



35 "Sec. 2. PREAMBLE

36 The people of Bennington reaffirm faith in Government of the people, by the people, and for the people  
37 and describe this government in a Charter with provision to review and amend. The Charter of the Town of  
38 Bennington reflects concern to improve the quality of life for all people."

- 39 • It was decided that, since the "Sec. 2." was related to the Act, that it could be removed from the
- 40 PREAMBLE, which is the beginning of the Charter.
- 41 • Ms. Oller: Questioned, exactly, what "reflects concern" means. Discussion ensued to replace "reflects
- 42 concern" with "exists" or "desires" and to replace "people." with "people and to improve the
- 43 operation of town government."
- 44 • Mr. Plunkett: Asked Mr. Hurd why this Preamble amendment had been made in 1993 or 1994, and he
- 45 responded that it was because, at the time, the legislature struck the language that addressed the
- 46 specifics of whom the Town did not discriminate against.
- 47 • After further discussion, the majority of the Committee did not want to change "reflects concern". Ms.
- 48 Oller still preferred "exists" and Mr. Plunkett doesn't feel that any wording should be changed or
- 49 added.

51 **Daniel Malmborg moved and P. Lynn Green seconded the following change to the end of the**  
52 **PREAMBLE:**

53 ***Change "all people." to "all people and to improve the operation of town government."***

54 ***The motion carried with Robert Plunkett opposed.***

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57 "POWERS OF THE TOWN

58 Sec. 101. General law applies

- 59 (a) All provisions of the Constitution and laws of the state relating to towns and villages shall apply to
- 60 the Town of Bennington, except as modified by this act;
- 61 (b) The Town of Bennington shall have all the powers and functions conferred upon towns and villages
- 62 by the Constitution and general laws of this state and shall also have all implied powers necessary
- 63 to implement such powers and functions;
- 64 (c) The powers and functions conferred upon the Town of Bennington by this act shall be in addition to
- 65 the powers and functions conferred upon the town by laws now in force or hereafter enacted.
- 66 Nothing in this act shall be construed as a limitation upon such powers and functions."

- 67 • Ms Oller: Asked what "implied powers necessary to implement such powers and functions" means, and
- 68 the best explanation by Mr. Monks was that implied powers were those powers under expressed
- 69 powers. For example, an expressed power would be to set a tax rate, whereas an implied power under
- 70 that would be to send out the bills reflecting that rate.
- 71 • Discussion ensued with the Committee deciding on the following changes:

72

73 **Daniel Malmberg moved and Sean Marie Oller seconded the following changes to the POWERS OF**  
74 **THE TOWN:**

75 **Sec. 101. General law applies, (b), Line 2 – Delete “general”**

76 **Sec. 101. General law applies, (b), Line 3 – Change “this” to “the” and “state” to “State”**

77 **Sec. 101. General law applies, (c), Line 2 – Change “act” to “Charter”**

78 **Sec. 101., General law applies, (c), Line 3 – Change “town” to “Town**

79 **Sec. 101., General law applies, (c), Line 3 – Change “by laws” to “by the laws”**

80 **Sec. 101., General law applies (c), Line 3 – Change “now in force or hereafter enacted.” to “of**  
81 **the State.”**

82 ***The motion carried unanimously.***

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84 “POWERS OF THE TOWN

85 Sec. 102. Additional Town powers

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

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

- 96
- 97 • In (c), Ms. Green would like to add “and drones” after “fire arms”. Mr. Monks added that this may be  
98 an area that is exempted to Federal and State law, and Mr. Plunkett said that the State is working on  
99 something concerning drones.

100 *The Committee decided to change “fire arms” to “firearms” and leave Sec. 102. (c), open for*  
101 *now.*

- 102 • Mr. Cohen asked why these items were specified and other potential issues were not, and Mr. Hurd  
103 answered that he is guessing that these were drafted in 1968 when the Town of Bennington merged  
104 with the Village of North Bennington but he really doesn’t know.
- 105 • Mr. Plunkett feels that this is a listing of the additional powers that the Town has, whether they’re  
106 using them or not, and may be questioned by the State if we start changing them. We should review  
107 the charters of other towns as a comparison.
- 108 • Mr. Cohen posed the question of how do we know that we may have powers that other towns don’t.
- 109 • Mr. Hurd looks at the Charter as “a means to focus State authority.”

