SENATE DOCKET, NO. 2170 FILED ON: 1/19/2012

SENATE . . . . . No. 2114

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Therese Murray

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An act amending the charter of the town of Bourne.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Therese Murray	☐ *[District]* ☐
David T. Vieira	*3rd Barnstable*
Susan Williams Gifford	*2nd Plymouth*
Randy Hunt	*5th Barnstable*

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SENATE . . . . . No. 2114

By Ms. Murray, a petition (accompanied by bill, Senate, No. 2114) of Therese Murray, David T. Vieira, Susan Williams Gifford and Randy Hunt (by the vote of the town) for legislation to amend the charter of the town of Bourne. [Local Approval Received.] Municipalities and Regional Government.

The Commonwealth of Massachusetts

An act amending the charter of the town of Bourne.

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

PREAMBLE

We, the people of Bourne, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government and to take the fullest advantages inherent in the home rule amendment, article LXXXIX of the amendments to the Constitution of the Commonwealth, do hereby adopt the following home rule charter for the town of Bourne.

Article 1

Existence and Authority.

Section 1-1: Incorporation.

The inhabitants of the town of Bourne within the territorial limits established by law shall continue to be a body corporate and politic under the name "Town of Bourne."

Section 1-2: Charter and Form of Government.

This instrument shall be known and may be cited as the Bourne home rule charter. This charter provides for an open town meeting, board of selectmen, town administrator form of government.

Section 1-3: Division of Powers.

The administration of all the fiscal, prudential and municipal affairs of the town shall be vested in an executive branch which shall be headed by a board of selectmen. The legislative powers shall be exercised by an open town meeting.

Section 1-4: Powers of the Town; Intent of the Voters.

It is the intent and purpose of the voters of the town of Bourne, through the adoption of this charter, to secure for the town all of the powers possible under the Constitution and laws of the commonwealth, as fully and as completely as though each power were specifically and individually enumerated herein.

Section 1-5: Interpretation of Powers.

The powers of the town under this charter shall be construed and interpreted liberally in favor of the town and the specific mention of any particular power shall not limit in any way the general powers of the town as stated in section 1-4.

Section 1-6: Intergovernmental Relations.

The town may enter into agreements, by contract or otherwise, with any other unit of government to perform any of its powers or functions jointly or in cooperation with any other unit of government.

Article 2

Legislative Branch.

Section 2-1: Open Town Meeting.

The legislative powers of the town shall continue to be exercised by a town meeting open to all voters.

Section 2-2: Presiding Officer.

The town moderator, elected as provided in section 6-2, shall preside at all sessions of the town meeting, shall regulate the proceedings at town meeting, shall decide all questions of order and shall make public declarations of all votes.

Section 2-3: Time of Meetings.

The annual town meeting shall convene at such time as provided by by-law. Special town meetings shall be convened at such times as may be called by the board of selectmen, by petition of the voters as provided by law or at such other times as may be provided by by-law.

Section 2-4: Warrants.

A town meeting shall be called by a warrant issued by the board of selectmen, which shall state the date, time and location at which the meeting is to convene and, by separate articles, the subject matters to be acted upon. The publication of the warrant for a town meeting shall be in accordance with town by-laws governing such matters.

Section 2-5: Initiation of Warrant Articles.

(a) The board of selectmen shall receive at any time before the warrant closes and insert in the warrant all petitions addressed to it which request the submission of any matter to the town meeting and which are submitted to it by: (1) an elected town officer; (2) a town elected or appointed multiple member body acting by vote of a majority of its members; (3) 10 or more voters stating their residences with street numbers, if any, subject to the subsequent certification by the board of registrars that at least 10 per cent of the signers are voters; provided, however, that in the case of a special town meeting, the number of voters shall be 100 or 10 per cent of the total amount of voters in the town, whichever is lesser; and (4) the town administrator.

(b) The board of selectmen shall close the warrant not less than 75 days prior to the date for the annual town meeting and not less than 45 days prior to the date for any special town meeting. By four-fifths vote, the board of selectmen may waive the aforementioned requirements for the special town meeting in case of emergency.

(c) The voter handbook shall include the text of any annual or special town meeting warrant with the recommendations and counted votes of the finance committee, board of selectmen and any other appointed or elected board or committee proposing an article. In the voter handbook for the annual town meeting, the selectmen shall include the recommended operating budget with revenue projections, the departmental goals for the upcoming fiscal year and 5-year financial, debt and capital projections. The voter handbook shall be available to the public at the town hall and the public library not less than 15 days before the annual town meeting.

Section 2-6: Availability of Town Officials at Town Meetings.

Town officers, members of boards and commissions and department heads or their duly designated representatives shall attend town meetings to furnish information when proposals affecting their respective offices, boards, commissions or departments are included in the warrant.

Section 2-7: Clerk of the Meeting.

The town clerk shall serve as clerk of the town meeting, shall give notice of all adjourned sessions thereof, shall record its proceedings and perform such additional duties in connection therewith as may be provided by the General Laws, this charter, by-law or other town meeting vote.

Section 2-8: Rules of Procedure.

Except for provisions addressed in this charter, the town meeting may, by by-law, establish and, from time to time, amend, revise or repeal rules governing the conduct of town meetings.

Section 2-9: Finance Committee.

A finance committee shall be appointed as provided by by-law. Town employees, including school employees, shall not be eligible for appointment to, or service on, the finance committee. The finance committee shall choose from its members a chairperson and fill such other offices as it may create.

Article 3

Executive Branch, Board of Selectmen.

