

1 **CHARTER REVIEW COMMITTEE MEETING**
2 **BENNINGTON TOWN OFFICE – CONFERENCE ROOM**
3 **205 SOUTH STREET**
4 **BENNINGTON, VERMONT 05201**
5 **SEPTEMBER 13, 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; Beth Antognioni; James Therrien-Bennington Banner and Nancy H.
12 Lively-Secretary.

13 At 11:47 AM, Co-Chair Sean Marie Oller called the meeting to order.

14 **1. PUBLIC COMMENTS**

15 None.

16 **2. APPROVE MINUTES OF SEPTEMBER 6, 2017**

17 *Michael Keane moved and Robert Plunkett seconded to approve the Minutes of September 6, 2017*
18 *as submitted. The motion carried unanimously.*

19 Ms. Oller reviewed the agenda and stated that the Committee needs to have a way to discuss topics
20 that are not currently in the Charter, and perhaps it should be noted after the review of each section what
21 discussion points were being put in “the parking lot”.

22 Mr. Malmberg: This is a deliberative process and, after 6 or 7 weeks, we are only on Page 6. “That’s a lot of
23 wheel spinning.”

24 Mr. Ebert: “We have 52 weeks. If the Select Board wanted this done by March, they should have gotten us to
25 work on this in January.”

26 Mr. Keane: There are definitely areas that the Committee can recommend changes on by December, and
27 areas that require more work.

28 Ms. Oller: “We don’t have to have changes to the entire document” and felt that the Select Board was just
29 looking for a review of as far as the Committee could go in the time allotted. Ms. Oller sees the deadline as “a
30 positive”.

31 Mr. Cohen: “I think that our charge was to review the Charter, and I think that we should make a priority of
32 getting through this document.” Mr. Cohen also agreed to join the Committee with a time frame in mind.

33 Ms. Oller: Would like to put the review of the responses that were received from Jim Barlow on the questions
34 that have been asked of him so far - the qualifications of the Treasurer and §102 and §302 - on the September
35 20th meeting agenda for Committee discussion prior to his presentation on September 27th .

36 **3. FURTHER DISCUSSION OF SEPTEMBER 27 PUBLIC FORUM FORMAT; OTHER EVENING SESSIONS**

37 To inform the public of the September 27, 2017 Public Forum with Mr. Barlow’s presentation, Ms. Oller
38 and Ms. Green will write a Letter to the Editor, Mr. Hurd will contact CAT-TV and put it on the Town’s website
39 and Facebook page, as well as, in his newspaper column. Ms. Johnson added that the promotion could also be
40 put at the 5 locations commonly used for events, and Mr. Ebert suggested announcing it at the Select Board
41 meeting on September 25th.

42 The October and November public forums will also be promoted with the actual dates and times to be
43 announced at the September 27th meeting.

44 Mr. Plunkett noted that Mr. Barlow would prefer to allow questions throughout his presentation
45 instead of holding them to the end. To avoid specific individual monopoly, Ms. Oller or Mr. Plunkett would
46 interject, as needed, to ask the individual to keep his/her questions until the end.

47 **4. REVIEW BENNINGTON TOWN CHARTER - CHAPTER 3, SECTION 304-CHAPTER 4**

48 “SUBCHAPTER 3.

49 SELECT BOARD

50 §304. Organization of Select Board

51 (a) Forthwith after the annual meeting of the town, the Select Board members shall organize and elect a
52 Chair and Vice Chair.

53 (b) The Chair of the Board or in his/her absence, the Vice Chair, shall preside at all meetings of the
54 Board and such presiding officer shall be a voting member of the Board.

55 (c) When a vacancy occurs on the Select Board, except as provided in section 104, the remaining
56 members may fill the vacancy by appointment of a registered voter of the Town, such appointment to be for
57 the period until the next annual meeting, when the voters of the District shall fill the vacancy.

58 (d) The Board shall fix the time and place of its regular meetings to be held at least twice a month.

59 (e) The presence of four members shall constitute a quorum.”

