

CHARTER REVIEW COMMITTEE OF THE TOWN OF BURLINGTON (2020)



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For the Education and Benefit of Residents

Prior to the November 3, 2020 Referendum Vote

COMMITTEE MEMBERS

David Goshdigian, Chairman

Tony DiNicola, Vice Chairman

Toni Vosburgh, Secretary

Laura Gara, Member

Barry Faticoni, Member

Ginger Doherty, Alternate

JP Parente, Alternate

Jeff Vosburgh, Alternate

INTRODUCTION

The Charter Review Committee (the “Committee”) of the Town of Burlington (the “Town”) respectfully submits this report to the Board of Selectman (the “Board”), as required by the General Statutes, on _____, 2020. In this report, the Committee provides an overview of the Committee’s structure, objectives and review process, as well as the final recommendations for Charter revision.

THE BURLINGTON TOWN CHARTER AND A BRIEF OVERVIEW OF THE COMMITTEE’S WORK

The Burlington Town Charter (the “Charter”), which is the basis of this review, was most recently adopted, as revised, by the Town effective December 6, 2012. Consistent with other Connecticut municipalities, the Charter outlines the foundation of the Town’s government with respect to elected and appointed Town officials as well as governing boards and commissions.

The Charter Review Committee was established at the Board of Selectmen meeting held on December 10, 2019, by a unanimous vote of the Board. The individual members of the Commission—2 Republicans and 3 Democrats and 3 Unaffiliated, all serving as volunteers—were appointed by the Board of Selectmen and sworn in by the Town Clerk. The members of the Committee are David Goshdigian, Chairman, Tony DiNicola, Vice Chairman, Toni Vosburgh, Secretary, Barry Faticoni and Laura Gara, Members, and Ginger Doherty, JP Parente and Jeff Vosburgh, Alternates. Following an organizational meeting on January 13, 2020, and a public hearing on January 27, 2020, the Committee began its substantive work at its next regular meeting on February 10, 2020.

On December 19, 2019, the Board of Selectmen charged the Committee with thoroughly reviewing¹ the following specific chapters, sections, and provisions of the Charter for possible revision:

Section 2-5: Vacancies in Elective Offices
Section 3-3: Board of Selectmen

¹The Board of Selectmen indicated the reason it wanted some of these sections or chapters reviewed. For other sections or chapters, however, the Board asked for a general review without any specific reasoning given. If the Board gave a reason that it wanted a specific section or chapter reviewed, that is noted in the part of this report detailing the Committee’s recommendations.

Chapter 5: Appointed Boards, Commissions and Officers.
Section 5-10: Board of Library Directors
Section 5-15: Regional Planning Agency Delegates
Section 6-2: Compensation
Chapter 7: Finance and Taxation
Section 8-4: Procedure
Section 8-6 (B): Actions Requiring a Town Meeting
Chapter 9: Town Employees
Section 10-2: Code of Ethics

The Committee was also encouraged by the Board of Selectmen, and is authorized by state statute, to review the entire Charter in addition to those sections and chapters indicated by the Board. As such, the Committee undertook a full review of the Charter before preparing this report.

At its meetings, the Committee determined those provisions of the Charter to recommend for amendment or clarification, as well as those provisions it decided should remain as they are at present. The members of the Committee consulted with Town officials, boards, commissions, and the Connecticut Conference of Municipalities, and independently researched similar provisions in other municipal charters and trends in changes implemented by other towns. The Committee members' votes and recommendations were based on the culmination of thorough research, review, and debate—weighing the pros and cons, the potential for unintended consequences, and the view that the Committee should do what is right rather than what is convenient. The Committee's discussion was specific to the current and future roles of Town officials and governing bodies—not to any individuals currently in those roles.

Accordingly, this report addresses the Committee's recommendations for revising the Charter, including provisions that the Committee reviewed but decided not to recommend a change. The report is organized by Charter section. For each section, the report indicates the Board of Selectmen comments regarding the section, the Committee's proposed change, if any, and the reasoning behind the Committee's recommendation. For the proposed changes, added language is underlined and deleted language is crossed out.

