

## Explanatory comments for the resolution to amend the term expiration dates for the Flood Erosion Control Board

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### Purpose

This document will explain to current and upcoming proposed amendments to the municipal code which define term expiration dates for agencies<sup>1</sup> appointed by the RTM.

Adoption of these amendments will allow the RTM, Board of Selectmen, and Selectmen's Nominating Advisory Committee to better manage the process of appointing members to these governing and advisory agencies.

The draft amendments were shared with the chairmen of all agencies affected by this proposal who offered their feedback and suggestions

### Goals:

Three results are being sought through these proposed amendments.

The first is to organize the annual calendar of appointments so that the term expiration dates for all agencies are distributed evenly throughout the year instead of occurring on March 31 as they now all do.

The second is minimization of the risk of interruption to the agencies' business due to excessive membership turnover in a single year. This is accomplished by selectively using a one-time interim term to stagger the years in which a term end so that the scheduled expirations experienced on a given agency are distributed more evenly over the years.<sup>2</sup>

A consequence of the above goals is a revision to the format in which code related to appointments are written.

The third result is to provide, where possible, consistency of code across agencies and establish unique designations for each appointed position so that appointments may be more easily tracked and audited. The 2-year election cycle of the RTM and Board of selectmen present risks and challenges to the appointment auditing process.

The goal of the Appointments Committee is to have RTM approval of these amendments before January 1, 2018, the date on which the proposal seeks to become effective.

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1 (The term "appointed agencies" includes appointed agencies, boards, commissions, and committees.)

2 For example, if an agency has 4 members, each serving 4 year terms, it is better to have one term expire each year than having all terms expire in the same year.

## The Difficulties Which Drive These Proposed Amendments.

### *Difficulties Stemming From a Single Expiration Date*

The current March 31 term-ending date for all agencies<sup>3</sup> negatively affects the ability of the Appointments Committee to perform its function of advising the RTM in a number of ways. They include:

1. Preparation.

The high number of appointments which expire on March 31st of the first year of a the RTM term makes it problematic, particularly for new members, to educate themselves on the function of and issues related to, specific agencies on which they are called to advise their districts.

2. Participation.

The number of times that the Appointments Committee must physically meet<sup>4</sup> to act upon these appointments impedes regular participation by some members. This diminishes the ability of the committee to operate in a consistent manner.

3. Compliance.

The practical requirements of managing a backlog<sup>5</sup> of appointments resulting from a single date expiration has resulted in a regular failure to meet the appointments processes outlined in both the Town Charter<sup>6</sup> and the RTM rules<sup>7</sup>.

### *Difficulties With How Term Expiration Occur of the course of Years.*

#### Risk to Continuity of Business.

3 109 appointed members to agencies, excluding special committees and RTM representatives to agencies.

4 The Appointments Committee met 8 times in the 10 week period preceding the March 2016 RTM meeting

5 The number of regular appointments made by the RTM has grown steadily over the last 60 years. In 1951 the number of members appointed to agencies was 51. In 1969 the number was 63. By 1975 it had grow to 91. Today it stands at 122 excluding ad hoc bodies like the School Building Committee.

6 [§306.b](#) "Whenever appointment is by the Representative Town Meeting on nomination of the Selectmen or First Selectman, such nomination shall be made and submitted to the Town Clerk as Clerk of the Representative Town Meeting at least three (3) months prior to the commencement of the term for which the appointment is to be made". This code was adopted in 1951 when the number of positions for which the RTM was responsible to appoint was 42. Today this number is 129. Section 306 (a), added in 1985.06.10 Book 15 page 334 and the §3.H.1 of the RTM rules appear to have been efforts to address this issue without amending the municipal code. The current situation is a result of over 30 years of deferred maintenance.

7 § III.H of the [RTM Rules](#): APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

"1. . . . Nominations by the selectmen shall be transmitted to the Town Clerk. The Town Clerk shall notify in writing the chairman, or, if absent, the vice chairman, and the secretary of the Appointments Committee of the selectmen's nominations and of any RTM committee vacancies which the RTM is required to fill on its own motion. Within fourteen days after such notification, the Appointments Committee shall file with the Town Clerk (a) a report of its actions taken on the nominations by the Selectmen and (b) its nominations of candidates to be appointed by the RTM on its own motion, and a report with respect to such nominees. In the event of the necessity for filling a mid-term vacancy, the fourteen day period may be reduced upon direction of the Moderator.

