

TOWN OF LONDONDERRY

Draft Report of the Charter Commission

8/26/2010

Charter Commissioners:

Brian Farmer
Chair
Cris Navarro
Vice Chair
Lara McIntyre
Secretary

Al Baldasaro
Marty Bove
Chris Paul
Debra Paul
Kathy Wagner
Steve Young

Table of Contents

Page

Introduction	1
Background.....	1
Meetings and Meeting Summary.....	1
Proposed Charter Amendments.....	3
Proposed Charter Amendments for Official Ballot Voting (With Adds and Deletions)	3
Proposed Charter Amendments for Official Ballot Voting	5
Appendix A Meeting Minutes	
Appendix B DRA Handouts from 6-28-2010	
Appendix C Town Attorney Letters	

Introduction

This is the draft report of the nine-member Town of Londonderry Charter Commission elected by the voters to study the question of whether or not the Town of Londonderry should adopt Official Ballot voting under Londonderry's current Town Council – Budgetary Town Meeting form of government.

Background

The current Town Charter was adopted by Town Meeting on March 12, 1996. This established the current Town Council – Budgetary Town Meeting form of government currently practiced in Londonderry. The Charter has been revised a total of five times by Town Meeting vote; each revision covering different topics and indicating a willingness on the part of Londonderry's voters to address the need to modify the Town's Charter with the passage of time.

A petition to change to official ballot voting was received by the Town Council in January of 2004. This petition had been signed by 532 voters. A review of the petition by the Town's Attorney was discussed at the Town Council meeting on January 12, 2004. During this discussion it was opined that the petition itself was flawed as it had not followed the proper process and as a result the Town Council did not accept the petition as valid.

On September 21, 2009 the Town Council voted to place a question on the ballot for March 2010 that would allow the voters to decide whether a Charter Commission would be established to study changing from the current method of voting on the budget at Town Meeting or changing to Official Ballot voting. The specific language of the question on the ballot is as follows:

Article 2: Shall a Charter Commission be established for the sole purpose of establishing official ballot voting under Londonderry's current Town Council – Budgetary Town Meeting form of government?

Voting was held on March 9, 2010 and the vote for Article 2 was 1901 to 1074. With that vote came the election of the nine members of the Charter Commission out of a field of 21. The following are the members of the Charter Commission: Al Baldasaro, Marty Bove, Brian Farmer, Lara McIntyre, Cris Navarro, Chris Paul, Debra Paul, Kathy Wagner and Steve Young.

Meetings and Meeting Summary

State Law requires that the Charter Commission have an Organizational Meeting and a Public Hearing within fourteen days of that meeting. The elected Commissioners opted to have several additional meetings beyond those that were required to permit ample opportunity for the public to be heard and to allow opportunities for invited guest speakers to appear before the Commission to offer their perspective. Recorded minutes for all meetings are held in the Office of the Town Clerk. The following is a brief summary of all meetings held by the Commission.

March 29, 2010 – Organizational Meeting: The Commission held an organizational meeting to elect officers.

Brian Farmer – Chairman

Chris Navarro – Vice Chairman

Lara McIntyre – Secretary

Invited guest Bart Mayer, Town Counsel for the Town of Londonderry explains that the Charter Commission is now established for a specific and limited purpose, which is to look into creating an official ballot system for the town.

April 12, 2010 – Public Hearing: The Charter Commission hosts its required Public Hearing to take testimony from members of the public. The meeting is lightly attended.

April 26, 2010 – Public Meeting: The Charter Commission meets in public. Invited guest Dave Caron, Town Manager for the Town of Londonderry discusses the current Town Charter and the specific areas that the Commission is allowed to address.

May 10, 2010 – Public Meeting: The Charter Commission meets in public. Invited guest Susan Hickey, Assistant Town Manager – Finance and Administration for the Town of Londonderry and Peter Curro, Business Administrator for the Londonderry School District speak about the budgeting process followed by the Town and School District highlighting the differences so that the Commission members can understand the budget and default budget processes.

June 28, 2010 – Public Meeting: The Charter Commission meets in public. Invited guest Jeanie Samms from the Department of Revenue Administration (DRA) and Municipal Advisor for Londonderry is present to answer questions. Regarding the DRA's role in the budgetary process. She provides two handouts from the DRA to members of the Commission.

July 12, 2010 – Public Meeting: The Charter Commission meets in public. Invited guest David Scanlan, the Deputy Secretary of State, appears before the Charter Commission. He does work on charter and SB2 issues for the Secretary of State's Office, though doesn't claim to be an expert on either one. He says that the state reviews the proposals that towns make to ensure it follows state laws / statutes.

