FINAL REPORT

of

THE CHARTER COMMISSION

of

SOUTHBRIDGE, MASSACHUSETTS

S O U T H B R I D G E C I T Y C H A R T E R

Submitted
to
THE BOARD OF SELECTMEN
Southbridge, Massachusetts

January 1, 1970

LETTER OF TRANSMITTAL

January 1, 1970

The Board of Selectmen
Town Hall
Southbridge, Massachusetts

Gentlemen:

In accordance with the provisions of the Home Rule Procedures Act (Chapt. 43B, G.L.), the Southbridge Charter Commission hereby submits its final report.

This report contains (a) a ballot question and summary (p.i) which has been prepared for use in the March elections; (b) an Introduction (pp. ii-iv) which should be printed as an introduction to the charter, and (c) the charter itself (pp. 1-26).

Section 11 of Chapter 43B vests in the Board of Selectmen the responsibility for the printing and distribution of the final report.

The Charter Commission will be pleased to answer any questions that you may have about the charter, or about the steps that now need to be followed to fulfill the requirements of the law.

Yours sincerely,

Armand O. Bellerive, Jr.
Armand O. Bellerive, Jr., Chairman

Richard R. LaPierre
Richard R. LaPierre

Albert J. Langevin
Albert J. Langevin, Vice Chairman

Robert G. MacKinnon
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Jane S. Bergman
Jane S. Bergman, Clerk, Treasurer

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SOUTHBRIDGE CHARTER COMMISSION

BALLOT QUESTION AND SUMMARY

BALLOT QUESTION: The wording to be used is:

"Shall this Town approve the new Charter recommended by the Charter Commission, summarized below?"

BALLOT SUMMARY: The wording to be used is:

"If adopted, the Charter will become effective on November 9, 1970. It will:

1. Make Southbridge a <u>city</u>;
2. Vest legislative powers in a council of nine members; five elected at large; four elected by wards, each serving two year terms, elected on a <u>nonpartisan</u> basis;
3. Vest executive power in a city manager, appointed on the basis of his professional qualifications;
4. Provide for a mayor to be chosen from the council, to be the ceremonial head of the city;
5. Provide for an elected school committee of seven members, six elected for two year terms, the seventh member to be the mayor;
6. Provide for an elected planning board. Five members to be elected for overlapping four year terms;
7. Centralize purchasing, personnel, and public works activities;
8. Provide for a three member board of assessors, appointed by the city manager."

Introduction

Under the terms of the home rule amendment to the Constitution of Massachusetts, and of chapter 43B of the general laws, the Southbridge charter commission presents this charter to the citizens of Southbridge.

The charter makes two very important changes which must be mentioned at the outset. First, if adopted by the voters, it will change Southbridge into a city. Second, provision is made for a council-manager form of city government.

The charter commission decided in favor of city status for several reasons. It doubted that the town form of government, relying upon the spasmodic meetings of the town meeting and part-time administration, would be adequate for the years ahead. It detected some waste and some duplication in the present situation. It also was confident that the adoption of city status would provide an incentive for community growth, that it would attract professionally qualified persons to the community, and that it would be good for business, labor, and all other segments of the community.

Additionally, the commission genuinely believes that running a city government need not cost more money. Some economies will be made by reducing the number of independent boards with spending powers; others will be forthcoming from the introduction of centralized purchasing and from the establishment of a single department of public works. Economies may also be possible by making more efficient use of personnel now employed by the town, as the result of better coordination and direction.

The decision to introduce the council-manager plan is of equal or even greater importance. The plan is now widely used in the United States, and is generally believed to be one of the best ways of

providing efficient, effective, and responsible government. The salary of the manager will be a new item of cost, but no one doubts that a good manager more than earns his salary and that his daily presence in the community helps to eliminate waste and to upgrade the quality of municipal services.

Several other features of the charter deserve specific comment. The citizens of Southbridge will elect, on a nonpartisan basis, the three most important boards in the city and thus retain control of key policy-makers.

