

**Charter Commission Meeting Minutes
August 9, 2010**

Meeting was held in the Moose Hill Council Chambers. 268B Mammoth Road, Londonderry.

In Attendance:

Chairman Brian Farmer, Vice-Chair Cris Navarro, Secretary Lara McIntyre, Commissioners Al Baldasaro, Marty Bove, Chris Paul, Deb Paul

Meeting was called to order by Chairman Farmer at 7:05pm. Chairman Farmer led the Pledge of Allegiance, followed by a moment of silence for the men & women who proudly serve in uniform.

Public Session:

In Old Business, Chairman Farmer goes over the research that was compounded by the town for a citizen who came before the Charter Commission, asking to see data on the percentage of the schools' budget versus the town in terms of the tax rate. Research shows that

The next item for discussion is the issue of quorum – whether it was legal and could the Charter Commission recommend including one in our report. This question was sent to Town Attorney Bart Mayer, who responded in a letter (see attached). The Town Attorney had a lengthy discussion with the attorney for the school district, and they agreed to disagree – the school district's attorney believes it is okay to have a quorum, while Attorney Mayer feels it's unconstitutional.

Commissioner Chris Paul asks "Isn't it out of the Commission's scope to even address it?" He says the topic of quorum wouldn't even have been brought up if the school didn't have one, and we were instructed already by the Town Attorney not to look at it. Continued discussion on quorum.

Commissioner Baldasaro makes a motion to end discussion on the topic of a quorum. Motion is seconded by Commissioner Chris Paul. Commissioner Bove says that although it is not part of our purview, there is a legal way to institute it if that is what the voters want. **Motion is passed, 7-0.**

Commissioner Baldasaro makes a motion to restrict reconsideration on the topic of a quorum. Motion is seconded by Commissioner Chris Paul. Commissioner Bove says he is not going to vote on it, because he wants to give an opportunity to missing Commission members to talk about it if they'd like at the next meeting. Commissioner Chris Paul points out that we have a limited time to draft report, and since it already passed 7-0, there is already a majority who feel they don't need to bring the quorum issue up again. **Motion passes, 5-2.**

Charter Commission Workshop

Town Manager Dave Caron comes before the Commission to go over the recommended changes in the charter that the report will be making. Town staff worked with Town Attorney Bart Mayer on the sections of the charter that would need to be changed. Mr. Caron also includes with the paperwork a proposed timeline for the FY2012 Budget Calendar should the charter amendments be adopted. Mr. Caron points out that essentially we would be flipping the schedule around, where the first session would include all budget items, any amendments, etc. while the second session would include the bonds, elected officials and then an up or down vote on the proposed budget.

Commissioner Baldasaro asks why specific RSAs are not included in the proposed charter amendments, like the school has done. Mr. Caron says that the Town Attorney cautioned not to put in the specific RSAs because state law does change, but the language in the charter mirrors RSA 40:13. The Town Attorney also stated not to use an exact date for the deliberative session. Mr. Caron says that attendance has not been great at town meetings, so having just the 8-day period when the deliberative session would need to take place would give flexibility if you want to try a night session one year, a Saturday another year, etc.

For the budget calendar, Mr. Caron says that essentially, everything gets moved up a month. He says the disadvantage to this is that you're only three months into the current budget and it may be harder to predict costs for the following year, but overall, one month should not make a difference. Operationally, there is not a large impact on how the town staff would conduct its work.

Chairman Farmer asks about the proposed language of Chapter 5.4 B in the Charter, wondering if we need to include the words "as the Council shall direct." Mr. Caron says it's a given that the Council would make the decision, but we could include in the proposed changes.

Pauline Caron, 369 Mammoth Road, read in the newspaper that absentee ballots need to be sent out 45 in advance of the election and points out that it would not work with the new timeline. Commissioner Baldasaro says that the 45 days is new set forth by the Federal Government, and the NH Secretary of State's office is trying to work things out. Mr. Caron also points out that the 45 days does conflict with current state law.

