

**TOWN OF BEDFORD
CHARTER COMMISSION MEETING MINUTES
May 17, 2023
10 Meetinghouse Road**

ROLL CALL: A meeting of the Bedford Charter Commission was held on Wednesday, May 17, 2023, 10 Meetinghouse Road. Participating were Terry Wolf (Chair), Kelleigh Gleason (Vice Chair), and members: Susan Labrie, Matt McLaughlin, Linda Camarota, Paul Brock, Bryan Lord, Jeff Kerr, and Lori Radke. Also present was Town Manager Rick Sawyer.

2. PLEDGE OF ALLEGIANCE – Led by Vice Chair Gleason.

3. NEW BUSINESS

a. Invited Guest Presenters

Bud Fitch of the Secretary of State's Office understood that the Commission was interested in the pros and cons of choosing between a traditional meeting versus official ballot voting to the extent they would choose to go forward with a Charter that has the voters directly voting on budget appropriations. He thought each system had proven to work well in some communities and has heard from local officials in each circumstance where they wish they had the alternative.

Mr. Fitch stated that in a traditional meeting, part of the benefit and history was that citizens were meeting together to talk about an issue and had an opportunity to educate and influence the other voters in Town on the questions that they were going to consider. There was the opportunity for information and deliberation. For those that adopted the official ballot referendum or SB2 form of government, the criticism he heard most of was that they lose that opportunity unless they could entice the people that come out on Election Day and also come out for the deliberative session or budget hearings. Mr. Fitch stated that they should consider if they were willing to give up the traditional opportunity for discussion among folks for a system that allows the voter to pay no attention to any of that and just vote based on whatever their particular point of view was.

Mr. Fitch stated that another consideration was who could vote. At a traditional meeting form of government, to participate in the decision on the budget or any particular warrant articles, you've got to be there at a particular moment in time. If they have lots of warrant articles, knowing when to be there at the moment that they were going to vote on whatever was being considered, because that's what they really have a passion about voting on, was pretty hard to do. In the official ballot referendum form of government, everybody gets to vote on everything at the moment in time that works for them in the window that was created for voting. There is a greater opportunity to participate. They aren't constrained by those who work or family commitments that may make it difficult for them to come out at the moment that they hold their traditional meeting whether it's in the evening or on the weekend. Most folks could work into their schedule if they have an 8 or 10 hour window of the polls being open. There was greater opportunity to participate in the official ballot referendum because of that, but less opportunity to be well informed,

because there was no opportunity when they are making the decision to or enjoy the wit and wisdom of their leaders in Town about the reasons for the proposed warrant article, the budget or the appropriation being considered. To hear their neighbors say that's a great idea and they should vote for it or no, they can't afford it or they should do it in a different way and vote this down. If they are voting on bond articles there are requirements for unofficial ballot voting, the yes/no paper ballots that go with the traditional form of government and for that the polls have to be open for a minimum of an hour, so there is some additional opportunity to vote when it's a big dollar value item.

Mr. Fitch stated that something important on the official ballot referendum voting was absentee voting. NH's constitution had been construed to be the common law approach to government; if you want to participate, you've got to be there. They have exceptions that have been written into the constitution over the years. You can vote absentee if you are going to be absent, have a disability that prevents you from coming out and voting in person, or if you have a religious observance that prevents you from coming out. Having the official ballot referendum form of government creates an opportunity for those folks who couldn't come out in person, for those reasons, to vote. The Legislature over the years has expanded what the meaning of absence is. It started out as absence is you are literally not in Town. Now absence includes you are in Town, but at work, but can't leave work comfortably and go vote. It takes into consideration your commuting time and includes work done by people who care for children or infirmed adults throughout election day, regardless of whether they are being paid to do that or not. It is recognized by the statute as an absence, so that stay at home parent where it wasn't practical to go vote, they can vote absentee. With a traditional form, you've got to be there and you've got to be there at the moment that that warrant article is considered.

Mr. McLaughlin stated that he was an airline pilot, so he missed almost every Tuesday in March. He wanted to point that out as a negative to the Town Meeting format.

Ms. Camarota stated that they have about 16,000 registered voters and they've looked at smaller towns that do traditional meetings. She remembers the traditional meetings and people attended and enjoyed it and got more information from their elected officials. She wanted to know if he had any comment on the status of a traditional meeting with a population like Bedford. Mr. Fitch responded that he had high regard for their current and past moderators he had the pleasure of working with. In his experience, when towns grow beyond a certain size, they need somebody who is talented and has a plan and a process where they probably adopt a time limit on speaking and have a methodical process, and have a moderator who was reasonably skilled about not having people keep getting up and making the same point and allowing someone who had a different point to speak. He thought a well-run meeting with a talented moderator could handle a pretty large crowd.

Mr. Brock stated that a concern regarding SB2 would be the length of a ballot and the length of time of the voting process. They operate with capital reserve accounts that could introduce additional warrants to the ballot and make it lengthy, which could drag out the voting process. He knows that the Secretary of State's Office had concerns with Bedford in the past with some of their traffic pattern issues. He wanted to know if Mr. Fitch was aware of any towns in the State that have adopted SB2 that also have capital reserve accounts that have found a way around the problem of lengthy ballot. Mr. Fitch stated that capital reserve accounts, in order to expend money, the law says they could do it