Upon completion of the Call of the RTM, the Town Clerk shall immediately notify each nominee, in writing, of any standing committee(s) to which the nomination has been referred, and shall instruct the nominee to contact the chairman of such committee(s); the Town Clerk shall simultaneously notify said committee chairman of the referral(s) . . ."

All agencies are subject to having their ability to conduct business disrupted by unexpected resignations. However, two agencies<sup>8</sup> carry the exceptional and regular risk of losing over 40% of their membership in a single year due to term expirations with others subject to less but to significant risk.<sup>9</sup>

## Benefits

### *Benefits of Amending Expiration Dates*

#### 1. Competence.

A reduced work load in the first trimester in the initial year<sup>10</sup> of an elected term affords all parties the opportunity to both obtain an understanding of the needs and responsibilities of appointed agencies and develop competence in participating the appointments process.

#### 2. Planning and Organization.

Having the dates for appointments and nominations defined and distributed over an elected term will allow the Appointments Committee to adopt a more careful operating model from what is now a primarily reactionary mode.

### *Benefits of Amending Expiration Years*

The benefit of minimizing potential for disruption to agency business is self explanatory. The amendments in this proposal are meant to reduce that potential.

## Considerations

### *Process*

The term expiration dates for most<sup>11</sup> of these agencies are stipulated in the Town Charter. As a consequence, adoption of these amendments must be initiated by a resolution of the Board of Selectmen<sup>12</sup>.

8 The Board of the Nathaniel Witherell ( 5 of 9 members) and the Inland Wetlands and Watercourses Agency ( 3 of 7 regular members)

9 Mass turnover creates an impediment to the functioning an agency. The BOS and SNAC would either need to identify 5 qualified, interested candidates at one time or subject the board to operating short- handed. Additionally, not only would incumbent members assume the work of those absent, but they would concurrently carry the burden of orienting and educating new members.

10 An even-numbered year. See "Overview of Data" on page 4

11 Please see attached listing of references (page 5) to locations in the Town Charter which relate to term expiration and commencement dates for serving on agencies appointed by the RTM.

12 §. 67. "Home Rule procedures.: A proposal for home rule action affecting the Board of Estimate and Taxation or the Finance Department of the Town government may be initiated only by affirmative vote of seven (7) members of the Board of Estimate and Taxation, and any other proposals for home rule action may be initiated only by affirmative vote of a majority of the Selectmen. Any proposal so initiated shall be transmitted to the Town Clerk. The Clerk shall cause the content of the proposal and the question of its adoption or rejection to be included in the warning of the next Representative Town Meeting."

The expiration dates for one agency, the Flood and Erosion Control Board, are located in the Code of Ordinances . This may be amended upon action initiated by the RTM.<sup>13</sup> Please see the calendar on page 8.

### ***Overview of Appointments-Related Data***

The spreadsheet on page 9 compares the anticipated appointments workload of the RTM over the next 5 elected terms under the current code with the anticipated work load if these amendments are approved.

Note the following:

1. Over the 10 year period 2018-2027, the RTM is scheduled to appoint an average of 40 officers annually to town agencies. With the exception of special committees of the RTM each of these appointments have term ending dates of March 31.
2. The number of appointments due in the first year of the term (57) is over double that of appointments due in the term's second year (26)<sup>14</sup>.
3. Over the last 2 terms, 86% <sup>15</sup>of the call items in the first three months of a new term have been appointments.
4. In the same periods, the RTM has averaged 60 appointment-related items (30 per RTM meeting), one-third of which required the Appointments Committee to identify, qualify and nominate candidates.

In time, the proposed changes will reduce the number of first trimester appointments by over 50%.

Visual Representation of the staggering of the terms of positions R3 and R4 of the Flood and Erosion Control Board,through the use of interim terms

<b>Flood and Erosion Control Board Proposed Term Expiration Dates</b>								
<b>Current Name</b>	<b>Designation</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Schmeltz	R1			10/31				10/31
Stankunas	R2				10/31			
Finkbeiner	R3				10/31	10/31		
Mead	R4			10/31			10/31	
Cenci	A1		10/31				10/31	
OPEN (Weller)	A2				10/31			

<sup>13</sup> The Board of Selectmen and SNAC may choose to propose additional changes to the code affecting other appointed agencies for which the RTM has no responsibility — such as the Conservation Commission.

