

1 **CHARTER REVIEW COMMITTEE MEETING**

2 **BENNINGTON FIRE FACILITY - MULTI-PURPOSE ROOM 3<sup>RD</sup> FLOOR**

3 **130 RIVER STREET**

4 **BENNINGTON, VERMONT 05201**

5 **NOVEMBER 28, 2017**

6 **MINUTES**

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

9 **COMMITTEE MEMBERS ABSENT:** None.

10 **ALSO PRESENT:** Stuart Hurd-Town Manager; Tom Jacobs; Jeannie Jenkins and Donald Campbell-Select Board  
11 Members; Joan Pinnoneault-Treasurer; Maggie Dermody Pendergast; Bruce Lierman; Bob Tegart; 7 citizens;  
12 Jim Therrien-Bennington Banner and Nancy H. Lively-Secretary.

13 At 5:30pm, Co-Chair Robert Plunkett called the meeting to order.

14 **1. REVIEW CHARTER COMMITTEE'S WORK TO DATE**

15 Ms. Oller stated that the Committee has reviewed the Charter through SUBCHAPTER 5. TAXATION.  
16 Each section was voted on to indicate the Committee's approval of their recommended changes or their  
17 agreement to not change the language, through SUBCHAPTER 4. TOWN MANAGER. Recommendations have  
18 been made to SUBCHAPTER 5. TAXATION but have not yet been voted on. All actions and discussions are in  
19 the Minutes of the meetings.

20 **2. REVIEW PROCESS**

21 Ms. Oller explained how the Committee was reviewing the Charter. Since July, the Committee has  
22 gone through the Charter line-by-line making grammatical changes, as well as, language changes that may no  
23 longer be needed because the law now covers it. In these cases, a reference is given to that respective law.  
24 We are focusing on the Town Manager and Fire Department - volunteer or paid - areas as indicated in the  
25 letter that was in the Banner. The Committee has recommended language for the accountability of the Town  
26 Manager and Select Board. A point of discussion not relevant in previous charter reviews, is the technology  
27 that now exists where drones, or other invasive technologies, can impose themselves on Bennington  
28 residents. We have also dealt with the fact that there hasn't been a constable in Bennington for quite some  
29 time and consistently using 'Select Board' instead of 'Selectors' or 'Select Board members' throughout the  
30 document.

31 Mr. Plunkett added that other areas of discussion have been the officer recall petition of 15 days, the  
32 process of appointing the Listers, contracting the Town Manager, and self-regulation of the Select Board.  
33 Although the Committee hasn't voted on any of the recommendations in SUBCHAPTER 5. TAXATION,  
34 discussion has taken place on the Downtown Improvement District taxation process to include the taxation of  
35 the downtown rental properties but to leave the residential properties exempted.

36 Ms. Green added that the drone discussion took place in the section where firearms are currently  
37 mentioned.

38 Ms. Oller also indicated that the Committee requests additional information when further explanations  
39 and clarifications are needed from the town staff, fire department personnel, and the Bennington Downtown  
40 Alliance. All changes will be indicated on the Charter with, hopefully, explanations as to why the Committee  
41 recommended these changes when it is presented to the public.

42 Mr. Cohen added that most of the changes were to clean up the document but there have been some  
43 substantive changes, such as the removal of a Select Board member if they have missed 4 consecutive warned  
44 meetings or 50% of the warned meetings in a 6 month period, as well as, a 3-year term for the Town Manager,  
45 renewable every 3 years for as many times as the Select Board decides.

46 Ms. Green stated that, even though the recommendation was not made to do so, there was discussion  
47 on term limits for Select Board members, as well. The Committee is seeking input from the public on all  
48 substantive changes with the local option tax being another one in addition to the others mentioned.

49 Mr. Plunkett stated the five subchapters that have been reviewed - SUBCHAPTER 1. POWERS OF THE  
50 TOWN; SUBCHAPTER 2. OFFICERS; SUBCHAPTER 3. SELECT BOARD; SUBCHAPTER 4. TOWN MANAGER; and  
51 SUBCAPTER 5. TAXATION. When the Committee has completed their recommendations, a Final Report will be  
52 given to the Select Board for their review. The Select Board then decides if they agree or disagree with those  
53 recommendations. After that there are two public hearings held before the changes go to the voters.

54 Mr. Keane noted that the Final Report to the Select Board will have two sections. One section will be  
55 for the substantive changes, such as a contract for the Town Manager or the number of unacceptable  
56 absences of a Select Board member, and the other section will be for grammatical corrections and  
57 consistencies.

58 Mr. Malmborg reminded everyone that in addition to the Committee recommendations going to the  
59 Select Board and then to the voters, they then go to the State Legislature who can accept or deny any or all of  
60 the recommendations. "We could end up with the same 2005 version of the Charter we have now or some  
61 variation of what we suggest."

