwise provided for; all such appointments are subject to approval by the Town council and to appropriate personnel policies; to recommend to the Town Council the removal of any department head or official he appointed pursuant to the provisions of this section.

<b>Proposed Change:</b>
Modify Charter to enable the Town Council to be involved in the selection process upfront rather than only being provided a single candidate.

<b>New wording of Article/Section/Paragraph:</b>
304. <u>Duties</u> , paragraph c. to present three to five qualified candidates, supported by written results of a uniform applicant review system, for all department heads and other officers provided for in this Charter, in applicable state law, or established by ordinance, whose appointment or election is not otherwise provided for. The Council will conduct interviews of these candidates and select their choice by a majority vote in accordance with appropriate personnel policies. The Town Administrator will recommend to the Town Council the removal of any department head or official.

<b>Discussion/Justification for change:</b>
Currently the Town Council is the final approval authority for department head and other officers so designated in the Charter. This change would enable the Town Council to be involved in the selection of these positions up front during the review and recommendation process.

<b>Vote of Charter Review Committee: Accept 15 Reject 0 Abstain 0</b>
The motion was presented at the 15 December 2003 meeting and passed 15-0-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Charles Allott

<b>Date:</b>
15 December 2003

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
Article II The Town Council, Section 207. Powers, Paragraph (1)

<b>Current wording of Article/Section/Paragraph:</b>
1. to confirm all appointments of the Town Administrator for which Town Council confirmation is required as set forth per Section 304 (c) of this charter:

<b>Proposed Change:</b>
Delete: "as set forth per Section 304 (c) of this charter:"

<b>New wording of Article/Section/Paragraph:</b>
1. to confirm all appointments of the Town Administrator for which Town Council confirmation is required:

<b>Discussion/Justification for change:</b>
Change required in Section 207 (1) because of change made to Section 304 (c). If Section 304 change is not approved by Town Council this change would not be necessary.

<b>Vote of Charter Review Committee: Accept 15 Reject 0 Abstain 0</b>
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The motion was presented at the 15 December 2003 meeting and passed 15-0-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Peter Ungaro

<b>Date:</b>
15 December 2003

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
Article II-The Town Council Section 207. Powers, Paragraph (m)

<b>Current wording of Article/Section/Paragraph:</b>
m. to act on recommendations from the Town Administrator for the removal from office of any department head or official whose appointment was originally made by the Administrator with Council approval, and whose term in office is not otherwise governed by appropriate .....

<b>Proposed Change:</b>
Delete: "whose appointment was originally made by the Administrator with Council approval,"

<b>New wording of Article/Section/Paragraph:</b>
m. to act on recommendations from the Town Administrator for the removal from office of any department head or official whose term in office is not otherwise governed by appropriate....."

<b>Discussion/Justification for change:</b>
Change required in Section 207 (m) because of change made to Section 304 (c). If the Town Council does not approve the Section 304 change this change would not be necessary.

<b>Vote of Charter Review Committee: Accept 15 Reject 0 Abstain 0</b>
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The motion was presented at the 15 December 2003 meeting and passed 15-0-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

**Name of person submitting change:**

Leonard Katzman

**Date:**

15 December 2003

**Article/Section/Paragraph to be changed (not applicable if new addition to Charter):**

Article III-The Town Administrator  
Section 304. Duties, Paragraph (e)

**Current wording of Article/Section/Paragraph:**

e. to assign additional duties to offices, agencies or departments established by the Charter, but he may not discontinue or reassign duties assigned to specific organs under this Charter.

**Proposed Change:**

Clarify current wording.

**New wording of Article/Section/Paragraph:**

e. to assign additional duties as needed to offices, agencies or departments established by the Charter; provided, however, that any duties assigned by this Charter to any specific office, agency or department may not be discontinued nor may they be reassigned to a different office, agency or department.

**Discussion/Justification for change:**

The purpose of this proposed change is to clarify what we believe to be the meaning of the original text. Because the active clause of section 304 states that the Town Administrator "shall be required" to do these things, we have inserted the words "as needed" to clarify that the Town Administrator must assign additional duties only if they are needed.