Section 3-1: Term of Office, Composition.

There shall be a board of selectmen to consist of 5 members to be elected for 3-year terms, so arranged that as nearly an equal number of terms as possible shall expire each year. The board of selectmen shall also serve as sewer commissioners until such time as the town adopts legislation creating a board of sewer commissioners.

Section 3-2: Vacancy.

A vacancy in the office of selectmen shall be filled in accordance with the General Laws.

Section 3-3: Policy Role.

The board of selectmen shall serve as the chief goal-setting and policy-making agency of the town, keeping in mind the goals, policies and action items of the local comprehensive plan, or LCP, and shall appoint a town administrator to carry out such policies. Policies, and goals specific to each policy, shall be filed with the town administrator not later than 45 days after the regular spring town election. An individual selectman shall have no independent authority unless specifically voted by the board of selectmen. Selectmen shall deal with administrative agencies and departments only through the town administrator.

Nothing in this section shall authorize a member of the board of selectmen, or a majority of its members, to become involved in the day-to-day administration of a town agency. The board of selectmen shall act only through the adoption of written policy goals, policies and action items which shall be implemented by the town administrator and written in a policy book that shall be available to the public for review.

Section 3-4: Powers and Duties.

Except as otherwise provided by this charter, all executive powers of the town shall be vested in the board of selectmen and the board shall have all of the powers and duties given to boards of selectmen under the Constitution and General Laws of the commonwealth, and such additional powers and duties as may be authorized by this charter, by by-law or by town meeting

vote. The board of selectmen shall cause the laws and orders for the government of the town to be enforced and shall cause a record to be kept of all its official acts.

Section 3-5: Appointing Powers.

The board of selectmen shall appoint the town administrator, town counsel, registrars of voters, constables and members of all multi-member bodies for whom no other appointment provision is made in this charter or by by-law. All boards, committees and commissions appointed by the board of selectmen shall be responsible to the board of selectmen.

Section 3-6: Prohibitions.

(a) No member of the board of selectmen shall serve on an appointed town board established by this charter, by by-law, by town meeting or by the board of selectmen for which the board of selectmen is the appointing authority.

(b) No member of the board of selectmen shall hold any other elected town office or full-time town employment during that member's term of office.

(c) No former member of the board of selectmen shall hold an appointed town office for which compensation is paid or hold full-time town employment until 2 years after that former member's term of office on the board has expired.

Section 3-7: Intergovernmental Relations.

Members of the board of selectmen shall represent the town on federal, state, regional and intermunicipal committees or may designate a town employee or other person to represent the town on those committees.

Section 3- 8: Rules of Procedure.

The board of selectmen shall adopt, make public and abide by its own rules of procedure to govern the conduct of its meetings. An agenda shall be posted with each notice of public meeting. A period of public comment shall be scheduled before the beginning of agenda items. In addition, a public comment period shall be provided before any vote on a policy issue. The board of selectmen may deviate from its agenda only for sudden, generally unexpected occurrences or for circumstances demanding immediate action.

Article 4

Town Administrator.

Section 4-1: Appointment; Qualification; Term.

The board of selectmen shall appoint a town administrator search committee of not fewer than 5 and not more than 9 residents of the community to assist the board of selectmen in the

149 recruitment and selection of the town administrator. If the board of selectmen does not select 1
150 of the candidates presented by the search committee within 30 days, then the search committee
151 shall resume its search and submit an additional list of candidates to the board of selectmen
152 within 60 days after it resumes the search.

153 The board of selectmen, by an affirmative vote of 4 members, shall appoint the town
154 administrator for an indefinite term and fix the town administrator's compensation within the
155 amount annually appropriated for that purpose. The town administrator shall be appointed solely
156 on the basis of executive and administrative qualifications.

157 The town administrator shall be a professionally qualified person of proven ability,
158 especially fitted to perform the duties of the office by education, training and previous
159 experience in municipal administration. The town administrator shall have at least a bachelor's
160 degree, but preferably a master's degree, in public administration, business management or a
161 related field, at least 7 years experience in an upper level executive municipal position or any
162 equivalent combination of education and experience. The town administrator need not be a
163 resident of the town when appointed but shall establish primary residence within Barnstable,
164 Bristol or Plymouth county with 1 year after the date of appointment; provided, however, that the
165 board of selectmen may, by simple majority vote of the selectmen in office at the time of
166 appointment, extend to a time certain the time for establishing residence or otherwise allow the
167 town administrator to reside outside of those counties.

168 The town administrator shall devote full time to the office and shall not hold any other
169 public office, elective or appointive, or engage in any other business or occupation during the
170 administrator's term unless such action has been approved in writing in advance of such action
171 by the board of selectmen. The town may from time to time, by by-law, establish such additional
172 qualifications as it deems necessary and appropriate.

173 Section 4-2: Relationship of the Town Administrator and the Board of Selectmen.

174 The town administrator shall be the primary officer responsible for the implementation of
175 the broad policy directives of the board of selectmen and for the attainment of yearly goals. The
176 daily administration of the affairs of the town shall be the responsibility of the town
177 administrator only. The town administrator may create advisory ad hoc committees to assist in
178 the execution of the town administrator's duties.

179 The town administrator shall be evaluated by the board of selectmen annually for the
180 town administrator's ability to effectuate policy, to accomplish goals established by the board of
181 selectmen, to effectively administer town government and to properly supervise all municipal
182 employees, except school employees.