62 **3. PUBLIC COMMENTS**

63 Maggie Pendergast thanked the Committee for all of their work. She agrees that there should be  
64 "checks and balances" for the Select Board and is not pro mayor because she is happy with the way the town  
65 government is running. "If it ain't broke, don't fix it", however, there should definitely be a review of the  
66 Town Manager's position. Every job has a review of some sort, and Ms. Pendergast was surprised that this  
67 had not been addressed before.

68 Mr. Plunkett commented that the Committee has not had access to the Minutes from previous Charter  
69 reviews so they don't know what has previously been discussed or not.

70 Mr. Malmborg noted that the idea of someone running for the Select Board with the political intent of  
71 never going to the meetings was a point of Committee discussion that took place on the absenteeism issue,  
72 and Mr. Keane added that the consideration was also there to enable meeting attendance via technology  
73 without physical presence.

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75 Tom Jacobs, Select Board Chair, also thanked the Committee for all of their work. He feels that the  
76 Charter is "a living document" that is "going to give us the future for our community" for which he has "a spirit

77 of enthusiasm and optimism". The Select Board will have an open dialogue on the Committee's  
78 recommendations that is open to the public. The hope is to have this done in time for the vote in March 2018.

79 Mr. Plunkett commented that the time frame for the Committee presenting their recommendations is  
80 running short and must be done in December 2017. Further discussion will determine if the recommendations  
81 will be on the entire Charter, or a portion of it.

82 Mr. Ebert noted that the Charter, itself, gives the Committee a year to review it. The present process  
83 began in late July 2017. "It will take as long as it takes."

84 Ms. Oller added that the Committee has been meeting weekly from 11:45am-1:00pm with one long  
85 meeting each month to try to complete the review of the whole Charter.

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87 Stuart Hurd, Town Manager, stated that the Charter is "the constitution of the community" that gives  
88 us what the State does not. For example, the Charter gives us a 7 member Select Board, whereas the Statute  
89 only contemplates 3 or 5 members.

90 Mr. Hurd also explained the local option tax. Originally, the 'gold towns' (those that paid more school  
91 tax than they received) were given the option for their voters to approve a 1% additional sales tax amount  
92 above the state wide 6% sales tax. Those towns receive 70% of the 1% additional tax and 30% remains with  
93 the State. Bennington was prohibited by law to receive the local option tax because we were a 'receiving  
94 town' (we paid less school tax than we received). Receiving towns can now vote to have a local option tax  
95 through their charters. Because Bennington is a regional shopping center, we could generate an additional  
96 \$700K-\$900K for the Town by adding an addition 1% to sales tax. This would probably be the preferred tax to  
97 apply the local option tax to, instead of the other two options - the current 9% room and meals or the 10%  
98 alcohol taxes.

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100 Bruce Lierman stated that "there's a town to be managed and there's a town to be led'. The  
101 complexities of managing the town with all of the local, state, and federal regulations speaks to the town  
102 manager form of government. However, Bennington lacks the leadership role of an individual "that has the  
103 vision of where the community is going". The management professional requirement should not be open to  
104 having to be elected every 4 years, whereas, the leadership role does fit an elected position. "We need to  
105 have both positions, and right now, we don't have them both."

106 Mr. Lierman applauded the Committee on addressing accountability for both the Select Board and the  
107 Town Manager. He feels that "it is a disservice to the Town Manager" not to give him/her a performance  
108 review annually or biannually, and does not agree with putting "tenure requirements" on the position.

109 Ms. Oller added that she has been impressed with the leadership of the Select Board, for example,  
110 with their work on TIF. The Committee has discussed their opposition to a "strong mayor" where the mayor  
111 functions both as the mayor and town manager, but we are always listening to what the public has to say.

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113 Bob Tegart, a Bennington resident for a year, reiterated the importance of having a professional  
114 managing the multi-million dollar budget of the Town with all of the related complexities and challenges.  
115 However, he doesn't have any objections to having a public relations person to "kiss the babies", as well.

116 Mr. Keane added that he is still undecided on the mayor/town manager/Select Board issue, but noted  
117 that if the decision is to go with a “strong” mayor, then there must be at least 10 years of qualified candidates  
118 that can participate in competitive elections. The individuals we have in Bennington that would fit this  
119 position do not have the time to take it on. If you don’t have “the stable” of these qualified people, then it  
120 doesn’t make sense to go down that road.

121 **4. LISTEN**

122 Public comments can be made on the Town of Bennington website, [www.benningtonvt.org](http://www.benningtonvt.org) . All  
123 meeting Minutes are currently posted there, and all final documents will also be posted there when the  
124 Committee has completed their review.

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128 ***At 6:30pm, Jonathan Cohen moved and Michael Keane seconded to adjourn the meeting. The***  
129 ***motion carried unanimously.***

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133 Respectfully submitted,

134 Nancy H. Lively

135 Secretary