The city council will meet regularly, and will be composed of nine members who will serve without pay. Five will be elected at large by the voters of the whole city. Four will be elected by wards which will be compact, contiguous, and substantially equal in population. This kind of electoral system will give the voters a ward councilman whom they can call when they have a problem--but it should also provide for a council which will usually have the welfare of the whole community in mind when it makes an important decision. The mayor will have no appointive powers, no patronage, and no salary. He will be mainly the ceremonial head of the city.

The planning board will also be elected by the voters. This is compatible with current emphasis on participatory democracy: the idea that the voters should be involved in choosing those who make important decisions about the community's future.

The school committee is the third board which will be chosen by the voters. It will be independent of the rest of the city government, except in two respects. The mayor will be a member of the committee, and this should help to bridge the gap between council and school committee. The city's purchasing agent, who will be the city manager,

will also be purchasing for the school department. This should result in additional savings for the community.

The nonpartisan basis of city elections will help to make local elective office more attractive to a wider cross-section of the citizenry.

In accordance with principles of sound municipal management, the budgetary procedures of the city are spelled out in some detail in the charter. Both the operating and capital budgets will have to be openly discussed, and each will be carefully scrutinized by the council and the voters prior to adoption. This should help to produce more and better municipal services for each tax dollar. Further, a three member board of assessors will continue under the charter to supervise the all-important assessment function.

The charter also protects citizen rights through its provisions for the initiative and referendum. This means that the citizens will be able to have a real impact upon the city's government. On some occasions the voters may even be able to reverse council decisions if they prove very unpopular.

Conclusion

Southbridge's problems are real, and some will clearly continue to exist whether the structure of government is changed or not. The charter commission does not submit this charter as a cure-all for Southbridge's problems. It does believe, however, that a city form of government is far better suited than a town form to grapple with the problems of tomorrow.

It also believes that the council-manager form is the best of all city forms, that it will provide a better return for each tax dollar, and that the quality of municipal life in Southbridge will improve if the charter is adopted.

CHARTER

THE CITY OF SOUTHBRIDGE
MASSACHUSETTS

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CHARTER
THE CITY OF SOUTHBRIDGE
MASSACHUSETTS

PREAMBLE

We, the people of Southbridge, Massachusetts, 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 of the Constitution of the Commonwealth, do hereby adopt the following Home Rule Charter.

CHAPTER 1 POWERS OF THE CITY

Section 1 Incorporation

1-1-1 The former Town of Southbridge, Massachusetts, within its corporate limits as previously established, shall continue to be a body politic and corporate under the name, City of Southbridge, in the County of Worcester, Massachusetts.

Section 2 Construction

1-2-1 This charter shall be construed liberally in favor of the city, and the specific mention of a particular power in the charter shall not be construed as limiting in any way the general powers of the city.

1-2-2 The city shall possess and exercise all powers possible under the Constitution and laws of the Commonwealth of Massachusetts as fully and completely as though they were expressly enumerated in this charter.

Section 3 Intergovernmental Relations

1-3-1 The city may exercise, consistent with the provisions of law, any of its powers, or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more civil divisions, subdivisions, or agencies of the Commonwealth, other states, or of the United States government.

CHAPTER 2 THE CITY COUNCIL

Section 1 Composition

2-1-1 A city council of nine members shall be elected for two year terms. Five shall be nominated and elected at large by the qualified voters of the entire city. One shall be nominated and elected by the qualified voters of each of four wards, as provided by this charter and by ordinance.

Section 2 Eligibility

2-2-1 All qualified voters of the city, except compensated employees thereof, shall be eligible to hold the office of councilman.

Section 3 Compensation: Expenses

2-3-1 Councilmen shall serve without compensation, but shall receive actual and necessary expenses incurred in the performance of their duties of office, as provided by general law and by this charter.

Section 4 Election

2-4-1 The regular election of councilmen shall be held in even numbered years on the first Tuesday following the first Monday in November.

Section 5 General Powers and Duties

2-5-1 All powers of the city shall be vested in the council, except as otherwise provided by general law and by this charter.

2-5-2 The council shall have the power to appoint the city clerk and the city auditor, both for terms of three years. The council shall also have the power to appoint a city manager, as provided in chapter four.

