

**CHARTER REVIEW COMMITTEE MEETING**  
**BENNINGTON TOWN OFFICE – CONFERENCE ROOM**  
**205 SOUTH STREET**  
**BENNINGTON, VERMONT 05201**

**SEPTEMBER 27, 2017**

**MINUTES**

**COMMITTEE MEMBERS PRESENT:** Sean-Marie Oller-Co-Chair (left at 12:55pm-following vote on §302 motion); Robert Plunkett-Co-Chair; Jonathan Cohen; Michael A. Keane; Robert Ebert and P. Lynn Green.

**COMMITTEE MEMBERS ABSENT:** Daniel Malmborg.

**ALSO PRESENT:** Stuart Hurd-Town Manager; Michele Johnson- Human Resources and Contracts Administrator; Cassandra Barbeau-Town Clerk; Thomas Jacobs-Bennington Select Board Chair and Nancy H. Lively-Secretary.

At 11:45 am, Co-Chair Sean-Marie Oller called the meeting to order.

**1. PUBLIC COMMENTS**

Ms. Oller mentioned that she had put the informational letter to the public on tonight's meeting in the Bennington Banner and phoned a few people, as well.

Ms. Green requested that Mr. Barlow advise the public that there is already a provision in the Charter for the public to petition to be on the ballot. Ms. Barbeau added that the petition must be signed by 5% of the voters, or 450 at our present count. Mr. Plunkett stated that he has already informed Mr. Barlow of this.

Ms. Oller also noted that Mr. Plunkett had attended the September 25, 2017 Select Board Meeting to again invite the Board to Mr. Barlow's presentation this evening.

Mr. Jacobs thanked the Committee for their time and efforts on the Charter review, urged them to keep up the good work while being mindful of not letting "the parking lot get too full". The couple of people that Mr. Jacobs has spoken to were not in favor of his suggestions for Select Board member removal for excessive absenteeism or limiting terms. Mr. Jacobs feels that serving an extended number of terms tends to make a board member "complacent". "New people bring new ideas."

The Select Board can suggest changes to the Charter, themselves, but are relying heavily on the recommendations of the Committee.

**2. APPROVE MINUTES OF SEPTEMBER 20, 2017**

*Michael Keane moved and Robert Plunkett seconded to approve the Minutes of September 20, 2017 as submitted. The motion carried unanimously.*

**3. DISCUSSION OF PUBLIC FORUM**

Dates and times for the October and November public forums still need to be decided. CAT-TV has been contacted for their availability but have not yet responded. The dates will be set at the October 4<sup>th</sup> Committee meeting regardless.

Town Staff had also put the informational Letter to the Editor on WBTV, on the website where all agendas are put, on the bulletin board of the Police Department, the four corner kiosk, and at the Town Office.

If anyone attends tonight with the perception that Mr. Barlow will be giving an opinion on what changes Bennington should make to the Charter, they will realize that he is only there to educate the public on what is in the State, what is possible, and how you review a charter.

Regardless of the attendance this evening, many people will be watching it on CAT-TV. When those rebroadcast times are known, they will be put on the website. CAT-TV also puts it on YouTube, so a link to that will also be put on the Committee's page of the website.

#### 4. DISCUSSION OF SECTION 302

The following is removing from SUBCHAPTER 1. POWERS OF THE TOWN, §102. Additional Town powers (b) through (d) and adding them to §302 below as (5) through (8):

"SUBCHAPTER 3.