<sup>14</sup> The major factor contributing to the large number of appointments by the RTM in even-numbered years is its charge to nominate 18 members to the special committees of the RTM: the Claims and the Labor Contracts Committees

<sup>15</sup> 119 of 139 items

Current Term	■	<ul style="list-style-type: none"> <li>• 4-year terms.</li> <li>• Staggering of expiration years accomplished by adding one-time interim terms.</li> <li>• Expiration month changes from March to October</li> </ul>
Interim Term	■	
Subsequent Regular Term	■	

Summary of Proposed Changes						
Agency	Amend Charter	Amend Ordinances	Amend Expiration Month	Amend Expiration Years	Amend Term Lengths	Code
Aging, Commission on			x			NA
Alarm Appeals Board		x	x	x		<a href="#">§2A-4b</a>
<b>Condemnation Commission</b>	x			x	x	<a href="#">Sec. 157 a</a>
Ethics, Board of		x	x			<a href="#">§2-11</a>
Flood and Erosion Control Board		x	x	x		<a href="#">§2-17</a>
Harbor Management Commission		x	x			<a href="#">§7A-1</a>
<b>Health, Board of</b>	<b>x</b>		x	x		<a href="#">§50a</a>
Historic District Commission		x	x			<a href="#">§6-310</a>
Inland Wetlands & Watercourses Agency		x	x	x		<a href="#">§6-220</a>
<b>Nathaniel Witherell Board</b>	<b>x</b>		x	x		<a href="#">§58</a>
<b>Parks and Recreation, Board of</b>	<b>x</b>		x			<a href="#">§80</a>
<b>Planning &amp; Zoning Board of Appeals</b>	<b>x</b>		x	x		<a href="#">§84b</a>
<b>Planning and Zoning Commission</b>	x		x	x		<a href="#">§85</a>
<b>Human Services, Board of</b>	x		x			<a href="#">§62b</a>

The ad-hoc *School Building Committee* and the *special committees of the RTM* are not affected by this proposal.

## Proposed Division of Term Expiration Dates by Annual Trimester:

### 1st Trimester: (remains March 31)

1. Claims Committee <sup>16</sup>
2. Condemnation Commission <sup>17</sup>
3. Labor Contracts Committee <sup>18</sup>

<sup>16</sup> While no changes are proposed for the Claims Committee, the effects of its 13 nominations and appointments effect on the first trimester of the appointments calendar is significant for the additional workload that it imposes on the Appointments Committee

<sup>17</sup> While the term expiration date of March 31 would not be changed, this proposal suggests that term should be changed from 2 years to 4 years with terms being staggered so that all members do not come up for re-appointment at the same time. Appointments would occur only in odd- numbered years. Please see additional explanation in the chart on page 20.

<sup>18</sup> While no changes are proposed for the Labor Contracts Committee, its effect on the appointments calendar is significant for the additional workload that it imposes on the Appointments Committee.

4. RTM representative to the Harbor Management Commission<sup>19</sup>
5. Harbor Management Commission

### **2nd Trimester (June 30th):**

1. Commission on Aging
2. Alarm Appeals Board
3. Board of Ethics
4. Board of Health
5. Nathaniel Witherell Board
6. Board of Parks and Recreation
7. Board of Social Services

### **3rd Trimester (October 31)**

1. Flood and Erosion Control Board<sup>20</sup>
2. Historic District Commission
3. Inland Wetlands and Watercourses Agency
4. Planning and Zoning Board of Appeals
5. Planning and Zoning Commission

## **Notes**

1. Re-Formatting and Integrity of Existing Code.

The re-formatting of this Code has been undertaken for the sole purpose of providing a consistent format across agencies and more accurate definition of each term. It is intended that all other aspects of the detail and purpose of the legacy code remain intact. If identified, any other changes should be considered errant and should be corrected.

2. Redundant code

The BOS or RTM may nonetheless wish to edit the code to remove sections which have been made redundant by the addition of code introduced subsequent to the adoption of the original appointments related code. The primary example of this

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<sup>19</sup> The term of the RTM representative to the Harbor Management Commission requires no change and no action on the part of the Board of Selectmen or the RTM but is included here for informational purposes. Having the RTM representative remain appointed in the first trimester allows for him/her to become informed with respect to the Harbor Management Commission and advise the RTM when appointments and other issues to the Commission come before the RTM.

<sup>20</sup> The municipal code for the Flood Erosion and Control Board is located in the Code of Ordinances rather than the Charter. As such, it does not require the action of the Board of Selectmen to initiate a change. The proposal to amend this code may be submitted to the RTM directly by the Appointments Committee. There are no other agencies affected by this proposal that fall into this category.

is [§306a](#)<sup>21</sup> which allows for the continuation of appointment until replaced. **These sections have been identified with green text.**

### 3. Potential conflict and misunderstanding with respect effective term expiration

Should these proposed amendments be approved, a clarification is necessary with respect to those terms which were set to expire on March 31 by prior vote of the RTM but which with the subsequently approved code, now states will end in June or October.