July 26, 2010 – Final Public Hearing: The Charter Commission meets in public. Invited guest Bart Mayer, Town Counsel for the Town of Londonderry Town Attorney Mayer appears before the Charter Commission to address publicly the questions that have arisen from previous meetings. The Commission opens the Public Hearing which is again lightly attended. In a vote of 6-3 the Commission agrees to recommend to the voters of the Town of Londonderry that they adopt Official Ballot Voting as part of their Town Charter.

August 9, 2010 – Public Meeting: The Charter Commission meets in public. The Commission members have a discussion regarding the issue of a "quorum" at any future Deliberative Session that may result for the voters decision on Official Ballot Voting in March 2011. The Commission votes 7-0 to not include any language regarding a quorum.

August 16, 2010 – Public Meeting: The Charter Commission meets in public.

August 23, 2010 – Public Meeting: The Charter Commission meets in public. The commission met to discuss and amend the draft report prior to its delivery.

Proposed Charter Amendments

The following sections of this report provides insight into the specific areas of the Charter that will be changed as a result of a Yes vote on the Article to be presented to the voters in March 2011. The first section illustrates the changes by showing the specific additions and deletions that will need to be made in order to amend the Charter to include Official Ballot voting. The additions to the Charter are shown in bold (**bold**) and the deletions are shown as strikethroughs (~~strikethroughs~~).

The second section shows the complete language of the change as amended. The principle choice to be made by the voters is the choice between the continuation of the current process of voting in which voters desiring to participate must vote at both the Tuesday Session of Annual Town Meeting and then return to vote again at the Saturday Session - or – to change to Official Ballot Voting in which all matters are voted on at the Tuesday Session and the Saturday Session is done away with. Should the voters choose to adopt Official Ballot voting there will be a Deliberative Session prior to the final vote at the Tuesday Session in which articles may be amended by as many registered voters who show up at the meeting. Final voting will occur on Tuesdays and includes the choice between the budget adopted at the Deliberative Session and a default budget.

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

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 Official Ballot Session of the Budgetary Town Meeting, held on the second Tuesday in March at such place, convenient to the public, as the Council shall direct. Notice of such public hearing, THE Deliberative Session of the Budgetary Town Meeting and 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 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 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.

**Charter Commission Meeting Minutes
March 29, 2010**

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

In Attendance:

Brian Farmer, Lara McIntyre, Cris Navarro, Chris Paul, Deb Paul, Kathy Wagner, Steve Young

Absent:

Al Baldasaro, Marty Bove

Meeting was called to order with the Pledge of Allegiance by Town Clerk Meg Seymour at 7:09pm. Meg asked for nominations of officers.

Deb Paul nominated Brian Farmer to serve as Chair of the Charter Commission. Motion was seconded by Lara McIntyre. Brian Farmer accepted the nomination. **Motion passed 7-0.**

Deb Paul nominated Cris Navarro to serve as Vice-Chair of the Charter Commission. Motion was seconded by Chris Paul. Cris Navarro accepted the nomination. **Motion passed 7-0.**

Kris Navarro nominated Deb Paul to serve as Secretary of the Charter Commission. Deb Paul declined the nomination. **Motion failed.**

Chris Paul nominated Lara McIntyre to serve as Secretary of the Commission. Motion was seconded by Brian Farmer. Lara McIntyre accepted the nomination. **Motion passed 7-0.**

Chairman Farmer invited Town Counsel Bart Mayer to explain the Charter Commission's role and to answer any questions the Commission may have. Counsel Mayer congratulates members of the Commission. Mayer said that the Charter Commission is now established for a specific and limited purpose, which is to look into creating an official ballot system for the town. The Charter Commission can determine what questions will be presented on the ballot, what the date for the Deliberative Session will be and what the date of the voting session should be. He says the Commission should look at the budgeting provisions for the charter to see if there is enough money to implement the plans the Commission would like to have (look at sections 5.3 and 5.4 of the Charter). The Commission has two weeks until the first public hearing where citizens will give their input. In the meantime, the Commission will need talk about how they are going to structure the official ballot voting system. Counsel Mayer says that he will be available for any questions to the Commission may have and will be reviewing the report that the Commission makes.

Vice-Chair Navarro asks if we are limited to one hearing. Counsel Mayer said there is one mandatory meeting within two weeks of this date, but you can have more. He says the Commission will need work sessions also to deliberate what we want to do. The Counsel said

to look into RSA's 13 & 14, which are "typical SB2" towns, which you can follow as a guide. The Commission can decide what goes on the ballot beyond what is on it already (i.e. bond issues).