183 Section 4-3: Vacancy in Office.

Any permanent vacancy in the office of town administrator shall be filled as soon as possible by the board of selectmen. Pending the appointment of a town administrator, the board of selectmen shall, within 30 days, appoint some other qualified person to serve as the acting town administrator.

Section 4-4: Temporary Absence.

The town administrator may, by letter filed with the town clerk and board of selectmen, designate as acting town administrator, a qualified officer or employee of the town, to perform the duties of the town administrator during a temporary absence or disability. If the absence or disability exceeds 30 days, any designation made by the town administrator shall be subject to the approval of the board of selectmen. If the town administrator fails to make a designation or if the person so designated is unable to serve, the board of selectmen may designate some other qualified employee of the town to perform the duties of the town administrator until the town administrator shall return.

Section 4-5: Procedures for Removal of Town Administrator.

The board of selectmen, by an affirmative vote of 4 of its members, may initiate the removal of the town administrator by adopting a preliminary resolution of removal. The resolution shall set forth in reasonable detail the reasons for such removal. The preliminary resolution may suspend the town administrator for a period not to exceed 30 days. The resolution shall be delivered to the town administrator forthwith upon its adoption. The administrator, within 5 days of receipt of the resolution of removal, may request a public hearing by the board of selectmen on the reasons stated in the resolution of removal. The board of selectmen shall convene the requested hearing not less than 7 and not more than 30 days after receipt of the request by the town administrator. The town administrator may be represented by counsel of the town administrator's choosing, may call and question witnesses and may file a statement on the town administrator's own behalf.

If the town administrator does not request a public hearing, then the board of selectmen may adopt a final resolution of removal not earlier than 10 days after the delivery of the preliminary resolution of removal and not later than 20 days after the delivery of the preliminary resolution. If the town administrator requests a public hearing, the board of selectmen may adopt a final resolution of removal not earlier than 5 days and not later than 10 days after the close of the public hearing. A final resolution of removal shall have an affirmative vote of 4 members of the board of selectmen. Failure to adopt a final resolution of removal within the time limits set forth herein shall nullify the preliminary resolution of removal.

The action of the board of selectmen in suspending or removing the town administrator shall be final. The town administrator shall continue to receive the town administrator's salary until a final resolution of removal becomes effective.

Section 4-6: Powers and Duties.

The town administrator shall be the chief administrative officer of the town. The town administrator shall be responsible to the board of selectmen for the proper administration of all town affairs placed in the town administrator's charge by or under the charter. The town administrator shall have the following powers and perform the following duties:

(a) implement and carry out all policies and goals established by the board of selectmen;

(b) appoint and, in appropriate circumstances, remove, subject to civil service laws and collective bargaining agreements where applicable, all department heads and employees, including members of the board of assessors and other employees for whom no other appointment provision is made in this charter; provided, however, that appointments made by the town administrator shall be effective immediately; provided further, that an appointment of a department head or member of the board of assessors shall become effective on the fifteenth day after the day on which notice of the proposed appointment is filed with the board of selectmen unless a majority of the board of selectmen votes to reject the appointment within that period.

(c) prepare and submit an annual operating budget and capital improvement program and budget in accordance with sections 7-1 and 7-2 of this charter;

(d) investigate or inquire into the affairs of a town department under the jurisdiction of the town administrator or, when authorized by the board of selectmen, investigate or inquire into the affairs of any other town department;

(e) attend all regular and special meetings of the board of selectmen, unless unavailable for reasonable cause; provided, however, that the town administrator shall have a voice, but no vote, in all proceedings of the board of selectmen;

(f) keep the board of selectmen fully informed as to the needs of the town and make recommendations to the board;

(g) inform the board of selectmen on departmental operations, fiscal matters and administrative actions and provide regular periodic reports to the board of selectmen;

(h) inform the board of selectmen of the availability of public and private funding opportunities;

(i) administer personnel policies, practices, rules and regulations, compensation plans and related matters for all municipal employees, except school employees;

(j) be responsible for the negotiation, administration and enforcement of collective bargaining agreements and other employment agreements, exclusive of the schools, on behalf of the board of selectmen;

(k) have jurisdiction over all town property, insuring that a full inventory of all real and personal property is kept, excluding property under the jurisdiction of the school committee;

(l) be responsible for and oversee the purchase of all supplies, materials, services and equipment and approve the award of all contracts for all town departments; provided, however, that the town administrator shall secure the approval of the board of selectmen for contracts of 3 or more years;

(m) fix the compensation of all town employees and officers appointed by the town administrator within the limits of the town's compensation plan, collective bargaining agreements and other employment agreements;

(n) coordinate the activities of all appointed and elected boards, committees and commissions; provided, however, that the town administrator may require elected boards and individuals to meet with and provide information to the town administrator at reasonable times for the purpose of coordination and financial planning;

(o) create new full-time, compensated positions, subject to the approval of the board of selectmen and funding by the town meeting; provided, however, that the town administrator may enter into employment contracts for these positions;

(p) supervise, direct and be responsible for the efficient administration of all officers appointed by the town administrator and their respective departments, and for all functions for which the town administrator is given responsibility, authority or control by this charter, by by-law, by town meeting vote or by vote of the board of selectmen;

(q) delegate, authorize or direct any subordinate or employee appointed by the town administrator to exercise any power, duty or responsibility which the office of the town administrator is authorized to exercise; provided, however, that all such acts shall be deemed to be the acts of the town administrator;

(r) administer and enforce either directly or through a person supervised by the town administrator, in accordance with this charter, all provisions of law applicable to the town, all by-laws and all regulations established by the board of selectmen; and

(s) attend all sessions of the town meeting to answer questions addressed to the town administrator which are related to warrant articles and matters of general supervision of the town administrator.

