

1 **CHARTER REVIEW COMMITTEE MEETING**

2 **BENNINGTON FIRE FACILITY**

3 **130 RIVER STREET**

4 **BENNINGTON, VERMONT 05201**

5 **AUGUST 2, 2017**

6 **MINUTES**

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

9 **COMMITTEE MEMBERS ABSENT:** None.

10 **ALSO PRESENT:** Stuart Hurd-Town Manager; Dan Monks-Zoning Administrator; Cassandra Barbeau-Town  
11 Clerk; Joan Pinonnault-Treasurer; Jeannie Jenkins-Select Board; Jim Barlow-Attorney and Nancy H. Lively-  
12 Secretary.

13 At 11:45 AM, Co-Chair Robert Plunkett called the meeting to order.

14 **1. MINUTES – JULY 21, 2017**

15 *Michael Keane moved and Robert Plunkett seconded to approve the Minutes of July 21, 2017 as*  
16 *submitted. The motion carried unanimously.*

17 **3. QUESTIONS**

18 **Please hold questions until the end of the presentations**

19 *Michael Keane moved and Sean Marie Oller seconded to amend the Agenda to allow questions*  
20 *throughout the presentation. The motion carried unanimously.*

21 **2. PRESENTATION BY JIM BARLOW**

- 22 **a. Overview of Town Charters**  
23 **b. Specifics related to Bennington Town Charter**  
24 **c. Process for amending a Town Charter**  
25 **d. Role of Committee to review Charter**

26 Jim Barlow, shared his background with the Committee and is now an attorney specializing in Vermont  
27 Local Government Law. The following are the highlights of his presentation:

28 *Municipal Governance Charter -*

- 29 • Charter amendment must follow a statutory process.  
30 • In 39 states, local governments are free to pass laws and ordinances as they see fit, limited only by  
31 the bounds of the state and federal constitutions. However, Vermont is not one of them.  
32 • Vermont’s constitution does not grant any power or legal authority directly to the state’s  
33 municipalities, except that the Town Clerk keeps land records for the town.  
34 • Vermont municipalities only have those powers specifically delegated to them by the Legislature.  
35 “We cannot make it up as we go along.”

- The Bennington Charter is a grant of state law, approved by local voters and the Legislature that sets out specific laws for operation of local government in Bennington.
- There are 9 cities, 50 towns and 50 village charters plus fire district charters, etc. in Vermont. Most charters are available online in Title 24A.
- Amending the Bennington Charter is amending the laws of the State of Vermont as they apply to Bennington.
- If there is a conflict between a Town Charter and the State Statute, the more specific statute controls. For example, the fact that Bennington appoints Listers trumps the State Statute of electing them.
- Four characteristics define a local governance model: What officers are elected and which are appointed?; Who appoints, controls and directs municipal employees?; How are the budget and tax rate set?; What powers do the voters have?.
- Basic statutory town government model has 16 elected town officers are mandatory unless opted out in the Town Charter: Selectboard; Clerk; Treasurer; Constable; Town Agent; Listers; Auditors; Grand Juror; Moderator; Delinquent Tax Collector.
- Within their statutory responsibilities, one elected position does not answer to another.
- The only requirement to hold any of these elected positions is that you are a resident and registered voter in the town. Being a resident of the town is not required for an appointed position.
- Bennington is one of 16 towns that have a recall process for elected officials.
- Voters adopt the budget; Selectboard sets the tax rate and administers the budget during the fiscal year.
- The selectboard operates like a proprietor of a small business.
- Voters also have the right to disapprove town ordinances, adopt zoning bylaws, and approve borrowing, etc. This is called Permissive Referendum.
- Town government relies heavily on political remedies and “social control” which is as much tradition as it is statute.
- Town government has a high level of accountability and transparency making the process very slow. The lack of time, expertise, and resources within selectboards also impedes the efficiency. Nevertheless, 187 Vermont towns operate under this model. “It is a great way for ordinary people to govern themselves.”

#### *Municipal Manager Form of Local Government -*

- Bennington, along with 53 other Vermont municipalities, has adopted the manager form of government through a local vote of a municipal governance charter.
- The Selectboard retains its quasi-judicial and legislative functions but the administrative and executive responsibilities are vested in the manager who reports to the selectboard.
- The manager is hired to assist the board in determination of policy and serves at the direction of the board to carry out those policy decisions.
- The selectboard operates like a board of directors in a public corporation.

#### *Vermont City Government*

- A city is a city rather than a town because the local voters decided to do so and is not determined by population.
- There are 9 cities in Vermont and all cities must have a Charter.

- 78 • There are fewer elected and more appointed city officers. Most cities have an appointed city  
79 manager and a mayor with varying responsibilities.  
80 • The voters are not directly involved in the budget approval process. Generally, the city governance  
81 system is more representational and less participatory than statutory town government.