2-5-3 The council may adopt rules, not inconsistent with this charter, governing its own proceedings and other matters pertaining to the exercise of its powers and the performance of its duties.

2-5-4 The council shall provide for keeping a journal of its proceedings, which shall be a public record.

2-5-5 Except as may be authorized by law, no councilman shall hold any other city office during his term of office. No former councilman shall be offered or accept any compensated city appointive office or employment until one year after his term shall have ended.

2-5-6 Council members shall deal with city officers and employees under the jurisdiction of the city manager solely through the manager.

2-5-7 The council may freely and fully discuss with the manager anything pertaining to the appointment or removal of any city officer and employee, but it shall in no way dictate the appointment or removal of any officer or employee under the jurisdiction of the manager.

Section 6 <u>Meetings, Quorum</u>

2-6-1 The council shall meet regularly at least twice in every month. Special meetings may be held if called by the mayor or by any three members of the council, provided that notice of such meeting shall have been delivered to each other member in person or left at his place of residence at least twenty-four hours in advance thereof.

2-6-2 All meetings of the council shall be public, except as provided in section nine of chapter ten.

2-6-3 A majority of the members of the council shall constitute a quorum for the conduct of business. A lesser number than the quorum may organize any meeting lacking a quorum in order to adjourn it to a stated date, time, and place.

Section 7 Ordinances

2-7-1 Proposed ordinances shall deal with one subject only and shall be introduced in writing and in the form required for final adoption. The enacting clause shall be "The city of Southbridge hereby ordains...."

2-7-2 Any ordinance which repeals or amends part of the city code shall set out in full the section or sections of the code to be repealed or amended, by the use of strikeout type, brackets, and/or underscoring.

2-7-3 Every ordinance and every resolution shall be read at three separate meetings before its passage, unless such requirement is dispensed with by unanimous consent of those present.

2-7-4 The affirmative vote of at least five members, except as otherwise prescribed by general law and by this charter, shall be necessary for the passage of any resolution or ordinance, and all votes thereon shall be taken by roll call and recorded in the journal.

Section 8 Action Requiring an Ordinance

2-8-1 In addition to other acts required by law or by this charter to be done by ordinance, those acts of the city council shall

be by ordinance which: (1) adopt or amend an administrative code or establish, alter or abolish any city department, office, or agency; (2) provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed; (3) levy taxes, except as otherwise provided in chapter eight with respect to the property tax levied by adoption of the budget; (4) grant, renew, or extend a franchise; (5) provide for the reimbursement of expenses of city councilmen incurred in the performance of their duties of office; (6) authorize the borrowing of money; and (7) convey or lease or authorize the conveyance or lease of any lands of the city.

CHAPTER 3 THE MAYOR AND DEPUTY MAYOR

Section 1 How Chosen

3-1-1 On the first Monday in January following each regular city election, and after newly elected members shall have taken office, the council shall elect one of its members to serve as mayor and one to serve as deputy mayor, both for a term expiring at the first council meeting following the first Monday in January following each regular city election.

Section 2 Powers and Duties of the Mayor

3-2-1 The mayor shall preside at meetings of the council, shall be recognized as head of the city government for all ceremonial purposes and by the Governor of the Commonwealth in case of emergency, but shall have no appointive or administrative duties or powers.

3-2-2 The deputy mayor shall act as mayor during the absence or disability of the mayor.

Section 3 Mayor and School Committee

3-3-1 The election of a council member to be mayor shall make him a member of the city school committee.

CHAPTER 4 THE CITY MANAGER

Section 1 Appointment

4-1-1 The city council shall appoint a city manager for an indefinite term to serve at its pleasure.

Section 2 Qualifications

4-2-1 The city manager shall be appointed solely on the basis of his educational, executive, and administrative qualifications and experience. His education shall consist of at least a bachelor's degree in an appropriate field, granted by an accredited degree-granting college or university, and his experience shall include at least two years of prior full-time, managerial, paid employment in public administration.

4-2-2 He shall not be a resident of the city at the time of his appointment, but shall take up residency in the city within six months of his appointment.

Section 3 Duties

4-3-1 The city manager shall be the chief administative officer of the city, and shall be directly responsible to the city council.