Article 5

Administrative Organization.

Section 5-1: Table of Organization.

The town administrator shall prepare for submission to the board of selectmen a table of organization establishing personnel requirements within the town agencies created by the charter, by by-law or by administrative code. The table of organization shall become effective unless rejected by the board of selectmen within 30 days following its submission.

Section 5-2: Organization of Town Government.

Subject only to the express prohibitions in the Constitution, General Laws or this charter, the town administrator may prepare a plan to organize, reorganize, consolidate or abolish any town agency as the town administrator considers necessary or advisable. The town administrator may prescribe the functions of any town agency and, for such purpose, transfer the powers and duties and, so far as is consistent with the use for which the funds were voted by the town, transfer the appropriations of 1 town agency to another; provided, however, that no function assigned by this charter to a particular town agency may be discontinued or assigned to any other town agency unless specifically authorized in this charter. The town administrator shall not be prohibited by this charter from including the department of public works or the department of integrated solid waste management in any plan to organize, reorganize, consolidate or abolish a town agency that the town administrator considers necessary or advisable in accordance with this section. Any proposed plan submitted under this section by the town administrator shall be approved by an affirmative vote of 3 members of the board of selectmen.

Section 5-3: Public Hearing and Effective Date.

Before the board of selectmen approves a proposed plan under section 5-2, it shall hold 1 or more public hearings on the proposal, giving notice by publication in a local newspaper at least 7 days in advance of the hearing. The notice shall describe the scope of the proposal and the date and place where the hearing will be held. The selectmen shall have 14 days after the close of the public hearing to propose amendments, if any, and vote on the final plan. The proposed organization shall become effective not sooner than 60 days following the selectmen's vote on the final plan. Where the reorganization moves a function or funding from 1 department to another, voters may petition for a special town meeting to address those changes.

Section 5-4: Department of Public Works.

(a) There shall be a department of public works which shall be responsible for those public works functions described in this article and as may be assigned from time to time by the board of selectmen, town administrator or town meeting.

(b) The department of public works shall be under the direct control of a superintendent of public works who shall be appointed by and who shall be directly responsible to the town administrator. The superintendent of public works shall be a registered civil engineer or a person otherwise especially suited by education, training and previous experience to perform the duties of the office. The superintendent of public works shall keep full and complete records of the

doings of the superintendent's office and shall render a report of all operations to the town administrator and board of selectmen as may be required. The superintendent shall keep the town administrator fully advised as to the needs of the town within the scope of the superintendent's duties.

(c) The department of public works shall include, but not be limited to, the following functions: highways and streets; storm drains; tree and park maintenance; public sewers; rubbish collection; and the maintenance and repair of town buildings, except school buildings unless requested by the school committee and approved by the board of selectmen.

(d) The board of selectmen, acting through the town administrator, shall establish priorities and policies to govern the operation of the department of public works.

Section 5-5: Department of Integrated Solid Waste Management .

(a) There shall be a department of integrated solid waste management responsible for those solid waste functions described in this article and as may be assigned from time to time by the board of selectmen, town administrator or town meeting;

(b) The department of integrated solid waste management shall be under the direct control of a general manager of waste management who shall be appointed by and directly responsible to the town administrator.

(c) The general manager shall be especially qualified by education, training and previous experience to perform the duties of the office. The general manager shall keep full and complete records of the doings of the office and report on all operations under its control to the town administrator and board of selectmen as may be required. The general manager shall keep the town administrator fully advised as to the needs of the town within the scope of its duties.

(d) The department of integrated solid waste management shall include, but not be limited to, the following functions: sanitary landfill; composting and recycling

(e) The board of selectmen, acting through the town administrator, shall establish priorities and policies to govern the operation of the department of integrated solid waste management.

Section 5-6: Department of Finance.

(a) There shall be a department of finance responsible for the fiscal and financial affairs of the town and for the coordination and overall supervision of all fiscal and financial activities of all town government agencies. The department of finance shall include the functions of accountant, treasurer, collector and assessors. The department of finance shall be responsible for, and shall include, the following functions:

(1) coordination of all financial services and activities of town government;

(2) maintenance of all accounting records and other financial statements for all town offices and agencies;

(3) payment of all financial obligations on behalf of the town;

(4) investment of town funds and management of debt;

(5) receipt of all funds due to the town from any source;

(6) maintenance of the system of property valuation under the direction of the board of assessors;

(7) rendering of advice, assistance, guidance and recommendations to all other town offices and agencies in any financial or fiscal affairs;

(8) monitoring throughout the fiscal year the expenditure of funds by town offices and agencies;

(9) under the direction of the town administrator, supervise the purchase of all goods, services, materials and supplies by the town;

(10) general supervision of related data processing functions, activities and equipment of town offices and agencies; and

(11) such additional functions as may from time to time be assigned by the town administrator.

