

1 **CHARTER REVIEW COMMITTEE MEETING**
2 **BENNINGTON TOWN OFFICE – CONFERENCE ROOM**
3 **205 SOUTH STREET**
4 **BENNINGTON, VERMONT 05201**

5 **AUGUST 30, 2017**

6 **MINUTES**

7 **COMMITTEE MEMBERS PRESENT:** Sean Marie Oller-Co-Chair; Robert Plunkett-Co-Chair; Daniel Malmberg;
8 Jonathan Cohen; Michael A. Keane; 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 Robert Plunkett called the meeting to order.

13 **1. PUBLIC COMMENTS**

14 There were 3 comments from the public on the website. Ms. Oller noted that Ron Alderman was
15 grateful for the information available and Lora Block supported that the Treasurer position remain elected and
16 require some professional qualifications and expertise.

17 Ms. Green added that two citizens spoke to her in agreement with the required qualifications for
18 Treasurer and also needed reassurance that Mr. Hurd and Mr. Monks, as well as, the other town staff in
19 attendance were only advisory and not influencing the decisions of the Committee. Mr. Plunkett added that it
20 is in the Charter that the Town Manager is an ex-officio member of all standing committees – which this
21 committee may not be. Mr. Hurd stated that he was invited to attend the Charter Review Committee
22 meetings.

23 Mr. Keane added that the Committee is thankful for the public comments and will take them under
24 advisement. Mr. Cohen suggested that a meeting could be set aside to address the public comments after a
25 few more have flowed in.

26 **2. APPROVE MINUTES OF AUGUST 23, 2017**

27 *Jonathan Cohen moved and Robert Plunkett seconded to approve the Minutes of August 23, 2017 as*
28 *submitted. The motion carried unanimously.*

29 **3. REPORT ON SELECT BOARD MEETING PRESENTATION (OF AUGUST 28)**

30 Ms. Oller and Mr. Plunkett attended the Bennington Select Board meeting on August 28, 2017 to
31 provide the Board with an update of the Committee's progress. Mr. Ebert was also in attendance but did not
32 speak to the Board.

33 Ms. Oller felt that the update was "well received" but found it interesting that the Board Chair didn't
34 want to incorporate a presentation by Jim Barlow into a Select Board meeting. After the meeting, Board Chair
35 Tom Jacobs, commented that he didn't want Mr. Barlow to be giving "legal advice or consultation" that would
36 lead the Select Board into a decision, and Ms. Oller explained to him that Mr. Barlow's presentation was

37 informative only on what other towns/cities are doing throughout the State. Mr. Barlow will be doing a
38 televised presentation – tentatively on September 27, 2017 at 5:00pm at The Fire House – for the public. The
39 Select Board will be invited and the sense was that Mr. Jacobs doesn't want the Board to be involved as the
40 Board, but rather, involved as any other citizen would be.

41 The questions that were asked of the Committee at the meeting were concerning the Committee's final
42 report, did the Committee think that it would be done at a certain time, and would there be meetings held at
43 a different time.

44 Much discussion ensued on how to go forward with the following comments:

- 45 • Mr. Barlow will provide education to the citizens of how things are done in other towns in Vermont, as
46 well as, transparency for the Committee.
 - 47 • The Committee can also add what they have learned so far.
 - 48 • Perhaps the Committee should have a public forum once a month at 5:00pm - September with Mr.
49 Barlow, October and November with the Committee only. Dates should be set for the October and
50 November forums sooner rather than later.
 - 51 • These forums will be avenues of opportunity for the Committee to hear actual changes directly from
52 the public with their reasoning's. It should be made clear to the public that the forums are a give and
53 take of ideas from both the Committee and citizens.
 - 54 • The Committee's job is to see if the process in other towns can benefit Bennington and to then
55 objectively make recommendations one way or the other for the public to vote on, regardless of
56 Committee member's personal opinions. This will require research, number crunching, etc., especially
57 on the more controversial topics.
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59 **4. REVIEW BENNINGTON TOWN CHARTER CHAPTER 3-4**

60 "SUBCHAPTER 3.

