

1 **CHARTER REVIEW COMMITTEE MEETING**
2 **BENNINGTON TOWN OFFICE – CONFERENCE ROOM**
3 **205 SOUTH STREET**
4 **BENNINGTON, VERMONT 05201**
5 **DECEMBER 13, 2017**
6 **MINUTES**

7 **COMMITTEE MEMBERS PRESENT:** Sean-Marie Oller-Co-Chair (by phone); Robert Plunkett-Co-Chair; Michael A.
8 Keane; P. Lynn Green; Daniel Malmborg; Jonathan Cohen (left at 1:00pm) and Robert Ebert.

9 **COMMITTEE MEMBERS ABSENT:** None.

10 **ALSO PRESENT:** Stuart Hurd-Town Manager; Dan Monks-Zoning Administrator; Beth Antognioni; William
11 LaTour-Bennington Fire Department Assistant Chief; Jim Therrien-Bennington Banner and Nancy H. Lively-
12 Secretary.

13 At 11:47am, Co-Chair Robert Plunkett called the meeting to order.

14 **1. PUBLIC COMMENTS - FIRE DEPARTMENT LANGUAGE DISCUSSION - ASST. CHIEF WILLIAM LATOUR**

15 Mr. Plunkett stated that Chief Berry had indicated that the Department would like to bring the
16 language proposed by Mr. Barlow to the membership, and Mr. LaTour concurred.

17 Mr. LaTour's comments on the suggested language were:

- 18 • They agreed with it being set up so that the Department had a vote before a change was in
19 place.
- 20 • However, would like to change the wording at the end from "as set forth in a plan for such
21 transition as proposed by the Select Board" to "as set forth in a plan for such transition as
22 proposed by the Fire Department".

23 Otherwise, Mr. LaTour feels that the Department would be in agreement with the language and can
24 present it to most of the membership this evening. And, if that doesn't work out, they would call a special
25 meeting so this could be finalized before the Committee submits their Final Report to the Select Board on
26 December 26, 2017.

27 Ms. Oller pointed out that since the Committee discussion on December 20th will be finalizing the Final
28 Report, it may be too late to wait for the Department to get back to them with their approval of the language.

29 Ms. Green added, that there have been multiple opportunities for other groups to contact the
30 Committee with their comments on changes that have been suggested that would affect them, but the Fire
31 Department has been the only one to come forward.

32 Mr. Ebert commented that the firefighters are the only group that risk their lives to serve and the
33 Committee should extend them as much due diligence as we can. They have offered to hold a special
34 meeting, if necessary, to accommodate the Committee's schedule so their input will be received in time.

35 The Fire Department language discussion will take place at the December 20, 2017 Committee
36 meeting.

37 There were no other public comments.

38 **2. REVIEW ANY PUBLIC COMMENTS**

39 None.

40 **3. APPROVE MINUTES FROM DECEMBER 6, 2017**

41 *Michael Keane moved and Robert Plunkett seconded to approve the Minutes of December 6, 2017*
42 *amended as follows:*

43 *Change "Ollner" to "Oller" throughout the Minutes.*

44 *The motion carried with Daniel Malmborg abstaining.*

45 **4. DISCUSS LOCAL OPTION TAX**

46 The only way that Bennington can implement a Local Option Tax is through a charter change.

47 Mr. Barlow stated "the charter language should authorize the Town to implement the tax upon a
48 favorable vote of the electorate, without trying to direct, through the charter, how the tax will be spent.". He
49 also submitted St. Albans and Winooski as examples.

50 Committee discussion:

- 51 • It should not be the Committee's decision for what the local option tax should be on - sales, rooms,
52 lodging or alcoholic beverages.
- 53 • Previous discussion had considered making the local option tax more than 1%. However, even though
54 we could increase it, it isn't advisable to change what the legislators have already approved.
- 55 • A local merchant feels that a higher sales tax will negatively affect his business.
- 56 • Conversely, the additional dollars coming into the Town could help promote businesses.
- 57 • All local option taxes that have passed in other towns so far have been permanent. If it were to be
58 rescinded, the same process would be followed as was to implement it.