either by the vote of the voters to appropriate money from the capital reserve or the Town could vote to appoint an agent, typically the Board of Selectmen. It says that they are going to set aside money this year and maybe every year towards buying a fire truck, for example, and they're going to appoint the Board of Selectmen as an agent to expend those funds. That lets them make the decision of when and how much of the accumulated funds were going to be expended and they can do that without it requiring an additional vote by the voters. That's one way that they take that part of it out. The law on Charters gives the Commission flexibility to propose creative solutions that make sense in Bedford for what items were left in the hands of the Town Council and which items were brought before the voters. Mr. Brock wanted to know if by appointing an agent they were removing from the voters the right to negate that capital purchase. Mr. Fitch stated in the sense that if the Town Council decides this is the right moment in time to buy a new fire truck and there are funds sufficient for them to do that in the capital reserve, then probably they were. Maybe they don't want to buy a new fire truck. There were ways to unwind a capital reserve account, which could be done, but depending on where they allocate that part of the appropriations process it could either be a warrant article the voters would vote on or it could be in the domain of the Town Council. Mr. McLaughlin wanted to know if the voters could rescind that authority on any given year. Mr. Fitch thought the appointment of an agent could be rescinded. Mr. Brock wanted to know if it could be rescinded in a blanket fashion or could it be rescinded for a specific item.

Bruce Kneuer, Department of Revenue, stated that it's an all or nothing authority granted from the legislative body to the governing body and stays in place until the legislative body chooses to take it back. The one area where agent authority could be problematic is the voters have given agent authority to a Board of Selectmen and they choose to try to utilize it and there is a disagreement with the Trustees of the Trust Funds who hold the funds. He was struck with how many reserve funds they fund through that single warrant article. There was 48 at last count. That made him take a quick look at some of their Charter peers who also have a combined article. Merrimack had 15 funds within one and Peterborough had seven. For those municipalities that have chosen to have a Charter that use separate warrant articles he thought they might be interested. Conway still remains a Board of Selectmen governing body, but are a Charter town. Their 2023 ballot contained 50 items and 8 of them were separate individual reserve fund warrant articles. They really can't say whether or not any particular community or trend exists as to the length of the ballot creating any kind of reaction. Enfield had come up in the context of how many communities had chosen to use SB2 or ballot approach and subsequently decided it was not the best for them. He knows of three towns, in 27 years of SB2 that have adopted and subsequently rescinded. They were almost contiguous: Dorchester, Enfield and Orange. They all adopted SB2 in the first year that you could in 1996. Two of the towns repealed in 1999 and Enfield was in 2001. Fairly rapidly after trying it, it wasn't for them. Those were the only municipalities so far that he's been able to uncover. Currently, they have 72 municipalities having adopted and using SB2. Other communities, including one where he served as an administrator, there was an effort to adopt and failed every time. Other communities they see repeated efforts to repeal and it fails. Ms. Radke assumed the towns of Orange, Enfield and Dorchester were very small towns.

Mr. Fitch stated that from general science around voting, ballot fatigue happens. Most ballots have the biggest and most important things at the top and the less important things at the bottom. He thought it was legitimate thing to think about how many different

questions are asked to answer and logistically. If they've got to answer a lot of questions, they just have to plan for more time for people to spend in the booth marking it.

Mr. Fitch stated that he read the statutes. If they have five funds they don't have to appoint an agent for all of them; they could appoint an agent for just one or two of them. Mr. Kneuer stated that they'll see the vote to create a fund, and then to raise and appropriate to fund it, and at the same time to vote to have the Board of Selectmen as agents. If you wanted to make the Council agents on 10 and do it all in one article, he didn't think it would create any issues for the DRA and thought it would be clear. The interesting thing about compound articles was not at the ballot stage, but at the deliberative or the traditional. A good moderator has to make sure that some things get addressed before there's a vote. Someone could motion to amend the total down and somehow it escapes everybody's attention and the voters say vote 'yes' to lower it by \$50K and never said which part. The end result was the DRA thought it was wiser to go back to the town and let them try and tell them what was most important then they would have applied a last in, first out type of argument. There's the list of funds and they want \$50K and they may have wiped out an important element of the aerial ladder fund that year. They could have wrinkles like that at a deliberative with a compound, but they've already utilized this large compound article on their reserve funding. Mr. Sawyer stated that the Town Council was the authorized agent for all of their Capital Reserve funds. It's been that way since sometime in 1990. Mr. Fitch wanted to be clear that the issue with having lots of warrant articles to vote on was one about appropriations, not about expenditures.

Vice Chair Gleason stated that the population of Enfield was 4,500, Orange and Dorchester were 2,077 and 3,039 respectively. She thought it was far more likely that they get 40 or maybe 200 people at the Town Meeting. That was her concern and the concern for some of the voters that she's spoken to. If they have 3,000 voters turn out for an election and only 1,500 of them vote the ballot items, because half of them find it too tedious and quit halfway through or they're busy or they don't understand them and say they're not answering this and they vote the first two pages and turn it in. That was still 1,300 more people than would have shown up at the Town Meeting. She wanted to know in towns this size or in comparable towns, if they ever hear rumblings that they're dissatisfied when they go to SB2. Mr. Kneuer stated that he had no specific anecdotal information about that. He could only think that it's never gotten to the point where SB2 was so problematic that some community wants to walk it back.

Mr. Fitch stated that he's had conversations with officials in smaller SB2 communities who were going through a period where there was a very active 'no' group and they're just going to vote 'no' on everything. Vice Chair Gleason stated that was her larger concern about doing it in a Town Meeting format, because in a Town Meeting format if no one shows up that year and she rolls in with 27 of her closest friends and their on the 'no' team, then it's a 'no' as opposed to opening it up to the entire Town where at least you can rely on a much larger majority of voters. Mr. Fitch mentioned the Croyden School District issue. They got more than 50% of people on the checklist to show up and vote at a special meeting, which was required under the special meeting statute if you don't get a superior court order that an emergency exists to reinstate the larger budget. Mr. Kneuer stated that it was a remarkable moment. The school district said they were going to see if 50% or more of their registered voters would come out to authorize that special meeting's appropriation to put the school budget back together. It was about 370 to 2.

