

1 **CHARTER REVIEW COMMITTEE MEETING**
2 **BENNINGTON TOWN OFFICE – CONFERENCE ROOM**
3 **205 SOUTH STREET**
4 **BENNINGTON, VERMONT 05201**
5 **NOVEMBER 15, 2017**
6 **MINUTES**

7 **COMMITTEE MEMBERS PRESENT:** Sean-Marie Oller; Michael A. Keane; P. Lynn Green; Daniel Malmborg (at
8 11:59am); Jonathan Cohen and Robert Ebert.

9 **COMMITTEE MEMBERS ABSENT:** Robert Plunkett.

10 **ALSO PRESENT:** Stuart Hurd-Town Manager; Dan Monks-Zoning Administrator; Beth Antognioni and Nancy H.
11 Lively-Secretary.

12 At 11:48 am, Co-Chair Sean-Marie Oller called the meeting to order.

13 **1. PUBLIC COMMENTS**

14 Mr. Ebert noted that he had received a copy of an article that was in the Bennington Banner on
15 November 3, 2017 entitled “Rutland Town nixes shift to town manager” from Don Miller. The jist of the article
16 was that Rutland Town had fired their town administrator, discussed shifting to a town manager, and
17 ultimately deciding to stay with the town administrator.

18 Mr. Miller’s comments were as follows:

19 “The Administrator model gives more power and authority to the Select Board, while retaining the
20 services of a professional public/government administrator. The cost should be less than the town manager
21 format, because the administrator has more restricted responsibilities. The Select Board would continue as
22 volunteers, but would play a larger role in setting the agenda. This could be combined with the idea of
23 running one Select Person as 1st.”

24 **2. REVIEW ANY PUBLIC COMMENTS RECEIVED**

25 None.

26 **3. APPROVE MINUTES OF NOVEMBER 8, 2017**

27 *Michael Keane moved and P. Lynn Green seconded to approve the Minutes of November 8, 2017 as*
28 *submitted. The motion carried with Jonathan Cohen abstaining.*

29 **4. CONTINUE CHAPTER 5 - TAXATION**

30 Mr. Keane recapped that the suggested changes to §506. Creation of Bennington Downtown District,
31 §507. Repealed, 205, No. M-6, §6. Eff. June 4, 2005, and §508. Purposes and powers (a) that were made at
32 the November 8, 2017 meeting were tabled until all of SUBCHAPTER 5. TAXATION has been reviewed.

33 Discussion resumed on SUBCHAPTER 5. TAXATION, §508. Purposes and powers, (a).
34

35 SUBCHAPTER 5. TAXATION

36 “§508. Purposes and powers

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

43 “§508. Purposes and powers

44 (a) The District is created for the general purpose of maintaining and improving the economic, social,
45 cultural, and environmental vitality and quality of the Town of Bennington to promote the Town and the
46 District as a regional retail, commercial, and service center; and to advocate for the orderly development of
47 the District to encourage expansion of the retail, commercial, and service base of the District and the Town
48 by supporting a vibrant business environment and new business and encouraging investment.”

49 *These changes have been tabled until all of SUBCHAPTER 5. TAXATION has been reviewed.*

50 Discussion:

- 51 • Though the above changes sound good, they do not accomplish what the discussion on “new and
52 existing” encompassed.
- 53 • We need to segregate the strategic statement (a) from the operational statements (1-12).
- 54 • The language of “by supporting a vibrant business environment” was a compromise to Ms. Green’s
55 point of supporting existing businesses.
- 56 • None of this is about the Town supporting individual businesses in the District.
- 57 • We all benefit from a good downtown.
- 58 • The Town support of individual businesses in the District is not financial. Events such as Mayfest and
59 the Fall Festival are held to support the existing businesses.
- 60 • This section of the Charter gives the Select Board the authority to hire a contractor, such as the
61 Bennington Downtown Alliance (BDA), to accomplish some or all of the purposes set forth in this
62 section.
- 63 • The BDA presents its work plan to the Select Board and the Select Board approves the tax.

64 **1. After much discussion, the following changes that were tabled on November 8, 2017 have been**
65 **removed from further consideration and future discussion will be based on the original language of §508.**
66 **Purposes and powers, (a):**

67 “§508. Purposes and powers

68 (a) The District is created for the general purpose of maintaining and improving the economic, social,
69 cultural, and environmental vitality and quality of the Town of Bennington to promote the Town and the
70 District as a regional retail, commercial, and service center; and to advocate for the orderly development of
71 the District to encourage expansion of the retail, commercial, and service base of the District and the Town
72 by supporting a vibrant business environment and new business and encouraging investment.”