4-3-2 He shall have power to appoint, suspend, and remove all city officers and employees, except as may otherwise be provided by general law and by this charter.

4-3-3 He shall attend all council meetings except when excused and shall have the right to speak, but not to vote.

4-3-4 He shall prepare and present to the council the annual operating budget of the city and shall also be responsible for the development and annual revision of the capital improvements program.

4-3-5 He shall keep the council fully informed regarding all departmental operations, fiscal affairs, problems, and administrative actions, and to this end, shall submit periodic reports to the council.

4-3-6 He shall keep the council fully informed on the long range needs of the city, and provide the council with data to support alternative courses of action.

4-3-7 He shall serve as the director of public works; the director of personnel; and the purchasing agent for all city departments, including the school department, unless other provisions are made by the council.

4-3-8 He shall be responsible for the maintenance of all buildings and property which are owned or leased by the city, except those under the supervision of the school department.

4-3-9 He shall perform such other duties as are specified in this charter or which may be required by resolution of the council.

Section 4 Removal

4-4-1 The council may initiate the removal of the manager by adopting a resolution to this effect, provided that no such resolution is adopted within ninety days after any city election

that has caused a change in the composition of the council.

4-4-2 The adoption of said resolution shall serve to suspend the manager for a period of no more than forty-five days, during which his salary shall continue to be paid. A copy of the resolution initiating the removal shall forthwith be delivered to the manager in person, or sent, by registered mail with a return receipt secured, to his place of residence.

4-4-3 Within five days of the adoption of the resolution, the manager may file a written request for a public hearing. If such a hearing is requested, the council shall schedule it within two weeks of the request, to be held in a public place. The council shall advertise the hearing in one or more newspapers of general circulation in the city, and cause identical notices citing its purpose, location, time, and date, to be posted in the city hall and in four other places of public access within the city.

4-4-4 The city solicitor shall preside at the hearing called to discuss the removal of the manager.

4-4-5 At any public hearing held to discuss the removal of the manager, the reasons for his removal shall first be read aloud. The manager shall then be allowed to respond, either personally or through counsel.

4-4-6 The council on the one hand, and the manager on the other, shall then be allowed to call witnesses, and to subpoena any city records.

4-4-7 Final removal of the manager shall be effected by a

majority vote of the council, at a council meeting from which the public has not been excluded, held within seven days of the public hearing called to discuss his removal, if such hearing has been requested. In the event no such hearing has been requested, final removal may be effected by a majority vote of the council held no sooner than fourteen days after the vote initiating removal.

4-4-8 The salary of the manager shall continue to be paid for a period of thirty days after the vote effecting his final removal from office.

CHAPTER 5 SCHOOL COMMITTEE

Section 1 Composition, Election

5-1-1 There shall be a school committee of seven members. Six members of the committee shall be elected by the voters for terms of two years, and the seventh member shall be the mayor. Members shall serve without compensation.

Section 2 Eligibility

5-2-1 Members of the school committee shall be qualified voters of the city, and shall not be employees of the public schools.

Section 3 Powers

5-3-1 The school committee shall elect a chairman, and shall have all the powers and duties which city school committees may have under the Constitution and general laws.

CHAPTER 6 PLANNING

Section 1 Planning Board

6-1-1 A planning board of five members shall be elected by the voters for overlapping terms of four years. Members shall hold

no other city office and shall serve without compensation.

6-1-2 At its first meeting in January following each regular city election, and after newly elected members have been seated, the board shall organize and elect a chairman, and shall adopt rules of procedure.

Section 2 Powers and Duties

6-2-1 The board shall meet at least once a month and shall maintain a record of its proceedings, resolutions, votes, and determinations, all of which shall be a public record.

6-2-2 The board may make recommendations to the city council and to the city manager on all matters concerning the physical, economic, and environmental development of the city, as prescribed by general law, this charter, and by ordinance.

Section 3 Comprehensive Plan

6-3-1 The board shall be responsible for the development and periodic updating of a comprehensive plan, and shall utilize it as the basis of planning activities, procedures, and recommendations.