NOTE OF APPRECIATION

The Committee would like to thank the Town officials, directors, employees, the members of the Board of Selectmen, boards, commissions and committees, and the Town Clerk who all provided invaluable input into the research, analysis and issue considerations undertaken by the Commission. We would also like to express our kind thanks Toni Vosburgh for her administrative services with respect to the Committee's minutes and postings.

Most especially, we are greatly appreciative of the input and ongoing constructive dialogue and debate from our community regarding the current status of, and recommended revisions to, the Town Charter.

RECOMMENDATIONS OF THE CHARTER REVIEW COMMITTEE

Section 1-5.

Board of Selectmen Comments: None.

“Section 1-5. For purposes of this Charter, the use of the terms “he₁” “his₁” etc.₁ shall not be literally interpreted and the terms “she₁” “her₁” etc.₁ should be substituted as appropriate.”

Committee Comments: The committee discussed whether to revise this section or make changes throughout the Charter so that language is not gender specific. It decided that this section sufficiently conveys that idea so that no substantive changes are recommended, but the committee recommends adding commas for clarity.

Section 2-5. Vacancies in Elective Office.

Board of Selectmen Comments: The Board directed the Committee to consider whether an appointee should serve until the next municipal election or for the remainder of the term of the position being filled.

“Section 2-5. Vacancies in Elective Office. Any vacancy, in any elective town office excluding the Board, shall be filled within sixty days of such vacancy by appointment of the Board. Any such appointee shall be a member of the same political party as the voter vacating the office. In the case of an unaffiliated voter vacating the office, any such appointee shall be from any political party on whose slate the unaffiliated voter ran or another unaffiliated voter. Such appointee shall serve until the end of the term next

~~regular town election. At the next such regular town election, such office shall be filled by the election of a person who shall serve for the unexpired portion of the term, and shall take office immediately upon election.”~~

Committee Comments: The purpose of this proposed change is to have the appointee serve for the remainder of the unexpired term.

Section 3-3. Board of Selectmen.

Board of Selectmen Comments: The Board suggested that the terms of the individual Selectman should be staggered.

~~“Section 3-3. Board of Selectman. Commencing with the November 2013 election, The Board shall consist of a First Selectman and four other selectmen. At the next regular municipal election following the effective date of this section, a First Selectman and two other selectmen members of the Board shall be elected to serve a all for terms of four years, and two other selectmen shall be elected to serve a term of two years. At all subsequent municipal elections, the term of the office of First Selectman and term of the office of the other selectmen shall be four years. The votes cast, including any valid write-in votes, for an unsuccessful candidate for First Selectman shall not be counted as votes for that person him as a member of such board one of the other selectmen. For purposes of determining minority representation only, the First Selectman shall not be counted as a member of the Board.~~

Committee Comments: The Committee agreed with the Board’s suggestion to stagger the terms of the Board. It also proposes that the First Selectman shall not be counted as a member of the Board for purposes of minority representation, which will encourage a balanced Board.

Section 4-1. Board of Selectmen.

Board of Selectmen Comments: None.

~~“Section 4-1. Board of Selectmen. The There shall be a Board of Selectmen shall consisting of the First Selectman and four other selectmen five members. No Selectman member of the Board shall hold any other compensated, elected office under the government of the United States, the State of Connecticut, or any subdivision thereof;~~

nor shall he, during the term of office for which he is elected, hold or be appointed to any other office under the government of the Town.”

Committee Comments: The purpose of this proposed change is to make the language consistent with the proposed changes to Section 3-3.

Section 5-10. Board of Library Directors.

Board of Selectmen Comments: The Board indicated that it believes there are too many positions on the Board of Library Directors.

“Section 5-10. Board of Library Directors. The Board shall appoint a Board of Library Directors consisting of nine members who shall serve four-year terms, except that of those first appointed under the provisions of this Charter, five shall be appointed for four-year terms, and four shall be appointed for two-year terms. Biennially thereafter, the Board shall appoint members in the manner provided herein for four-year terms to succeed members whose terms expire.”

Committee Comments: Although the Committee agrees with the Board’s position, it makes no recommendation at this time, as the Town Attorney is currently reviewing state statutes on this topic.