Chris Paul asks if you want more hearings, how are they coordinated? Counsel Mayer says you'll have to coordinate timing, can post when they are going to be held, and coordinate where & when the Commission would like to have them.

Chairman Farmer asks Meg Seymour if she has already scheduled the hearing on April 12th in the Moose Hill Conference room. She says yes.

Steve Young makes a motion to have a public hearing on April 12th. Motion seconded by Kathy Wagner. **Motion passed 7-0.**

Kathy Wagner makes a motion to adjourn. Motion not seconded. **Motion failed.**

Steve Young makes a motion to follow Robert's Rules of Order. Counsel Mayer advises not to follow Robert's Rules because people don't know what they are because there are so many versions out there, but understands the need to get some structure. Chairman Farmer says there is a set of rules that are not as stringent as Robert's Rules that may work. He will bring them the next time. Motion not seconded. **Motion failed.**

Chairman Farmer asks the other members of the Commission if Monday nights are preferable. Chris Paul asks if it can be decided at next meeting. Chairman Farmer says yes and that he will look on the calendar to find out when the Moose Hill Conference Room is available.

Kathy Wagner makes a motion to adjourn. Motion seconded by Lara McIntyre. **Motion to adjourn passed 7-0 at 7:21pm.**

**Charter Commission Meeting Minutes
April 12, 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, Kathy Wagner, Steve Young

Absent:

None

Meeting was called to order by Chairman Farmer at 7:07pm.

Pledge of Allegiance was led by Dale Larie, a Boy Scout with Troop 1910, who is working on his Communication and Citizenship of the Community badges. Chairman Farmer followed the Pledge with a moment of silence for the men & women serving in our military both at home and abroad.

Old Business:

Discussion of Adoption of Rules for Charter Commission Meetings. Chairman Farmer could not find the briefer set of rules that he thought he had. Commission agrees to keep the format of the meetings civil, have the Chair run the meeting, have the Vice-Chair keep an eye on members who may want to bring something up and that a motion can be made to overrule the Chair if need be.

Public Hearing:

Commissioner Bove makes a motion to open the public hearing. Motion seconded by Commissioner Baldasaro. **Motion to open hearing passed 9-0 at 7:19pm.**

Pauline Caron, 369 Mammoth Road, asks if someone from the Commission could explain how things will change if SB2 is adopted. Chairman Farmer explains that if the Commission makes a recommendation to make a change, and if the voters adopt it in March 2011, it will do away with the Saturday Town Meeting. The Budgetary Town Meeting will be replaced by the Deliberative Session, which will occur before the Town Meeting on Tuesdays. The Budget Committee will still serve as an advisory committee like they currently do. The change, if adopted, would not occur until Spring 2012. Ms. Caron asks if part of the charter will be deleted? Chairman Farmer replies that we'd just be making changes to the charter, not deleting.

Martin Srugis, 17 Wimbledon Drive, says that if you can get more people to vote on budget issues, then the official ballot is the way to go. He questions the quorum – if it is too low, it would be just like town meeting with a small number making changes to the budget, but if too high, people may be discouraged

to attend. Commissioner Baldasaro explains that the deliberative session will be much like the town meeting, but makes the point that it will be done before it goes to the voters, and that the voters will have the chance to vote for it.

Jay Hooley, 25 Yellowstone Drive, speaks in favor of SB2. He says a majority of people do want change, according to how the vote went to establishing the Charter Commission in the first place. Mr. Hooley says the Commission should strongly consider some type of quorum.

John Curran, 6 Faye Lane, echoes his support for SB2. He said as a history major in college, he's sad to see Town Meeting go, but that this is the way towns of our size are going. He did some research on NPR, looking at both sides of the issue. Mr. Curran asks the Commission to consider the cost - maybe it's more cost effective to have all of the voting done on one day (ballots are already being printed for Tuesday), as opposed to having to pay staff to attend the Saturday budgetary meeting. With 3000 voters coming on Tuesday election vs. 300 who came out for the Saturday meeting, Mr. Curran believes you should give more people the opportunity to have a voice in town government.

Tom Freda, 30 Buckingham Drive, urges the Commission to adopt SB2. He says the votes on the past Tuesday election made it clear it's what the voters want.