61 SELECT BOARD

62 §301. Select Board members, the legislative body

63 The Select Board shall constitute the legislative body of the Town of Bennington and shall have all
64 powers and authority necessary for the performance of the legislative function."

65 ***Sean Marie Oller moved and Daniel Malmberg seconded the following change to Subchapter 3,***
66 ***SELECT BOARD:***

67 ***§ 301. Select Board members, the legislative body – Delete "members"***

68 ***The motion carried unanimously.***

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70 "§302. Additional powers of Select Board members to adopt ordinances

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

- 73 (1) regulating the parking and operation of motor vehicles; including, despite any contrary provisions of
74 law, the establishment of speed zones wherein the limit is less than 20 miles per hour, all as may be
75 required by the safety and welfare of the inhabitants of the Town;
- 76 (2) relating to regulation, licensing, and prohibition of the storage and accumulation of junk cars,
77 garbage, ashes, rubbish, refuse, waste, and scrap, and collection, removal, and disposal of such
78 materials;
- 79 (3) relating to registration and regulation of bicycles;
- 80 (4) relating to the keeping of dogs, cats, and other domestic animals in settled areas.”

81 ***The Committee agreed to the following changes:***

82 ***§302. Additional powers of Select Board members to adopt ordinances – Change “of Select” to “of***
83 ***the Select” and Delete “members”.***

84 *The Committee had contacted Mr. Barlow for his opinion on the combining of §102. Additional Town*
85 *powers and §302. Additional powers of Select Board members to adopt ordinances. It was Mr. Barlow’s*
86 *recommendation that they be combined. Both §102 and §302 read as they did in 1966. Below is §102.:*

87 “§102. Additional Town powers

88 In addition to powers otherwise conferred by law, the Town of Bennington is authorized to adopt,
89 amend, repeal, and enforce ordinances:

- 90 (a) relating to collection and removal of garbage, ashes, rubbish, refuse, waste, and scrap by the Town
91 and establishment of rates to be paid to the Town for such service;
- 92 (b) relating to construction and alteration of public and private buildings and the use thereof, including
93 establishment of minimum standards for plumbing, heating, and wiring, so as to prevent hazardous
94 and dangerous conditions, fires, and explosions by precautionary regulations and inspection;
- 95 (c) relating to the use of firearms in settled areas;
- 96 (d) relating to the packaging, marketing, and handling of produce and other foodstuffs;
- 97 (e) relating to the prevention of pollution of streams, ponds, and other waterways within the Town.”

98 Discussion followed:

- 99 • Ms. Green: Municipal governments have to start thinking about intrusive and advancing technologies
100 and businesses. The State of Vermont doesn’t have the resources to deal with Airbnb’s, Uber’s
101 marijuana, solar panels, or police body cameras.
- 102 • Ms. Green: Proposed “DRAFT 1.0 of intrusive advancement clause – Where the State Law does not
103 apply and supersede, The Selectboard has power to create and enforce ordinances that deal with
104 intrusive technologies and advancements to provide the right balance between recreational interests,
105 commercial opportunity, law enforcement and the protection of fundamental rights of citizens.” (it
106 could end here or continue and be more specific) “including the regulation of : Vacation rentals such as
107 Airbnb and car services such as Uber; Unmanned aerial vehicles (drones); Marijuana and e-cigarette
108 use; Police body cameras; Solar panel installations”
- 109 • Mr. Ebert: Suggested taking all of the lists out and have §302 read this way: “In addition to powers
110 otherwise conferred by law, the Select Board is authorized to adopt, amend, repeal, and enforce
111 ordinances relating to the health, safety and quality of life for Town residents.” “Why have a list of
112 anything?”
- 113 • Mr. Cohen: If something is specifically stated, then there is no question on that subject.