(b) The director of finance shall be appointed as provided in subsection (b) of section 4-6. The director of finance shall be especially fitted by education, training and experience to perform the duties of the office. The director of finance may serve as town accountant, town treasurer, town collector or principal assessor, but the finance director shall not serve as town accountant and town treasurer or as town accountant and town collector simultaneously. At the discretion of the town administrator, the director of finance may serve as the head of any division within the department. The town administrator may also designate a person to serve as head of more than 1 division within the department. The director of finance shall be responsible to the town administrator for the effective operation of the department of finance and all fiscal and financial activities of town government. The director shall coordinate and provide overall supervision for all activities of the department and, in consultation with the town administrator, may direct and assign all personnel serving in that department. The director of finance shall be responsible to the town administrator and shall have the following specific powers and duties, subject to the direction of the town administrator:

(1) coordinating the financial functions of all departments and agencies and supervising the following functions: accounting; treasury; tax collections; assessing-related data processing;

389 and budgeting and procurement and ensuring that each function is operating efficiently and in
390 accordance with applicable laws, by-laws, codes and accepted practices;

391 (2) planning, organizing and providing administrative direction for all financial functions;

392 (3) working with the town administrator to develop strategic financial plans and policies;

393 (4) compiling and submitting an annual operating budget and an annual capital
394 improvement plan to the town administrator; provided, however, that the director shall receive
395 all requests made for the expenditure of town funds from each town office and agency and shall
396 assemble all such requests into a form deemed to be best suited to show a complete financial
397 plan for all town funds and activities for the ensuing fiscal year; and provided further, that the
398 proposed budget shall show in detail all estimated income from the proposed property tax levy
399 and from every other source by category; and

400 (5) general oversight, throughout the year, of the expenditure of all town funds pursuant
401 to such budgets and expenditures as authorized by town meeting.

402 (c) There shall be a board of assessors, consisting of 3 members to be appointed by the
403 town administrator for overlapping 3-year terms. The board of assessors shall have all of the
404 duties and responsibilities assigned to boards of assessors by the General Laws.

405 (d) There shall be a town accountant appointed as provided for in subsection (b) of
406 section 4-6. The town accountant shall be qualified in accordance with the General Laws and
407 shall have a bachelor's degree in accounting and at least 3 years of prior full-time accounting
408 experience. The town accountant shall have all of the powers and duties conferred upon town
409 accountants by the General Laws. The town accountant shall be responsible to the finance
410 director and, in turn, to the town administrator for the proper performance of the town
411 accountant's duties.

412 (e) There shall be a town treasurer appointed as provided for in subsection (b) of section
413 4-6. The treasurer shall be especially fitted by education, training and experience to perform the
414 duties of the office. The treasurer shall have all of the powers and duties conferred and imposed
415 upon town treasurers by the General Laws, this charter and town by-laws. The town treasurer
416 shall be responsible to the finance director and, in turn, to the town administrator for the proper
417 performance of the town treasurer's duties.

418 (f) There shall be a town collector appointed as provided for in subsection (b) of section
419 4-6. The town collector shall be especially fitted by education, training and experience to
420 perform the duties of the office. The town collector shall have all of the powers and duties
421 conferred upon town collectors and tax collectors by the General Laws, this charter and town by-
422 laws. The town collector shall be responsible to the finance director and, in turn, to the town
423 administrator for the proper performance of the town collector's duties.

Article 6

Other Elected Town Boards and Officers.

Section 6-1: Other Elected Town Boards and Officers.

(a) Following the adoption of this charter, the only officers to be elected shall be the town moderator, town clerk and a constable.

(b) Town boards to be elected in addition to the board of selectmen shall be:

(1) school committee;

(2) board of health;

(3) planning board;

(4) housing authority;

(5) recreation authority;

(6) trustees of Jonathan Bourne library;

(7) trustees of soldier's memorials;

(8) upper cape cod regional vocational technical school committee; and

(9) such town members of regional districts, multi-member bodies and authorities as are now or may be established as elective offices by the General Laws, a vote of town meeting or an intergovernmental agreement.

Section 6-2: Moderator.

There shall be a town moderator who shall be elected at the annual town election for a 1-year term.

The town moderator, as provided in section 2-2, shall be the presiding officer at town meetings. The town moderator shall have all of the powers and duties given to town moderators under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

The town moderator shall perform such other duties as may from time to time be assigned to the office of town moderator by by-law or by other town meeting vote.

Section 6-3: Town Clerk.

There shall be a town clerk who shall be elected at the annual town election for a 3-year term.

The town clerk shall keep the official records of the town, record vital statistics, issue licenses and shall be the clerk of the board of registrars of voters. The town clerk shall have all of the powers and duties of town clerks as provided by the General Laws, by this charter, by by-law or by other town meeting vote.

Section 6-4: Constable.

There shall be a constable elected for a 3-year term.

The constable shall have all of the powers and duties given to constables under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

Section 6-5: School Committee.

There shall be a school committee to consist of 7 members who shall be elected for 3-year overlapping terms.

The school committee shall have general charge of all public schools in the town and shall have all of the powers and duties provided to school committees under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

Section 6-6: Board of Health.

There shall be a board of health to consist of 5 members who shall serve for 3-year overlapping terms.

The board of health shall be responsible for the formulation and enforcement of rules and regulations affecting the environment and the public health. It shall have all of the powers and duties given to boards of health under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

Section 6-7: Planning Board.

There shall be a planning board to consist of 9 members who shall be elected for 3-year overlapping terms.

The planning board shall make studies and prepare plans concerning the development of the town. The planning board shall prepare the town local comprehensive plan and submit it to the town meeting. It shall hold public hearings and make recommendations to town meeting on

all warrant articles seeking to amend the town zoning by-laws. The planning board shall have all of the powers and duties given to planning boards under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

Section 6-8: Housing Authority.

There shall be a housing authority to consist of 5 members, 4 of whom shall be elected and 1 of whom shall be appointed by the secretary of housing and community development or as otherwise provided by law. Housing authority members shall serve for 3-year terms so arranged that as nearly an equal number of terms as possible shall expire each year.

