

1 **CHARTER REVIEW COMMITTEE MEETING**  
2 **BENNINGTON TOWN OFFICE – CONFERENCE ROOM**  
3 **205 SOUTH STREET**  
4 **BENNINGTON, VERMONT 05201**  
5 **OCTOBER 11, 2017**  
6 **MINUTES**

7 **COMMITTEE MEMBERS PRESENT:** Sean-Marie Oller-Co-Chair; Robert Plunkett-Co-Chair; Jonathan Cohen;  
8 Michael A. Keane; Daniel Malmberg; Robert Ebert and P. Lynn Green.

9 **COMMITTEE MEMBERS ABSENT:** None.

10 **ALSO PRESENT:** Stuart Hurd-Town Manager; Dan Monks-Zoning Administrator; Michele Johnson- Human  
11 Resources and Contracts Administrator and Nancy H. Lively-Secretary.

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

13 ***Michael Keane moved and Daniel Malmberg seconded to add #7. Approval of Minutes - October 4,***  
14 ***2017 to the agenda. The motion carried unanimously.***

15 **1. PUBLIC COMMENTS**

16 None.

17 **2. PUBLIC COMMENTS RECEIVED**

18 None.

19 **3. REVIEW CHAPTER 3 SECTION 304 - ABSENTEEISM AND BARLOW COMMENTS**

20 Jim Barlow's comments suggest the following language if absenteeism is to be added:

21 *"If a Select Board member is absent from four consecutive regular or special Select Board meetings or is absent*  
22 *from more than 50 percent of the regular and special Select Board meetings in any 12-month period, the*  
23 *member's office shall be vacant and the Select Board shall fill the vacancy in accordance with Section 304(c)."*

24 Discussion ensued:

- 25 • The 12-month period is too long. It should be replaced with a 6-month period. If there's a problem it  
26 should be addressed in a timely fashion.
- 27 • Four consecutive meetings is normally being absent for 2 months of regular meetings; 50% in a 6-  
28 month period is normally being absent for 6 regular meetings.
- 29 • There are 6 to 7 special meetings within a 12-month period.
- 30 • This is a reasonable amount of time since the Board will fill the vacancy and could potentially even  
31 appoint the person that has been absent.
- 32 • The resulting vacancy is automatic and occurs by operation of law and there is no such thing as an  
33 excused absence.
- 34 • The Chair or Vice-Chair of the Select Board should keep track of attendance.

- If you are not physically present but participate in the meeting by phone or skype and vote, you are considered to be attending the meeting.

**P. Lynn Green moved and Michael Keane seconded to add Subchapter 3., Select Board, §304 (g) as follows:**

***“If a Select Board member is absent from four consecutive warned Select Board meetings or is absent from more than 50 percent of warned Select Board meetings in any 6-month period, the member’s office shall be vacant and the Select Board shall fill the vacancy in accordance with Section 304(c).”***

***The motion carried unanimously.***

#### **4. CHAPTER 3 SECTION 304 - TERM LIMIT DISCUSSION, IF ANY, FROM BARLOW COMMENTS**

Jim Barlow’s comments:

*“I have no experience with Select Board term limits. I do not believe they are present in any cities or towns for elected office.”*

After discussion, it was the consensus of the Committee not to add term limits to the Charter.

#### **4A. FIRE DEPARTMENT REPORT ON OCTOBER 4, 2017 QUARTERLY MEETING**

Mr. Ebert reported that Chief Barry would like to meet with the Committee members to discuss language and expressed that they would like to have any paid position requests be able to only come from the Fire Department. They said that if and when they go to the point of having paid positions, they would deal with it then. It appeared to Mr. Ebert that the “older guys were all against it, and the younger guys were all nodding their heads”.

Ms. Green added that they have “a lot of pride and identity” and they’re a membership organization that has been working very well the way it is for a long time. They want to continue to be able to elect their own leaders without Town oversight coming in, and said that they save the Town \$2M-\$2.5M/year.