- 114 • Mr. Keane: The lists of both could remain with verbiage at the end such as “including, but not limited
- 115 to”.
- 116 • Mr. Hurd: There are 30 ordinances, adopted by the Select Board as dictated within the statutes that
- 117 address most of these issues.
- 118 • Ms. Oller: We should have a list of the ordinances for availability at the forums.
- 119 • Mr. Plunkett: First, has concerns about bringing §102 and §302 together because they are not the
- 120 same, and second, are any of these concerns “already within the power either by statute or within the
- 121 Charter, itself”?
- 122 • Ms. Oller favors combining the two and questions the message that is sent to the public if anything
- 123 listed is taken out.
- 124 • Mr. Plunkett and Ms. Green do not want to see them combined. Ms. Green added that that would be
- 125 confusing to the voters.
- 126 • Mr. Cohen: It is clear that all of the Town powers have to come through the Select Board so why not
- 127 add §102 to §302?
- 128 • Mr. Plunkett: §102 could be “tacked onto §302 without duplication”.

129 ***Jonathan Cohen moved and Sean Marie Oller seconded to move §102. Additional Town powers to***
 130 ***§302. Additional powers of the Select Board to adopt ordinances as a preliminary way to address this issue.***

131 Discussion ensued as to whether or not this motion should be made at this time since there is no
 132 precise way as to how the two sections should be combined.

133 Mr. Plunkett doesn’t want to see them combined so as not to be seen taking powers away from the
 134 Town and giving them to the Select Board.

135 Ms. Oller asked why these specific items were listed, and Mr. Hurd answered that they’ve been in the
 136 Charter “since the beginning of time” and probably date back to when the Town of Bennington and Village of
 137 North Bennington combined. Mr. Hurd also reminded everyone that Bennington is the only town than can set
 138 a speed limit less than 20 miles per hour and deals with cats. The State only deals with dogs.

139 ***The motion carried with Robert Plunkett and P. Lynn Green opposed.***

140 *Mr. Plunkett will send §102. Additional Town powers and §302. Additional powers of the Select Board*
 141 *to adopt ordinances to Attorney Jim Barlow with the suggestion of Ms. Green, “DRAFT 1.0 of intrusive*
 142 *advancement clause – Where the State Law does not apply and supersede, The Selectboard has power to*
 143 *create and enforce ordinances that deal with intrusive technologies and advancements to provide the right*
 144 *balance between recreational interests, commercial opportunity, law enforcement and the protection of*
 145 *fundamental rights of citizens.” (it could end here or continue and be more specific) “including the*
 146 *regulation of: Vacation rentals such as Airbnb and car services such as Uber; Unmanned aerial vehicles*
 147 *(drones); Marijuana and e-cigarette use; Police body cameras; Solar panel installations” and the suggestion*
 148 *of Mr. Ebert, “In addition to powers otherwise conferred by law, the Select Board is authorized to adopt,*
 149 *amend, repeal, and enforce ordinances relating to the health, safety and quality of life for Town residents.”*
 150 *for him to edit and return to the Committee with language for combining the two sections.*

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152 **5. SCHEDULE FOR PUBLIC FORUMS, IF TIME ALLOWS**

153 This was discussed under Agenda Item #2.

154 **ONGOING TOPICS - FINAL REPORT FORMAT**
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156 Mr. Keane will forward a couple of final report formats to Ms. Oller and Mr. Plunkett by the end of the
157 week for Committee discussion at the next meeting. It was the consensus of the Committee that when the
158 format has been decided upon, Mr. Keane will do the draft of the Final Report and disburse to the Committee
159 for their input.

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161 ***At 12:57 PM, it was moved and seconded to adjourn the meeting. The motion carried unanimously.***
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165 Respectfully submitted,
166 Nancy H. Lively, Secretary
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