**Vote of Charter Review Committee: Accept 15 Reject 0 Abstain 0**

The motion was presented at the 15 December 2003 meeting and passed 15-0-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Helen Mathieu

<b>Date:</b>
15 December 2003

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
Article III-The Town Administrator Section 304. Duties, Paragraph (i)

<b>Current wording of Article/Section/Paragraph:</b>
304. <u>Duties</u> , Paragraph (i) to cause the personnel policy to be reviewed and revised as necessary and to conduct a wage survey at least every three (3) years by a professional personnel organization.

<b>Proposed Change:</b>
Delete: "and to conduct a wage survey at least every three (3) years by a professional personnel organization"

<b>New wording of Article/Section/Paragraph:</b>
i. to cause the personnel policy to be reviewed and revised as necessary.

<b>Discussion/Justification for change:</b>
CRC felt it was no longer necessary to have a wage survey conducted every 3 years by a professional organization. Information readily available on intranet and other locations.

<b>Vote of Charter Review Committee: Accept 14 Reject 0 Abstain 0</b>
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The motion was presented at the 15 December 2003 meeting and passed 14-0-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Frank Oliveira

<b>Date:</b>
15 December 2003

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter):</b>
Article III-The Town Administrator Section 306. Administrative Powers and Duties.

<b>Current wording of Article/Section/Paragraph:</b>
N/A-no change to wording only changing the title of Section 306

<b>Proposed Change:</b>
Add the word "Additional" in front of the Section 306 title.

<b>New wording of Article/Section/Paragraph:</b>
Section 306. <u>Additional Administrative Powers and Duties</u>

<b>Discussion/Justification for change:</b>
Section 306 pertains to additional administrative powers and duties of the Town Administrator above those outlined in other areas of Article III. Adding the word "additional" to the title of this section helps clarify this point.

<b>Vote of Charter Review Committee: Accept 14 Reject 0 Abstain 0</b>
The motion was presented at the 15 December 2003 meeting and passed 14-0-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Beverly Hall

<b>Date:</b>
1 December 2003

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
Article II-The Town Council Section 208. Budget, Paragraph 7

<b>Current wording of Article/Section/Paragraph:</b>
7. In the even that a Town Meeting is called in accordance with the provisions of Section 6 thereof, the Town Clerk shall schedule the date, time and place of said meeting, which said date shall not be less than ten (10) nor more than twenty (20) days from the day upon which the Town Clerk is presented with the petition.

<b>Proposed Change:</b>
Change the time period for scheduling the meeting from not less than ten (10) nor more than twenty (20) days to not less than forty (40) nor more than fifty-five (55) days.

<b>New wording of Article/Section/Paragraph:</b>
7. In the even that a Town Meeting is called in accordance with the provisions of Section 6 thereof, the Town Clerk shall schedule the date, time and place of said meeting, which said date shall not be less than forty (40) nor more than fifty-five (55) days from the day upon which the Town Clerk is presented with the petition.

<b>Discussion/Justification for change:</b>
The Head of Canvassing cannot meet current time periods. State law requires that the Board of Canvassers give 10 days notification for the Board of Canvassing meeting to certify the voters list, and the Board of Canvassers meeting must be 20 days before the special meeting/election. The Head of Canvassing needs ten (1) working days to certify the voter's petition, which means the minimum number of days before a meeting/election could be held is 40. Establishing the time period from 40 to 55 days seemed reasonable to the CRC.

<b>Vote of Charter Review Committee: Accept 13 Reject 0 Abstain 0</b>
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The motion was presented at the 15 December 2003 meeting and passed 13-0-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Frank Oliveira

<b>Date:</b>
5 January 2004

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
Article V-Town Officials 502. Tax Assessor.

<b>Current wording of Article/Section/Paragraph:</b>
502. <u>Tax Assessor.</u> There shall be a Tax Assessor, who also shall act as a Tax Collector. He shall be appointed by the Town Administrator with the approval of the Town council, and shall serve for an indefinite term. The qualifications of the Tax Assessor shall be as stated in the Town Personnel Ordinance.

<b>Proposed Change:</b>
Appointments will be in accordance with procedures outlined in Section 304 (c).  502. <u>Tax Assessor.</u> There shall be a Tax Assessor, who also shall act as a Tax Collector. <b>He He/She</b> shall be appointed by the <del>Town Administrator with the approval of the</del> Town council <b>pursuant to Section 304 (c)</b> , and shall serve for an indefinite term. The qualifications of the Tax Assessor shall be as stated in the Town Personnel Ordinance.