Section 4 Planning Director

6-4-1 The board may appoint a city planning director from a list of eligible candidates prepared by the city manager. The planning director shall be professionally qualified for the duties of his office by reason of education, training, and experience, and shall provide his services under the direction of the board.

Section 5 Board of Appeals

6-5-1 The city council by ordinance shall establish a board of appeals and shall provide standards and procedures for said board

to hear and decide appeals from administrative decisions, petitions for variances and special permits, and such other matters as may be required by the council and by general law.

Section 6 Civic Beauty

6-6-1 The city council shall have the authority to condemn and compel to be removed, signs, bill boards, shacks, and dilapidated buildings wherever the same mar the beauty of the city, provided that such action is undertaken in accordance with due process of law, and that such resolution has previously been recommended by the planning board.

CHAPTER 7 ADMINISTRATIVE DEPARTMENTS

Section 1 General

7-1-1 The city council may establish city departments, offices, or agencies in addition to those created by this charter and may prescribe their functions, except that no function assigned by this charter to a particular department, office, or agency may be discontinued, or, unless this charter expressly so provides, assigned to any other. All departments, offices, and agencies under the direction and supervision of the manager shall be headed and administered, either directly by the manager with the consent of council, or by an officer appointed by and subject to the direction and supervision of the manager.

Section 2 Personnel System

7-2-1 All appointments and promotions of city officers and employees shall be made on the basis of merit and fitness demonstrated by examination or other evidence of competence.

7-2-2 Personnel Director. If authorized by the city council, a personnel director may be appointed by the manager. If appointed, he shall administer the personnel system of the city.

7-2-3 Personnel Rules. The city manager or the personnel director, if one has been appointed, shall propose, and the city council shall by ordinance adopt, personnel rules providing for:

(1) The classification of all city positions, based on the duties, responsibilities, and authority of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;

(2) A salary and pay plan for all city positions;

(3) Methods for determining the merit and fitness of candidates for appointment and promotion;

(4) Policies and procedures regulating reduction in force and removal of employees;

(5) Hours of work, attendance regulations, and provisions for sick, vacation, military, and other leave;

(6) Policies and procedures governing persons holding provisional appointments;

(7) Policies and procedures governing relationships with employee organizations;

(8) Policies regarding in-service training programs;

(9) Grievance procedures, including procedures for the hearing of such grievances; and

(10) Such other practices and procedures as may be necessary for the administration of the city personnel system.

Section 3 City Solicitor

7-3-1 A city solicitor shall be appointed by the manager to serve

as chief legal advisor to the council, the manager, and all city departments, offices, and agencies. The city solicitor shall represent the city in all legal proceedings and shall perform such other duties as may be prescribed by general law, this charter, and by ordinance.

Section 4 Board of Assessors

7-4-1 A board of assessors of three members shall be appointed by the city manager for three year overlapping terms. The manager shall determine which members, if any, shall be full-time employees of the city.

7-4-2 The board shall exercise its powers in accordance with the provisions of general law.

CHAPTER 8 FINANCIAL PROCEDURES

Section 1 Fiscal Year

8-1-1 Effective in 1971, the fiscal year of the city shall begin on the first day of July and end on the last day of June.

Section 2 Submission of Budget and Budget Message

8-2-1 At least sixty days prior to the start of each fiscal year, the manager shall submit to the council a budget for the ensuing fiscal year and an accompanying message, unless otherwise provided for by general law.

8-2-2 The manager's message shall explain the budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons

for such changes, summarize the city's debt position and include such other material as the manager deems desirable.

Section 3 Proposed Budget

8-3-1 The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the manager deems desirable or the council may require, but it

shall indicate in separate sections: (1) proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments, and agencies, and the method of financing such expenditures; and (2) proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments, and agencies when practicable, and the proposed method of financing each such capital expenditure. The total of proposed expenditures shall not exceed the total of estimated income.

Section 4 Notice of Public Hearing on Proposed Budget

8-4-1 The council shall publish in one or more newspapers of general circulation in the city the general summary of the budget and a notice stating: (1) the times and places where copies of the budget are available for inspection; and (2) the date, time, and place, not less than two weeks after such publication, when a public hearing on the budget shall be held.