59 *Robert Plunkett moved and Robert Ebert seconded to add the following to SUBCHAPTER 5.*
60 **TAXATION:**

61 ***§511. Local Option Tax***

62 ***(a) If the Select Board by a majority vote recommends, the voters of the Town may, at an annual or***
63 ***special meeting warned for the purpose, by a majority vote of those present and voting, assess any***
64 ***or all of the following:***

65 ***(1) a one-percent sales tax;***

66 ***(2) a one-percent meals and alcoholic beverages tax;***

67 ***(3) a one-percent rooms tax.***

68 ***(b) Any local option tax assessed under subsection (a) of this section shall be collected and***
69 ***administered and may be rescinded as provided by the general laws of this State.***

70 Ms. Green did not like the language "a majority vote of those present and voting", and it was explained
71 that the voting is not at the Town Meeting but by Australian ballot the next day.

72 Mr. Plunkett noted that this is the language that has been used in all of the towns that implemented
73 the local option tax through their charters.

74 Much discussion ensued on the rewording of “meals and alcoholic beverages” to “meals and rooms”,
75 as well as, separating the three out to four - sales, meals, alcoholic and rooms. The “meals and alcoholic
76 beverages” grouping comes from the Statute for Local Option Tax, Title 24, Section 138.

77 ***Robert Plunkett moved and Robert Ebert seconded to amend the motion as follows:***

78 ***Change: “(2) a one-percent meals and alcoholic beverages tax” to “(2) a one-percent alcoholic***
79 ***beverages tax”***

80 ***Change: “(3) a one-percent rooms tax” to “(3) a one-percent meals and rooms tax”***

81 Mr. Ebert asked Mr. Hurd how he felt this would impact the legislators vote because the language had
82 been changed, and Mr. Hurd responded that it would be hard to say because the State does group ‘meals and
83 rooms’ together.

84 ***The motion failed with P. Lynn Green and Sean-Marie Oller in favor.***

85
86 ***Jonathan Cohen moved and Daniel Malmborg seconded to add the following to SUBCHAPTER 5.***
87 ***TAXATION:***

88 ***§511. Local Option Tax***

89 ***(a) If the Select Board by a majority vote recommends, the voters of the Town may, at an annual or special***
90 ***meeting warned for the purpose, by a majority vote of those present and voting, assess any or all of the***
91 ***following:***

92 ***(1) a one-percent sales tax;***

93 ***(2) a one-percent meals;***

94 ***(3) a one-percent rooms tax;***

95 ***(4) a one-percent alcoholic beverages tax.***

96 ***(b) Any local option tax assessed under subsection (a) of this section shall be collected and administered and***
97 ***may be rescinded as provided by the general laws of this State.***

98 Mr. Keane asked Mr. Hurd how he felt the voters would go on this, and Mr. Hurd answered that “any
99 of them would be a hard sell, except maybe rooms”. It could mean an additional \$750,000-\$800,000
100 generated/year.

101 Mr. Keane further asked if an increased sales tax would cause consumers to go elsewhere, and Mr.
102 Monks responded that it doesn’t apply to food or the first \$100 of clothing. Mr. Hurd added that it is thought
103 of as “a regressive tax” that will impact the lower income people more than the rest.

104 Ms. Green stated that surrounding areas all have higher taxes, such as, Albany, Manchester, and
105 Massachusetts. Bennington has been “a bargain”.

106 Mr. Malmborg noted that this will also give those running for Select Board a platform to run on.

107 ***The motion carried unanimously.***

108 **5. REVIEW JIM BARLOW'S COMMENTS**

109 Mr. Ebert was amazed that the Governor was in town and no elected official bothered to show up and
110 that he rarely sees them. Perhaps a small discretionary fund - around \$1,000 - could be given to the Chair of
111 the Select Board to assure that he/she will be in attendance at appropriate events.