Chairman Farmer asks Mr. Caron if section 5.4 A of the charter is like a "catch all" phrase in case the law changes. Mr. Caron says yes. Chairman Farmer also clarifies whether the Commission can determine when the town meeting can take place. Mr. Caron says that RSA 40:13 states that you can have town meeting in March, April or May.

Commissioner Baldasaro presses again to have the specific RSAs mentioned in the charter amendments to people can go look up the state laws to verify information. Mr. Caron says that Londonderry will not become an official SB2 town; we are just changing the town charter to

have the budgetary town meeting become a deliberative session before the official ballot vote takes place.

Chairman Farmer reads into the record a letter from Town Attorney Bard Mayer re: vote for Charter Commission recommendation. It says that only a simple majority is needed.

Continued discussion regarding the proposed charter amendments. Secretary McIntyre asks if the proposed budget schedule mirrors the school – could there conceivably be two deliberative sessions in the same week. Mr. Caron says there will definitely be two, one for the town and one for the school within that specific 8-day period.

Commissioner Deb Paul asks if you could hold the deliberative session on a Sunday. Mr. Caron says he doesn't know any state laws that say that you can't. Commissioner Deb Paul points out that Sundays there aren't usually as many sports activities, it might be a better day to hold a meeting, but don't know if there are any laws, like the "Blue Laws" of Massachusetts.

Chairman Farmer confirms with Town Manager Caron that the Commission can specify the date of the meeting if we'd like to, to which Mr. Caron says yes.

Charter Commission Discussion

Chairman Farmer points out that he has begun an outline for the "majority report." Commissioner Bove asks if the minority report will be included in the big report. Chairman Farmer says yes. Commissioner Bove mentions that we should get all the paperwork together that will be included in the appendix. Decision made to include all minutes, dated letters sent to the Commission as well as the handouts given at the meeting by DRA.

Vice-Chair Navarro thanks Town Manager Caron for getting everything together so quickly and compliments him for a great job.

Approval of Minutes

Vice-Chair Navarro makes a motion to approve the minutes from July 26, 2010. Motion is seconded by Commissioner Baldasaro. **Motion passes, 7-0.**

Other Business

None.

Adjournment

Motion to adjourn is made by Commissioner Bove. Motion is seconded by Commissioner Deb Paul. **Motion passes, 7-0. Meeting adjourns at 8:30pm.**

Next Meeting Date: Monday, Aug. 16, 2010 at 7:00pm

PROPOSED CHARTER AMENDMENTS FOR OFFICIAL BALLOT VOTING
(WITH **ADDS AND DELETIONS**)

Section 5.3. Budget Hearings

The Council shall hold in convenient places as many public hearings on the budget as it deems necessary, but at least two public hearings on the budget shall be scheduled on dates consistent with those specified in the Municipal Budget Act before its final adoption by the ~~Budgetary~~ **Official Ballot Session of the Budgetary** Town Meeting, **held on the second Tuesday in March** at such time and place, convenient to the public, as the Council shall direct. Notice of such public hearing, **THE Deliberative Session of the Budgetary Town Meeting** and ~~Budgetary~~ **Official Ballot Session of the Budgetary Town** Meeting, together with a copy of the budget as submitted, shall be posted in two public places. A copy of the budget shall be available to the public at the office of the Clerk during regular business hours. In addition, notice of such public hearing, **The Deliberative Session of the Budgetary Town Meeting** and ~~Budgetary~~ **Official Ballot Session of the** Town Meeting shall be published in a newspaper of general circulation in the Town at least one week prior to said meeting by the Clerk.

Section 5.4. Final Date for Budget Adoption

A. The warrant for the annual meeting shall prescribe the place, day and hour of the **Deliberative and Official Ballot** sessions of the **Budgetary Town** meeting, and notice shall be given in accordance with State Law.