<b>New wording of Article/Section/Paragraph:</b>
502. <u>Tax Assessor.</u> There shall be a Tax Assessor, who also shall act as a Tax Collector. He/She shall be appointed by the Town council pursuant to Section 304 (c), and shall serve for an indefinite term. The qualifications of the Tax Assessor shall be as stated in the Town Personnel Ordinance.

<b>Discussion/Justification for change:</b>
Change to reflect proposed change to Section 304 (c), which details the process for appointing department heads and other officers. If Section 304 (c) change is not approved by the Town Council this change would not be necessary.

<b>Vote of Charter Review Committee: Accept 16 Reject 0 Abstain 0</b>
The motion was presented at the 5 January 2004 meeting with the motion passing 16-0-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Jeff Richard

<b>Date:</b>
5 January 2004

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
Article V-Town Officials Section 505. Town Sergeant

<b>Current wording of Article/Section/Paragraph:</b>
Section 505. <u>Town Sergeant</u> . There shall be a Town Sergeant who shall be a qualified elector. He shall be elected at the biennial election pursuant to provisions of state law. His duties and prerogatives shall be those defined by statute.

<b>Proposed Change:</b>
Repeal Section 505 and eliminate Town Sergeant position.

<b>New wording of Article/Section/Paragraph:</b>
N/A-Position Eliminated

<b>Discussion/Justification for change:</b>
Ten (10) cities in towns do not have a Town Sergeant position, seven (7) elect a Town Sergeant, with the remainder appointing one by either the Council or Administrator.

<b>Vote of Charter Review Committee: Accept 16 Reject 0 Abstain 0</b>
The motion was presented at the 5 January 2004 meeting with the motion passing 16-0-0

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

**Name of person submitting change:**

Peter Ungaro

**Date:**

5 January 2004

**Article/Section/Paragraph to be changed (not applicable if new addition to Charter:**

Article V-Town Officials  
507. Building Official.

**Current wording of Article/Section/Paragraph:**

507. Building Official. There shall be a building Official, who shall be a qualified elector and who shall be appointed by the Town Administrator with the approval of the Town council, and shall be responsible for the supervision and enforcement of ordinances relating to buildings, zoning, trailer parks and other matters assigned to him pursuant to law. There may be a Building Inspector, under the supervision of the Building Official, if the Town Council deems one to be necessary.

**Proposed Change:**

Appointments will be in accordance with procedures outlined in Section 304 (c).

507. Building Official. There shall be a building Official, who shall be a qualified elector and who shall be appointed by the ~~Town Administrator with the approval of the~~ Town council **pursuant to Section 304 (c)**, and shall be responsible for the supervision and enforcement of ordinances relating to buildings, zoning, trailer parks and other matters assigned to him pursuant to law. There may be a Building Inspector, under the supervision of the Building Official, if the Town Council deems one to be necessary.

**New wording of Article/Section/Paragraph:**

507. Building Official. There shall be a building Official, who shall be appointed by the Town council pursuant to Section 304 (c), and shall be responsible for the supervision and enforcement of ordinances relating to buildings, zoning, trailer parks and other matters assigned to him pursuant to law. There may be a Building Inspector, under the supervision of the Building Official, if the Town Council deems one to be necessary.

**Discussion/Justification for change:**

Change to reflect proposed change to Section 304 (c), which details the process for appointing department heads and other officers. If Section 304 (c) change is not approved by the Town Council this change would not be necessary.

**Vote of Charter Review Committee: Accept 16 Reject 0 Abstain 0**

The motion was presented at the 5 January 2004 meeting with the motion passing 16-0-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

**Name of person submitting change:**

Helen Mathieu

**Date:**

2 February 2004

**Article/Section/Paragraph to be changed (not applicable if new addition to Charter:**

Article VII-School Department  
Section 712-Budget

**Current wording of Article/Section/Paragraph:**

712- Budget. The School Committee shall submit its proposed budget to the Town Administrator not later than one hundred twenty (120) days prior to the start of the next fiscal year. Estimates of sum expected to become available from federal and state grants for the support of the public schools shall be included in the total requested for school expenditures. The Town Council, shall appropriate these funds for expenditure by the School Committee, and shall appropriate such additional funds from local tax revenues as may be required to meet the total school department budget as adopted by the Town Council.