Reed Page Clark, 79 Stonehenge Road, doesn't believe going into a booth, not having heard both sides of the issue, is the way to go. He is worried about uninformed people going into a booth and casting a vote. He reminds that the Commission that, although only 318 voters were at the Saturday town meeting, \$142,000 was taken out of the budget after much discussion out of the \$25 million budget. Mr. Clark says it is necessary to express your views, remembers a time when they used to have 1500-2000 people at both town meetings.

Pauline Caron, 369 Mammoth Road, asks if the Commission knew how many towns went SB2. Commissioner Baldasaro says that after SB2 passed in 1995 and as of February 2009, 65 towns have adopted SB2. He says that only 3 towns went SB2 and then changed back to town meeting. Chairman Farmer also mentions that there have been numerous school systems that have also changed to SB2.

Commissioner Bove makes motion to close the public meeting. Commissioner D. Paul seconds. **Motion passed 9-0.**

Charter Commission Discussion

The Commission discusses different topics they would like to see addressed in future meetings. Commissioner Young recommends having Sue Hickey & Peter Curro come in to give information on a default budget, what makes it up, how it can be used, modified, etc. Commissioner Bove asks how the budget will be voted upon – will it be all in one lump sum, or individually voted upon. Chairman Farmer & Commissioner Wagner suggest having Dave Caron & Nate Greenberg come in as well to discuss the difference between an approved budget versus a default budget. Commissioner Baldasaro asks if the Commission could get someone from the DRA and/or Secretary of State's office to come in to talk about how SB2 has affected towns on the state level.

Chairman Farmer reminds the Commission that a draft report is due August 26, final report on October 26. He also reminds the Commission that a minority report is an option as well if the Commission is not in complete agreement. Chairman Farmer says that that the Commission will need to talk about the

quorum issue and also the cost of town meeting. Commissioner C. Paul asks if the Commission can discuss how the deliberative session will work.

Chairman Farmer sees the need for more meetings and at least one more hearing – probably between the draft and final report. Commissioners are in agreement. Vice-Chair Navarro says the Commission should have another hearing before the draft comes out, possibly in July. Reed Page Clark, 79 Stonehenge Road, asks if there was a lot of discussion / promotion for this hearing. Chairman Farmer says it was well advertised and the word went out. Mr. Clark thinks that people did not know enough about what was going to take place during the hearing.

Schedule of Meetings

Chairman Farmer asks Commissioners if Mondays work for everyone. Vice-Chair Navarro says the Commission only as three months and suggests meeting every other week. The Commissioners agree. Next meetings will be April 26, May 10 and May 24. Commissioner Wagner says that the meetings should remain open and that the public are welcome to make comments. Commissioner Bove points out that the Commission will only have eight meetings until August 9th. Commissioner Wagner says the Commission should have a goal of having the report drafted by August 9th so any further changes can be made by August 23rd.

Approval of Minutes

Commissioner Wagner makes motion to adopt minutes from March 29, 2010 meeting. Motion seconded by Vice-Chair Navarro. **Motion passed 7-0 (Commissioners Baldasaro & Bove abstained).**

Other Business

None

Commissioner Wagner makes a motion to adjourn. Motion seconded by Commissioner Baldasaro. **Motion to adjourn passed 9-0 at 8:47pm.**

Next Meeting: Monday, April 26, 2010 at 7:00pm.

**Charter Commission Meeting Minutes
April 26, 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 (late), Deb Paul, Kathy Wagner, Steve Young

Absent:

None

Meeting was called to order by Chairman Farmer at 7:00pm. Chairman Farmer led the Pledge of Allegiance, followed by a moment of silence for the men & women serving in our military both here and abroad.

Old Business:

None.

Public Session:

Town Manager Dave Caron gives a review of Londonderry's Charter, which will be 15 years old next March. Our current form of government consists of a Town Council / Budgetary Town Meeting. The Town Council is the legislative, governing body, while the Town Meeting approves of the town budget. In theory, Town Manager Caron says we already are an official ballot town for election of offices & bond issues.

Chairman Farmer says some people in town say that the outcome of what we voted upon in March regarding forming a Charter Commission is the way we need to go and asks Town Manager Caron if that is the case. Town Manager Caron says our scope is limited to what we can do. He suggests asking Town Counsel Bart Mayer if we're already technically an SB2 town. Chairman Farmer says the Charter Commission will ask Town Counsel in written form.

Commissioner Bove says he has talked to many people in town, and wonders if we could change the date of the town meeting – many people complain that March is a difficult time of year because of weather, other commitments, etc. He asks if the Commission could recommend changing the time of year of the town meeting. Town Manager Caron says in the RSA there are a couple of options, March or May, and he does know that many towns hold their town meetings in May.