B. The **Deliberative** first session of the annual meeting shall be for the election of officers as provided in Section 2.5., and to act upon, by official ballot, such articles for bonds or notes as may be presented. ~~The second Tuesday in March shall be deemed the annual meeting date for purposes of all applicable statutes pertaining to hearings, notice, petitioned articles, and any special articles on the warrant~~ **held between the first and second Saturdays following the last Monday in January, inclusive of those Saturdays and for the consist of explanation, discussion, and debate of each warrant article. A vote to restrict reconsideration shall be deemed to prohibit any further action on the restricted article until the second session. Warrant articles may be amended at the first session, subject to the following limitations:**

1. **Warrant articles whose wording is prescribed by law shall not be amended.**
2. **Warrant articles that are amended shall be placed on the official ballot for a final vote on the main motion, as amended.**

All votes of the Town Council and Advisory Budget Committee shall be recorded votes and the numerical tally of any such vote shall be printed in the town warrant next to the affected warrant article.

C. The clerk of the Town shall prepare an official ballot, which may be separate from the official ballot used to elect officers, for bonds or notes articles **and all budget articles** to be voted on by official ballot.

D. The second session of the annual meeting, which shall be for the transaction of all business other than the election of officers, **and to vote on bonds or notes articles, and all warrant**

articles from the first session on official ballot shall be held on the second Tuesday in March. Bonds or notes shall require a 3/5 (or 60%) majority for passage, as per Section 5.4.A. and any bond or note articles to be acted upon by official ballot shall be held between the second Tuesday of March and the Saturday following the second Tuesday of March, at a time prescribed by the Council. **In addition to acting upon Special Warrant Articles, voters shall choose between the proposed Operating Budget as may be amended during the Deliberative Session, and the Default Budget, which shall be calculated pursuant to RSA 40:13 IX (b). In the event that the proposed Operating Budget and Default Budget receive an equal number of votes, the Default Budget shall be considered approved.**

~~E. — The second session of the annual meeting will be held on the date specified to explain, discuss, debate, amend, finalize and vote on the Town budget; and special warrant articles calling for appropriations, except those articles calling for the issuance of bonds or notes as voted upon in the first session, which shall require a 3/5 (or 60%) majority for passage.~~

EF. Voters at the ~~first~~ **second** session shall follow the procedures set forth in State Law including all requirements pertaining to absentee voting, polling place, and polling hours.

FG. Votes taken on the official ballot shall be subject to recount as set forth in State Law.

GH. Votes taken on bonds or notes at the ~~first~~ **second** session shall not be reconsidered, except by warrant article at a subsequent annual or special meeting.

H. The warrant for any special meeting shall prescribe the date, place, and hour for both a first session and second session, if required. The first and second session shall conform to state Statutes and applicable provisions of this Charter.

PROPOSED CHARTER AMENDMENTS FOR OFFICIAL BALLOT VOTING

Section 5.3. Budget Hearings

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Section 5.4. Final Date for Budget Adoption

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B. The Deliberative session of the annual meeting shall be held between the first and second Saturdays following the last Monday in January, inclusive of those Saturdays and consist of explanation, discussion, and debate of each warrant article. A vote to restrict reconsideration shall be deemed to prohibit any further action on the restricted article until the second session. Warrant articles may be amended at the first session, subject to the following limitations:

1. Warrant articles whose wording is prescribed by law shall not be amended.
2. Warrant articles that are amended shall be placed on the official ballot for a final vote on the main motion, as amended.

All votes of the Town Council and Advisory Budget Committee shall be recorded votes and the numerical tally of any such vote shall be printed in the town warrant next to the affected warrant article.

C. The clerk of the Town shall prepare an official ballot, which may be separate from the official ballot used to elect officers, for bonds or notes articles and all budget articles to be voted on by official ballot.