Section 5-15. Regional Planning Agency Delegates

Board of Selectmen Comments: The Board advised that this section is obsolete because the First Selectman now required to be the only delegate.

“Section 5-15. Regional Planning Agency Delegates. ~~The Board shall appoint for two-year terms two representatives from the Town to the Regional Planning Agency, one from among the members of the Board and the other who must be a member or alternate member of the Planning and Zoning Commission.~~ The delegates for the Regional Planning Agency shall be appointed in accordance with the General Statutes.”

Committee Comments: The purpose of the proposed amendment is to conform to changes required by the Regional Planning Agency.

Section 5-20. Town Counsel.

Board of Selectmen Comments: The Board directed a general review of this chapter.

“Section 5-20. Town Counsel. The Board shall retain the legal services of a law firm to serve as Town Counsel. It shall appear for and protect the rights of the Town in actions, suits, or proceedings brought by or against the Town or any of its boards, commissions, departments, agencies, directors or officers. The counsel shall be the legal adviser to all town boards, commissions, departments, agencies, directors or officers in matters affecting the Town and shall upon request furnish them with a written opinion on any question of law involving their respective powers and duties. Upon request, it shall prepare or approve forms of contracts or other instruments to which the Town is a party or in which it has an interest. It shall have the power, with approval of the Board, to compromise or settle any claims by or against the Town and to appeal from orders, decisions, and judgments. Prior approval is required by the First Selectman in order to engage the Town Counsel on any inquiries into a request for services.”

Committee Comments: Because engaging the Town Counsel may result in charges to the Town, the purpose of the proposed change is to ensure that the Town Counsel is not engaged without prior approval from the First Selectman.

Sections 5-21 Through 5-23. Town Clerk, Tax Collector, Assessor.

Board of Selectmen Comments: The Board directed a general review of this chapter.

~~“Section 5-21. Town Clerk. The Board shall appoint a Town Clerk.~~

~~Section 5-22. Tax Collector. The Board shall appoint a Tax Collector.~~

~~Section 5-23. Assessor. The Board shall appoint an Assessor.”~~

Committee Comments: The Committee recommends deleting these sections because these positions are now subject to a collective bargaining agreement.

Section 6-2. Compensation

Board of Selectmen Comments: The Board directed the Committee to clarify the language in this section.

“Section 6-2. Compensation. The Board shall determine the compensation for the First Selectman, ~~Town Clerk, Town Treasurer, Tax Collector, Assessor, and all directors and employees of the Town.~~ The First Selectman, in consultation with the

Board, shall determine the compensation for any paid, elected officials and all employees of the town not subject to a Collective Bargaining Agreement. Compensation shall be determined by the Board in conformity with a pay plan for the positions involved. No compensation shall be based upon any fees collected. Fees collected shall be paid to the town treasury.

Committee Comments: The purpose of this proposed change is to clarify that the Board determines the compensation for the First Selectman and that the First Selectmen, in consultation with the Board, determines the compensation for positions not subject to a collective bargaining agreement.

Section 6-3 (New). Compensation for Town Employees Subject to a Collective Bargaining Agreement.

Board of Selectmen Comments: None.

“Section 6-3 (New). Compensation for Town Employees Subject to A Collective Bargaining Agreement. Compensation for town employees subject to a Collective Bargaining Agreement shall be handled in accordance with the guidelines set forth within any collective bargaining agreement then in effect.”

Committee Comments: The purpose of this change is the codify that compensation for Town employees subject to a collective bargaining agreement shall be determined according to such agreement.

Section 7-5. Duties of the Board of Finance on the Budget

Board of Selectmen Comments: The Board directed a general review of this chapter.

“Section 7-5. Duties of the Board of Finance. Following receipt of the town’s budget proposal from the Board and the budget as passed by the Board of Education ~~proposal from the Chairman of the Board of Education,~~ the Board of Finance shall analyze ~~review~~ the Town’s Budget Proposal and make changes it deems necessary. ~~same, and shall prepare the Annual Budget Proposal for the Annual Town Budget Meeting.~~ Upon request, the department heads shall meet with the Board of Finance for the purpose of reviewing their proposed budgets. The Board of Finance is authorized to make changes to the town’s budget proposal to fulfill its fiduciary responsibilities. The Board

will have the ability to review the final proposed budget prior to the Annual Town Budget Meeting. Any concerns will be discussed and reconciled between the Board and the Board of Finance prior to the Annual Town Budget Meeting.