**Proposed Change:**

**Add: and estimates of sums from rental or lease of school property and from tuition of out-of-town students**

**New wording of Article/Section/Paragraph:**

712. Budget. The School Committee shall submit its proposed budget to the Town Administrator not later than one hundred twenty (120) days prior to the start of the next fiscal year. Estimates of sums expected to become available from federal and state grants for the support of the public schools and estimates of sums from rental or lease of school property and from tuition of out-of-town students shall be included in the total requested for school expenditures. The Town Council shall appropriate these funds for expenditure by the School Committee, and shall appropriate such additional funds from local tax revenues as may be required to meet the total school department budget as adopted by the Town Council.

**Discussion/Justification for change:**

Current wording cites federal and state grants adding "and estimates of sums from rental or lease of school property and from tuition of out-of-town students" ensures that all revenue will be accounted for and included in the total School Department budget.

**Vote of Charter Review Committee: Accept 12 Reject 0 Abstain 2**

The motion was presented at the meeting on 17 February 2004 and passed 12-0-2.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Jeff Richard

<b>Date:</b>
17 February 2004

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter):</b>
Article VI-Town Departments Section 604 Public Welfare

<b>Current wording of Article/Section/Paragraph:</b>
604. <u>Public Welfare.</u> There shall be a department of public welfare which shall perform the functions and services of the Town relating to public welfare. The department shall be under the control of the Town Council, who may appoint the Town Administrator as Director, who shall serve until the Town Council shall provide for the appointment of another person by the Town Administrator, with the approval of the Town Council. The Director shall have all the powers and duties relating to the poor, defective, needy and dependent persons as may be vested in the department of public welfare, and shall administer all welfare statues of the state or federal government, the administration of which is delegated to the Town or the Director of Public Welfare.

<b>Proposed Change:</b>
604. <u>Public Welfare.</u> Change shall to <b>may</b> and eliminate <b>relating to the poor, defective, needy and dependent persons.</b>

<b>New wording of Article/Section/Paragraph:</b>
604. <u>Public Welfare.</u> There may be a department of public welfare, which shall perform the functions and services of the Town relating to public welfare. The department shall be under the control of the Town Council, who may appoint the Town Administrator as Director, who shall serve until the Town Council shall provide for the appointment of another person by the Town Administrator, with the approval of the Town Council. The Director shall have all the powers and duties as may be vested in the department of public welfare, and shall administer all welfare statues of the state or federal government, the administration of which is delegated to the Town or the Director of Public Welfare.

<b>Discussion/Justification for change:</b>
It eliminates the requirement for a department (i.e., shall) but still recognizes the need, allowing the Town Council to determine if a department is required (i.e., may) or to just appoint an administrator. It removes old and outdated language (i.e., relating to the poor, defective, needy and dependent persons).

<b>Vote of Charter Review Committee: Accept 9/13 Reject 2/0 Abstain 2/0 ____</b>
The motion was presented at the 17 February meeting with the motion changing SHALL to MAY passing 9-2-2 and the final wording passing 13-0-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

**Name of person submitting change:**

Lawrence Fitzmorris

**Date:**

17 February 2004

**Article/Section/Paragraph to be changed (not applicable if new addition to Charter:**

Article IX-Miscellany  
Section 904-Codification and Revision of Ordinances.

**Current wording of Article/Section/Paragraph:**

Section 904-“The Council, within two (2) years following the effective date of this charter, and a least every two (2) years thereafter, shall cause to be prepared a revision or codification of the ordinances of the Town which are appropriate for continuation as local laws of the Town. Such revision or codification shall be prepared under the supervision of the Town Solicitor, but the Council may authorize the Solicitor to contract for the services of persons or organizations experienced in the revision and codification of ordinances and statues.”

**Proposed Change:**

Change the responsibility from Town Solicitor to **Town Clerk**

**New wording of Article/Section/Paragraph:**

Section 904-Codification and Revision of Ordinances. The Council, within two (2) years following the effective date of this charter, and a least every two (2) years thereafter, shall cause to be prepared a revision or codification of the ordinances of the Town which are appropriate for continuation as local laws of the Town. Such revision or codification shall be prepared under the supervision of the Town Clerk, but the Council may authorize the Town Clerk to contract for the services of persons or organizations experienced in the revision and codification of ordinances and statues.