D. The second session of the annual meeting, which shall be for the election of officers, and to vote on bonds or notes articles, and all warrant articles from the first session on official ballot shall be held on the second Tuesday in March. Bonds or notes shall require a 3/5 (or 60%) majority for passage. In addition to acting upon Special Warrant Articles, voters shall choose between the proposed Operating Budget as may be amended during the Deliberative Session, and the Default Budget, which shall be calculated pursuant to RSA 40:13 IX (b). In the event that the proposed Operating

Budget and Default Budget receive an equal number of votes, the Default Budget shall be considered approved.

E. Voters at the second session shall follow the procedures set forth in State Law including all requirements pertaining to absentee voting, polling place, and polling hours.

F. Votes taken on the official ballot shall be subject to recount as set forth in State Law.

G. Votes taken on bonds or notes at the second session shall not be reconsidered, except by warrant article at a subsequent annual or special meeting.

H. The warrant for any special meeting shall prescribe the date, place, and hour for both a first session and second session, if required. The first and second session shall conform to state Statutes and applicable provisions of this Charter.

FY 2012 Budget Calendar

(All meetings at 7:00 PM unless otherwise noted)

Official Ballot	Current	
	Tues., Oct. 12, 2010	<u>Budget Information due to Finance Director</u>
	Mon., Nov. 1, 2010	<u>Budget Information due to Town Manager</u>
	Mon., Nov. 15, 2010	<u>TOWN COUNCIL MEETING - Budget presented to Town Council</u> – General Overview of Proposed Budget and Estimated Revenues <i>(Note: Financial Management Policy requires submittal at least 100 days prior to Annual Town Meeting, or November 29, 2009)</i>
	Sat., Nov. 20, 2010 8:00 AM	<u>Budget Workshop</u> Community Dev.: <ul style="list-style-type: none"> - Planning - Zoning - Building/Health Capital Improvements Plan (CIP) Public Safety: <ul style="list-style-type: none"> - Fire/Rescue <li style="text-align: right;">- Police Public Works: <ul style="list-style-type: none"> - Highway - Sewer Gen Gov't: <ul style="list-style-type: none"> - Town Council - Moderator - Budget Committee - Legal - General Government <li style="text-align: right;">- Town
	Manager	Finance & Admin: <ul style="list-style-type: none"> - Finance - Human Services - Human Resources - Assessing - Town Clerk/Tax Collector - IT - Debt Service - Revenues - Municipal Insurance - Supervisors of Checklist Gen Gov't: <ul style="list-style-type: none"> - Cemeteries, HDC/Morrison House - Conservation Commission Comm. Services: <ul style="list-style-type: none"> - Cable - Recreation, Senior Affairs - Library - Family Mediation

FY 2012 Budget Calendar (con't.)

	Mon., Nov. 22, 2010	<u>TOWN COUNCIL BUDGET WORKSHOP – Budget Discussion</u>
	Mon., Nov. 29, 2010	<u>TOWN COUNCIL BUDGET WORKSHOP – Follow-up Budget Workshop & Preliminary Budget Recommendations</u>
12/2/10		Thurs., Dec. 9, 2010 <u>TOWN COUNCIL BUDGET WORKSHOP – Follow-up Budget Workshop & Preliminary Budget Recommendations</u>
12/10/10	Fri., Dec. 24, 2010	<u>Public notice of first budget hearing</u> <i>(Note: - RSA 32:5- 1 - seven days' notice required)</i>
12/20/10		Mon., Jan. 3, 2011 <u>First budget hearing, preliminary budget adoption and determination of Bond Hearing (if any)</u> <i>(Note: Financial Management Policy requires action no later than 60 days prior to Annual Town Meeting)</i>
1/11/11		Fri., Jan. 7, 2011 <u>Public notice of bond hearing (if necessary) and preliminary warrant approval</u> <i>(Note: RSA 33:8-a -Seven (7) days' notice is required)</i>
1/18/11	Mon., Jan. 17, 2011	<u>TOWN COUNCIL MEETING – Bond hearing (if necessary) /warrant approval</u>
1/11/11	Wed., Jan. 26, 2011	<u>Public notice of second budget hearing</u> <i>(Note: RSA 32:5-1. Seven days' notice required)</i>
1/11/11	Tues., Feb. 1, 2011	<u>Deadline for petitioned warrant articles</u> <i>(RSA 39:3 - Must be received on the 5th Tues. before Annual Mtg.)</i>
1/18/11	Thurs., Feb. 03, 2011	<u>Second budget public hearing, adoption of FY 12 Budget and final vote on warrant</u> <i>(Note: State statutes require hearing at least 25 days before Annual Meeting, or February 12, 2010.)</i>
1/24/11	Mon., Feb. 7, 2011	<u>TOWN COUNCIL MEETING</u> <u>Town Council signs Warrant</u>