Adoption

8-4-2 The council shall adopt the budget, with or without amendments, on or before the twentieth day of the last month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

Section 5 Capital Improvements Program

8-5-1 The manager shall prepare and submit to the council a five-year capital improvements program at least ninety days prior to the final date for submission of the budget.

Contents

8-5-2 The capital improvements program shall include: (1) a clear summary of its contents; (2) a list of all capital improvements proposed to be undertaken during the next five fiscal years with supporting data; (3) cost estimates, method of financing, and recommended time schedules; and (4) the estimated annual cost of operating and maintaining the facilities included.

The above information may be revised and extended each year with regard to capital improvements pending or in process of construction or acquisition.

Section 6 Notice of Public Hearing on Capital Program

8-6-1 The council shall publish in one or more newspapers of general circulation in the city the general summary of the capital program and a notice stating: (1) the times and places where copies of the capital improvements program are available for inspection by the public; and (2) the date, time, and place, not less than two weeks after such publication, when a public hearing on said program shall be held.

Adoption

8-6-2 After the public hearing, and on or before the twentieth day of the last month of the current fiscal year, the council shall adopt the capital improvements program by resolution, with or without amendment.

Section 7 Public Records

8-7-1 The budget and the capital improvements program shall be public records.

Section 8 Supplemental Appropriations

8-8-1 If during the fiscal year the manager certifies that there are available for appropriations revenues in excess of those estimated in the budget, the council by ordinance may make supplemental appropriations for the year up to the amount of such excess.

Section 9 Emergency Appropriations

8-9-1 To meet a public emergency affecting life, health, property, or the public peace, the council may make emergency appropriations by ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by such ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be repaid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

Section 10 Reduction of Appropriations

8-10-1 If at any time during the fiscal year it appears probable to the manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the council without delay, indicating the estimated amount of the deficit and any remedial action taken by him and his recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary and for that purpose may by ordinance reduce one or more appropriations.

Section 11 Transfer of Appropriations

8-11-1 At any time during the fiscal year the manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency, and upon written request by the manager, the council may be ordinance transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

Section 12 Limitations: Effective Date

8-12-1 No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 13 Lapse of Appropriations

8-13-1 Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

Section 14 Work Programs and Allotments

8-14-1 At such time as the manager shall specify, each department, office, or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation

by periods within the year. The manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental emergency, reduced, or transferred appropriations made pursuant to this chapter.

Section 15 Payments and Obligations Prohibited

8-15-1 No payment shall be made or obligation incurred against any appropriation except in accordance with appropriations duly made and unless the manager or his designee first certifies that there is a sufficient unencumbered balance in such appropriation to cover the claim or meet the obligation when it becomes due and payable.

8-15-2 Any authorization of payment or incurring of obligation in violation of this charter shall be void and any payment so made illegal. Such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the city for any amount so paid. However, except where prohibited by law, nothing in this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

Section 16 Independent Audit

8-16-1 Whenever the Commonwealth fails to provide for an independent annual audit of all records and accounts of the city, the

council shall cause such an audit to be conducted. The audits shall be made by a certified public accountant, or firm of such accountants, who have no personal interest, direct or indirect, in the fiscal affairs of the city.

CHAPTER 9 NOMINATIONS AND ELECTIONS

Section 1 City Elections

9-1-1 The regular election of the city shall be held on the first Tuesday following the first Monday in November in each even numbered year.

9-1-2 All citizens who satisfy the requirement for registration prescribed by the constitution and laws of the Commonwealth shall be entitled to vote.

Section 2 City Elections to be Nonpartisan

9-2-1 All elections for the election of city officers shall be nonpartisan, and election ballots for such offices shall be printed without any party mark, emblem or vignette, or designation whatsoever.

Section 3 Election to be by Plurality Vote

9-3-1 Elections to all city offices established by this charter shall be by a plurality of those voting on each office.

Section 4 Application of State Laws

9-4-1 Except as herein provided, the laws of the Commonwealth relating to the composition, powers, and duties of the registrars of voters, the right to vote, the registration of voters, the nomination of candidates, the conduct of primaries and elections, the submission of charter amendments and other propositions, the counting of votes and the declaration of results shall apply to all city elections.