**Discussion/Justification for change:**

The CRC the Town could do a better job of updating and making available (i.e., put on the Town website) the Town Ordinances. It is believed it would be better to make this the responsibility of the Town Clerk, which is an elected position, rather than the Town Solicitor.

**Vote of Charter Review Committee: Accept 14 Reject 0 Abstain 0**

The motion was presented at the 17 February meeting and passed 14-0-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

**Name of person submitting change:**

1. Jeff Richard: Reporting Format
2. David Faucher (Finance Director): Time Period- (6 months versus 90 days)

**Date:**

1. 20 January 2004
2. 2. 10 February 2004

**Article/Section/Paragraph to be changed (not applicable if new addition to Charter):**

Article III-The Town Administrator  
Section 304. Duties, Item (g)

**Current wording of Article/Section/Paragraph:**

Section 304 (g)-to have prepared and submitted to the Council, as of the end of the fiscal year, an audited report as provided in Section 905 of this charter on the finances and administrative activities of the Town for the preceding year, which report shall be printed and made available to the citizens no later than ninety (90) days following the close of the fiscal year.

**Proposed Change:**

1. Establish the requirement for an annual Town Report as well as the requirement for an "audited report". Report would include information as detailed below.
2. Change the reporting requirement from ninety (90) days to six months to allow the Finance Director to close the books.

**New wording of Article/Section/Paragraph:**

Section 304 (g)-to have prepared and submitted to the Council no later than six months after the close of the fiscal year, an audited report as provided for in section 905 of this charter that reflects the financial activities of the Town for the most recent fiscal year, and to print and make available to property owners, qualified electors, and other interested parties; 1) a copy of the audited financial records, 2) an Annual Report which shall contain town and school directories; reports from each town department, boards and commissions; an overview of the audited financial report, and may include general information of interest to current and future residents.

**Discussion/Justification for change:**

More clearly states what will be included in the annual report and extends the submission date from ninety (90) days to six (6) months. The 90 days is impractical since the Town has 60 days under modified accrual accounting to post revenues and expenditures for the fiscal year just completed. The auditors usually begin work in September or October to finish by 31 December. The State requires the audit to be completed by 31 December.

**Vote of Charter Review Committee: Accept 16/18 Reject 0/0 Abstain 0/0**

The change proposed by Mr. Richard was presented at the 20 January meeting and passed 16-0-0. The change proposed by Mr. Faucher was presented at the 1 March meeting and passed 18-0-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Frank Ottilige (for Judi Staven)

<b>Date:</b>
14 January 2004

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
N/A- New

<b>Current wording of Article/Section/Paragraph:</b>
N/A

<b>Proposed wording of Article/Section/Paragraph:</b>
912. <u>Property Transfer</u> . The transfer of any property rights and/or ownership of any parcel/lot or tract of land owned by the Town of Portsmouth which encompasses an area of more than 2 (two) acres shall only be approved by a majority vote of the voters of the Town of Portsmouth at a regular election. Leasing of town property for a period of 10 (ten) years or less shall not constitute a transfer of property, provided that at the end of the leasing period the Town retains the sole right to renew, continue, or terminate the lease.

<b>Discussion/Justification for change:</b>
This would require that the voters of the Town of Portsmouth approve any sale or transfer of rights of any large tract of land that is owned by the Town of Portsmouth. At the present time any sitting Town Council can by majority vote sell, or in any other way, as through the Aquidneck Island Land Trust or other similar non-elected agencies, transfer the rights to any public property that rightfully belongs to the citizens of Portsmouth. While the intent is not to reduce the power of our elected officials, there are certain issues that should not be decided on a vote of four. This is one of them. This amendment allows the Council to sell or transfer any small parcel of land that is determined to be not needed, but it would prevent the Council from selling or transferring property rights to places like Coggeshall School, The Manor House, Sandy Point Beach, Melville Recreation Area, or any of the individual parcels/lots that comprise Glen Park and Glen Farm without voter approval. The Council will still have the authority to enter into limited term leases of public property.