The Board of Finance shall prepare the Annual Budget Proposal for the Annual Town Budget Meeting. The Board of Finance shall hold one or more public hearings at least ten days before the Annual Town Budget Meeting, at which any elector or taxpayer shall have an opportunity to be heard regarding the Annual Budget Proposal of the Town for the ensuing fiscal year.”

Committee Comments: The purpose of this proposed change is to conform to accepted practices and to synchronize the work of the Board of Selectmen and the Board of Finance regarding the annual budget.

Section 7-7. Municipal Reserve Fund.

Board of Selectmen Comments: The Board directed a general review of this chapter.

“Section 7-7. ~~Municipal Reserve Fund Reserves.~~ A. Municipal Reserve Fund.

Upon the recommendation of the Board of Finance and the approval of the Annual Town Budget Meeting, a Municipal Reserve Fund for capital and nonrecurring expenses shall be established and used in accordance with the General Statutes. ~~Upon the recommendation of the Board of Finance and the approval of the Annual Town Budget Meeting,~~ There shall be paid into the Municipal Reserve Fund:

- (1) moneys, as determined by the Board of Finance, transferred thereto from the ~~general fund~~ cash surplus available at the end of any fiscal year as a result of actual expenses being less than budgeted;
- (2) moneys budgeted and approved at the Annual Town Budget Meeting to be added to the Municipal Reserve Account;
- (~~2~~3) moneys raised by annual levy of a tax not to exceed two mills for the benefit of such fund, and for no other purpose, such tax to be levied and collected in the same manner and at the same time as the regular taxes of the Town;

B. Named Reserves (New). Upon the recommendation of the Board of Finance and the approval at the Annual Town Budget Meeting, specific Named Reserve Fund(s) for

anticipated expenditures for capital and nonrecurring expenses may be established. The purpose of each Named Reserve Fund shall be to reduce drastic increases and decreases in requests for capital or nonrecurring expenditure funding. There shall be paid into specific Named Reserved Funds:

- (1) moneys, as determined by the Board of Finance, transferred thereto from the cash surplus available at the end of any fiscal year as a result of actual expenses being less than budgeted;
- (2) moneys budgeted and approved at the Annual Town Budget Meeting to be added to the Named Reserve Fund;
- (3) moneys, as determined by the Board of Finance, from the capital budget of the department that will incur the anticipated future expenditure.

The Board of Finance is authorized to transfer moneys from a Named Reserve Fund to either the General Fund, the Municipal Reserve Fund, or another Named Reserve Fund so long as the moneys transferred are not restricted and the Board of Finance determines that the moneys were no longer needed in the transferor account. The Board of Finance is authorized to close out a Named Reserve Fund it deems no longer needed and transfer any moneys therein to either the General Fund, the Municipal Reserve Fund, or another Named Reserved Fund.

All such moneys so accumulated”

Committee Comments: The purpose of this proposed change is to provide the Board of Finance with the authority to establish and manage Named Reserve Funds, which may be used to set aside moneys for future capital and nonrecurring expenses.

Section 7-8. Expenditures and Accounting

Board of Selectmen Comments: The Board directed a general review of this chapter.

“Section 7-8. Expenditures and Accounting. No purchase of products, services and/or consultants, shall be made except upon the preapproval of the First Selectman or his authorized agents. Such purchases shall be made under such rules and regulations as may be established by the Board.

No voucher, claim or charge against the Town shall be paid until the same has been examined by the First Selectman and approved by him for correctness and legality. Checks shall be drawn for the payment of approved claims which shall be valid when signed by the First Selectman and countersigned by the Town Treasurer. In the absence or inability to act of either the First Selectman or the Town Treasurer with respect to the above duty, another Selectman is authorized to substitute temporarily for either but not both of them.