Section 5 Election Wards

9-5-1 The city council shall, by ordinance, establish convenient election wards which shall be compact, contiguous, and substantially equal in population and comply with the provisions of law.

Section 6 Preliminary Elections

9-6-1 Nonpartisan preliminary elections shall be held in accordance with the provisions of law, to reduce the number of candidates running for city council, school committee, and planning board positions to twice the number of such positions as are to be filled in each regular city election.

Section 7 Vacancies in Elective Offices

9-7-1 A vacancy in any elective body established by this charter shall be filled within sixty days, for the unexpired term, by the remaining members of the body concerned, in accordance with the provisions of general law.

Section 8 Taking Office

9-8-1 All officials elected under this charter shall take office on the first Monday in January following regular city elections.

CHAPTER 10 GENERAL PROVISIONS

Section 1 Initiative

10-1-1 The voters of the city shall have the power to propose ordinances and other measures by initiative petition in accordance with the procedures established by this charter.

Section 2 Initiative Procedures

10-2-1 The voters of the city may initiate legislation by submitting a petition addressed to the council which requests the submission of a proposed ordinance or resolution to a vote of the city. Said petition must be signed by qualified voters of

the city equal in number to twenty-five per cent of the total number of votes cast at the last regular city election. Each copy of the petition shall have attached to it a copy of the proposed legislation. Said petition shall then be filed with the board of registrars of voters for certification.

10-2-2 Within ten days from such filing, the board of registrars of voters shall check each name to be certified, and shall certify thereon the number of signatures so checked, and shall report the results to the persons filing the petition, the city clerk, and to the city council.

10-2-3 Upon presentation of the certified petition to the council, it shall become the duty of the council, within ten days after the receipt thereof, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the opinion of the persons filing the petition.

10-2-4 Alternatively, the council may choose to submit the question to a vote at a special election to be held within thirty days thereafter, at which the qualified voters of Southbridge shall vote on the question of adopting or rejecting the proposed legislation.

10-2-5 If a regular city election is to be held within sixty days after the certification of the petition, the council may instead submit the question at such an election.

Section 3 <u>Referendum</u>

10-3-1 Bond issues, ordinances, and other measures adopted by the council shall be subject to referendum in accordance with the

procedures established by general law and by this charter, provided that ordinances or resolutions appropriating money or levying taxes shall not be subject to referendum.

Section 4 Referendum Procedures

10-4-1 Qualified voters of the city of Southbridge may require that any ordinance or other measure passed by the council, excepting those appropriating money or levying taxes, be submitted to the voters of the city for approval or disapproval.

10-4-2 To initiate such a proceeding, a petition for this purpose shall be submitted within thirty days after final passage of said ordinance or other measure. Said petition shall be addressed, prepared, signed, and verified as required for petitions initiating legislation as provided in section two of this chapter.

10-4-3 Upon presentation of the certified referendum petition to the council, the council shall immediately reconsider such ordinance or resolution, and if it does not entirely repeal the same, shall submit it to popular vote as provided in section two of this chapter.

10-4-4 Pending the holding of such a referendum, such ordinance or resolution shall be suspended from taking effect, and shall not later take effect unless approved by a majority of the voters voting thereon.

Section 5 Personal Conflict of Interest

10-5-1 All city officers and employees shall perform the duties and responsibilities of their office in a manner fully consistent with the code of ethics and conflict of interest requirements established by general law.

Section 6 Prohibition of Activities

10-6-1 In addition to the prohibitions defined by general law, no person shall: (a) have his appointment to city office subjected to discrimination because of race, sex, or religious or political opinions or affiliations; (b) offer, pay, accept, or solicit money or other valuable consideration to secure appointment or promotion; (c) make any false statement, certificate, mark, rating, or report with respect to any test, certification, or appointment under the personnel rules and regulations established by this charter or pursuant thereto; (d) make, solicit, or receive, if he is a full-time, compensated, appointive officer or employee, any contribution for the election campaign of any candidate for any city office.

10-6-2 Violations of these provisions shall be subject to prosecution as a misdemeanor punishable by a fine to be determined by ordinance.