<b>Vote of Charter Review Committee: Accept 13 Reject 3 Abstain 2</b>
The motion was presented at the 1 March 2004 meeting and passed 13-3-2.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

**Name of person submitting change:**

Timothy Ryan, School Superintendent

**Date:**

20 October 2003

**Article/Section/Paragraph to be changed (not applicable if new addition to Charter:**

Article VII School Department  
Section 714 School Purchasing, Financial Records and Vouchers.

**Current wording of Article/Section/Paragraph:**

Last paragraph Section 714: "All purchases over seven hundred fifty dollars (\$750) shall be put out to bid unless the School Committee determines that the purchase at bid is not practicable or consistent with its educational policy."

**Proposed wording of Article/Section/Paragraph:**

Last paragraph Section 714: "All purchases over one thousand dollars (\$1,000) shall be put out to bid unless the School Committee determines that the purchase at bid is not practicable or consistent with its educational policy."

**Discussion/Justification for change:**

Mr. Ryan wanted the CRC to approve the following change: Last paragraph 714: "The School Committee, by ordinance, shall provide for competitive bidding for all items in accordance with State law." His justification was that this would allow the School Department to abide by Section 910 of the Portsmouth Home Rule Charter the same as all other Town departments. The CRC discussed this change but decided to approve an increase in the amount required to be put out to competitive bid from \$750 to \$1,000.

**Vote of Charter Review Committee: Accept 13 Reject 0 Abstain 0**

The motion was presented at the 15 March 2004 meeting and the change to increase the competitive limit from \$750 to \$1,000 passed 13-0-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

**Name of person submitting change:**

Jerry Cook

**Date:**

1 April 2004

**Article/Section/Paragraph to be changed (not applicable if new addition to Charter:**

N/A New

**Current wording of Article/Section/Paragraph:**

N/A New

**Proposed wording of Article/Section/Paragraph:**

913. Municipal Bonds and Notes. All Bond and Note issues shall be specific as to purpose and monies received from the sale of the Bond or Note shall be used only for the stated purpose(s) approved by the voters. In rare cases where a required change arises after sale of the Bond or Note, the Council shall provide oversight and approval of the change(s) by majority vote.

**Discussion/Justification for change:**

About 5 years ago, a Bond (\$9.2 million) was approved to, among other things, build a new gym at the high school. Obviously, this was not done but the money was spent anyway. Subsequent bonds for a new gym have failed and yet another looms in the near future. The failure to build a new gym or even upgrade/modernize the old gym has resulted in the school being in violation of Title IX directives. This has all resulted from was miscarriage of trust by the elected officials in charge and must not be allowed to happen again.

**Vote of Charter Review Committee: Accept 8 Reject 7 Abstain 0**

The motion was presented at the 5 April 2004 meeting with the motion passing 8-7-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

**Name of person submitting change:**

Jerry Cook, Larry Fitzmorris

**Date:**

17 April 2004

**Article/Section/Paragraph to be changed (not applicable if new addition to Charter:**

806. Right to Organize.

**Current wording of Article/Section/Paragraph:**

806. Right to Organize. The right of municipal employees to associate together and to join any lawful organizations of their own choosing for the purpose of collective bargaining is recognized by this Charter and shall not be denied by ordinance and resolutions passed in pursuance thereof. The Town Council and School Committee are empowered to recognize such organizations, negotiate with them, and sign written agreements either directly or through the Town Administrator or Superintendent of Schools, as the case may be, provided that no right whatsoever of the employees to strike against the government of the Town is herein implied or sanctioned.

**Proposed Change:**

1<sup>st</sup> sentence NO CHANGE. 2<sup>nd</sup> sentence DELETE “or through the Town Administrator or Superintendent of Schools, as the case may be,”. ADD new 3<sup>rd</sup> and 4<sup>th</sup> sentence, “All contract negotiations for municipal and school employee salaries and benefits shall be conducted in public when permitted by state law. No member on the Town and/or School negotiating team will be a member of the union with which the Town is negotiating.”

**New wording of Article/Section/Paragraph:**

806. Right to Organize. The right of municipal employees to associate together and to join any lawful organizations of their own choosing for the purpose of collective bargaining is recognized by this Charter and shall not be denied by ordinance and resolutions passed in pursuance thereof. The Town Council and School Committee are empowered to recognize such organizations, negotiate with them, and sign written agreements directly. All contract negotiations for municipal and school employee salaries and benefits shall be conducted in public when permitted by state law. No member on the Town and/or School negotiating team will be a member of the union with which the Town is negotiating. No right whatsoever of the employees to strike against the government of the Town is herein implied or sanctioned.