Croyden was a very small in numbers community, 759. 286 votes were required to be cast for the DRA to say that the appropriation would have been approved. The other example was a village district where the people didn't want to go to court. He told them if they could get 50% of 80 people in the district, and they did.

Chairwoman Wolf was worried if what happened in Croyden happened in Bedford. Somebody cuts the budget by \$6M at the Budgetary Town Meeting. She wanted to know what the mechanism was to hold a special meeting and if they needed to have 50% turnout to be valid. Mr. Fitch stated that that statute says that there were two paths. The path that you've got to have something that a superior court judge was going to agree was an emergency. The voters wanting to spend less money was probably not going to qualify. In the absence of an emergency, the statute says that for a change to appropriations, either increasing or decreasing the amount that was appropriated at the annual meeting, they have to have 50% of the number of voters who are on the checklist at the date of the annual meeting; not participating. Chairwoman Wolf stated that they would require 8K to participate in the election and Mr. Fitch confirmed it. They don't all have to vote in favor, but the number of votes cast has to be 50%.

Chairwoman Wolf thought Town Meeting could be risky if they don't have a good turnout. Mr. McLaughlin thought it was easier to snowball at Town Meeting than it was to snowball a vote. Chairwoman Wolf stated that when you go to SB2, there is a default budget, so she could go in and make that \$6M cut, but there is a default budget. The default budget might be \$35M, but you still have a floor. They wouldn't need to have a special election, because the voters still have a choice; the new budget or the default budget. Mr. McLaughlin stated that if they choose the new one, it goes to \$30M in her example. Chairwoman Wolf responded yes, but the voters voted. Vice Chair Gleason stated that with SB2, there at checks and balances, because they have a default budget. Mr. McLaughlin stated that if the voters approve a budget \$6M lower at the deliberative session and it passes on that ballot, then the \$30M becomes the budget. They need 8K people to bring it back to \$36M if they wanted to try. Chairwoman Wolf stated that the ballot would show the number that was selected at the deliberative session, and the default budget. The voters would vote to approve \$30M and if not, the default budget would be \$35M, so you vote 'no' to raise it. Mr. Kneuer thought they were constructing a hypothetical that was somewhat similar to what happened in Croyden. The first event was the large reduction, which would have occurred in their hypothetical deliberative. In all likelihood, a substantial cut to a recommended operating budget. A Croyden level 50% would almost guarantee that the default budget amount would be higher, so when it goes to the ballot, they would have that lower/higher and then they would have that intervening. The argument would ensue in this municipality about whether that deliberative session vote was a good one or not. It would either be confirmed or the more likelihood it would be 'no' and the default would go up and would put back something of the missing piece.

Mr. Fitch mentioned that there was consideration when the Town Council was first adopted of whether to give all of the legislative authority, including setting the budget, to the Town Council. He wanted to be clear that the Secretary of State's Office and he personally, don't know what's best for Bedford and didn't want them to misconstrue anything he says as an endorsement of any particular alternative, but that was on the table among the choices that they have. They are going to propose a new Charter that would invest all of that authority.

Chairwoman Wolf stated that their Charter was very narrow; it's only to recommend or not recommend official ballot voting, so they can't pick from a buffet. Chairwoman Wolf stated it's do they recommend it or do they not recommend it, which makes it a little simpler for them. Ms. Radke stated that if they don't recommend, then it doesn't move on, but then the next year they could open up the entire Charter if the board decided to do it that way. They would have to open it up again and that's when you can change it.

Mr. Kneuer echoed Mr. Fitch's comments on behalf of DRA, he didn't want to give anybody the impression that he favored one or the other option.

Chairwoman Wolf stated that their School District was SB2 and had been for a very long time. They debated some issues and had some well attended deliberative sessions. As soon as their high school passed, everybody thought they didn't have any problems anymore, and nobody goes to deliberative anymore.

Mr. Lord wanted to know in terms of approval if there was latitude from what SB2 would approve to be able to do some revisions as opposed to just a formal up or down, recommend or not recommend. Chairwoman Wolf stated that the Commission was created to decide whether or not to recommend official ballot voting. Mr. Lord wanted to know if official ballot voting was defined as is and unchangeable or whether they've got the latitude to define what it means. Vice Chair Gleason stated that her understanding was that they don't have the option of saying SB2, but they are going to do A, B, and C. Chairwoman Wolf thought official ballot voting was a defined option. Mr. Fitch stated that he wasn't sure that it was. To the extent that someone needs to construe their authorization and how narrowly it was intended, he thought they should get legal advice from their Town counsel. Unless they say no, it's all or none and the only thing you can do is recommend a change that all appropriations are done by official ballot or all appropriations stay in a traditional meeting, then they are constrained by that. If they're not, in statute 49-d:3, there a couple of different official ballot options. Official Ballot Town Council, the statute says, 'provided for voting on some or all matters that general law requires to be addressed at the annual or a special meeting of a town by official ballot. In such event, the Town Council should be vested only with a limited authority to vote on all matters not voted on by official ballot...specify with precision the budgetary items to be included on the official ballot.' If their charge gives them the prerogative to make recommendations within the constraints of the statute, then he thought they get to say they are going to have an official ballot vote on the main budget, but they are going to put it in the Town Council's hands appropriations for some limited sub-purposes. They should talk to Town counsel and get advice on that. Chairwoman Wolf stated that for the committee, the question on the ballot was, 'Shall a Charter Commission be established for the sole purpose of establishing official ballot voting under the current form of government.' That was the question that was put before the voters that created the Commission. Vice Chair Gleason thought it was worth an ask to the Town attorney, because her question would be could they adopt official ballot voting, but leave the Capital Improvement Funds in the hands of the Council or was it an all or nothing type deal.