FY 2012 Budget Calendar (con't.)

1/25/11**	Tues., Feb. 22, 2011	<u>Last day to post warrant for Town Meeting</u> (RSA 39:5)
1/22/11 – 1/29/11	Tues., March 01, 2011	<u>Minimum of one hundred copies of Annual Report made available to public</u>
1/29/11 – 2/5/11	N/A	<i>Deliberative Session must be held between these dates.</i>
SAME	Mon., Feb. 28, 2011	<u>Notice of Budgetary Town Meeting to be published in newspaper and posted in two public places</u> (At least one week prior to meeting per Town Charter 5.3)
ALL VOTING	Tues., March 08, 2011 7 AM – 8 PM	<u>Annual Town Meeting:</u> - first session; election of Town/School Officers, School budget adoption and School /Town bond articles (RSA 39:1)
N/A	Sat., March 12, 2011	<u>Annual Town Meeting:</u> - second session; town operating budget approval and warrant article(s) approval (RSA 39:1)

** Contingent upon selected date of Deliberative Session.



**Upton
& Hatfield** ^{LLP}
ATTORNEYS AT LAW

Please respond to the Concord office

July 28, 2010

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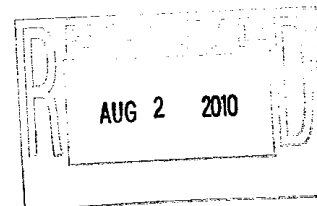
RE: Establishing Office Ballot Voting

Dear Brian:

This letter is in response to your request that I provide the Charter Commission with guidance relative to the vote necessary to adopt any charter amendments proposed by the Commission. Before proceeding to that question, allow me to express my appreciation to the Commissioners for the opportunity to meet with them. The public session was informative, and indicated that there were a number of individuals who were very involved with Town government, and were willing to share their thoughts with the Commission.

The Charter Commission was established pursuant to RSA 49-B:3, VI for the purpose of studying the issue of establishing official ballot voting in the Town, and recommending any changes that it perceived in the Town's interest. As these are amendments to the Charter, adoption is governed by RSA 49-B:VI, IV. That statute provides, "[i]f a majority of the ballots cast on any question ... favor acceptance, the ... charter amendment becomes effective" as provided in that subparagraph.

Perhaps the confusion arises because RSA 40:14, governing the method of adopting the official ballot referendum form of town meeting requires a 3/5 majority vote. However, you need to understand that the town meeting is not adopting RSA 40:13, but rather charter amendments proposed by the Commission. That explains the difference.



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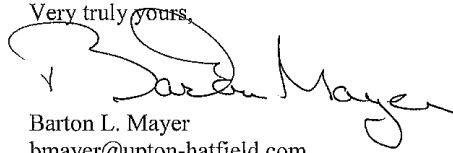
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*Also admitted in MA

July 28, 2010
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I trust that the foregoing is responsive to the Commission's inquiry. As always, if you have any additional questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink that reads "Barton L. Mayer". The signature is written in a cursive style with a large, stylized initial "B".

Barton L. Mayer
bmayer@upton-hatfield.com

BLM/lm

cc: David Caron, Town Manager