**Discussion/Justification for change:**

1. Requires the Town Council and School Committee to be directly responsible for signing negotiated agreements, and eliminates the ability to delegate to the Town Administrator or School Superintendent. Clearly establishes elected officials to the outcome of negotiated agreements.

**Discussion/Justification for change (cont'):**

2. Adds the requirement to hold contract negotiations in public whenever permitted by state law. This will allow the public to attend meetings and be kept better informed in real-time of what is being negotiated.
3. No member on the Town and/or School negotiating team will be a member of the union or organization with which the Town is negotiating. Eliminates the appearance of conflict-of-interest.

**Vote of Charter Review Committee: Accept 14 Reject 3 Abstain 0**

This motion was presented at the 19 April 2004 meeting and passed 14-3-0.

**Portsmouth Charter Review Committee (CRC)  
Charter Change Consideration Form**

<b>Name of person submitting change:</b>
Guy Bissonnette

<b>Date:</b>
14 March 2004

<b>Article/Section/Paragraph to be changed (not applicable if new addition to Charter:</b>
903. <u>Conflict of Interest</u>

<b>Current wording of Article/Section/Paragraph:</b>
903. <u>Conflict of Interest.</u> In accordance with State Statue, as well as any rules and/or regulations promulgated by the Rhode Island Ethics Commission, no official of the Town, elected or appointed, shall utilize his/her position to forward, directly or indirectly, his/her personal benefit. In case of personal interest, as defined by State Statue or by the Ethics Commission, in the proposition before him/her as a Town Official, he/she shall notify, in writing, the Town Administrator of the fact and nature of his/her personal interest and abstain from voting on or otherwise participating in, that matter. If and when such a conflict exists for the Town Administrator, he/she shall notify the Town Council in writing of the fact and nature of his/her personal interest and abstain from participating in that matter.

<b>Proposed wording of Article/Section/Paragraph:</b>
903. <u>Conflict of Interest.</u> (A.) No person employed by the Town of Portsmouth, or who shall hold either an elected or appointed office, shall: <ol style="list-style-type: none"><li>1. Have any interest, financial or otherwise, direct or indirect, or engage in any business, employment, transaction, or professional activity, or incur any obligation of any nature, which are in substantial conflict with the proper discharge of his/her duties or employment or the public interest.</li><li>2. Impair his/her independence of judgment regarding his/her official duties or employment/office.</li><li>3. Knowingly disclose, for pecuniary gain or otherwise, confidential information obtained through his/her employment/office.</li><li>4. Use his/her public office or employment, or any confidential information received there from, to obtain financial gain for him/her self or any member of their family, any business associate or any business by which the person is employed or which the person represents.</li><li>5. Represent any other person/business before any board, committee, council or agency of the Town.</li><li>6. Act as an expert witness before any board, committee, council or agency of the Town.</li></ol>

**Proposed wording of Article/Section/Paragraph (con't):**

7. Allow any family member or business associate to appear as an expert witness, or represent any other person, before any board, committee, council or agency of the Town.
8. Either directly or through a family member or business associate, solicit or accept any gift, loan, political contribution, reward or promise of future employment based on any understanding that any vote, official action, or judgment would be influenced thereby.
9. Enter into any contract with the Town, either directly or through a family member or business associate, unless said interest is publicly disclosed in writing in advance and the contract is awarded through an open, public, and competitive bidding process.
10. Either directly or through a family member or business associate, give or offer to any other public official/employee, any gift, loan, political contribution, reward or promise of future employment based on any understanding or expectation that the vote, official action or judgment of the other public official/employee would be influenced thereby.
11. Be convicted of any crime resulting in a jail sentence or which is defined as a felony under Rhode Island law.

**(B.)**

1. When a Town employee/appointee/elected official shall have a conflict of interest as herein defined (or as defined by state law), he/she shall as soon as practicable notify the Town Clerk, in writing, of the facts and nature of said conflict and shall refrain from participating in that matter in any way;
2. If and when the Town Clerk shall have a conflict of interest as herein defined (or as defined by state law), he/she shall as soon as practicable notify the Town Council, in writing, of the facts and nature of said conflict and shall refrain from participating in that matter in any way.