Mr. Kneuer stated that this was one of the most interesting areas they get to look at where what they look at hundreds of times each year in a regular fashion has some twists and turns, because of a Charter. There was a school district and there were three boxes on the operating budget. He was looking at some records from their attorney clearly

indicating to him that what the statute demands of the Charter if they choose this option was to make sure there was a way to finalize the budget. It doesn't say adopt RSA 40:13. The Charter amendment was going to redefine default budget. Under 40:13, towns don't get say they'll make it up. There was a lot of contention about a default budget. Under the Charter powers these entities are crafting some individual approaches within the idea of voting by official ballot. They should check with counsel to see what legal options exist if this moves forward. Mr. Fitch stated that if they were thinking about the same school district, it went to the Supreme Court, but they have a circumstance where they have the School District Budget, Budget Committee Budget, and then have the deliberative session vote to put a different budget forward, so voters are choosing among three. That means they could have 2/3 of the people want to spend more or less money if 1/3 plus one voter votes for that other alternative. It's a plurality, not a majority outcome. Vice Chair Gleason stated that was because in that specific instance, they delegated power to a budget committee. Mr. Fitch stated that they created a system where they went from a majority decision; you need to have a 50% of the votes plus one to pick either the proposed budget or end up with a default budget. This was the only place he's bumped into where they actually have a plurality system, because there are three proposals that could come on to the floor where they could have 2/3 minus one of the voters being opposed to spending a certain amount of money and 1/3 plus one voter votes in favor of it. That's how much you're going to spend, which was not an idea that he as a voter would want to endorse.

Mr. Lord went back to their process and wanted to know what the end of the road was. He wanted to know if they make a recommendation and then there is a final vote or is their recommendation dispositive. Chairwoman Wolf stated that at some point they will make a recommendation. If the recommendation is to move forward, they will have a vote, write a report, and then they have to have a hearing on the report and they also have to send it to the Secretary of State's Office and some other places. Mr. Lord wanted to know if that vote amongst the nine was dispositive; there wasn't another up/down from the town. Mr. Brock stated that their vote simply puts it on the ballot next March. If they vote in the affirmative, then it's on the ballot next March. The general population then makes the ultimate decision. Mr. Lord thought if what Mr. Brock stated was true, then it would stand to reason that they've got a fair amount of latitude. They would get the advice from counsel as recommended, but if their job was only to follow through from the initial vote, and then to turn around and give it to a final vote, it would stand to be reasonable and logical that there was a fair amount of latitude for them to do some work in between. Otherwise, all they were doing was transitioning one vote and turn it around and give it a flip of the switch and then turn it around and give it to another vote. It would be logical that there would be some latitude for them. Chairwoman Wolf stated that they were researching the process and understanding what's involved and how it would impact the Town and then they would make a recommendation based on all of those findings of how they believe. Vice Chair Gleason thought what Mr. Lord was saying made sense to her and thought it was worth an inquiry to Town's counsel. Mr. Lord agreed 100%.

Mr. Kerr stated that he was learning a lot through the whole process and was looking forward to the report that they wind up with. He assumed they would layout some of the history of how they got to where they are now, what their choices are before them, and some of the pros and cons of each one of those. He was thinking up until now that the biggest con was ballot fatigue. It seemed that within the box that was described there was a way to delegate some of that responsibility to the Town Council to bundle some of those

Capital Reserve items together, so they have a fewer number of items on the ballot. He thought if it was in their purview to recommend that and how they do that, then he thought that would be a good thing. Previously he didn't think they had any wiggle room; they had to do all the different ballot items or nothing. He wanted to know if that was true. Mr. Fitch thought the answer lied within the opinion of their Town legal counsel. They may say no. Their starting point may be the case and their ending point may be the case, and that's what they pay Town counsel to give them advice in that regard. He thought they had some options independent of a Charter amendment, which isn't their purview, but something they could talk to the Town counsel and Town Manager about. If they combine some or all of the individual warrant articles appropriating funds to Capital Reserve Funds, to make it a 'Do you want to raise \$100K with \$5K going into each of these.' they could approach ballot fatigue in a manner that is unrelated to changing the Charter.

Mr. Brock commented on Mr. Kerr's question and stated that they were established under the article that said 'The sole purpose of establishing official ballot voting.' It seemed to him that establishing official ballot voting had a fair amount of wiggle room to it. They have to go to counsel and have that person tell them how much room they've got, but establishing official ballot voting, there might be some steps and procedures that need to be put in place to establish official ballot voting.

Mr. Kneuer wanted to know if the right statute for the Town Council official ballot options was 49-D:3 II-a. Mr. Fitch responded that there's the office ballot Town Council, which he thought was the right one. There's also official ballot Town Meeting, which was II-a in the same section of the law. They want to look at RSA 49-D:3, which has a long running list of options, and it looked like either one of those was an official ballot form of meeting. Mr. Kneuer stated that another community that operates under a Charter says, 'This Charter defines the requirements for including an official ballot session in the Town Meeting under provisions of 49-D:3 II-a,' and defines the form of government for that town. It also says, 'Official Ballot – The following items shall be included on the official ballot: Elections, Annual Operating Budget, Collective Bargaining Agreements, Fact Finder Reports and Zoning articles, Charter Amendments, other subjects required by general law.' It goes on to define the operating budget, which is the key part, 'As used in this Charter means budget as defined in RSA 32:3 III, exclusive of special warrant articles as defined in 32:3 VI.' Chapter 32 defines a Capital Reserve or expendable trust related article whether they are moving appropriations in or voting to appropriate monies out, as a special warrant article by definition. That kind of article, by this Charter, would not be part of the operating budget and the only thing going on the official ballot is the operating budget. This might be something for the Town attorney to explain. He thought this might be an example of the kind of flexibility they are seeking if that's the right citation. They are debating moving the work of forwarding a budget from a Budgetary Town Meeting to the use of an official ballot in some particular fashion.