82 *Rutland City – strong mayor – Population 17,292*

- 83 • Mayor, treasurer, and assessor elected for two year term; mayor appoints the city clerk and  
84 attorney for two year terms; no city manager.  
85 • 11 member board of alderman elected to two year terms, adopt and amend city ordinances, and  
86 confirm appointments made by mayor.  
87 • Mayor and president of board of aldermen comprise the board of finance who approves payment of  
88 the bills.  
89 • City clerk and city treasurer has same authority as town clerk and town treasurer. Elected assessor  
90 same authority as town listers.

91 *Barre City – intermediate mayor – Population 9,291*

- 92 • Clerk, treasurer and mayor elected to two year terms; manager appointed by city council; and  
93 assessor appointed by manager subject to city council approval.  
94 • City council is comprised of six aldermen and the mayor; council appoints the manager, attorney  
95 most board and committee members, fills vacancies in elected offices, adopts ordinances and  
96 determines all matters of city policy.  
97 • The mayor is the leader of the city council but has little executive authority under the charter.  
98 • The manager is the chief administrative officer of the city appointed by the city council to an annual  
99 term and can be removed without cause. He/she appoints and removes all department heads and  
100 other officers and is responsible for carrying out city council policies.  
101 • The city council is prohibited from giving orders to anyone that reports to the manager.  
102 • The mayor is the “public face” of the city, whereas the manager runs the city.  
103 • City clerk and city treasurer has same authority as town clerk and town treasurer. Manager  
104 appoints the assessor subject to city council approval and has the same authority as town listers.

105 *South Burlington City – no mayor – Population 15,418*

- 106 • Clerk elected to three-year term; manager and treasurer appointed by city council; no mayor;  
107 assessor appointed by manager.  
108 • Council is comprised of 5 members elected at large for two and three year terms; appoints the  
109 manager, other officers and board members; and adopts ordinances subject to voter initiative  
110 authority.  
111 • Manager is CEO of city appointed by the city council to an indefinite term and removed from office  
112 without cause on 90 days notice.  
113 • Manager is responsible for all financial accounting and reporting, enforcement of all city laws and  
114 ordinances, and collects all current and delinquent taxes.  
115

116 *Town of Bennington – Population 15,764*

- Clerk and treasurer elected for three year terms; 7 member selectboard elected for three year terms; manager appointed by selectboard; and a 3 member board of listers appointed by the selectboard is unique to Bennington.
- Voters have authority to compel nonbinding advisory votes on warning, as well as, the authority to recall elected officers.
- Selectboard has authority to set speed limits less than 20 mph; establish polling places; establish special assessment districts without a vote of the town; and a person appointed to fill a selectboard vacancy holds the position until the next annual election.
- A reduction in town property tax is allowed for those living in Bennington Fire District No. 1.
- Establishing the Bennington Downtown District in the charter is also unique to Bennington.

*Things to Think About –*

- Should Bennington have a mayor? A mayor can function as a CEO or be a ceremonial figure.
- If so, what should the role of the manager be? A manager would complement the role that the mayor takes.
- Should Bennington have a local option tax? 1% local option tax on sales, rooms, meals, and alcoholic beverages would require an amendment to the charter.
- There are some charter “housekeeping” changes – grammar, terminology, spelling, etc. – that need to be addressed when amending the charter.
- The charter amendments will be presented to the voters in sections.

*Charter Amendment Process –*

- The committee drafts a charter amendment; it goes to the selectboard who decides if it should go to the voters and can amend the changes as they see fit.
- Once approved by the selectboard, the proposal goes to the town clerk who puts it on file for availability to the public.
- No later than 10 days after the filing, the selectboard must hold the first of two informational hearings on the proposal. The first hearing must be held at least 30 days before the meeting at which the voters will vote to approve the amendment.
- The selectboard may revise the proposal based on the hearings.
- Voting on a charter amendment is by Australian ballot.
- If the amendments are approved, the clerk must certify the results to the Secretary of State. Be sure to follow-up that the Secretary of State has received it.
- The amendment becomes effective upon affirmative enactment by the Legislature.
- As a state statute, the Legislature is free to amend the charter proposal as it sees fit, although, most pass through without change.
- The selectboard and manager should be ready to testify and advocate for the proposal in the Statehouse. If they wish, citizens may also testify.
- Speak to as many representatives as possible before it goes to the Legislature so they are aware that this is the wish of the voters.

The Committee will list questions as they come up and contact Mr. Barlow on an as needed basis going forward.

157 The next meeting will be August 9, 2017 at 11:45am in the Conference Room of the Bennington Town  
158 Office.

159  
160 ***At 1:25pm, Jonathan Cohen moved and Robert Ebert seconded the adjournment of the meeting. The***  
161 ***motion carried unanimously.***

162  
163  
164  
165 Respectfully submitted,

166 Nancy H. Lively

167 Secretary