60 Discussion ensued:

- 61 • Ms. Oller noted that there is a Secretary position on the school boards who sends out correspondence
62 from the Board as needed, and also serves as the third in line should the Chair and Vice Chair not be
63 available. The Town Manager does correspondence on behalf of the Select Board, and Mr. Monks
64 added that, it hasn’t happened in 20 years, but the Select Board would appoint a temporary Chair for
65 that meeting only.
- 66 • *The following suggestion had been previously submitted by Tom Jacobs on (c):*
67 *“As the recall provisions in section 104 at least are dealing with Board members are onerous, I suggest*
68 *that the Charter Committee consider a. A provision to deal with the number of absences by a Board*
69 *member, and if exceeded, would constitute automatic removal from the Board; b. Term limits for Board*
70 *members; c. Require the Board to revisit, revise, if necessary, ‘The Board Rules of Procedure’ which*
71 *probably could be retitled ‘The Board Rules of Procedure and Conduct’ with each Board member*
72 *acknowledging his/her understanding coming in.”*

- 73 • Mr. Hurd: The Select Board can't remove a member of the Board because they are elected, and Ms.
74 Green clarified that Mr. Jacobs stated it should be in the Charter that they be removed but not by the
75 Select Board, themselves.
- 76 • Comments during discussion were that the recall process should be onerous; would it be automatic
77 removal if the number of absence's were met or would there be an arbiter if this clause was violated?;
78 how have other towns dealt with this situation?; if an even number of Board members are split on a
79 controversial issue, a motion/decision will not be obtained.
- 80 • Mr. Barlow will be asked his recommendation on the removal of a Board member due to absences.
- 81 • Mr. Ebert: Would like to see the Select Board annually review their Rules of Procedure and Conduct.
- 82 • Mr. Malmborg and Ms. Green: Are against having term limits for Board members.
- 83 • Mr. Keane: Feels that term limits provide "a refresher".
- 84 • Mr. Ebert: "There is definitely power and advantage to incumbency that is hard for a newcomer to
85 overcome" so he is basically against term limits "for philosophical reasons".
- 86 • Mr. Plunkett and Mr. Cohen are ambivalent on term limits but Mr. Cohen, if forced to vote, would vote
87 for some form of term limit.
- 88 • Ms. Oller: It is often difficult to find people that want to run, and term limits, would force that issue.
89 "New blood does not necessarily mean younger."
90

91 ***Sean Marie Oller moved and Dan Malmborg seconded the following changes to SUBCHAPTER 3., SELECT***
92 ***BOARD, §304. Organization of Select Board as follows:***

93 ***(a), Line 1, Change "Forthwith after" to "After"***

94 ***(b) Line 2, Change "and such presiding officer shall" to "and shall"***

95 ***and have a placeholder for (f) Annual review of the Rules of Conduct and (g) Term limits***

96 Ms. Green asked if we could just vote on the term limits now, and Ms. Oller thought that input from
97 the public forums may be beneficial to that decision.

98 Mr. Ebert asked if we should vote on the changes to (a) and (b) now because a mayor vs. town
99 manager would change those, and Ms. Oller stated that Mr. Barlow had indicated that a mayor may not
100 necessarily be the Chair of a Select Board so there would still be the need for a Chair and Vice Chair.

101 Ms. Green stated that it wasn't necessary to "parking lot" the annual review of the Rules of Conduct,
102 and the Committee agreed.

103 ***Sean Marie Oller moved and Daniel Malmborg seconded to amend the above motion as follows:***

104 ***Add "(f) The Board shall review The Board Rules of Procedure and Conduct annually."***

105 ***and retain a placeholder for (g) Term limits.***

106 ***The motion and amended motion carried unanimously.***

107 -----
108 "SUBCHAPTER 4.

109 TOWN MANAGER

110 §401. Appointed by selectors

111 The Selector Board members shall appoint a Town Manager for an indefinite term, and upon such
112 conditions as they may determine.”

113 Discussion followed:

- 114 • The Town Manager position is an ‘at will’ position with 90 days’ notice (§406. Removal) which
115 eliminates the need for a specified term.
- 116 • There is no contract in place.
- 117 • The Select Board began conducting an annual review two years ago.
- 118 • Perhaps there should be a term indicated or just remove “indefinite term”.
- 119 • Leave “indefinite term” in so the Select Board still has the option of contracting a Town Manager for a
120 designated term.

121 The following were the preliminary changes discussed. These were not voted on for approval.

122 “§401. Appointed by Select Board

123 The Select Board shall appoint a Town Manager for an indefinite term, and upon such conditions as they
124 may determine and review annually.”

125 **5. ONGOING DISCUSSION - FINAL REPORT FORMAT (IF TIME ALLOWS)**

126 Mr. Keane sent some formats to the Co-Chairs a couple of weeks ago. Ms. Oller did not receive her
127 copies so this topic will be discussed at a later date.

128

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

131

132

133 Respectfully submitted,

134 Nancy H. Lively

135 Secretary