Mr. Lord clarified that one of the questions on the table was the clause 'in some particular fashion.' The question as to whether or not in some particular fashion is whether that's the purview of the Commission or not.

Mr. Kerr stated that the way he understood SB2 would work in their particular situation was they would still have a deliberative session, they would still have the ability to discuss, raise or lower the amounts, and then instead of voting at that point to pass or not pass

the budget, it would be shelved and put on the ballot. They would have everything they have now. The only difference is that they don't have an immediate decision; they have a deferred decision where more people get to participate, which sounds good to him, because it's got the backstops like the default budget and it has more participation. The only concern has been how lengthy the ballot is. Now it seems like this other piece is coming together where they could make it where it's reasonable for most people to do.

Mr. Lord mentioned the timing of the events. Right now, the Town Meeting happens after the full voting session where the dispositive session happens. In the dispositive session they would have a time where folks come together, but it's flipped flopped in terms of the order in which they would occur on the calendar. They would have the dispositive session by definition before the recommendation occurs and in their case they've got everybody together at the voting ballot and then a week later they've got this after the fact session. He thought the order of that was part of the discussion. Chairwoman Wolf clarified that Town Meeting was the next day.

Mr. Fitch stated that very few communities that use SB2, the official ballot system, have the same number of people participate in that early meeting where they can vote to amend as compared to the number that vote on Election Day. So you're talking about two different constituencies. The really actively involved people that are going to show up at that preliminary meeting trying to alter what's going to be voted on by the other people. Mr. Kerr stated that there was a handout in the packet that showed the participation in the last seven years and it's been less than 100. It's not like they have a strong participatory framework to build on. For him, it's more of making sure that nothing bad happens by having the team 'no' show up.

Ms. Radke stated that Newmarket does the hybrid form of government. They have a Charter, it's SB2, but all they put on the ballot was the operating budget. The traditional Town Meeting with the budget, using Croyden as an example, they have an opportunity to go back and revisit that through a special meeting. Mr. Fitch responded yes, but it was very historical that they got enough people to show up and vote. Ms. Radke stated that if the default budget was a lot less than what's needed for the current year to operate, she wanted to know if there was an opportunity to go back and get a special election to get what was proposed as opposed to default. Mr. Fitch stated that it's the same mechanism that they talked about with Croyden. Ms. Radke clarified that they can have a special meeting if the default passes. Mr. Kerr stated that they have 16K registered voters and typically they get around 3K or 4K, nowhere near the 50% bar, so it would be virtually impossible for that to happen here. Ms. Radke mentioned Wakefield. Their default budget passed, so now they're cutting Library hours, books, Town Office hours, they actually have to provide a lot less services in that town. If that were to happen here and the default was \$50K less than what the proposed budget was, she wanted to know if they could go back to the people and say they voted for the default budget, but that means they no longer have six days a week for the Library. She wanted to know what happens to a town like that. Mr. Kneuer stated that is a question they would ask Town counsel as to whether or not they have authority or any restriction to authority to call a special meeting to raise more appropriations given the strictures that surround that. He didn't know that he'd seen that happen where the default budget has been voted in. Croyden wasn't default; it was just a straight out vote, but it was so extreme that it created that feedback. When default budgets have been voted in, he didn't know if an example where either the governing

body called it or petitioners from that municipality said this won't stand, let's have another meeting. In Wakefield's case, they haven't heard. They don't need approval from the DRA, so they'll hear about it if that's what they decide, but they would be facing a different hurdle with not only the stipulations of the statutes, it's their voters. Ms. Radke stated that it failed by 88 votes. They had it as one of the last warrant articles. Mr. Kneuer stated that they never encourage people to leave the operating budget at the end. Vice Chair Gleason stated that it was the dead last item on the ballot. It was Article 33, the very last item on the ballot, and a population of 5K where only 1,100 of them showed up to vote. Ms. Camarota stated that the article said that 596 – 534 was the vote and 88 people skipped voting on the operating budget because it was the last item. Mr. Brock stated 88 under votes. Mr. Kneuer stated that you risk people getting tired and having to go home.

Mr. Fitch stated that unless somebody calls for an unofficial ballot, some people don't vote because they don't want their neighbor to see which way they are voting, and don't want to have relationship issues arise from it. That's where moderators have difficult decisions about calling for a yes/no paper ballot, because he thinks they're going to know the will of the people better from that, but that takes time and resources and at the end of a long meeting, that's hard to do. Ms. Radke stated that on the flip side, she works in a town that has a traditional town meeting and the budget is last. She asked the Board of Selectmen why they do that and they said that's their way of keeping people there to vote on the other things. Mr. Fitch encouraged them to look at legislative bodies around the State and look at how many people are voting at the beginning and how many at the end.