Commissioner Baldasaro asks about the role of the Budget Committee. Town Manager Caron talks about RSA 32, the Municipal Budget Act. He says that some towns use the budget put forth by the Budget Committee for town meetings. In Londonderry, the Budget Committee is advisory and the budgets that they put forth are not binding.

Commissioner Chris Paul arrives at 7:16pm.

Town Manager Caron talks about section 5.4 of Londonderry's Charter.

Chairman Farmer asks Town Manager Caron about the report the Charter Commission must issue. He asks if it should contain certain language that would then go on the ballot. Town Manager Caron says to ask Town Counsel Mayer, but usually the ballot will ask what is recommended in the final report.

Chairman Farmer also asks if the Town Council could take the recommendation by the Charter Commission and choose not to do anything with it. Town Manager Caron says no – the Charter Commission's recommendation goes right to the voters.

The issue of the quorum is brought up by Commissioner Bove. He said whatever decision is made should be made clear to the people for the deliberative session. Commissioner Baldasaro asks if there has to be a quorum. Town Manager Caron says that by state law a quorum is not required.

Commissioner Baldasaro asks about absentee ballots – when do they go out. Town Manager Caron says the town can create a calendar to show the timeline, but it is 30 days before the election. Any change to this would have to be under state law.

Commissioner Bove asks for clarification about bonds – will they stay separate from the budget? Town Manager Caron says you still need a public hearing for bonds. The issue of contingent warrants is brought up (e.g. roads – if there is a bond for \$1.5 million for roads, sometimes there is a warrant article that is brought up at the Saturday budgetary town meeting for road maintenance that includes the minimum of what Public Works would need if the bond does not pass on the Tuesday ballot).

Commissioner Wagner asks if one subject can be on the ballot 3 times. Chairman Farmer says by law you cannot do that (e.g. Morrison House – it was originally brought up as a bond, by the Town Council and by a citizens' initiative petition brought up by townspeople. In the end, one of them was thrown out by the state).

Commissioner Deb Paul says we need to make clear to the people in town what the questions are on the ballot, because people vote on items like AES and then the town changes what it does. Commissioner Young asks Town Manager Caron for clarification about AES / Granite Ridge. Town Manager Caron said that the question on the ballot was a non-binding referendum, and that the decision whether to approve of having Granite Ridge come to town was the purview of the Town Council technically. Commissioner Baldasaro says the Council did nothing wrong, but they could have listened to the will of the voters, who voted it down by a 60-40 majority. Commissioner Chris Paul mentions that the AES vote was to see if the town would support AES so they pay less taxes (not how it was worded on ballot), but says that's how people felt.

Commissioner Baldasaro asks the Town Manager if people can vote what to put on the ballot during the deliberative session? He said he went to a deliberative session in another town, and they did that. It was decided that we should ask Town Counsel Mayer what the power of the deliberative session is. It was discussed that you cannot add questions to the ballot because there would not legally be enough notice.

Pauline Caron, 369 Mammoth Road, asks if the Town Council sets the order of the warrants. Town Manager Caron says that they can. She then asks if people at the deliberative session can change the order of the warrants. Commissioner Baldasaro mentions that in the other town's deliberative session that he visited, everything for the ballot was already voted on by the town selectman, was in order & published for the deliberative session.

Chairman Farmer says that the Commission should get a consolidated list of questions to Town Counsel Mayer. Town Manager Caron asks if the Commission would like written responses or for Town Counsel Mayer come in. Chairman Farmer says written responses will work at this time.

Commissioner Baldasaro mentions that he will work on finding more information in the RSA's regarding default budgets.

Approval of Minutes

Commissioner Young makes motion to adopt minutes from the April 12, 2010 meeting. Motion seconded by Commissioner Bove. **Motion passed 9-0.**

Other Business

Secretary McIntyre asks if she should ask Margo LaPietro to reserve the Moose Hill Council Chambers for every two weeks until we issue our draft report in August. Chairman Farmer says to go ahead and reserve the space.

Chairman Farmer says that Peter Curro from the Londonderry School District and Susan Hicks from the Town will be at the next meeting. He says that Town Manager Caron will be coordinating when representatives from the state's DRA & Secretary of State's offices will be coming.

Commissioner Baldasaro makes a motion to adjourn. Motion seconded by Commissioner Chris Paul. **Motion to adjourn passed 9-0 at 8:17pm.**

Next Meeting: Monday, May 10, 2010 at 7:00pm.

