

June 16, 2025

This information was compiled by TCC members Sean Casey, Amy Drinker, and Ron Grenier

Town Charter Committee (TCC) forums:

May 27: 7PM, comprehensive presentation by Sean Casey followed by public comment

May 29, noon, Council on Aging, in-person, approx. 15 attendees

May 30, 9AM, webinar, approx. 10 attendees

<https://www.marbleheadma.gov/town-charter-committee>

1) Open Town Meeting

Public Comments: At multiple forums attendees asked what the draft charter said about open v representative town meeting. Additionally, attendees expressed their preference that open town meeting continue as Marblehead's legislative process.

TCC Response: As part of its due diligence, the TCC discussed representative town meeting. The TCC consensus is that open town meeting is firmly rooted in Marblehead and should not be changed.

Charter Draft A, section 3.1 Town Meeting: Open Town Meeting

1. The legislative powers of the Town shall be exercised by an open Town Meeting at which voting may be exercised by all registered voters of the Town of Marblehead as enumerated in Town By-Laws.

2) Framework and Organization of Charter

Public Comments: Several comments and questions were asked regarding the organization of the charter. These include: What is the basis for selecting the charter's sections? Did you follow a best practices template? Which charter is the committee using as the model charter?

TCC Response: In June of 2024, the Collins Center provided the TCC with several Massachusetts charters to review that they considered well written and well organized. The Collins Center also provided a template for organizing a town charter. From there, the TCC reviewed additional charters from across the Commonwealth. The organization of the draft charter developed by the TCC consists of 11 articles that, while similar to many of the charters reviewed, are written to reflect how Marblehead operates.

Public Comment: Is the TCC making vertical alignment stronger and weakening horizontal cooperation between town departments?

TCC Response: The draft charter documents the legal basis for Marblehead town government and how town government operates. The TCC believes the draft charter eliminates ambiguity and provides a clearer map of how the town operates. Marblehead has a very decentralized form of town government which makes cooperation between departments and committees important. This has in no way been weakened in the draft charter. See for example Article 2, Sentences 12 and 13, which state:

12. Given the decentralized nature of Marblehead's government structure, collaboration coordination, and efficiency among operations of Town government are essential.

13. Town boards, committees, commissions, departments, officials, and senior-level Town employees shall proactively collaborate with regard to sharing of information and resources; the purchase, use, maintenance, and disposition of equipment and systems; preparation of the Town capital plan, development and implementation of Town-wide systems and policies, and development of the Town's annual budget.

Public Comment: Will the town charter be a summary document of what has evolved in Marblehead over time?

TCC Response: Currently, Draft A contains many annotations from which the reader may draw a historical perspective. However, the annotations will not be in the final submittal to the Select Board next spring. The Collins Center has advised the TCC that acts of legislation should not be written in the form of storytelling.

Public Comment: The use of aspirational language that speaks to norms, values, and expectations can be more powerful than using statutory or by-law language.

3) Content of Draft Charter

Public Comments: Several attendees had comments and questions about the role of the Town Administrator. These include, “There is insufficient language with regards to the relationship between the town administrator and the select board” and, “Will the TCC incorporate any language to change the power of the Town Administrator position to that of a Town Manager?”

TCC Response: Town bylaws currently have almost no mention of the town administrator. The legal basis of the role of town administrator is found in a single paragraph of Massachusetts General Law (Title VII, Chapter 41, Section 23 A). Draft A does not contain any changes to the Town Administrator remaining answerable to the Select Board, but provides a more comprehensive description of the role the town administrator plays. See Draft A, Article 2, Administrative Organization of the Town of Marblehead, and Article 4, Select Board and Town Administrator.

Public Comment: What is the reasoning behind charter sections that have scant law as a basis?

TCC Response: With the exception of descriptive and aspirational language, all sections of the draft charter have their basis in the laws of the Commonwealth and/or the laws of the Town of Marblehead. That said, in some instances that legal basis is cryptic, and in those instances the charter provides a more detailed description for the purpose of clarity, and further goes on to codify current practices that are consistent with their legal basis. This is especially true for: Section 4.2 (Town Administrator), Section 6.2 (Board of Registrars), Article 9 (Finances and Fiscal Procedures), and Article 10 (Elections). The legal basis in these articles can be found in the annotation and notes for each section.

If the TCC recommends adding a recall provision to the charter (something that currently does not have a legal basis), it would be considered as a Stand-alone component, presented at town meeting as warrant article to be voted separately from the baseline charter. An approved stand-alone component would be added to the baseline charter to be presented as a home rule petition to the state legislature for review before the charter returns to Marblehead for a town-wide vote to adopt the charter or not.

Public Comment: Why aren’t the Fire and Police departments included in the charter?

TCC Response: Massachusetts General Laws (MGL) govern many aspects of municipal operations including the structure, powers, and duties of police and fire departments. A charter's primary purpose is to define the fundamental framework of town government, including the form of government (e.g., Select Board, Town Administrator, Town Meeting), the powers and duties of key elected and appointed officials, and the legislative process (Marblehead’s open town meeting). While police and fire are critical services, the detailed operational procedures, personnel rules, and specific organizational charts are handled through MGL and town bylaws. Town bylaws are more detailed than the charter and are used to define the specific structure, responsibilities, and regulations of individual departments.

Public Comment: Will the charter clear up who’s in charge of the bathrooms at Clark Landing?