Ms. Radke stated that way back when it was just traditional town meeting, there was no opportunity for absentee ballots. Mr. Fitch stated that going to a government printed ballot as opposed to the prior practice, which was where parties of partisan interests would produce a ballot and try to convince you to vote that way. You would bring that ballot in and cast it. The history of absentee voting was that they had to put it in the constitution or else you have to show up in person to vote, so you could only vote absentee if the reason for voting absentee was adopted by the people as a constitutional provision. There were a series of constitutional amendments over time that expanded it to what they have today. Ms. Radke stated that in 1996 when SB2 came into fruition, the only thing on official ballots back then would just be article one, Elected Officials. Everything else was decided at Town Meetings. Mr. Fitch stated that there are some oddballs out there where there are specific statutes that say it has to be voted on by official ballot.

Mr. McLaughlin mentioned the Wakefield default budget and wanted to know if the default budget was set at the Budgetary Town Meeting. Mr. Kneuer responded no. They are operating under SB2 law and the default budget is calculated pursuant to the language in RSA 40:13. It is generally in the purview of the governing body to write it unless the voters of that municipality have specifically voted to give the authority to a budget committee if there is one. The governing body has the responsibility to, and it starts with last year's approved operating budget total, go through the work of following the law, as best they can with counsel's advice and presenting it through the budget process. Two years ago, the Legislature tried to make it even more transparent through the process. It comes out of the deliberative session. It goes in and comes out intact. The only people that can amend it even though there can be debate and discussion at deliberative session. People can say it's too high, it's too low, what's this, what's that. All of that was fair game, but the only people who get one last chance to change it is the governing body sometime before

it's printed on the ballot. Mr. McLaughlin wanted to know, in Bedford, if the Town Council was the governing body and the response was yes.

Ms. Radke thought an interesting exercise would be to actually put together a default budget for this year and then projecting what their expenses would be for 2024 and if this happens what they wouldn't be able to fund. An exercise to see exactly what would happen and what could not be funded if the default were to be voted in. Mr. Brock stated that since the School side had been operating under SB2 for 20+ years, they could be reasonably well informed by the School's experience with the default budget. He thought there were a few instances where the regular budget was voted down and the School had to then operate under the default budget. Typically, it's not draconian. It might be 5% less than the proposed budget. Ms. Radke stated that with a large budget like the School has they won't really see it. A smaller budget becomes much more prevalent. Chairwoman Wolf thought some people might dispute whether you would see it or not.

Chairwoman Wolf thanked Bud Fitch and Bruce Kneuer for coming.

b. Review of the history provided by the Town of Enfield

Chairwoman Wolf didn't feel it was as relevant, because it's such a small town. Vice Chair Gleason stated that she was curious and her curiosity was satisfied. Mr. McLaughlin thought it proved that the 60% margin was tough to get; either bringing it in or trying to get rid of it once it is in. It's a tough number.

c. Public Comment Period – None

d. Discussion of questions for the May 31, 2023 meeting – None

e. Other New Business

Chairwoman Wolf mentioned the data she had received from the Town Clerk. The Town Clerk pulled information from 2016 – 2023 for registered voters, ballots cast for the School, School absentee ballots, School deliberative session, Town ballots cast, absentee ballots, and the participation at Town Meeting, which is the next day. Mr. McLaughlin stated that he did the math and roughly 20-30% of the people vote on the Town ballot including ballots cast and absentee and it's anywhere from .1 – 4%, it's typically 1% or 2%, which proved the point that very few people go to the Budgetary Town Meeting and cast ballots compared to people who show up and vote in person. Ms. Radke wanted to know about the deliberative session and if it was the same as the Town Meeting. Mr. McLaughlin stated that it's still generally all under 100. Ms. Camarota thought one of the things that happens in Bedford for the Budgetary Town Meeting was that it was the day after they all go to the polls. She thought that had a little bit to do with voter fatigue. Ms. Radke stated that it used to be the Wednesday before the 2nd Tuesday in March. When she was a Councilor back in 2003 and 2004, lots of people would attend. It was at McKelvie and the place would be full. Mr. Lord wanted to know why it was changed. Ms. Radke thought it was based on a warrant article or some kind of bond issue that if it didn't pass it would have to be raised at Town Meeting, so they thought they would have it after. That was the beginning of the conversation. They checked with the Charter and it allowed the Town to have it after. For the specific reason, she would have

to go back in time. There was a specific reason for it and it had to be a money reason that they changed it. Mr. Sawyer stated that it was Jessie Levine's era and there is a statute that said it had to be after.

Chairwoman Wolf stated that their next meeting was scheduled for 6:00 PM and they have confirmed Durham, Londonderry, the NH Municipal Association, and PFM Financial Consultants who will be talking about bond rating.

Chairwoman Wolf stated that this was also their public hearing at 7:00 PM. They also have a meeting set for June 21st with a 6:00 PM start.

Mr. Brock wanted to know if an hour was going to be enough given their experience tonight. Mr. McLaughlin stated that they were giving them a standard set of questions, so if they don't go around the table. Chairwoman Wolf stated that she was thinking about that and when you look at the list, she didn't know if keeping them to a standard set of questions was going to work. They can do that, but they are all experts in their own lane and she didn't think their questions were going to be standard. Mr. Kerr thought it was going to be hard, because as they speak it's going to raise questions not already on the list of questions. Mr. Brock stated that he would be more comfortable if they at least pushed the public hearing back to 7:30 PM. Mr. Sawyer stated that it had already been advertised to meet the requirements, but they can always start the hearing later, you just can't start it earlier.