**(C.)**

1. The provisions of these Sections shall continue to apply to all employees/appointees/office holders for a period of one (1) year after his/her employment/appointment/term of office ends.
2. The requirements outlined above are not in lieu of state law and/or the rules and regulation promulgated by the Ethic Commission, but is intended to be in addition thereto.
3. Any ambiguity of terms/terminology found in these provisions shall be resolved by referring to the definitions found in R.I.G.L. 36-14-1, et seq.
4. If any provision herein is found to be defective by a Court, said ruling shall only effect that specific provision, and the remainder of these Sections shall survive as if the effected provision never existed.

**Discussion/Justification for change:**

The proposed change would include a simplified version of what is contained in State law and establish in writing in the Town Charter what is expected of elected and appointed Town officials.

**Vote of Charter Review Committee: Accept 17 Reject 0 Abstain 0**

The motion was presented at the 19 April 2004 meeting and passed 17-0-0.

**Appendix C**  
**Portsmouth Charter Review Committee (CRC)**  
**Changes Considered-NOT APPROVED**

<u>AREA OF CHARTER</u>	<u>DATE REVIEWED</u>	<u>CHANGE CONSIDERED</u>	<u>VOTE</u>
Article II-The Town Council Section 209. Vacancies	6-Oct-03	Recommendation to change Section 209 to fill vacancies with the person receiving the highest number of votes in the previous election rather than leaving it to the discretion of the Town Council.	1-12-0
Article I-Basic Provisions Section 101. Inhabitants Incorporated as Town with Powers and Duties of a Town.	3-Nov-03	Recommendation to re-write Section 101 to make it more understandable.	3-15-1
Article II-The Town Council Section 208. New Paragraph "Warrants"	17-Nov-03	New Paragraph: "The Town Council shall have the authority to establish Town warrants for the purpose of short term debt funding of town capital improvements projects. Warrants shall be debt instruments limited to five years duration and shall be limited to individual expenditures for capital equipment, minor construction projects, major repairs to town buildings and bridge loans for passed bond issues. Warrants shall not be used to fund town and or department operations or reoccurring expenses. Deb service for warrants shall be included, in proportion, in the budgets of all departments that benefit from a warrant's proceeds."	6-9-0
Article II-The Town Council Section 208. New Paragraph "Income"	1-Dec-03	New Paragraph: "All income of whatever type received by the Town and its departments shall first be authorized by the Council and shall be deposited upon receipt into the Town's General Fund."	7-9-0
Article IV-Elections New Section 403. Recall of Elected Officials.	20-Jan-04	New Section 403. Recall of Elected Officials. All Elected Officials of the Town are each subject to a recall election during the period from six months following election to office through six months prior to the election in which the official's term of office ends. Any qualified town elector may initiate a recall process by written notification to the Town Clerk of the elector's intention and the name and title of office of the official subject to the recall petition. The recall initiative shall be qualified for the ballot by the submission of a Petition of Recall to the Town Registrar. The petition shall contain the number of signatures equal to, or greater than, the number of votes received by the named official in the election which last placed him or her in office.	4-12-0
Article V-Town Officials Section 501. Town Clerk	20-Jan-04	Change Town Clerk from elected position to appointed position.	4-12-0

Note: Details contained in meeting Minutes

**Appendix C**  
**Portsmouth Charter Review Committee (CRC)**  
**Changes Considered-NOT APPROVED**

<u>AREA OF CHARTER</u>	<u>DATE REVIEWED</u>	<u>CHANGE CONSIDERED</u>	<u>VOTE</u>
Article VI-Town Departments Section 601. Police	20-Jan-04	Change word "may" be a Deputy Chief to "shall" be a Deputy Chief  Note: *A member left early leaving 15 members	6-9-0*
Article VI-Town Departments Section 605. Parks and Recreation	2-Feb-04	Change word "may" establish a department of parks and recreation to "shall" establish a department of parks and recreation	6-8-0
Article VI-Town Departments Section 606. Department of Finance	2-Feb-04	Change word "may" be a Deputy Fiance Director to "shall" be a Deputy Finance Director	1-13-0