No board, commission, department, agency, officer, or employee of the Town shall be authorized to involve the Town in any obligation to spend money for any purposes in excess of their approved budget ~~the amount appropriated in the line item to which said expenditure shall be charged~~ until the matter has been approved by the Board of Finance. Each order drawn upon the Town shall state the appropriation against which it is to be charged.

~~When any board, commission, agency, department, or officer intends to transfer funds set apart for one specific purpose to another, before incurring any expenditure, it shall make application to the Board whose duty it shall be to examine the matter. Upon approval of the Board such transfer may be made.~~

Upon recommendation of the Board, additional appropriations over and above the total budget may be made from time to time by the Board of Finance after a determination by them that there is available an unassigned and unencumbered general cash balance to meet such appropriation.

Any appropriation, in addition to the budget, of more than .1% of the annual budget shall become effective only after approval by the Board of Finance and passage at a Town Meeting, except that transfers from the Contingency Expense Line Item, ~~and the~~ Municipal Reserve Fund and Named Reserve Funds may be made by the Board of Finance upon the recommendation of the Treasurer.

All expenditures exceeding an amount to be determined by a Town Meeting shall be subject to competitive bidding. The Board, with input from the Board of Finance, will exercise primary responsibility for ~~formulation of~~ maintaining policy relative to

requirements for quotes, bids, and other criteria to control purchasing and purchase orders.

For the purposes of meeting a public emergency threatening the lives, health or property of citizens, emergency appropriations, the cumulative total amount of which shall not exceed five percent of the current tax levy in that fiscal year, may be made.

Any payment made in violation of this ~~chapter~~ Charter shall be deemed illegal and every official authorizing or making such payment or any part thereof shall be jointly and severally liable to the Town for the full amount so paid or received. Any appointive officer or employee of the Town who knowingly incurs any obligation or authorizes or makes any expenditure in violation of the provisions of this Charter or takes any part therein, may be removed for cause.”

Commission Comments: The purpose of the proposed changes is to clarify the language of this section and make it consistent with the proposed changes to Section 7-7.

Section 8-4. Procedure.

Board of Selectmen Comments: The Board indicated a desire to stop posting official Town notices on exterior signposts.

“Section 8-4. Procedure. All town meetings shall be called to order by the First Selectman or, in his absence, as provided in Section 4-2 of this Charter. A moderator shall be elected and all business conducted in the manner provided by the laws of the State, except as otherwise provided in this Charter. The Town Clerk shall serve as clerk of all town meetings but in the Town Clerk’s absence, an acting clerk may be designated by the moderator. Town meetings should be held at a time of day which would encourage the greatest participation of the public whenever possible.

Legal notice and the text of any proposed ordinance shall be posted in the Town Clerk's office and public place or places as the Board shall prescribe.”

Committee Comments: The Committee recommends no changes to this section, as it does not require the Town to use exterior signposts to notice meetings.

Section 8-6. Actions Requiring a Town Meeting

Board of Selectmen Comments: The Board asked the Committee to review subsection B as it relates to Chapter 7, Finance and Taxation.

“Section 8-6. Actions Requiring a Town Meeting. The Board shall call a town meeting for consideration of any of the following actions:

- A. adoption of a town budget;
- B. any resolution appropriating more than .1% in excess of the annual budget ~~in addition to the budget for any purpose~~;
- C. any resolution authorizing the issuance of bonds and all other forms of financing, the terms of which exceed one year;
- D. real estate purchases by the Town;
- E. any sale or transfer of real property or any interest therein of the Town except property acquired by tax foreclosure;
- F. real estate leases or lease options to which the Town is a party for terms in excess of three years;
- G. adoption of town ordinances;
- H. such matters or proposals as may be required by the provisions of this Charter, or as the Board, in its discretion, shall deem to be of sufficient importance to warrant town meeting consideration.

Any such action shall become effective only after it has been approved by a majority of those present and voting at such meeting.”

Committee Comments: The purpose of this proposed change is to clarify that a town meeting is required to approve an appropriation that increases the total annual town budget by more than .1% over what was approved.

Section 9-2. Job Classification and Salaries.

Board of Selectmen Comments: The Board directed a general review of this chapter.