**Charter Commission Meeting Minutes
May 10, 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, Chris Paul, Deb Paul, Kathy Wagner, Steve Young

Absent:

Commissioner Marty Bove

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 serving in our military both here and abroad.

Old Business:

None.

Public Session:

Chairman Farmer addresses the audience, saying that this meeting is a continuation of educational meetings. This particular session is on budgeting and default budget. He asks Susan Hickey, Assistant Town Manager – Finance and Administration, to first speak about budgeting. She asks if she should give an overview of internal process or at the council level. Chairman Farmer says yes to both as well as the schedule of activities. Ms. Hickey says the process begins in August. They look at salary, insurance, union contracts, among other things. Department heads enter their own information based on contracts, vendors... They look at expenses they incurred over the past year and look at trend analysis for the past 5 years to make predictions for next year's budget. All get combined and then given to the Town Manager in mid- September. Town Manager meetings with department heads to understand some of their requests, line items... The Town Manager makes and cuts or changes and then puts together a "Town Manager's budget," which gets presented to the Town Council in mid-October. Mid-October through January are budget sessions and public hearings. There are two public hearings in January, including bonds, another hearing in February, and then wraps up at Town Meeting in March. Commissioner Baldasaro clarifies that the schedule is determined by the RSA's, which Ms. Hickey replies yes – they find out when the town meeting is and go backwards from there to see when it is necessary to hold hearings.

Peter Curro, the School District Business Administrator, then begins talking about their budgetary process and the calendar/time frame that they use. They do 2 budgets, the Superintendent's budget, which is just like the Town Manager's budget. Many of the requests come from their 5-year strategic plan. They look at enrollment, state minimum standards, and state law. Same process as Susan's (Hickey). The budget gets delivered to the School Board the meeting before Thanksgiving in November. The public hearing is in mid- January and deliberative session is in early February. Unlike the town, on

the Tuesday ballot in March you vote for everything on the school side – elected officials, bond and notes, operating budget trust fund and any other articles. They also calculate a default budget, which gets shown to the school board along with the Superintendents’ budget in November. The school board uses the default budget as a guide, looking at current budget, plus or minus contracts, obligations, debt, and other stuff. So, when they give the budgets, they actually give three: the department head requests, the superintendent’s budget and the default budget. Chairman Farmer asks if the three budgets are presented in the same table, different columns; Mr. Curro says yes. He also says no changes are ever made to the default budget - once it’s calculated, it stays the same.

Commissioner Wagner asks Mr. Curro if the default budget is just the operating budget, not all the bonds and other stuff. Mr. Curro says she’s correct – the default budget is also called the “general operating budget.” Trust funds are not included, union contracts, special articles (e.g. buying land) are not included.

Commissioner Chris Paul asks Mr. Curro when the public hearings begin. Mr. Curro says for the school district they begin the 1st three weeks of December, where they go through the major parts of the budget: personnel, special education, curriculum / library / building, operation (business) side, such as school lunches, grounds technology. Last meeting is open for questions from budget committee. Deliberative Session is usually around last weekend of January beginning of February. Commissioner Chris Paul follows up his question by saying there is at least four times the public can comment on the budget. Mr. Curro says yes. Mr. Curro then says that at the deliberative session you have your last chance to talk about the budget, provided there is a quorum to look at and review the entire warrant. Any last changes then go onto the ballot.

Commissioner Chris Paul asks how it differs from the town, how much input can people give before it’s actually cast in stone. Ms. Hickey says that the public is welcome to attend any of the budget hearings. This year, they started doing an all-day Saturday event where all the departments present their budgets. They also meet with the budget committee to answer questions. They have the two public hearings in January, and then a final one in February, which is like the deliberative session on the school side, where people can ask questions.

Mr. Curro explains that the difference between official ballot and town meeting is that at the deliberative session, you are voting to move the warrant forward to the ballot and not really talking about the dollar amounts but rather doing things like amending articles. Whereas at the town meeting, people will get up to ask for information and make motions to change things. For the school side, it’s just at the ballot box, a simple yes or no.

Commissioner Baldasaro asks if you could make changes at the deliberative session if you had the quorum of 500 voters. Mr. Curro says you would have the power to amend articles, but the final vote is still at the ballot box in March. In Mr. Curro’s opinion, the problems that he’s heard about the deliberative session is that final decisions are not going to be made that night, so why bother to go? He does say official ballot does make it easier for absentee ballots, like those in military to have a vote.