- 110 • Mr. Cohen noted that the additional power of the Town are reiterated similarly for the Select Board in  
111 Chapter 3, SELECT BOARD, Sec. 302. and feels that the Charter should be an easy to read document.  
112 • Ms. Oller added that redundancy can be eliminated but, if there is a need for repetition, it should be  
113 duplicated exactly.  
114 • Mr. Plunkett interpreted the Town powers as controlled by the voters, whereas, the Select Board  
115 powers did not require voter approval, even though some of these powers may overlap.  
116 • Mr. Monks stated that ordinances are the purview of the Select Board, and Mr. Hurd added that the  
117 voters may petition for an ordinance.  
118 • Mr. Hurd clarified that Sec. 102. has never been a problem. There are ordinances for much of what is  
119 mentioned and we follow the State guidelines on pollution of waterways and air.

120 *The Committee decided to ask Jim Barlow for his input on combining Sec. 102 and Sec. 302 and*  
121 *suggest modern language. Mr. Plunkett will do that on behalf of the Committee.*

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123 "POWERS OF THE TOWN

124 Sec. 103. Initiative: Advisory Votes

125 The voters of the Town have the power to petition for a non-binding advisory vote to reflect public  
126 sentiment. Such petition shall be signed by at least five (5) percent of the voters of the Town and shall state  
127 that it is advisory only. The Select Board, upon receipt of such a petition, shall place the article on the warning  
128 for the next Town meeting or any other Town election."

129 ***P. Lynn Green moved and Jonathan Cohen seconded to change "Select Board" to "Selectboard"***  
130 ***throughout the Charter.***

131 Mr. Plunkett does not want to change "Select Board" to "Selectboard" because it has been that since  
132 1966 and is unique in the State. Also, all existing letterhead would need to be changed, as well. Rather, his  
133 preference would be to add a statement to the Select Board portion of the Charter that states "The Select  
134 Board of the Town of Bennington shall be known as the Select Board."

135 ***The motion was withdrawn.***

- 136 • Mr. Malmberg was concerned that there wasn't a specific time when a petition should be presented  
137 to the Select Board but, because it is in the statute that the warning must be within 30 days of the  
138 Town meeting, the timing issue was covered.  
139 • Mr. Cohen asked if anyone had a problem with the (5) percent of voters, and Ms. Barbeau stated that  
140 5% of our voters is 450 – "a good number".

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141 "POWERS OF THE TOWN

142 Sec. 104. Recall

- 143 (a) The voters of the Town may recall any of the elected Town officers listed in Chapter 2 of this  
144 Charter.  
145 (b) A recall petition, clearly stating cause, signed by at least thirty (30) percent of the legal voters of  
146 the Town, and bearing their addresses, shall be filed with the Select Board within fifteen (15)  
147 calendar days of its issue. The Select Board upon receipt of a valid petition shall, after sixty (60)

calendar days, hold a special election, with voting by Australian Ballot, to consider the recall of an elected Town Officer. When such a petition is approved by a majority of two-thirds of the ballots cast at such special election. The officer named in the petition shall thereupon cease to hold his/her office, and the office shall be considered vacant until filled by a special election to be held within sixty (60) days.

(c) A recall petition shall not be brought against an individual more than once during his/her term of office.”

- Mr. Cohen asked what the 15 calendar days “of its issue” meant. Discussion ensued and it was determined that there was no clear answer to this.

***Daniel Malmborg moved and Robert Plunkett seconded to amend POWERS OF THE TOWN, Sec. 104. Recall, (b), Line 2 and 3 as follows:***

***Change “Board within fifteen (15) calendar days of its issue.” to “Board.”***

***The motion carried unanimously.***

- Mr. Keane had submitted his opinion that “officer” should be replaced with “official” throughout this Section. The Committee disagreed with this saying that “officer” was the correct word.

***Jonathan Cohen moved and Robert Plunkett seconded to amend POWERS OF THE TOWN, Sec. 104. Recall, (b), Line 9 as follows:***

***Change “election. The” to “election, the”***

***The motion carried unanimously.***

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**4. CONTINUED DISCUSSION RE: COMMUNICATION**

**A. REVIEW AUTOMATIC RESPONSE TO PUBLIC INPUT FROM THE WEB**

Ms. Oller stated that she and Ms. Green had discussed the best way to receive public comments, and they were thinking that a form where an individual interested in making a comment could put their name, address and e-mail address would be better than them just clicking on an e-mail address.

Ms. Oller had prepared a lengthy informational auto reply which Ms. Green had edited down. Ms. Green will do further editing for a more condensed version and send this to Ms. Johnson to put on the website as the auto response. Ms. Oller noted that this is just one avenue of gathering public comments. Others are the Select Board meetings under Citizens and Letters to the Editor in the Banner.

Ms. Oller and Mr. Plunkett will attend the August 28, 2017 Select Board Meeting to update the Board on the Committee’s progress.

***At 1:05 pm, Daniel Malmborg moved and Robert Plunkett seconded the adjournment of the meeting. The motion carried unanimously.***

Respectfully submitted,  
Nancy H. Lively Secretary