SELECT BOARD

§302. Additional powers of the Select Board to adopt ordinances

(5) relating to construction and alteration of public and private buildings and the use thereof, including establishment of minimum standards for plumbing, heating, and wiring, so as to prevent hazardous and dangerous conditions, fires, and explosions by precautionary regulations and inspection;

(6) relating to the use of firearms in settled areas;

(7) relating to the packaging, marketing, and handling of produce and other foodstuffs;

(8) relating to the prevention of pollution of streams, ponds, and other waterways within the Town:"

Discussion ensued:

- In (5), remove "so as to prevent hazardous and dangerous conditions, fires, and explosions by precautionary regulations and inspection". The Town adopts the codes that the State adopts by reference so this phrase is not necessary.
  - If the above phrase is removed, "the Town could dictate the quality of the structure".
  - Building codes were initiated in 1971, and the above phrase, was probably put in the Charter so people realized why building codes were established.
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- In (6), add at the end "consistent with 24V.S.A.2295" so people realize that the Town must follow the State statute.
  - But since the Town does need to follow the State statute because the State statute supersedes the Charter, (6) will remain as is.
  - We are opening this section up to discussion and to vote on because we moved it. This wouldn't be the case if we had left it in §102.
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- Delete (7) because nothing is done with it.
- Every meeting the Committee is torn between leaving something in that is never used only to prevent a negative public reaction by removing it.
- There has been no compelling arguments to either leave it in or take it out.
- (7) will remain in as is.
- The food vendors in the downtown have to get health certificates to operate and the Town only tells them where they can locate. The Ben Mont farm stand is agricultural, not in the Downtown and is set up on private property so it isn't subject to this regulation.

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- (8) will remain in as is.
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- Ms. Green would like to add her previous suggestion without the list as (9) and the Committee agreed.
- Much discussion ensued as to the wording of the addition of (9).

***P. Lynn Green moved and Michael Keane seconded to override last week's approval of §302. Additional powers of the Select Board to adopt ordinances and to accept this week's version of §302. Additional powers of the Select Board to adopt ordinances in its entirety as follows:***

*"§302. Additional powers of the Select Board to adopt ordinances*

*In addition to powers otherwise conferred by law, the Select Board members are authorized to adopt, amend, repeal, and enforce ordinances:*

*(1) regulating the parking and operation of motor vehicles; including, despite any contrary provisions of law, the establishment of speed zones wherein the limit is less than 20 miles per hour, all as may be required by the safety and welfare of the inhabitants of the Town;*

*(2) relating to regulation, licensing, and prohibition of the storage and accumulation of junk cars, garbage, ashes, rubbish, refuse, waste, and scrap, and collection, removal, and disposal of such materials;*

*(3) relating to registration and regulation of bicycles;*

*(4) relating to the keeping of dogs, cats, and other domestic animals in settled areas."*

***Line 2, Change "members are" to "is"***

***(2), Line 2, Change "and scrap" to "scrap, and solid waste as defined at 10 V.S.A. §6602(2)-"***

***(2), Line 3, Change "materials;" to "materials, including the collection and removal of such materials by the Town and establishment of rates to be paid to the Town for such service;"***

***Add (5), (6), (7), (8) and (9) as below:***

***"(5)relating to construction and alteration of public and private buildings and the use thereof, including establishment of minimum standards for plumbing, heating, and wiring;***

***(6) relating to the use of firearms in settled areas;***

***(7) relating to the packaging, marketing, and handling of produce and other foodstuffs;***

***(8) relating to the prevention of pollution of streams, ponds, and other waterways within the Town;***

***(9) relating to intrusive technologies, including drones, in order to provide a balance between recreational interests, commercial opportunity, law enforcement, and the protection of fundamental rights of citizens.”***

Mr. Ebert stated that a couple of years ago the Select Board passed “The Panhandling Ordinance” and asked where it resides on the list of ordinances. Mr. Hurd responded that it is within “the broader powers of the Board” to have passed that. “That issue came with some questions of constitutionality that have not been resolved in Vermont courts”.

***The motion carried with Robert Ebert opposed.***

**5. CONTINUE REVIEW OF RESPONSES RECEIVED FROM JIM BARLOW**

Not done.

**6. CONTINUE REVIEW OF CHARTER IF TIME ALLOWS**

Time did not allow.

**7. OTHER**

None.

***At 1:00 pm, Michael Keane moved and Robert Plunkett seconded to adjourn the meeting. The motion carried unanimously.***

Respectfully submitted,

Nancy H. Lively

Secretary