Commissioner Baldasaro asks about the state budget. He says the state doesn’t do theirs until February and March. He wonders why we don’t do our budget in April or May like some other towns so we know what the appropriations from the state will be. Mr. Curro says you could, but it would be difficult. It may be too late if a budget isn’t passed in May that you could run the risk of beginning the fiscal year (July 1) without a budget. March gives ample time to hold hearings and get a budget done.

Commissioner Young says that the state sometimes does not get a budget done until June 30th, and he can't imagine our town waiting that long to get things done. Mr. Curro says that operating without a budget in place would be very dangerous, not knowing how much money you can spend. This is critical for summer projects, such as road construction.

Secretary McIntyre asks for clarification on the public hearings – the people can listen and make comments, but cannot make any changes. Chairman Farmer answers by stating that the meetings are “public sessions.” He said during these hearings, people cannot make a change, but can use their influence on the council or school board to advocate for what they would like to see done on the budget (e.g. asking for more money appropriated to the library), then the council can take it up and make the change. Mr. Curro says that is the key difference between the school and the town side. At the deliberative session, the school board might bring up the change you'd like in the budget, but if the quorum is not met, there could be no further public discussion about it. At town meeting, the people don't have to convince the town council, but rather, they need to convince the other people at the town meeting to agree with you to make the change.

Commissioner Young asks Mr. Curro about the default budget – how do you come up with it? What guidelines do you follow and does anyone make sure you're doing it right? Mr. Curro says in RSA 40:13 there are general guidelines on how to do a default budget. He calculates it with the accountant passes it by the Superintendent for his review and then has the school board look at it. The school board has the final say on the default budget, because it is up to the governing body, technically, to calculate the default budget. It has been given to me, as the Budget Administrator of the school district, to calculate the default budget for the school board. Commissioner Young asks if anyone from the state reviews the work. Mr. Curro says no on two counts. The first is that the school district is not an official SB2 school district but rather they follow the SB2 rules. Because we're not an official SB2 town, they wouldn't check it, but we do fill out a state form that the school chose to fill out & submit. Commissioner Young follows up and asks when everything is submitted to DRA for tax rates, do they check the default budget? Mr. Curro is not sure, but points out that the budget that is filed with DRA is the one that got approved by the voters. Commissioner Young also asks if there is a way to manipulate the default budget (e.g. leasing items versus purchasing). Mr. Curro says that you could, but says that the main purpose of the default budget is determined by looking at the current operating budget, plus or minus contractual and other obligations as well as debt service.

Commissioner Wagner asks for clarification from Mr. Curro about the default budget – is the starting point from what they spent last year, then adding in debt service, contracts, benefits, utilities? Chairman Farmer clarifies the default budget starts with the appropriated amount from last year, not what was actually spent (e.g. if they saved money for some item).

Commissioner Young gets back to the topic of leases – are they considered a contract? Mr. Curro says they are considered debt. Commissioner Young states that leases would always be part of the default budget, but if there was a purchase, it wouldn't be, therefore you could make the default budget always higher. Mr. Curro says that can happen, but there could also be a policy of purchasing items that becomes a reoccurring expense (e.g. police cars every three years), which would then become part of the default budget.

Vice Chair Navarro asks if one-time expenses are itemized on the default budget. Mr. Curro says no. Chairman Farmer asks if they provide the report. Mr. Curro says no.

Continued discussion on default budget and why it grows. It is because of contractual obligations (e.g. electricity for past year calculated a \$.01 / kilowatt, next year the agreement is for \$.015 / kilowatt).

Commissioner Baldasaro asks Mr. Curro if the default budget would be a hit to the town, based on his experience. Mr. Curro says that the school is a single purpose government, which is educating the youth of Londonderry. For the town, there are many different purposes (police, fire, public works, code enforcement). In his opinion, it is easier to for the school if you're given a budget at the ballot box to figure out if it's an appropriate amount of money to spend or not. For the town, with its different purposes, one number for a variety of services would be difficult to figure out. Commissioner Baldasaro then asks if you could do a petitioned article for the school of 25 signatures. Mr. Curro says yes, it would be a warrant article that would go on the ballot. Commissioner Baldasaro asks if the School Board could make changes to it, Mr. Curro says no, it just goes directly to the voters.