TCC Response: The TCC has been mindful not to “get in the weeds” regarding town departments’ day-to-day operations. By not including operational details in the charter, Marblehead maintains flexibility. It's much easier to update department responsibilities than to go through the lengthy process of amending the town charter. It also allows for quicker adjustments to changing needs and following best practices, including who’s in charge of the bathrooms at Clark Landing.

4) Relationship of the Charter and Town Bylaws

Public Comment: Why create a charter that puts a “spin” on Marblehead’s bylaws? If we need to change a bylaw (like add “open” to the town meeting bylaw) then just do that. We don’t need a document that interprets bylaws for people or talks down to Marblehead voters.

TCC Response: The charter has no spin and there are no deviations from town bylaws, Special Acts, or MGL that apply to Marblehead. Every effort has been made to extensively annotate the Draft A language and connect it to source materials. The draft charter is not a reinterpretation of town bylaws. The draft charter is guided by and codifies the way our government currently works (much of which could not be done by town bylaws alone).

Public Comment: If Marblehead approves a charter, do the town bylaws go away?

TCC Response: No. The Charter would be Marblehead’s “Constitution,” establishing the fundamental framework of the town’s government, defining its structure, the powers and duties of town officials, and essential procedures. Town bylaws would be subordinate to the charter but remain in effect to govern matters at a more granular level. Town bylaws must be consistent with the town charter, Special Acts (legislation specific to Marblehead passed by the Massachusetts legislature) accepted by the town, and with Massachusetts General Laws. Any bylaws *conflicting* with the charter would be superseded by the charter, meaning the charter provision would take precedence. But more often, the charter *enables* town bylaws. For instance, the charter might lay out the general authority for certain departments or functions and then explicitly state that the details will be “as provided in town bylaws.” This reinforces the role of bylaws in fleshing out the charter’s framework.

5) Relationship of Charter to Current Town Practices

Public Comment: Can the TCC create a draft that shows what are current town practices vs. the components that the TCC is proposing?

TCC Response: The TCC believes the draft charter codifies town practices, rather than varies from them. In Draft B, the TCC will highlight any instances where it is suggesting language that is a departure from the current way Marblehead operates and conducts business, but we expect there to be few, if any. The way Marblehead does business is an amalgam of 375 years of evolving bylaws, Special Acts, MGL, and Marblehead practices. The charter will be the first instance of all this information being in one place.

6) Accessibility and Understandability

Public Comment: Is there an organizational chart to help the reader understand the various roles and responsibilities of committees and departments?

TCC Response: The Town Charter Committee web page contains a considerable number of pertinent documents for residents to access including the current Draft A, organizational charts, minutes of TCC meetings, presentations, etc. We encourage residents to review the web page for all updates and to attend TCC meetings.

Public Comment: Will the charter be easy to read?

TCC Response: The committee makes every effort to write language as simply as possible to create a document that makes sense and is easy to read.

Public Comment: I don’t have an internet connection. May I get a paper copy of the charter?

TCC Response: Yes. Draft B will be available sometime in July and it will be posted on the TCC web page. A paper copy of Draft B may be requested from Kyle Wiley at the Select Board’s office, Abbot Hall.

Public Comment: Consider producing a companion document to the charter that in plain language explains how things are expected to work.

7) Charter Acceptance and Future Changes to the Charter

Public Comment: How long will it take for the charter to go through the legislature's review process?

TCC Response: It will take a year. The TCC has invited State Representative Jenny Armini to its September 11 meeting to discuss the legislative review process should the charter be approved by Marblehead Town Meeting in May of 2026. An overview of the process is:

- a. State Representative Jenny Armini and State Senator Brendan Crighton will co-sponsor legislation (a Home Rule Petition) to adopt Marblehead's town charter.
- b. The Joint Committee on Municipalities and Governance's legal counsel will review the charter language. During the second reading, members have the opportunity to debate the bill and propose amendments. (Amendments may be filed by any member of the House of Representatives. In theory, a resident of Marblehead could persuade a member to file an amendment, but it would be difficult to proceed with any substantive change that was in conflict with language approved by Marblehead Town Meeting).
- c. If reported out favorably from the Committee, the bill will advance to the House Committee on Bills in Third Reading. The third reading is the final opportunity for debate and amendment. At this point, the bill is read in full, and members can discuss its final form. After the debate, a vote is taken. If the bill passes:
- d. The charter goes to the Senate Rules Committee. If approved there:
- e. The bill may move to a Conference Committee to resolve any variances in the House and Senate versions adopted.
- f. When both chambers are in agreement, the bill is placed on the Governor's desk for enactment by his/her signature.
- g. **The charter must then be ratified by Marblehead voters through a town-wide ballot vote. This town-wide vote would most likely occur in the June 2027 town elections. Only then, if charter is approved, would the charter become law.**

Public Comment: May the charter be amended? How long does that process take?

TCC Response: Yes, the charter may be amended. The process would include the proposal of an amendment, its discussion/approval at town meeting, review by the state for conformity with state law, and then approval by town voters. The timeline would likely be a year if not 18- to 24 months. This process is identical to changing any Special Act accepted by the town.

8) Other Comments and Questions

Public Comment: Has the TCC used artificial intelligence (AI) to evaluate the charter?

TCC Response: No.

Public Comment: Encourage taking this opportunity to bring forward ways of improving town government.

TCC Response: Along with the final charter draft, the TCC will be submitting a report to include observations and suggestions for future consideration including the cycle of charter review, aspirational goals, and suggestions for better communication.