“Section 9-2. ~~Job Classification and Salaries~~ Town Employees Subject to a Collective Bargaining Agreement. The First Selectman shall ~~prepare~~ ensure that all personnel and policy issues regarding an employee who is a member of an employee

~~organization, as defined in Conn. Gen. Stat. Section 7-467 (6), is handled in accordance with the guidelines set for within any collective bargaining agreement then in effect, a statement of the duties and responsibilities of and compensation for each position and the minimum qualifications for appointment to each position. These statements shall become effective upon approval by resolution of the Board. New or additional positions may be created or existing positions abolished. Upon recommendation of the First Selectman, changes in duties and responsibilities of existing positions may be made by resolutions of the Board.~~

For purposes of Chapter 113 of the General Statutes, as amended, the First Selectman shall have the sole authority to recognize the exclusive bargaining agent for any unit of town employees and shall act as the bargaining agent for the Town.”

Committee Comments: The purpose of the proposed change is to provide that employees subject to a collective bargaining agreement will be governed by the terms of such agreement.

Section 9-3 (New). Town Employees Not Subject to a Collective Bargaining Agreement

Board of Selectmen Comments: None.

“Section 9-3 (New). Town Employees Not Subject to a Collective Bargaining Agreement. Any town employee who is not hired pursuant to a collective bargaining agreement shall be subject to the personnel and policy guidelines set forth as follows in Sections 9-4 through 9-6.”

Committee Comments: The purpose of this proposed change is to codify that employees not subject to a collective bargaining agreement are subject to the following sections of the Charter.

Section 9-3. Personnel Policy.

Board of Selectmen Comments: The Board directed a general review of this chapter.

“Section 9-3 9-4. Personnel Policy. All Town employees shall be hired or promoted on the basis of merit and in conformity with recognized principles of public personnel

administration. The merit system shall be administered under the supervision of the First Selectman.”

Committee Comments: The purpose of this proposal is to renumber what was formally Section 9-3 as Section 9-4.

Section 9-4. Personnel Rules.

Board of Selectmen Comments: The Board directed a general review of this chapter.

“**Section 9-4 9-5. Personnel Rules.** The First Selectman shall prepare a set of personnel rules providing, among other things, for the method of holding competitive examinations, probationary periods of employment, hours of work, vacations, sick leaves and other leaves of absences, removals and such other rules as may be necessary to provide adequate and systematic procedure for the administration of the personnel affairs of the Town. Such rules and such other rules as may be necessary shall become effective upon approval by resolution of the Board. Copies of such rules and any amendments thereto shall be distributed to all employees.”

Committee Comments: The purpose of this proposal is to renumber what was formally Section 9-4 as Section 9-5.

Section 9-5. Performance Review.

Board of Selectmen Comments: The Board directed a general review of this chapter.

“**Section 9-5 9-6. Performance Review.** The First Selectman, or his designee, shall, at least annually, review the performance of each employee of the Town who has been employed six months or more and shall place a copy thereof in the personnel file of each such employee.”

Committee Comments: The purpose of this proposal is to renumber what was formally Section 9-5 as Section 9-6.

Section 10-2. Code of Ethics

Board of Selectmen Comments: The Board directed that the Committee should consider deleting this section, as there is already an ordinance establishing a Code of Ethics and Ethics Commission.

“Section 10-2. Code of Ethics. ~~Within one year of the Town’s acceptance of this Charter, the Board shall recommend to the legislative body of the Town a proposed ordinance comprising~~ The Board shall appoint an Ethics Commission and shall maintain and periodically review a Code of Ethics to govern the conduct of elected and appointed officers, directors, employees, and board and commission members of the Town.”

Commission Comments: The purpose of this proposed change is to update the language of this section, as the Town has passed an ordinance creating an Ethics Commission and promulgating a Code of Ethics. The Committee felt that an Ethics Commission should remain codified in the Charter as well.

CONCLUSION

The Committee, understanding the importance of our work, makes the foregoing recommendations based on careful deliberation and following many spirited and engaging discussions. Our goal is to ensure that the provisions of the Charter are clear, easy to understand, and reflect the current best practices. We hope that our efforts will help the Charter continue to evolve while also preserving the Town’s fundamental principles. The Committee looks forward to hearing comments from the public and collaborating with our fellow residents.