

**From:** Campbell, Bernie W. bwcampbell@SalemNH.gov

**Subject:** Re: Charter Commission Follow-Up

**Date:** May 26, 2022 at 12:25 PM

**To:** Stephen Buckley sbuckley@nhmunicipal.org

**Cc:** Charter Commission Charter\_Commission@SalemNH.gov, Devine, Joseph jdevine@SalemNH.gov, Margaret Byrnes mbyrnes@nhmunicipal.org, Natch Greyes ngreyes@nhmunicipal.org

BC

Good afternoon!

Thank you for these follow up answers. They are very valuable. I have one question that I missed in my notes last night that perhaps you can send some clarification to myself and the other members. Can you summarize the difference between a Town Manager and a Town Administrator?

Thank you!

Bernie Campbell

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**From:** Stephen Buckley <sbuckley@nhmunicipal.org>

**Sent:** Thursday, May 26, 2022 11:34 AM

**To:** Campbell, Bernie W. <bwcampbell@SalemNH.gov>

**Cc:** Charter Commission <Charter\_Commission@SalemNH.gov>; Devine, Joseph <jdevine@SalemNH.gov>; Margaret Byrnes <mbyrnes@nhmunicipal.org>; Natch Greyes <ngreyes@nhmunicipal.org>

**Subject:** Charter Commission Follow-Up

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Good Morning Chairman Campbell:

Thank you for inviting NHMA to your Charter Commission meeting.

Following up on specific inquiries from members of the Commission we can offer the following additional guidance.

***Under RSA chapter 49-D can a municipal charter have a provision to permit recall of elected officials?***

As provided in RSA 49-D:3, I (e) a town council charter may provide for citizen powers of initiative, referendum and recall as described in RSA 49-C. Thus, we must turn to RSA chapter 49-C, Local Option- City Charters, to determine what form of recall is permitted for City Charters, and thus for Town Council Charters. Unfortunately, nowhere in that chapter can the word “recall” be found. Instead, there is one statute that provides for the removal of a mayor, alderman and councilors. That statute, RSA 49-C:13, only permits the removal of a mayor or member of the city council or board of aldermen member by action of the council. In its entirety, RSA 49-C:13 provides as follows:

**49-C:13 Removal of Mayor, Aldermen, and Councilors. –**

I. The elected body may, on specific charges and after due notice and hearing, at

any time remove the mayor or one of its own members for cause, including but not limited to prolonged absence from or other inattention to duties, crime or misconduct in office, or as specified in the charter.

II. Any vacancy occasioned by removal under this section shall be filled in the manner provided in the charter.

I would thus conclude that a town charter adopting the town council form of government would only be permitted to have a provision for recall of elected members of the town council by vote of the town council, and not by citizen petition. The reason for such removal could be as specified in RSA 49-C:13, I or as further specified in the proposed charter. However, your Commission would have the unqualified ability to provide for citizen petitions propose local legislation by initiative, or to challenge by referendum ordinances and bylaws adopted by a town council.

***Since Salem is currently an SB2 town, when the town meeting considers a proposed charter adoption, will the voters at the deliberative session be permitted to amend the proposed charter?***

No, at the deliberative session voters are prohibited from amending warrant articles whose wording is prescribed by law. RSA 40:13, IV (a). The method of proposing and voting on a proposed charter is strictly controlled through the process of drafting the charter and receiving approval of the proposed charter from the Secretary of State, Attorney General and Commissioner of the Department of Revenue Administration. The final report of the proposed charter as contemplated RSA 49-B:4-b fixes the content of the proposed charter for consideration by the voters, and any attempt to amend the proposed charter language at the deliberative session would be antithetical to this mandatory statutory process.

***What majority of voters is necessary to adopt a charter?***

As provided in RSA 49-B:6, IV a proposed charter must receive a 3/5 majority of the ballots cast in order to be adopted.

I am also attaching electronic copies of the handouts we provided the Commission last night; Forms of Government Chart, Forms of Government and Charter Commission Timeline for 2022.

Finally, we were also asked to recommend attorneys who could provide the attorney opinion on the legality of the proposed charter that must accompany the preliminary and final reports of the Charter Commission. Although NHMA cannot provide specific recommendations for individual attorneys, we can suggest the following law firms who advertise themselves in our Municipal Officials Directory as specializing in municipal law:

**Donahue, Tucker & Ciandella, PLLC**

16 Acadia Lane

Exeter, NH 03833

Phone: 603-778-686

Email: [info@dtclawyers.com](mailto:info@dtclawyers.com)

<http://www.dtclawyers.com>

**Drummond Woodsum**

650 State Street, Exeter, NH 03833

670 N. Commercial Street Ste 207  
Manchester, NH 03101  
Phone: 603-716-2895  
Email: [info@dwmlaw.com](mailto:info@dwmlaw.com)  
<http://dwmlaw.com>

**Mitchell Municipal Group, P.A.**  
25 Beacon Street East  
Laconia, NH 03246-3445  
Phone: 603-524-3885  
Email: [laura@mitchellmunigroup.com](mailto:laura@mitchellmunigroup.com)  
<http://mitchellmunicipalgroup.com>

**Soule, Leslie, Kidder, Sayward &  
Loughman, PLLC**  
220 Main Street  
Salem, NH 03079  
Phone: 603-898-9776  
Email: [gorrow@soulefirm.com](mailto:gorrow@soulefirm.com)  
<http://soulefirm.com>

**Upton & Hatfield, LLP**  
10 Centre Street  
Concord, NH 03301  
Phone: 603-224-7791  
Email: [pwoodworth@uptonhatfield.com](mailto:pwoodworth@uptonhatfield.com)

Best regards.

**Stephen C. Buckley**  
**Legal Services Counsel**  
**NH Municipal Association**  
25 Triangle Park Drive  
Concord, NH 03301  
Tel: (603) 224-7447  
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**From:** Campbell, Bernie W. <[bwcampbell@SalemNH.gov](mailto:bwcampbell@SalemNH.gov)>  
**Sent:** Wednesday, May 25, 2022 9:25 PM  
**To:** Natch Greyes <[ngreyes@nhmunicipal.org](mailto:ngreyes@nhmunicipal.org)>; Stephen Buckley <[sbuckley@nhmunicipal.org](mailto:sbuckley@nhmunicipal.org)>  
**Cc:** Charter Commission <[Charter\\_Commission@SalemNH.gov](mailto:Charter_Commission@SalemNH.gov)>; Devine, Joseph <[jdevine@SalemNH.gov](mailto:jdevine@SalemNH.gov)>  
**Subject:** Thank you

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Good evening,

On behalf of the Salem Charter Commission, I would like to thank you both for coming to

our meeting this evening. It was very informative and helpful. We look forward to working with you in the future.

Sincerely,

Bernie W. Campbell  
Chair, Charter Commission

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