The housing authority shall have all of the powers and duties given to housing authorities under the Constitution and the General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

Section 6-9: Recreation Authority.

In accordance with chapter 820 of the acts of 1970, there shall be a Bourne Recreation Authority to consist of 5 members. One member shall be appointed by the governor and 4 members shall be elected for 3 year terms. The Bourne Recreation Authority shall have all of the powers and duties specified in said chapter 820.

Section 6-10: Trustees of the Jonathan Bourne Library.

There shall be a library board to be known as the trustees of the Jonathan Bourne library to consist of 6 members who shall be elected for 3-year overlapping terms.

The trustees shall have the custody and management of the library and all property of the town related thereto. All money raised or appropriated by the town for its support and maintenance shall be expended by the trustees and all money or property that the town may receive for the library by gift or bequest shall be administered by the trustees in accordance with the gift or bequest. The trustees of the Jonathan Bourne library shall have all of the powers and duties given to boards of library trustees under the Constitution and General Laws and such additional powers and duties as may be authorized by this charter, by by-law or by other town meeting vote.

Section 6-11: Trustees of the Soldiers' Memorials.

In accordance with section 105 of chapter 41 of the General Laws, there shall be a trustees of soldiers' memorials to consist of 6 trustees, 5 of whom shall be elected for 3 year terms so arranged that as nearly an equal number of terms as possible shall expire each year and 1 of whom shall be the chairman of the board of selectmen.

Section 6-12: Upper Cape Cod Regional Vocational Technical School Committee.

There shall be 2 Bourne residents elected to the upper Cape Cod regional vocational technical school committee. Members shall serve for terms of 4 years so arranged that the terms of the members shall overlap.

Article 7

Finance and Fiscal Procedures.

Section 7-1: Budget Process.

Prior to the annual town meeting and within a time fixed by by-law, the town administrator shall submit to the board of selectmen a proposed operating budget and a capital program and capital budget for all town departments, including the school department, for the ensuing fiscal year. The proposed budget shall be accompanied by a budget message and supporting documents. The budget message shall explain the budget both in fiscal terms and in terms of work programs. The proposed budget shall be balanced and shall show both proposed expenditures and anticipated revenue. The proposed budget shall provide a complete fiscal plan of all town funds and activities and shall be in the form the town administrator deems desirable or as the board of selectmen requires. The proposed budget shall include a listing of the funds requested by town departments and agencies. The board of selectmen shall review the proposed budget and capital plan and make such changes as the board deems appropriate prior to transmitting the budget and capital plan to the finance committee. The school committee budget shall be submitted to the town administrator in sufficient time to enable the town administrator to consider the effect of the school department's requested appropriation on the total town budget and make recommendations on same.

Section 7-2: Capital Improvement Program and Capital Budget.

The town administrator, in conjunction with any committee established for such purpose, shall annually submit a capital improvement program to the board of selectmen prior to the date fixed by by-law and prior to the submission of the operating budget. The capital improvement plan shall include a clear summary of its contents, an itemization of all capital improvements, including those of the school department, proposed to be undertaken during the next 5 fiscal years with supporting data, cost estimates, methods of financing and recommended time schedules and the estimated annual cost of operating and maintaining the facilities included. The first year's budget would be the capital budget.

Section 7-3: Long-Term Financial Forecast.

The town administrator shall prepare annually a 5-year financial forecast of town revenue, expenditures and general financial condition of the town. The forecast shall include, but not be limited to, the identification of factors which impact the financial condition of the town,

revenue and expenditure trends; potential sources of new or expanded revenues and any long or short term actions which may be taken that will enhance the financial condition of the town. The forecast shall be submitted to the board of selectmen and the board of selectmen shall make it available to the public for inspection.

Section 7-4: Finance Committee Action.

The board of selectmen shall submit the operating budget and the capital improvement program and capital budget to the finance committee by a date fixed by by-law. The finance committee, upon receipt of the operating and capital improvement program and capital budget from the board of selectmen, shall consider in public meetings the detailed expenditures for each town department and agency and shall conduct 1 or more public hearings on the proposed operating and capital budgets, including the school budget. The finance committee shall issue its recommendations in a detailed written report, which shall include the fiscal and tax implications of the proposed budget, a statement outlining its support or opposition to the proposed budget or any sections thereof and its vote, by roll call, on all warrant articles.

The finance committee shall make copies of its report available to the voters in the town hall and the public library at least 21 days before the scheduled date of the town meeting. The report shall be prepared in sufficient time to be incorporated into the annual town meeting voter handbook.

The finance committee may request the town administrator to provide necessary information from any town agency and the town administrator shall promptly respond to such requests. The office of the town administrator shall provide staff support to the finance committee in issuing its recommendations on the operating budget and capital improvement program. The budget to be acted upon by the town meeting shall be the budget approved by the board of selectmen.

Section 7-5: Approval of Warrants for Payment.

Warrants for payments of town funds, authorized and prepared by the town accountant, shall be submitted to the town administrator for approval. The approval of any such warrant by the town administrator shall be sufficient authority to authorize payment by the town treasurer.

Article 8

General Provisions.

Section 8-1: Charter Changes.

(a) This charter may be replaced, revised or amended in accordance with the procedures made available by article LXXXIX of the amendments to the Constitution of the Commonwealth and any legislation enacted to implement said article LXXXIX.

(b) At least once every 5 years a special committee shall be appointed by the board of selectmen to review the charter and make a report to the town meeting concerning any proposed amendments or revisions which the committee deems necessary. The committee shall be appointed immediately following an annual town meeting and shall make its report at the next annual town meeting.