To avoid confusion, for those appointments which were made subsequent to January 1, 2018, the proposed amendments allow for terms which had previously been scheduled to expire on March 31 will be extended to the respective later date. Therefore, "the clock" for invoking any provisions outlined in [§306.b](#)<sup>22</sup>, if ever necessary, will not commence until the respective latter date.<sup>23</sup>

### 4. Commission on Aging

While the Charter defines the appointed body as "The Committee on Aging", all practical references to this agency utilize the title "Commission on Aging". Perhaps now is a good time to make this change to the Charter.

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21 [306.a](#): All officers and the members of all boards, commissions, agencies, committees or like authorities heretofore or hereafter appointed by the Selectmen, the Board of Estimate and Taxation or the Representative Town Meeting shall continue in office until their successors shall be appointed and shall have qualified.

22 See footnote 5 on page 2

23 For example, if a member of the Flood and Erosion Control Board was appointed in 2014 to a term that ends on March 31 2018, that term is now extended to October 31 2018 and any appeal to the provision [§306b](#) would be subject to October 31 as the "commencement of the term for which the appointment is to be made".

# 10-year Projection of Appointments to be made by the RTM Given Proposed Amendments

Spreadsheet for Evaluating the Projected Effects of the Proposed Amendments to The Term Ending Dates for Agencies Appointed by the RTM  
revised 4/18/2017 to reflect recommendations of Town Attorney

In the table below, change only the blue cells with white text.

Agency	Agency Table	Term length
Aging Commission on	2	3
Alarm Appeals Board	2	4
Claims Committee	1	2
Condensation Commission	1	4
Ethics, Board of	2	3
Flood and Erosion Control	3	4
Harbor Management	1	3
Harbor Management/RTM	1	2
Health, Board of	2	4
Historic District	3	5
Inland Wetlands	3	4
Labor Contracts	1	2
Nathan's Withwell	2	3
Parks and Recreation	1	3
Planning and Zoning Board of Appeals	3	4
Planning & Zoning Commission	3	3
Human Services, Board of	2	3

Projected Annual Distribution of Appointments Across Trimesters

	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Amended Term Totals:	83	93	78	79	81					
Amended Annual Totals:	55	28	58	35	47	31	49	30	50	31
Trimester:	1 2 3	1 2 3	1 2 3	1 2 3	1 2 3	1 2 3	1 2 3	1 2 3	1 2 3	1 2 3
Current Trimester Totals:	55	0	60	0	55	0	60	0	55	0
Amended Trimester Totals:	30 16 9	8 13 7	25 15 18	9 13 13	25 13 9	8 11 12	25 13 11	9 12 9	25 13 12	8 12 11

Projected distribution of Regular Appointments Responsibilities across RTM Standing Committees per Trimester (as amended according to "Agency Table" on left)

	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
0 Education	0	0	0	0	0	0	0	0	0	0
4 Finance	7	0	0	0	7	0	0	0	0	0
10 HHS	0	11	0	0	0	0	0	0	0	0
16 Land Use	9	0	9	5	0	9	5	0	12	4
6 Leg & Rules	11	0	0	0	0	0	0	0	0	0
7 Parks & Rec	7	0	0	0	7	0	0	0	6	0
3 Public Works	5	0	0	0	0	0	0	0	0	0
3 Town Services	0	5	0	0	0	0	0	0	0	0
0 Transportation	0	0	0	0	0	0	0	0	0	0

Projected Average Appointments call times/year/ Standing Committee



## Greenwich, Connecticut - Code of Ordinances

## CHAPTER 2. ADMINISTRATION ARTICLE 4. - FLOOD AND EROSION CONTROL BOARD. .

~~Strikeout~~ indicates code to be replaced

Underline indicates new code

Normal represents old code which remains unchanged

## Sec. 2-17. - Membership; number; appointment.

(a)

~~The Flood and Erosion Control Board shall consist of five (5) members. Four (4) members of the Flood and Erosion Control Board shall be appointed by the Representative Town Meeting. The fifth member of the Board shall be the First Selectman of the Town. Appointments shall be for terms of four (4) years commencing on April 1. Appointed members of the Board shall hold office until their successors shall have been appointed and shall qualify. Vacancies in the membership of the Board shall be filled for the unexpired portion of a term in the same manner as regular appointments.~~

(b)

~~In addition to the five (5) members of the Flood and Erosion Control Board, the Board shall also include two (2) alternate members. The alternate members shall be appointed by the Representative Town Meeting.~~

(c)

~~One alternate member shall be appointed for a term commencing on April 1, 2011, and expiring on March 31, 2013, and the other alternate member for a term commencing April 1, 2011, and expiring on March 31, 2015.~~

(d)

~~All subsequent appointments of alternate members, except to fill vacancies, shall be for terms of four (4) years commencing on April 1 of the first year of the term.~~

(e)

~~The alternate members of the Board shall hold office until their successors have been appointed and shall have qualified.~~

**(a) Composition**

1. The Flood and Erosion Control Board shall consist of five (5) regular members.
2. In addition to five (5) regular members, the Board shall also include two (2) alternate members.