Chairwoman Wolf stated that each one of the guests was different. Durham has a Council that has all of the authority. Londonderry was the most similar to them. Mr. Sawyer agreed; Town Council form of government with SB2. He added that in Durham's charter, the Town Council approves the full budget except bonding over \$1M. That has to go on the ballot. They carved out an exception that says they will send that to the people, but everything else the Council does. The things they were talking about here can be done, but they need to get a legal opinion as to how far this Charter Commission can go with that. Clearly, there are going to have to be changes in the Charter other than just voting on Wednesday night or voting on Tuesday, because the whole budget process will have to be laid out in the Charter different than what it is now if they recommend that that's the process they want to put forward. Chairwoman Wolf wanted to know if they should make a list of questions for the attorney so they ask them all at once or take the ones that were discussed this evening and pass them on. Mr. Sawyer thought getting answers as they come up was fine. Mr. Brock thought the attorney himself suggested that they do it by sending him the questions as opposed to inviting him here, because if he's here, the clock is ticking. Chairwoman Wolf stated that he would have to research. Mr. Sawyer thought if there were questions on the answers he provides then have him here, but have him do the research and provide the answer first. Mr. Lord wanted to know who the Town's counsel was and Mr. Sawyer stated that Upton & Hatfield were their attorneys for general items like this. There are two attorneys that may speak on this and they are both very knowledgeable about charters. The Town attorney that wrote our charter is still there and practices and was active with the Durham charter and the Enfield charter.

Chairwoman Wolf stated that one of the questions she had was regarding how the budget can be broken out on the ballot; if they go to SB2, how is the budget presented. Mr. Brock wanted to know if she meant the budget specifically or financial items, financial warrants.

Chairwoman Wolf stated that right now at Town Meeting the budget is the whole thing, so that's what she means. They're talking operating budget versus separate warrant articles. She thought all financial items. She wanted to know what options they had for the way financial items might be presented on the ballot. Mr. McLaughlin wanted to know if it was possible to get a sample ballot of the 2023 Bedford budget to see what it would look like had it been on SB2. Chairwoman Wolf was thinking they pull the Londonderry ballot and ballots that already exist. She wanted to be a little cognizant of the work they were making the Town do. They could easily pull ballots that exist in other towns, so they can all see what they actually look like. Mr. Lord thought it would be interesting to see what the School SB2 ballot looks like. Ms. Radke stated that it was on the website. Mr. Brock stated that the School side was different, because capital expenditures are not addressed on the ballot. The only thing you vote on, on the School side, is the operating budget and labor contracts. Mr. Lord stated that he would still find it of interest even though they were talking apples and oranges. If the concept of going to SB2 takes root then it would also be useful to think about how SB2 with the School at the ballot coincides with SB2 with the Town at the ballot. He thought it was useful to think about what that ballot would look like overall and take some notice of that when they analyze this.

Chairwoman Wolf stated that the other question was does this Commission make recommendations in their report on what they think the ballot should look like. She wants to know if that was in their scope. Mr. Kerr thought that was a question for the Town attorney; do they just say yes or no, up or down. Chairwoman Wolf added are they recommending SB2 or not SB2 or do they have more latitude. Mr. Kerr thought they could have an answer of thumbs up with an option out of of A, B, C and D of what they recommend. Mr. Lord wanted to know what the definition was of establishing official ballot voting. He would like to know if that was a proper noun in words of limitation or was it common noun phrase with words of interpretation that that's their mission.

Mr. Sawyer stated that they got some legal advice and wanted to know if the chairwoman wanted to provide that. The question about if the strikethrough and bold would be on the ballot and the answer was no. It's the simplified question, but their report would show all of the detailed changes to the Charter.

Chairwoman Wolf stated that the attorney agreed 3/5. They could keep the summary succinct and adding strikethrough and bolded language might add more words than needed. They can do a summary on the ballot other than explaining everything. Mr. Sawyer pointed out that the Town of Salem just adopted a whole charter and they didn't put the whole charter on the ballot. It was see the report and are they supporting the charter or not. He thought that clarified part of what they were asking. If they decide that SB2 or official ballot voting was the way to go, there has to be some background to that that's laying out a whole budget process that says there is a deliberative session and says that the Council will still hold public hearings or not and even if there is a budget committee or not. He told them his opinion on a budget committee at the last meeting. There are a whole lot of processes that need to be laid out in the Charter if they were making a change. If they were not making a change then they don't need any of that. Mr. Brock stated that if the recommendation was to move forward they've got quite the job ahead of them. Mr. Sawyer stated that they would have to be the ones to define that, but he will get the Town attorney to give them the clear advice on it. There is nobody else to do it. This is the only

Charter Commission they have and if they are recommending it, the voters would have to know what they were recommending.

