

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

**NOVEMBER 1, 2017**

**MINUTES**

**COMMITTEE MEMBERS PRESENT:** Sean-Marie Oller-Co-Chair; Jonathan Cohen; Daniel Malmborg and Robert Ebert.

**COMMITTEE MEMBERS ABSENT:** Robert Plunkett-Co-Chair; Michael A. Keane and P. Lynn Green.

**ALSO PRESENT:** Stuart Hurd-Town Manager; Dan Monks-Zoning Administrator; Beth Antognioni; Jim Therrien-Bennington Banner and Nancy H. Lively-Secretary.

At 11:50 am, Co-Chair Sean-Marie Oller called the meeting to order.

Ms. Oller amended the agenda to add 'Review Local Option Tax'.

**1. PUBLIC COMMENTS**

None.

**2. REVIEW ANY PUBLIC COMMENTS RECEIVED**

Comments were received from Ron Alderman and will be posted on the website.

**3. APPROVE MINUTES OF OCTOBER 25, 2017**

*Daniel Malmborg moved and Jonathan Cohen seconded to approve the Minutes of October 25, 2017 amended as follows:*

*Page 3, #6. DECIDE DATE FOR LONGER EVENING MEETING IN NOVEMBER, Line 1, Change "November 28, 2017" to "November 29, 2017."*

*The motion carried unanimously.*

**3A. REVIEW LOCAL OPTION TAX**

Mr. Monks distributed Local Option Tax information as of FY14 that had been computed by the Vermont League of Cities and Towns based on data from the Vermont Division of Property Valuation and Review. Each listed town meets one or more of the tests set forth in 24 VSA 138.

The Committee will discuss Local Option Tax at a later date.

**4. REVIEW OF CHAPTER 5 - TAXATION**

*"SUBCHAPTER 5. TAXATION*

*§503. Fair market value of real estate*

*(a) In the event that the fair market value of real estate is materially changed because of total or partial destruction of, or damage to the property; or because of alterations, additions or other capital improvements, the taxpayer may appeal as provided by law."*

Discussion:

- Taxpayers can appeal the assessed fair market value of the real estate.
- The assessed value equates with the fair market value.
- If a house burns down, for example, the Town will go to the taxpayer and not wait for the taxpayer to appeal.
- On the other hand, if an improvement is done, the permit is filed with the Listers and the Listers go out and inspect the property.

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*"(b) When the fair market value of real estate is finally determined by appeal to the Board of Listers or to the Board of Civil Authority, then the value so fixed shall be the fair market value of such real estate for the year in which the appeal is taken."*

Discussion:

- Property is assessed as of April 1<sup>st</sup>, an appeal to the Board of Listers or Board of Civil Authority will take about 2 months, and if the appeal is successful, that value is what the property is taxed on for that year.

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*"(c) When the fair market value of real estate is finally determined by a State board of appraisers or by a court having jurisdiction, then the value so fixed shall be the fair market value of such real estate for the year for which such appeal is taken and for the ensuing two years, unless the taxpayer's property is altered materially; is damaged; or if the Town in which it is located has undergone a complete revaluation of all taxable real estate, in the event of which, such fair market value may be changed."*

Discussion:

- If the appeal is local, the value is fixed for one year; if the appeal goes to the State, the value is fixed for two years; resulting in a total of three years.
- The State board of appraisers is now the Director of Property Valuation and Review (PVR).
- Ms. Oller or Mr. Plunkett will ask Mr. Barlow if there is a State statute that can be referenced in this section.
- A town wide reappraisal isn't necessary unless the coefficient of dispersion is above 20%, or the fair market value is at 80% as determined by the State. Bennington is >91%.

***Jonathan Cohen moved and Robert Ebert seconded to approve SUBCHAPTER 5. TAXATION, §503. Fair market value of real estate amended as follows and pursuant to the appropriate State statute:***

***(c), Line 1, Change "a State board or appraisers" to "the Director of Property Valuation and Review (PVR)"***

***(c), Line 4, Delete "in which it is located"***

*The motion carried unanimously.*

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*"§504. Special assessments*

*Despite any contrary provision in general law, the Select Board may in its sole discretion make a special assessment upon real estate for the installation or construction of a public improvement, such special assessment to be such proportion of the total cost of such improvement as the benefit to a parcel of real estate bears to the total benefit resulting to the public in general."*

Discussion:

- For example, if a sidewalk was put in, the Select Board could assess an additional tax to the properties in the neighborhood that would benefit the most from that infrastructure. However, this has never happened.