Mr. Plunkett concurred that their volunteerism has more value than any dollars they would receive. He and Ms. Oller will be meeting with Chief Barry and at least one other fireman on October 12, 2017 to review any language the firemen may have for the Charter.

Mr. Ebert’s experience when he served on the Austin, Texas Fire Department was that when a fire department went from all volunteer to a part paid department, it was to pay the drivers for station coverage.

This will be an agenda item in the near future.

#### **5. CHAPTER 4 SECTION 401 - TOWN MANAGER APPOINTMENT AND CONDITIONS**

Jim Barlow’s comments:

*“Most Town Managers are shall be appointed for an indefinite term. Winooski is an agreed upon term with the City Manager; Enosburg Falls is a 3-year term; Hartford is a 3-year term; and in Vergennes, the City Manager is appointed annually.”*

Discussion ensued:

- It is hard to get a good, qualified person that is an at will employee with a set term of 1 or 3 years.

- 70 • Or, it could be a 5-year renewable term, which would eliminate the ‘at will employee’ part and  
71 institute a contract part.
- 72 • And there are contracts that state termination with 90 days’ notice by either party.
- 73 • If a person is relocating from a distance, there should be an amount of time that a person has to prove  
74 themselves that is either renewable or not.
- 75 • There should be some interval where each member of the Select Board has “to make a stand” that the  
76 public can see as to whether or not to keep the Town Manager.
- 77 • It is in the statutes that a School Superintendent cannot be hired for less than 2 years.
- 78 • It should be in the Charter that the Town Manager is reviewed annually.
- 79 • All Town employees below the department head level are reviewed by their supervisors annually and  
80 the Town Manager reviews the department heads annually.
- 81 • Currently, the Town Manager is reviewed annually which is a combination of a self-review and full  
82 Board review. The time involved is the Town Manager doing his/hers self-evaluation and each Board  
83 member doing their comments. The actual time together is no more than 1 ½ hours.
- 84 • The value of an evaluation is what is put into it.
- 85 • It’s good management practice to do annual evaluations.
- 86 • A term limit would be a positive for a person who is new to the job, whereas, the at will termination  
87 with a 90-day notice would be a negative. The corporate world has a different perspective.
- 88 • We are trying to accomplish a definitive appointment time for a Town Manager and acknowledge that  
89 people have said that they want a change.
- 90 • We need to establish structure where there is none and encourage the Select Board to follow these  
91 policies and processes.

92 The Committee will ask Mr. Barlow the following question:

93 *Can we set a 3-year renewable term and also continue to employ the Town Manager as an at will*  
94 *employee?*

95 **6. REMAINDER OF CHAPTER 4**

96 Potential questions when reviewing the remainder of Subchapter 4. Town Manager:

97 §402. Manager nonpartisan - should this also apply to the Assistant Town Manager?

98 §403. Oath and bond - Mr. Hurd is bonded.

99 §404. Duties for Manager - reference the Town Manager’s job description.

100 §405. Compensation - general discussion.

101 §406. Removal - further discussion.

102 Ms. Oller anticipates getting through Chapter 4 and suggests having the petition for mayor that Mike  
103 Bethel is circulating available for discussion at the 3-hour meeting on October 17<sup>th</sup> .

104 Mr. Hurd added that the petition can go to the voters, as long as, 5% of the voters have signed it and  
105 there are no technical flaws in the way it is written.

106 Mr. Plunkett stated that the Committee should be able to get through Chapter 4 and discuss the mayor  
107 issue, as well.

108 Ms. Green suggested that everyone compose their language changes - if they have any - prior to the  
109 meeting so less time would be needed for wordsmithing.

110 **7. APPROVAL OF MINUTES - OCTOBER 4, 2017**

111 *Michael Keane moved and Daniel Malmborg seconded to approve the Minutes of October 4, 2017 as*  
112 *submitted. The motion carried unanimously.*

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117 *At 1:03 pm, Michael Keane moved and Robert Plunkett seconded to adjourn the meeting. The*  
118 *motion carried unanimously.*

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122 Respectfully submitted,

123 Nancy H. Lively

124 Secretary