



**TO: Framingham Charter Commission**  
**FROM: Edward J. Collins, Jr. Center for Public Management**  
**DATE: August 18, 2016**  
**RE: Transition Provision Primer**

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The Transition Committee has been tasked with considering the elements that should go into the transition provisions article, making recommendations, and doing any necessary research to accomplish these tasks. Keeping this in mind, this memo outlines some of the things the committee will likely want to begin working on.

The transition provision serves two main purposes:

1. It establishes continuity for certain obligations and responsibilities of the government as the town moves to a city form of government (e.g., validity of contracts, retention of personnel). These are standard provisions appearing in all such charters (see below).
2. It provides specific direction to implement the charter. This includes a fair number of “one time only” events/requirements. All such requirements are usually placed in a section entitled “Time of Taking Effect.”

Among the directions and requirements usually addressed are:

1. Schedule and conduct of election for officials to be elected under the new charter;
2. Extend and/or terminate terms for those now in elected office and retained under the new charter (e.g., school committee); adjust terms (e.g., from a 3 year to a 4 year term);
3. Provide schedule and direction for any new plan of organization of departments and agencies in the new charter;
4. Schedule swearing-in of newly elected officials;
5. Conduct review of bylaws to bring them into conformity with the charter – this action usually begins with the board of selectmen immediately after the charter is adopted, and is continued by the mayor and council once they take office. The clerk and the town’s attorney usually serve as ex officio members of this committee;
6. Establish the initial salary of the mayor, council, and school committee; and
7. Adjust accountant’s duties to separate the accounting and auditing functions.

Other usual features of the transition provision include:

1. Repeal/retention of special acts that established the town’s organization prior to charter adoption;
2. Provisions for the mayor to serve ex officio on the board of selectmen between the time of election and the time of being sworn to office;

3. Provision for the council to meet between the time of election and the time of being sworn to office solely for the purpose of electing its officers and adopting interim council rules;
4. Address the status of board and commission members serving prior to charter adoption; if appointed, members need to be reappointed as the appointing authority has changed. The appointing authority can reduce or extend the appointments of existing members or replace them with his/her own appointments. NOTE: Certain boards and commissions with regulatory responsibilities (board of health, conservation commission) must be continuously in office, and are the highest priority for the mayor to address upon taking office; and
5. The transition provision also addresses the town's status under the state's Civil Service laws, as towns in some instances are treated differently than cities. The charter may contain the text of a proposed special act ("home rule petition") to be submitted to the legislature to address this concern.

In terms of establishing continuity, these provisions are examples from the committee to consider for Framingham (these are adapted from Braintree special act charter):

#### SECTION x-x: CONTINUATION OF EXISTING LAWS

All general laws, special laws, town by-laws, town meeting votes, and rules and regulations of or pertaining to Framingham that are in force when this charter takes effect, and not specifically or by implication repealed by this charter, shall continue in full force and effect until amended or repealed, or rescinded by due course of law, or until they expire by their own limitation.

In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law that would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter shall be decided in favor of this charter.

#### SECTION x-x: CONTINUATION OF GOVERNMENT AND ADMINISTRATION

All city/town agencies shall continue to perform their duties until re-elected, reappointed, or until successors to their respective positions are duly appointed or elected, or until their duties have been transferred and assumed by another town agency.

#### SECTION x-x: TRANSFER OF RECORDS AND PROPERTY

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

#### SECTION x-x: EFFECT ON OBLIGATIONS, TAXES, ETC.

All official bonds, recognizances, obligations, contracts, and other instruments entered into or executed by or to the town before the adoption of this charter, and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the town, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by the charter; and no legal act done by or in favor of the town shall be rendered invalid by reason of the adoption of this charter.