73 **2. Eric Petersen, the President of the BDA, and John Shannahan, Executive Director of the BDA, will be**
74 **invited to the November 29, 2017 Committee Meeting for clarification on the BDA’s mission and**
75 **responsibilities.**

77 *“§508. Purposes and powers*

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

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

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

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

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

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

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

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

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

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

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

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

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

99 Discussion:

- 100 • The District does work in cooperation with the Town Planning Commission.
- 101 • The District does not ‘regulate’, the Select Board does.
- 102 • To have a taxing district is relatively unique in Vermont, however, many other states do have them.
- 103 Having one in Vermont improves a towns opportunities for grants and programs that are available at
- 104 the State level.
- 105 • To acquire and dispose of property on behalf of the Town in this section diverted to the Select Board
- 106 when the Downtown Commission no longer existed. For example, the Town could accept the donation
- 107 of Merchants Park and 236 Main Street without a vote of the people.

108 **The suggested change in “§508. Purposes and powers, (b)” was:**

109 **Change “(1) To advertise and promote the Improvement District.” to “(1) To promote the District.”**

110 *This change have been tabled until all of SUBCHAPTER 5. TAXATION has been reviewed.*

111

112 *“§509. Annual Budget*

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

120 Discussion:

- 121 • The Select Board can use the District tax for any downtown improvement they choose, and do not
- 122 have to use the District tax for the District budget.
- 123 • The Town does not develop a budget for the Downtown using District taxes. However, the Town
- 124 budget does include some items for the Downtown, such as, Bennington in Bloom.

125 **The following suggested changes were made for “§509. Annual budget”:**

126 **Change “§509. Annual budget” to “§509. District annual budget”**

127 **Line 1, Change “The Town Manager shall” to “The Town Manager or a contractor, hired by the Select**
128 **Board as provided in paragraph (9) above shall”**

129 **Line 4, Change “forthwith to the Town Manager with” to “forthwith with”**

130 **Line 5, Change “for the Town Manager’s reconsideration.” to “for reconsideration.”**

131 *These changes have been tabled until all of SUBCHAPTER 5. TAXATION has been reviewed.*

132

133 *§510. District taxes*

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

137 *(b) The District tax for each property in the District subject to the tax shall be based upon a rate on each*
138 *\$100.00 of listed value of the property as adjusted under subsection (c) of this section. The tax rate shall be*
139 *determined by dividing the amount to be raised by taxes, by the total value of the taxable properties on the*
140 *grand list as adjusted located in the District which are subject to the District tax under this subchapter.*

141 *(c) The District tax shall be set by the Select Board upon approval of the budget by the Select Board and*
142 *notice in writing thereof shall be given to owners of record as of April 1 of each year of property so assessed, or*
143 *to their agents or attorneys, stating therein the amount of such District taxes, and such taxes shall be due and*
144 *payable to the Town Treasurer when normal Town and school taxes are due. The Town Treasurer shall collect*

145 *unpaid District taxes as provided for the collection of taxes in the charter. District taxes shall be a lien on the*
146 *properties when assessed and until the tax is paid or the lien is otherwise discharged by operation of law.*

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

155 Discussion:

- 156 • Since downtowns everywhere are struggling, why tax just the downtown properties? Because we all
157 benefit from downtown, why not tax the whole town?
- 158 • The Town already budgets for some items in the Downtown. Bennington in Bloom was a 50/50 split
159 between the District and the Town. The Town took this over when the District said they could no
160 longer afford it.
- 161 • Residential properties in the Downtown should not be excluded from the tax that is used to improve
162 the Downtown.
- 163 • The argument was made that residential property values in the Downtown are not improved, i.e.,
164 having a Stewarts next to your house would not be a plus to a residential property owner.
- 165 • District tax is currently \$.15/hundred, so the tax on a \$200,000 residential property would be an
166 additional \$300/year.

167 **The following suggested changes were made for “§510. District taxes”:**

168 **(a), Line 2, Change “excepting properties used exclusively for residential purposes, which taxes” to**
169 **“except for owner occupied residential properties. The District taxes”**

170 **(a), Line 3, Change “incurred in connection with the” to “incurred for the”**

171 **(d), Line 4, Change “for residential” to “for owner occupied residential”**

172 *These changes have been tabled until all of SUBCHAPTER 5. TAXATION has been reviewed. Also, Ms.*
173 *Oller will send all of the original language of §506 through §510, plus the alternative language that the*
174 *Committee suggested, to Mr. Barlow for his comments on the renumbering, the repeal, reformatting, intent,*
175 *and the V.S.A. reference.*

177 **5. OTHER**

178 Mr. Keane plans on having a draft of the Final Report to share with the Committee within a couple of
179 weeks.

180 **NOVEMBER MEETING DATES:**

181 Wednesday, November 22, 2017 - No Meeting

182 Tuesday, November 28, 2017 - 5:30pm-7:00pm Public Forum- Bennington Fire Facility

183 Ms. Oller felt that there should be an update to the public as to the procedure and progress of the
184 Committee prior to the Forum.

185 Wednesday, November 29, 2017 - 4:30pm-7:00pm

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187
188
189 ***At 1:06 pm, Daniel Malmberg moved and Jonathan Cohen seconded to adjourn the meeting. The***
190 ***motion carried unanimously.***

191
192
193
194 Respectfully submitted,

195 Nancy H. Lively

196 Secretary