



# CITY OF FRAMINGHAM

OFFICE OF THE MAYOR

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**Dr. Yvonne M. Spicer**  
Mayor

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**MEMORIAL BUILDING**  
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**Thatcher W. Kezer III**  
Chief Operating Officer

## MEMORANDUM

To: George P. King, Chair  
Adam C. Steiner, Vice Chair, District 3 City Councilor  
Janet Leombruno, Councilor at Large  
Christine A. Long, District 1 City Councilor  
Cesar Stewart-Morales, District 2 City Councilor  
Michael P. Cannon, District 4 City Councilor  
Robert D. Case, District 5 City Councilor  
Phillip R. Ottaviani, Jr., District 6 City Councilor  
Margareth Basilio Shepard, District 7 City Councilor  
John A. Stefanini, District 8 City Councilor  
Tracey Bryant, District 9 City Councilor

From: Dr. Yvonne M. Spicer, Mayor

cc: Lisa Ferguson, Maureen McKeon, Chris Petrini

Date: February 19, 2021

Re: Veto statement for CPC Ordinance

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As Mayor, I am fully supportive of the City's adoption of the Community Preservation Act and I continue to support the goals of community preservation which the Community Preservation Committee will help the City achieve. The Council has passed a comprehensive ordinance, much of which I agree with, that provides a forward-looking blueprint for the Committee to do its job effectively with input from key stakeholders and the community at large. Like many in our community, I am excited for the Committee to get to work to start serving the people of Framingham.

As City officials, however, we all are duty-bound and obligated to honor and respect the terms of the Charter, Framingham's constitution, which was approved by the voters in April 2017 and provides a comprehensive scheme governing how our city government is required to operate. Article IX, Section 14 (p. 55) of the Charter specifically makes it my responsibility as your Mayor to see that the provisions of the Charter are faithfully followed. Although I am largely in agreement with the Council's vision for the Community Preservation Committee set forth in the proposed ordinance as passed, in its current form it is not consistent with the Charter. The Charter, which several current and past City Councilors served on the Charter Commission that drafted the Charter, expressly provides that the Mayor is the appointing authority for all multiple-member bodies, and that my appointments are subject to the approval of the Council.



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Article III, Section 3(a) (p. 24) (**Mayor appoints members of multiple member bodies subject to Council review**) & Article II, Section 10(c) (p. 21) (**Council approves or rejects Mayor's appointments to multiple member bodies within 30 days**). There is no dispute that the Community Preservation Committee is a multiple-member body which should be subject to this shared responsibility between the executive and legislative branch. Contrary to the requirements of the Charter, the proposed ordinance provides for four at large residents of Framingham to be appointed to the Committee, but makes the Council, rather than the Mayor, the appointing authority for those positions, effectively leaving the Mayor completely out of the process in designating or appointing any of the positions on the Committee.

Besides the four at large members chosen solely by the Council as set forth in the proposed ordinance, the other members of the proposed Committee--one designee each by the Conservation Commission, Historical Commission, Planning Board, Park Commission and Housing Authority--are designated by the respective board or commission under the proposed ordinance and the applicable general law, G.L. c. 44B, s. 5 ("Section 5"), and not by the Mayor. Even though I appoint the members of these City boards subject (of course) to the approval or disapproval of the Council, I do not have the right under either Section 5 or the proposed ordinance to choose the specific designees from these five boards to serve on the Committee, and thus have been completely left out of the process contrary to the Charter as outlined above.

While I have reviewed the arguments offered by the proponents of the ordinance as to why the Council's assumption of the Mayor's appointing authority here is permissible, my understanding is that the City Solicitor has researched these arguments and, in his opinion, they are without merit. The Councilor for District 8, who played a major role in authoring the Charter, has claimed that the Town of Weymouth, with a Charter which is similar to Framingham, set up its Community Preservation Committee the same way. This is incorrect. In Weymouth, the ordinance establishing the Community Preservation Committee included a designated member of Weymouth's Town Council in addition to the bodies set forth in Section 5 as enumerated above, but the remaining three at large residents serving on Weymouth's committee are appointed by Weymouth's mayor. See Weymouth Code, §3-227, available at <https://ecode360.com/35961112> (last accessed Feb. 18, 2021). Those mayoral appointments in Weymouth are of course subject to the approval of the Weymouth Town Council, as the appointments in Framingham would be for the Committee in an ordinance that was consistent with the Charter. Weymouth's at large appointments are not made solely by its Town Council as is the current proposed Framingham ordinance provides.

Second, the Council in considering this ordinance attempted to draw an analogy between its adoption of the Bylaw Review Committee's recommendation, adopted by the Council, to make the Mayor's appointments to the Cable Advisory Committee not subject to the approval of the Council given the express language in the statutes and regulations which make the Mayor the issuing authority for cable licenses and which vests the Mayor with the sole authority to create and appoint a cable advisory committee. The Charter in that instance must yield to the general laws because except for special acts and local option statutes, state law controls in the event of



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a conflict with the Charter. Article I, Section 5 (p. 13). In the present case, Section 5, the governing state general law, provides that the ordinance establishing the Community Preservation Committee can establish the method of selection as either appointed, elected or a combination of both. As noted above, Section 5 provides for certain designated representatives of City boards to be automatically included on the Committee as designated by those boards and not the Mayor, which takes precedence over local procedures for those appointments for the same reason as the Bylaw Review Committee's conclusions with regard to the Cable Advisory Committee. However, Section 5 does not provide that the ordinance can override the provisions of the local Home Rule Charter as to who should be appointing authority for multiple member bodies for positions not specifically designated in the statute and does not specify the appointing authority for at large members of a community preservation committee. Therefore, the Charter's provisions on the appointment powers for multiple-member bodies definitely apply and remain governing in these circumstances.

For these reasons, I am disapproving of this measure pursuant to my authority under Article III, Section 7 (p. 27) of the Charter. I share the Council's goal of getting this Committee established promptly, so I urge the Council to quickly act to amend the proposed ordinance so it complies with the Charter and I can quickly approve it so the City can move forward in this important mission.