Section 7 Charter Amendment

10-7-1 This charter may be revised or amended in accordance with the provisions of Article LXXXIX of the amendments to the constitution and general laws implementing said amendment.

Section 8 Severability

10-8-1 If any provision of this charter is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of the remainder of this charter.

Section 9 Executive Sessions

10-9-1 No meeting of the city council, or of any city board, commission, committee, or subcommittee shall be held in executive session unless it shall be so voted.

10-9-2 Executive sessions may be held only for the purpose of discussing, but not voting, on matters which cannot be made public by reason of law or federal grant-in-aid requirements, or which might adversely affect the reputation of any person or the financial interest of the city.

CHAPTER 11 TRANSITIONAL PROVISIONS

Section 1 Officers and Employees

11-1-1 Nothing in this charter at the time of its adoption, except as otherwise specifically provided, shall affect the rights and privileges of officers and employees of the town of Southbridge.

11-1-2 Officers, employees, and members of boards and commissions of the former town of Southbridge, holding office at the time of adoption of this charter, shall be eligible for reappointment to equivalent positions, and shall continue to serve until successors have been elected or appointed under this charter.

11-1-3 Any officer or employee of the former town of Southbridge, holding tenure of office when this charter is adopted, shall continue to hold such tenure.

Section 2 Property and Records

11-2-1 All records, property, and equipment of any office, department, or agency of the town of Southbridge, the powers, duties and responsibilities of which are transferred in whole or in part to any department, office, or agency established by or under this charter, shall be transferred forthwith to the appropriate unit.

Section 3 Continuation of Contracts and Obligations

11-3-1 All rights, claims, actions, orders, contracts, and legal

or administrative proceedings entered into by or for the town of Southbridge prior to the effective date of this charter shall continue in full force and effect.

Section 4 State and Local Laws

11-4-1 To the extent that the constitution and laws of the Commonwealth of Massachusetts permit, all special acts, bylaws, resolutions, regulations, and town meeting actions of the former town of Southbridge relating in any way to or affecting the town of Southbridge, in force when this charter becomes fully effective, are superseded to the extent that they are inconsistent with or impede the effective operation of this charter, or of ordinances or resolutions adopted pursuant thereto.

Section 5 Effective Date of Charter

11-5-1 This charter shall be in effect upon adoption by the voters, to permit the board of selectmen and the town clerk of the former town of Southbridge to make preparations for the conduct of preliminary elections to be held on the twenty-ninth day of September, 1970 and for the first regular city election to be held on the third day of November, 1970.

11-5-2 Such preparations shall be made by vote of the individual board members and of the town clerk, and shall include: the apportionment of the city into four wards which shall be compact, contiguous and substantially equal in population; and the promulgation of temporary regulations applicable to the proper conduct of such elections, the avoidance of fraud, and the counting and recounting of ballots.

11-5-3 This charter shall be in full effect for all purposes on Monday, the sixteenth of November, 1970 at 7 p.m. at which

time the newly elected members of the council shall assemble for their first meeting.

11-5-4 At its first meeting, the council shall (a) first be sworn to the faithful performance of their duties by the town clerk of the former town of Southbridge; (b) elect the mayor and deputy mayor; (c) initiate the recruitment of a city manager; (d) appoint an acting city manager; (e) choose a city clerk, or if deemed necessary, a temporary clerk; and (f) consider such temporary ordinances and resolutions as may be necessary to provide for an orderly transition of government.

Section 6 Temporary Ordinances

11-6-1 At its first meeting or any meeting held within sixty days thereafter, the council may, by a single reading, adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of government. Every temporary ordinance shall be plainly labeled as such but shall be introduced in the form and manner prescribed for ordinances generally. After adoption of a temporary ordinance, the council shall cause it to be printed and published as prescribed for other adopted ordinances. A temporary ordinance shall become effective upon adoption or at such later time as it may specify, and the referendum power shall not extent to any such ordinance. Every temporary ordinance, including any amendments made thereto after adoption, shall automatically stand repealed as of the ninety-first day following the date on which it was adopted, and it shall not be readopted, renewed or otherwise continued except by regular procedure.

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