*The Committee did not vote on any changes for §504. Special assessments at this time. Mr. Barlow will be contacted for better wording of this section.*

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*"§505. Tax within Bennington Fire District No. 1*

*(a) The tax assessed by the Town on the grand list shall be reduced with respect to real estate in the Bennington Fire District No. 1. This reduction shall be in direct proportion to the amount of the tax assessed by the Town which is used by the Town to provide fire protection services to property not included in the Bennington Fire District No. 1.*

*(b) The purpose of this amendment is to make substantially uniform the taxes assessed throughout the Town for fire protection furnished by all fire departments in the Town. This tax reduction shall remain in effect until such time as the Bennington Fire District No. 1 dissolves itself or merges with the Town of Bennington, in accordance with the Charter of the Town of Bennington."*

Discussion:

- The Bennington Fire Department is the former Village of Bennington Fire Department. Their budget is part of the General Fund and their tax rate is determined by the Grand List of the properties of the area that they serve.
- The Bennington Rural Fire District No. 1 (BRFD) submits their budget to the Town and their tax rate is also determined by the Grand List of the properties of the area that they serve. And, the area that they serve is everywhere except those areas of the Bennington Fire Department (former Village of Bennington), the Village of Old Bennington, and the Village of North Bennington.
- The BRFD budget is approved by the BRFD property owners at the BRFD annual meeting. Attendance is usually BRFD members and their families.
- The tax rate for all fire departments is relatively uniform.
- The Bennington School District Grand List is also the Bennington Fire Department's Grand List.

*Daniel Malmborg moved and Jonathan Cohen seconded to amend SUBCHAPTER 5. TAXATION, §505. Tax within Bennington Fire District No. 1 as follows:*

*Change “§505. Tax within Bennington Fire District No. 1” to “§505. Tax within Bennington Rural Fire District No. 1”*

*(a) Line 2, Change “Bennington Fire” to “Bennington Rural Fire”*

*(a) Line 4, Change “Bennington Fire” to “Bennington Rural Fire”*

*(b) Line 1, Change “amendment” to “section”*

*(b) Line 3, Change “Bennington Fire” to “Bennington Rural Fire”*

*The motion carried unanimously.*

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*“§506. Creation of Bennington Downtown District*

*There is hereby created in the Town of Bennington a special district to be known as the Bennington Downtown Improvement District (District) which shall be that area set forth on a map approved by the voters of Bennington and filed with the Town Clerk. The Area of the District may be changed upon a majority vote of the legal voters at an annual or special meeting duly warned.*

*§507. Repealed, 2005, No. M-6, §6. Eff. June 4, 2005.*

*§508. Purposes and powers*

*(a) The District is created for the general purpose of maintaining and improving the economic, social, cultural, and environmental vitality and quality of the Town of Bennington (in particular, the District created by this section 507 of this charter); to promote the Town and the District as a regional retail, commercial, and service center; and to serve as an advocate for the orderly development of the District in order to encourage expansion of the retail, commercial, and service base of the District and the Town by attracting new business and investment.*

*(b) The rights, powers, and duties of the District, shall be exercised by the Select Board and shall be broadly construed to accomplish the purposes set forth above and shall include the following:*

*(1) To advertise and promote the Improvement District.*

*(2) To represent the interests of the District.*

*(3) To receive and expend contributions, grants, and income.*

*(4) To expend funds as provided for in the budget or as otherwise approved.*

*(5) To manage and maintain public spaces and to assume or supplement the services and maintenance heretofore provided to the District by the Town as recommended to and approved by the Select Board.*

*(6) To acquire and dispose of property on behalf of the Town.*

*(7) To install and make public improvements.*

*(8) To improve, manage, and regulate public parking facilities and vehicular traffic with the District.*

(9) To enter into contracts as may be necessary or convenient to carry out the purpose of this charter.

