

**BRATTLEBORO SELECTBOARD  
FRIDAY, AUGUST 24, 2018  
SPECIAL MEETING – 9:30AM  
SELECTBOARD MEETING ROOM, MUNICIPAL CENTER  
MINUTES**

Selectboard members present: Kate O'Connor, Brandie Starr, Tim Wessel, David Schoales, and Shanta Lee Gander.

Staff Present: Town Manager Peter Elwell, Assistant Town Manager Patrick Moreland, Town Attorney Robert Fisher, Town Clerk Hilary Francis, and Executive Secretary Jan Anderson.

Media present: Wendy Levy representing The Commons and BCTV staff and volunteers.

Others present: Rio Daims, Mark Tally, Anne Brinton, ASL interpreter Janet Dickinson, and others who did not sign the attendance sheet.

Chair Kate O'Connor called the meeting to order at 9:30am. She confirmed that the meeting was properly warned.

***PETITION FOR CHARTER AMENDMENT – Youth Vote***

Chair O'Connor stated the purpose of this special meeting was to address the petition that was filed requesting a Charter amendment to allow for a youth vote. She said at the August 21 regular Selectboard meeting, the petitioner appeared under Public Participation to ask the Selectboard to add the matter to the November, 2018 ballot, but the matter could not be heard at that time because it was not publicly warned. The Board then agreed to hold a special meeting on August 24 in order to meet the August 24 deadline to submit matters to the Secretary of State for inclusion on the November ballot.

O'Connor noted that because this matter included a Charter amendment, the State statutes had specific requirements, including holding two public hearings to be held prior to the election with warnings that must be issued at least thirty days, but not more than forty days, prior to the hearings. She said that early voting would open on September 21 and there was not enough time between now and early voting to provide the required warning and hold the hearings. She said that the petition should have been received by July 20 in order to meet the warning and meeting requirements to make the Secretary of State's August 24 deadline. She said that the matter could be added to the March, 2019 ballot and she proposed scheduling two public hearings on October 2 and October 9, 2018.

There was much discussion by the Board about the procedure required to add this matter to a ballot for town-wide vote. Staff and Board members acknowledged miscommunications and confusion during the past week about the process, but agreed that the proper procedure was made clear in Town Attorney Fisher's memo dated August 22, 2018. They suggested that the Town Clerk and Town Attorney prepare a checklist of procedures for members of the public to reference when contemplating filing a petition. Elwell also suggested that petitioners engage with the Town Attorney for specific requests.

Rio Daims, Youth Vote Coordinator for Brattleboro Common Sense, provided a handout to the Board. She said that in Attorney Fisher's August 22 memo, he stated that the "statute does not contemplate the calling of a special town meeting when the proposal is made by petition." She challenged that statement and cited 17 VSA §2645(a) that stated a municipality may amend its charter "by majority vote of the legal voters of the municipality present and voting at any annual or special meeting warned for that purpose. . ." She also cited 17 VSA §2643(a) that stated the "legislative body may warn a special municipal meeting when it deems it necessary and shall call a special meeting on the application of five percent of the voters. A special meeting shall be warned within 60 days of receipt of the application by the municipal clerk. . ." She asked that the public hearings be held as soon as possible and then a special meeting be scheduled.

Attorney Fisher said that the statutes addressed two ways for a charter amendment to come before the voters: (1) the Selectboard could present a proposal, or (2) a petition may be filed. He said that Section 2645(a)(5) addressed the warning and hearing requirements specific to when the matter is brought by petition. He said two public hearings were necessary and they must be warned at least 30 days, but not more than 40 days, prior to the hearings. He said that after the warning and hearing requirements were satisfied, the "petitioned charter proposal shall be submitted to the voters at the next annual meeting, primary, or general election." He said that the section relating to a filed petition did not include a special meeting option. He confirmed that given the timeframe of submission of the petition and the opening of early voting, the matter could not be added to the November ballot. He agreed that statutes may appear contradictory, however, the procedure following the filing of a petition to amend the charter was clear.

There was further discussion by the Board. O'Connor noted that a charter amendment required legislative approval and the legislature would still be in session even with the matter being on the March ballot. Board members encouraged members of the public to utilize the services of the staff and town attorney when contemplating filing a future petition. All members spoke in support of the democratic process.

Daims stated that she wanted to get the petition to the legislature early in the legislative session. She reiterated her disappointment about the confusing and inaccurate communications with the staff.

Elwell acknowledged the miscommunications and conflicting messages and said that they were made while attempting to rush and move quickly to add this matter to the November ballot. He apologized for the confusion. He said that while focusing on the August 24 deadline, some other requirements were initially missed. He said that when the matter was properly researched, the correct procedure had been determined.

Mark Tully spoke about the different requirements for a Board initiated charter amendment versus those of a petition initiative. He suggested that the Town Attorney indicated that this was not appropriate to be brought by petition. He said that the statutes were contradictory so the legal analysis was not comprehensive, and, consequently, that the Board may consider bending the rules. He spoke in support of calling a special election.

Attorney Fisher clarified that the Town Attorney did not make a statement about the appropriateness of matters contained in the petition. Rather, he said, that his focus was on the procedure that must be followed after a petition had been filed. He admitted that the petitioner's expectations may have been buoyed during the rush to make an August 24 deadline, but when the Town Clerk reminded him of the early voting date and he fully researched the charter amendment procedure, he concluded that there was not enough time for the required warnings and public hearings to add the matter to the November ballot. He invited the public to meet with him in advance of filing a petition.

O'Connor suggested scheduling the public hearings as early as possible which would be October 2 (regular Selectboard meeting) and October 9 (special Selectboard meeting) starting at 6:15pm. She confirmed that both meetings would be publicly warned on August 31. Elwell stated that the matter would be added to the warning for the March election (Tuesday, March 6). Town Clerk Hilary Francis stated that early ballots for the March election would be available on Wednesday, February 13, 2019.

There was no further business.

**MOTION BY KATE O'CONNOR TO ADJOURN AT 10:20AM. MOTION CARRIED 5-0.**

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Tim Wessel, Clerk