Section 8-2: Severability.

The provisions of this charter shall be severable. If any provision of the charter is held to be invalid the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held to be invalid, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby.

Section 8-3: Specific Provisions Prevail.

To the extent that any specific provision of the charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

Section 8-4: References to General Laws.

All references to General Laws contained in the charter refer to the General Laws of the commonwealth.

Section 8-5: Elections.

The election of town officers and referendum questions shall be acted upon and determined by voters on official ballots, without party designation, on the date fixed in the by-laws of the town.

All elections conducted pursuant to this charter shall be conducted in accordance with the election laws of the commonwealth.

Section 8-6: Procedures for Multiple Member Bodies.

(a) All multiple member bodies of the town whether elected, appointed or otherwise constituted shall meet at such times and in places open to the public within the town as they may by their own rules prescribe. Special meetings of a multiple member body shall be held at the call of the respective chairman or by a majority of the members thereof. Public posting of all meetings shall be made in accordance with the open meeting laws. The meetings of a multiple member body shall be open to the public and the press, except as may otherwise be authorized by law.

(b) A majority of the members of a multiple member body shall constitute a quorum but a smaller number may adjourn from time to time unless otherwise provided by law.

(c) Each multiple member body shall provide for the keeping of the minutes of its proceedings. The minutes shall be a public record and a copy of the minutes shall be filed with the office of the town clerk and posted on the town website for at least 5 years.

(d) Meetings of the board of selectmen, the school committee, the board of health and the planning board shall, if possible, be televised on the local cable channel or streamed on the town's website. The town shall choose the most effective method but technical difficulties with equipment shall not cause a meeting to be postponed.

Section 8-7: Computation of Time.

In computing times under this charter, if 7 days or less, only business days shall be counted. If computing more than 7 days, every day shall be counted.

Section 8-8: Number and Gender.

Words importing the singular number may extend and be applied to several persons or things. Words importing the plural number may include the singular and words importing the masculine gender shall include the feminine gender.

Section 8-9: Definitions.

For the purposes of this charter, the following words shall have the following meanings unless the context clearly requires otherwise:

"Charter", this charter and any amendments to it made through any of the methods provided under Article LXXXIX of the amendments to the Constitution of the Commonwealth.

"Library", the Jonathan Bourne library and any branch thereof that may be established.

"Local newspaper", a newspaper of general circulation within the town.

"Majority vote", as to a town meeting, a majority of those present and voting; as to a multiple member body, the affirmative vote of a majority of all members present and voting shall be necessary to adopt any motion, order, appointment or approval or disapproval or to take any action not entirely procedural in nature, unless otherwise provided by law.

"Multiple member body", a board, commission or committee consisting of 2 or more persons, whether elected or appointed.

"Town", the town of Bourne.

"Town agency", a board, commission, committee, department or office of town government, whether elected, appointed or otherwise constituted.

"Town meeting", the town meeting of the town of Bourne established in article 2.

"Town officer", an elected or appointed official of the town who, in the performance of that person's official duties, exercises some portion of the sovereign power of the town, whether great or small; provided, however, that a person may be a town official whether or not that person receives compensation for his services.

"Voter handbook", the voter handbook established in subsection (c) of section 2-5 and referenced in section 7-4.

"Voters", the registered voters of the town.

Section 8-10: Rules and Regulations.

A copy of any rules and regulations adopted by a town agency shall be filed in the office of the town clerk and made available for review by any person who requests such information.

Article 9

Recall Provisions.

Section 9-1: Application.

Any person who holds elective office in the town of Bourne may be recalled therefrom by the registered voters of the town in the manner provided herein.

Section 9-2: Recall Petition.

Any 250 or more qualified voters of the town may file with the town clerk an affidavit containing the name of the elected official sought to be recalled and a statement of the grounds for recall. Within 10 working days thereafter, the town clerk shall deliver to any 1 or more of the voters making such affidavit a sufficient number of copies of petition blanks demanding such recall. The blanks shall be issued by the town clerk, with the town clerk's signature and official seal attached thereto. The blanks shall be dated and addressed to the board of selectmen, shall contain the name of the elected official sought to be recalled, the office from which recall is sought and the grounds for recall as stated in the affidavit and shall demand the election of a successor to the office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. The recall petition shall be returned and filed with the town clerk within 45 days after its issuance. The petition, before being returned and filed with the town clerk, shall be signed by not less than 10 per cent of the qualified voters as of the most recent annual town

680 election and to every signature shall be added the place of residence of the signer, including the
681 street and number, if any. The town clerk shall, within 5 working days following the date of
682 such filing, submit the petition to the registrars of voters and the registrars shall forthwith verify
683 thereon the number of signatures which are names of registered voters as of the date of the most
684 recent town election.

685 Section 9-3: Recall Election.

686 If the petition shall be found and certified by the town clerk to be sufficient, the town
687 clerk shall submit it with the town clerk's certification to the board of selectmen without delay.
688 The board of selectmen shall forthwith give written notice of receipt of the certificate to the
689 official sought to be recalled. If the official does not resign within 5 calendar days after receipt
690 of the written notice, the board of selectmen shall order a recall election to be held on a date
691 fixed by the board which shall be not less than 60 and not more than 90 days after the date of the
692 town clerk's certificate that a sufficient petition has been filed; provided, however, that if any
693 other town election is scheduled to be held within 120 days after the date of the certificate, the
694 board of selectmen may, at its discretion, postpone the holding of the recall election to the date
695 of the other town election. If a vacancy occurs in the office after a recall election has been
696 ordered by the board of selectmen, the election shall proceed as provided in this section.