112 Ms. Green and Mr. Keane disagreed in that they see Select Board members frequently at various
113 events.

114 Ms. Oller agreed with the language that "the Chair shall be the head of the Town Government for
115 ceremonial purposes" so when the Select Board elects its Chair, that person knows what is expected of them.

116 Mr. Malmberg felt that town mayors attend events for the "photo op", and with our Town
117 Manager/Select Board style of government, we don't have people there simply as "a veneer". Perhaps an
118 additional stipend for the Select Board Chair, and possibly a discretionary budget, would be incentive to
119 perform the additional expected duties. "This answers a call we heard from the public."

120 Mr. Plunkett is "ambivalent" to the idea since he likes the idea of someone as the "Face of the Town"
121 but also likes the idea of the Select Board members all being equally responsible.

122 Ms. Green is against the idea of an additional stipend since the Select Board members are all "basically
123 volunteers" and that would put the pressure on the Chair that he/she had to be at every event.

124 Mr. Cohen is in favor of the idea if it is left up to the Chair as to what events he/she attends. Mr. Ebert
125 and Mr. Plunkett agreed.

126 ***Robert Ebert moved and Sean-Marie Oller seconded to amend SUBCHAPTER 3. SELECT BOARD as***
127 ***follows:***

128 ***§304. Organization of Select Board***

129 ***(a) Add a second sentence to read "The Chair shall be the head of the town government for all***
130 ***ceremonial purposes."***

131 Mr. Cohen asked if saying the Chair was the head of the town government gave the Chair additional
132 powers? Since this language came from several other towns, Mr. Ebert stated "they can't all be wrong".

133 Mr. Hurd attends events when available and this will not preclude him from doing that. He added that
134 Tom Jacobs, the current Select Board Chair, has taken it upon himself to attend events whenever he can.

135 Ms. Green stated this opens "a pail of worms", puts all the responsibility on the Chair and the criticism
136 as to why he/she wasn't at this or that event. Things should remain as is with all of the Board members
137 equally responsible.

138 Ms. Oller feels that people are going to be "critical either way" and the Chair is the only one that has
139 additional duties, such as, setting the agenda.

140 ***The motion carried with Jonathan Cohen, Daniel Malmberg, Sean-Marie Oller, and Robert Ebert in***
141 ***favor, Michael Keane and P. Lynn Green opposed, and Robert Plunkett abstaining.***

142 Additional Mr. Barlow comments:

- Billboards - take out both sections. It is covered in the Statute and the Town has a sign ordinance.
 - Downtown Improvement District - made no difference to the Committee's discussion except that the Town has the power to tax all of the property anyway.
 - Constable - do not remove because the Constable has particular powers and there is ambiguity whether or not the Constable was elected referencing Statute - Title 17.
- Mr. Hurd added: Bennington hasn't had a Constable in 8 years, we are in violation of the Charter by not having one, and we have two health officers and an animal control officer. The Select Board decided not to appoint a Constable - based on the recommendation of the Town Manager - because we were only using the position for law enforcement at elections and the State had raised the training level of a Constable to the point that it was costing the Town money for what we were getting out of it.

Sean-Marie Oller moved and Michael Keane seconded to amend SUBCHAPTER 1. POWERS OF THE TOWN as follows:

§104. Recall, (b), Line 5, Change "by a majority of two-thirds" to "two-thirds".

The motion carried unanimously.

6. DISCUSS FINAL REPORT

Ms. Oller asked everyone to think about rationale to add to the Final Report. There is also a lot of information that we may want to add to the Report, including questions and answers that we had. The Select Board will have "a volume of information" to look through if they so choose.

The next meeting will be Wednesday, December 20, 2017, 4:30-7:00pm, at the Town Office Conference Room.

At 1:07pm, Robert Ebert moved and Daniel Malmberg seconded to adjourn the meeting. The motion carried unanimously.

Respectfully submitted,

Nancy H. Lively

Secretary