(10) To regulate, lease, license, establish rules and fees, and otherwise manage the use of public spaces within the District.

(11) To plan for the orderly development of the District in cooperation with the Town Planning Commission.

(12) To do all other things necessary or convenient to carry out the purposes for which this District was created.

#### §509. Annual Budget

The Town Manager shall submit each year an operating budget of anticipated expenditures and revenues to the Select Board for approval for the next fiscal year. In the event the Select Board does not approve the budget as submitted, the Select Board shall return the budget forthwith to the Town Manager with its recommendations for the Town Manager's reconsideration. Appropriations other than from contributions, grants, and income shall be raised solely through District taxes which shall be assessed and collected as a tax on property as provided for in section 515 of this charter. The Select Board may borrow money in anticipation of District taxes.

#### §510. District taxes

(a) District taxes are charges levied upon the owners of taxable properties located in the District, excepting properties used exclusively for residential purposes, which taxes shall be used to defray the expenses incurred in connection with the operation, maintenance, and repair of the District.

(b) The District tax for each property in the District subject to the tax shall be based upon a rate on each \$100.00 of listed value of the property as adjusted under subsection (c) of this section. The tax rate shall be determined by dividing the amount to be raised by taxes, by the total value of the taxable properties on the grand list as adjusted located in the District which are subject to the District tax under this subchapter.

(c) The District tax shall be set by the Select Board upon approval of the budget by the Select Board and notice in writing thereof shall be given to owners of record as of April 1 of each year of property so assessed, or to their agents or attorneys, stating therein the amount of such District taxes, and such taxes shall be due and payable to the Town Treasurer when normal Town and school taxes are due. The Town Treasurer shall collect unpaid District taxes as provided for the collection of taxes in the charter. District taxes shall be a lien on the properties when assessed and until the tax is paid or the lien is otherwise discharged by operation of law.

(d) In the case of any property used for both residential and nonresidential purposes within the District as of April 1, the Board of Listers (Board) shall adjust the listed value for the purposes of determining the District tax under this section to exclude the value of that portion of the property used for residential purposes. The Board shall determine the adjusted grand list value of the business portion of the property and give notice of the same as provided under 32 V.S.A. chapter 131. Any property owner may file a grievance with the Board and appeal the decision of the Board as provided for under 32 V.S.A. chapter 131; however, the filing of an appeal of the determination of the Board and pendency of the appeal shall not vacate the lien on the property assessed, and the District taxes must be paid and continue to be paid as they become due."

Discussion:

- The Bennington Downtown Alliance was formerly the Better Bennington Corporation.
- In §509 Annual budget, the Bennington Downtown Alliance is currently the contractor that submits their budget to the Select Board, not the Town Manager. This amounts to ~\$74,000 this year, or 50% of their budget.
- There is nothing in the Charter that says how the downtown taxes are to be spent but they cannot be used to satisfy the TIF debt.
- The District tax is paid by nonresidential property owners within the District.
- The District has 1 ½ paid positions and a volunteer Board of Directors.
- §507 is the Sunset Provision.
- §506 is no longer the 'Creation of' the Downtown District, it is the 'Tax within' the Downtown District.
- The Bennington Downtown Alliance has no status in the Charter. The Select Board has used them as the contractor for Town funds but could decide not to do so at any time.
- §506 through §510 should all be consolidated into "§506. Tax within Bennington Downtown District" with the respective (a), (b), (c), etc. paragraphs as appropriate.

*Discussion will continue on these sections next week and Mr. Hurd will provide the detail of §507.*

**5. CONFIRM EVENING DATES (NOVEMBER 28, 2017, 5:30PM - 7:00PM)**

The Public Forum will take place on November 28, 2017 from 5:30pm - 7:00pm.

**6. OTHER**

None.

*At 1:01 pm, Jonathan Cohen moved and Daniel Malmborg seconded to adjourn the meeting. The motion carried unanimously.*

Respectfully submitted,

Nancy H. Lively

Secretary