Chairwoman Wolf stated that she sees this as two issues if they go to SB2. It breaks down into the budget and the implications of putting together the budget; more of the Town Manager piece, Town Council piece and then the voting piece. The voting piece is all about people having access and about the logistics of voting. She looks at those as logistics, not barriers. There are things they have to work through. The numbers at a presidential primary were much bigger numbers than they would ever see in a March Town Meeting. Those were not big things, but she knows that the budget is a process and its implications were an unknown here. She felt that SB2 and default budgets were so common for the other 79 other places. It's more of them learning the language. They do it already for the School, so she didn't think that was unknown language for people. She thought there was some familiarity, so it's not like they're going from nothing to something. They were just aligning both forms of government. She had concerns about something similar like what happened in Croyden. She's been to deliberative sessions where sports teams have been added by 30 people. They're not talking about a lot of money, but if you have people show up every year and things happen. If a determined group of people wanted to and in our political environment, she felt like traditional town meeting was risky. Ms. Radke stated that on the flip side of that, it happened here. A gentleman made a motion to add four firefighters. Back then that was a lot of money at that time for them to accept that. There was a lot of debate and conversation. People got to the microphone and said that's a lot. They do need some more first responders, but can they scale it down a little bit. They came to a compromise and they voted in two more instead of the four, so it was a wonderful opportunity for a lot of discussion and a lot of debate. They came to a compromise and it was a good thing for the Town. Vice Chair Gleason stated that another example of that would be what happened a couple of years ago where they had one person try to add in \$1M for field improvements that hadn't gone to the voters and they had one faction of people show up in support of that and one faction of people show up against that. She believed the total voter count was less than 120 and the vote was very close. She looks at that and thinks that's dangerous to let 120 people to decide the fate of \$1M and how it's being expended in the Town and she would much prefer that go to the voters. Ms. Radke mentioned that it didn't pass. Vice Chair Gleason stated that it didn't pass, but it was by 6 or 9 votes. Chairwoman Wolf stated that it was to take money out of reserve funds and spend it on a turf field. Vice Chair Gleason stated that those were the kinds of situations that she thought need to go to the voters on the ballot. She stood up and said that at that meeting that that was a concern. Mr. Sawyer clarified that the day before, the Town had voted to not pass a \$4.2M bond for improvements to all recreation fields. It was for the full master plan of recreation fields. There was a group of people that wanted a particular field improved, so they came to Town Meeting the next day to try and achieve that. Chairwoman Wolf stated which could be the purpose of it, but when the voters voted down a bond. If they decide they could also have some discussions with communities that put together default budgets and how they put them together. A lot of default budgets that she's familiar with were actually fairly close to the original budget. It's not a huge difference and sometimes there is.

Mr. McLaughlin wanted to know if it sounded like the default budget has a real matrix that it has to fit into. Chairwoman Wolf stated that it is and it isn't. A default budget is your appropriations from the previous year, and then take out anything that is a one-time

expenditure. It's defined. You take out your obligations like a firefighter contract. You take that out and that contract has raises locked in, they put back in the new contract and also subtract out any one-time expenditures, so that's the basic big formula. Mr. Brock stated that the legislation was fairly clear about the in's and the out's. Chairwoman Wolf stated that the debate was define a one-time expenditure. On the School side, they used to put in \$1M for maintenance and smaller capital improvement items. \$1M a year and that's one of the things that's kept their schools clean. As they dug down into that, people were saying refinishing a gym floor was a one-time cost. It's not a reoccurring expenditure. But if you say you're doing a gym floor in each building each year, where is that debate. The debate lies in what is a one-time. Ms. Radke stated that she's not too familiar on how a default works, but wanted to know if there was something in there for the cost of fuel going up. When you put a new budget together that increases maybe 10-15%. If they had a default, they couldn't include those increases. Mr. Brock stated that there was no provision for inflationary expenses. Ms. Radke stated that they would have to operate the Town based on 2022 numbers if the default passed meaning they wouldn't have enough money to pay for gas or they would have to find it in other areas, because it is a bottom line budget. Chairwoman Wolf stated that if you have school buses and you have a contract and agreement for three years. Ms. Radke stated that that's different, because you're obligated. Chairwoman Wolf thought that's the difference of the voters putting forward a budget that the voters approve. Mr. Kerr thought the flip side of Ms. Radke's example was electric prices decrease, so if they have a default budget that's based on the previous year's higher electric rates and next is lower they could have a cushion there.

Ms. Camarota wanted to know if they had a rainy day fund on the Town side. Mr. Sawyer responded not by what she's calling it. The Council typically includes in the budget \$35K as an Unallocated Fund. Then there's a Fund Balance that the Town also has, but they can't expend that without Town Meeting approval. Ms. Radke stated that they would use that only for emergencies. Mr. Sawyer stated that the Council could apply that to anything, not necessarily emergencies. They had a special election one year and they used that money to pay for the special election. It wasn't an emergency, but it was an unanticipated expense. Ms. Camarota thought that if they start getting into specifics, they should allocate a certain fund for those unexpected inflationary costs. Ms. Labrie thought they all had a miscellaneous account. Mr. Sawyer responded no. Ms. Labrie stated that under appropriations there is a miscellaneous on almost every department. Mr. Brock thought they could do what Ms. Camarota was suggesting in the operating budget. It cannot be accounted for in the default budget. He thought they could as a line item in the operating budget. Mr. Lord thought that stands to reason if you have a default budget. Otherwise all you have is a battle between two competing budgets. You have to have something that's skinned down and algorithmic otherwise it's not really default; it's just some faction of one and one faction of another. Mr. Brock stated that on the School side this year, the default budget was actually higher than the proposed operating budget. The operating budget got approved, which was the lower of the two. Ms. Radke wanted to know the reason for that and wanted to know if they overspent one year. Mr. Brock responded no. He thought this year, teacher count went down a little bit. Ms. Radke thought it made sense if there was a one-time expense that they weren't using. Mr. Lord thought it suggested that the School Board was working. They were applying thought and divergent from what the status quo would be and saying they were going to be intentional about doing something that rolls up into something different.

4. APPROVAL OF MINUTES

a. Organizational Meeting – April 19, 2023

MOTION by Mr. Brock to approve the minutes of the April 19, 2023 Organizational Meeting. Seconded by Vice Chair Gleason. Vote taken – Motion Passed – 8-0-1 (Mr. Lord abstained as he was not present)

b. Regular Meeting – May 3, 2023

MOTION by Mr. Kerr to approve the minutes of the May 3, 2023 Regular Meeting. Seconded by Ms. Camarota. Vote taken – Motion Passed – 8-0-1 (Ms. Labrie abstained as she was not present)

5. ADJOURNMENT

MOTION by Mr. Brock to adjourn at 8:42 PM. Seconded by Mr. McLaughlin. Vote taken – Motion Passed – 9-0.

Respectfully submitted,

Dawn Boufford