**(b) Eligibility**

Members shall be *resident* electors of the Town of Greenwich or as designated in Section 45 "Flood and Erosion Control Board" of Article 4 "Flood

and Erosion Control Board” of the Charter of the Town of Greenwich.

**(c) Appointment Process**

1. Four (4) regular members and the two (2) alternate members shall be appointed by the Representative Town Meeting. The fifth regular member of the Board shall be the First Selectman of the Town. Vacancies in the membership of the Board shall be filled for the unexpired portion of a term in the same manner as regular and alternate appointments.

**(d) Establishment of Unique Designations**

1. Each of the (six) 6 appointed positions on this Board are assigned a unique designation to facilitate auditing of the appointment process over the course of time. Each designation contains a letter followed by a number. The letter identifies the category of membership; “R” indicating a regular member and “A” indicating an alternate member. The number following the letter uniquely identifies each position within the respective category.
2. The initial association of position designations to names of appointed members shall be established by resolution adopted by the appointing authority, the Representative Town Meeting.

**(e) Length and types of terms**

1. Terms for appointed regular members and alternates shall be for a period of four (4) years except for the shorter one-time interim terms for members R3 and R4, as designated in subsection (f.) “Designation of Board Positions”
2. Three (3) types of terms are utilized in the subsections below. “Current Term” refers to a term to which someone has been both appointed before January 1, 2018 and which appointment expires after January 1, 2018. “Interim Term” refers to a single term of less than four (4) years and which is used once, as specified in subsection (f.1) below, to accomplish a staggering of the term expiration years of the Board positions for the purpose limiting the scheduled of turnover Board members in a single year and minimizing risk to Board continuity.

3. When appointing a new member to this Board, the new member will receive the position designation previously assigned the person she or he is succeeding and such designation will be indicated on all notices of nomination and appointment including, but not limited to, the agenda and the minutes of the Representative Town Meeting, the committees of the Representative Town Meeting and, where appropriate, the agenda and minutes of the Board of Selectmen.
  4. Effective January 1, 2018, current terms shall expire on October 31 and commence on November 1 according to the designations in subsection( f.1).
  5. Each regular member and alternate member appointed heretofore and serving on January 1, 2018 shall continue to serve such term to which such member was appointed. Such term shall be extended to expire on October 31 following the date on which their current appointment was scheduled to expire.
  6. Appointed members of the Board shall hold office until their successors shall have been appointed and shall qualify.
- (f) **Designation of Board Positions**
1. The positions for the four (4) appointed regular members shall be designated positions R1 through R4 and the positions for the two (2) appointed alternate members shall be designated positions A1 and A2. These terms for these positions are defined as follows:
    - (R1): The current term for regular member (R1) shall expire October 31, 2020. Terms thereafter shall be for a period of four (4) years.
    - (R2): The current term for regular member (R2) shall expire October 31, 2021. Terms thereafter shall be for a period of four (4) years.
    - (R3): The current term for regular member (R3), shall expire October 31, 2021. The next appointment will be to a one-year (1-year) interim term which will expire October 31, 2022. Terms thereafter shall be for a period of four (4) years.
    - (R4): The current term for regular member (R4) shall expire October 31, 2020. The next appointment will be to a three-year (3-year) interim term which will expire October 31, 2023. Terms thereafter shall be for a period of four (4) years.

(A1): The current term for alternate member (A1) shall expire October 31, 2019. Terms thereafter shall be for a period of four (4) years.

(A2): The current term for alternate member (A2) shall expire October 31, 2019 .Terms thereafter shall be for a period of four (4) years.

(g)

If a member of said Board is absent or disqualified, the Chairman of the Board shall designate an alternate to so act, choosing alternates in rotation so that they shall act as nearly equal a number of times as possible. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting.

(h)

The alternate members of the Flood and Erosion Control Board shall, when seated, have all the powers and duties set forth for such Board and its members.

\*END\*