697 Section 9-4: Nomination of Candidates

698 Any officer whose recall is sought may be a candidate to succeed himself and, unless he
699 requests otherwise in writing, the town clerk shall place that officer's on the ballot without
700 nomination. The nomination of other candidates, the publication of the warrant for the recall
701 election and the conduct of the same shall all be in accordance with the General Laws related to
702 town elections unless otherwise provided in this article.

703 Section 9-5: Incumbent Status.

704 The incumbent shall continue to perform the duties of the office until the recall election.
705 If the official is not recalled, the official shall continue in office for the remainder of the
706 unexpired term, subject to recall as before, except as provided in section 9-7. If the official is
707 recalled, the official shall be deemed removed upon the qualification of the successor, who shall
708 serve for the balance of the unexpired term of the official recalled. If the successor fails to
709 qualify within 5 working days after receiving notification of election, the incumbent shall
710 thereupon be removed and the office vacant.

711 Section 9-6: Propositions on Ballot.

712 Ballots used in a recall election shall state the following propositions in the order
713 indicated:

714 For the recall of (name of officer)

Against the recall of (name of officer)

Adjacent to each proposition there shall be a place to vote for either of the propositions. After the propositions shall appear the word "Candidates", the directions to voters required by section 42 of chapter 54 of the General Laws and, beneath this, the names of the candidates nominated as hereinbefore provided. If the elected official who is the subject of the recall petition is a candidate, that person's name shall be the first listed and all others shall be listed alphabetically. If the majority of the votes cast upon the question of recall is in the affirmative, the official shall be deemed to be recalled and the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes cast upon the question of recall is in the negative, the ballots for recall need not be counted.

Section 9-7: Time Limitation.

No recall petition shall be accepted by the town for filing against an elected official within 6 months after that official takes office and no recall petition shall be accepted against an elected official who was subjected to a recall petition and not removed thereby until at least 6 months after that recall election.

Section 9-8: Limit on Recalled Official.

No person who has been recalled from office or who has resigned from office while recall proceedings were pending against that person shall be elected or appointed to a town office within 1 year after such recall or resignation.

Article 10

Transitional Provisions.

Section 10-1: Continuation of Existing Laws.

All General Laws, special laws, town by-laws, town meeting votes and rules and regulations of or pertaining to the town that are in force when this charter takes effect and not specifically repealed herein shall continue in full force and effect until amended or rescinded or until they expire by operation of law. Notwithstanding any general or special law to the contrary, if specific provisions of this charter conflict with any town by-laws, rules, regulations, orders, special acts and acceptances of General Laws, the charter provisions shall control.

Section 10-2: Continuation of Government.

Except as specifically provided in this charter, all town agencies shall continue in existence and all town employees and officers shall continue to perform their duties until successors to their respective positions are duly appointed or elected or their duties have been transferred.

Section 10-3: Continuation of Personnel.

Any person holding a town office or employment shall retain such office or employment and shall continue to perform the duties of that office or employment until provisions shall have been made in accordance with this charter for the performance of those duties by another person or agency. No person in the permanent full-time service or employment of the town shall forfeit his pay grade or time in service. Each such person shall be retained in a capacity as similar to his former capacity as is practical.

Section 10-4: Transfer of Records and Property.

All records, property and equipment whatsoever of any agency or part thereof, the powers and duties of which are assigned in whole or in part to another agency, shall be transferred forthwith to such assigned agency.

Section 10-5: Effective Date.

Article 11

Charter Compliance Committee.

There shall be a charter compliance committee to consist of 7 members who shall be appointed by the town moderator for 3-year overlapping terms, so arranged that the term of not more than 3 members shall expire each year. At least 6 members of the committee shall reside in each of the town's 6 precincts. No appointee shall be a town employee or a member of an existing board or committee governed by the charter.

The committee shall take action only after receiving a written complaint, filed by 1 or more voters of the town, alleging a violation of this charter by reason of an act or a failure to act by the town administrator, the board of selectmen, the school committee, the finance committee or a member of such board or committee.

The complaint shall state the specific section of this charter that is the subject of the violation, the individual, board or committee responsible for the violation and the act or failure to act resulting in the violation. The complaint shall be filed with the town clerk who shall immediately send, via certified mail, return receipt requested, a copy to each member of the committee.

Within 3 weeks after receipt of the complaint by the town clerk, the committee shall vote whether to dismiss the complaint without further action. If the committee so votes, the chairman shall give written notification to the town clerk. If the committee votes to not dismiss the complaint, the chairman shall set a time and date for a hearing and mail notice of the hearing to the town clerk, the complainants and the individual, board or committee named in the complaint.

The town clerk shall post and publish the notice in a newspaper of general circulation for at least 7 days before the hearing date. The hearing shall occur within 60 days after the date on which the complaint was received by the town clerk. At the hearing, the committee shall allow any person to address the committee on the merits of the complaint.

Within 3 weeks after the hearing, the committee shall vote on whether there has been a violation of this charter as alleged in the complaint and shall mail a notice of its decision to the complainant, to the individual, board or committee named in the complaint and to the town clerk. The town clerk shall post a copy of the decision at the town hall and on the town's website.

If the committee determines that there has been a violation of this charter as alleged by the complaint, and if, following its vote, there continues to be a violation, the committee may contact town counsel who may file a complaint on behalf of the town with the superior court. Nothing in this article shall limit the right to seek enforcement of this charter as otherwise provided by law.