Commissioner Wagner asks if the default budget would be escalated if there were higher costs, for example, to pay for overtime. Ms. Hickey points out it the default comes from only what's appropriated, not what the actual costs that were incurred. Commissioner Wagner then asks Mr. Curro, in general, how much higher is the default budget from the actual budget. Mr. Curro explains that when official ballot was adopted in 1995/1996, there was tremendous growth going on in the town, and the default budget was put in place as a mechanism to help slow down costs. Now, enrollment is maintaining at best or really going down. So now, the Superintendent, due to staff reductions, etc. has been able to reduce the operating budget and it's now lower than the default. Chairman Farmer asks if it can be sustained. Mr. Curro says until enrollment flattens or starts going up again.

Commissioner Wagner wonders if the default budget hurts the process, because you only get two choices. Mr. Curro says it's nice to have the default budget there as a guide and as a benchmark – it is a good financial tool.

Commissioner Baldasaro asks Sue Hickey what she sees happening if there is a default budget. Ms. Hickey says it would be same as Peter on the school side. You would have the same process. Something that is different is that the town does not have as many one-time costs as the school. There are a lot of special & separate articles. She does think a lot of the one-time expenses that people enjoy, such as Pettengill Road project, economic development, fire station, could be taken away. The operations of the community, such as ambulance, would stay the same, day-today functions wouldn't change. Chairman Farmer asks Ms. Hickey to clarify how the one-time expenses would be taken away. Ms. Hickey says a one-time expense would have to be taken out of the following year's budget. Chairman Farmer says couldn't the Town Manager, if he saw a need for it for the following year, put it into the Town Manager's budget. Mr. Curro further explains that passing a default budget for a few years in a row could hurt in times of prosperity. Commissioner Deb Paul does point out that if businesses came into town, there would be more tax revenue for the town and tax rates for individuals could stay the same. Why would voters mind voting for the increase if the burden was on the businesses instead of them.

Commissioner Baldasaro asks Ms. Hickey if vehicles for the police and fire are not part of the budget because they are special articles. Ms. Hickey says that police cars are leases, so they are part of the operating budget, but it is clarified that the big vehicles / fire equipment are purchased through capital reserves.

Commissioner Chris Paul asks if the school has ever had to use the default budget. Mr. Curro says no.

Commissioner Young makes point that the school has very limited revenue accounts. On the town side, if we switched our town government, how would revenue change default budget? Ms. Hickey says there would not be much effect. The effect would be on the tax rate, not the budget. Continued discussion on revenue

Chairman Farmer asks Ms. Hickey if we said yes to move forward with SB2, would there be any change to how we do business in Londonderry. Peter Curro says the difference would be if there is a particular issue, you can get people to go to a town meeting because it's the final meeting where decisions are made. Chairman Farmer states that that is an impact on an individual, but asks Sue Hickey how it impacts the town as a business. Ms. Hickey says there will be no change business-wise, the town will make it work with what the voters say. The impact is more a political issue rather than an operational issue.

Approval of Minutes

Vice Chair Navarro makes a motion to adopt minutes from the April 26, 2010 meeting. Motion seconded by Commissioner Baldasaro. **Motion passed 8-0.**

Other Business

Commissioner Young would like to find out from the town what the number of absentee ballots is. It would be good to see how many in a Presidential year or not. Chairman Farmer says he will ask Meg Seymour. Commissioner Young would like to compare, find out the percentages (300 or 400 in November with 10,000 votes cast vs. 60 absentee ballots out of 1400 showing up).

Commissioner Baldasaro would like to ask the DRA when they come about the RSA concerning the budget committee. He said some towns have the budget committee do their own budget. Chairman Farmer says it's through their town's charter that gives them the power to do a budget. Commissioner Baldasaro would like to find out the pros & cons of having the budget committee do their own budget.

Vice Chair Navarro asks if we can ask DRA if we can specify how budgets are reported. If we make the change to SB2, could we have budgets be more detailed so voters can make a more informed decision? Chairman Farmer wonders if we write that into the change.

Reed Clark, 79 Stonehenge Road, wonders if the May 24th meeting will be another informative meeting. Chairman Farmer says the public can talk at any of the meetings. On June 6th we will have preliminary talk about how we're going to write the report. Mr. Clark asks if there will be another public hearing before we take a vote. Vice Chair Navarro says that the next hearing will be after the preliminary vote. Continued discussion regarding holding another public hearing, but everyone agrees that all the meetings that we are holding are public, that people can come and make statements or ask questions at any time. Mr. Clark says he's surprised more people aren't coming to the meetings since it's dealing with a whole change of the system.

Pauline Caron, 369 Mammoth Road, asks if the Commission is going to have the Town Attorney here again before the Commission makes the preliminary report. Chairman Farmer says yes.

Commissioner Baldasaro makes a motion to adjourn. Motion seconded by Commissioner Chris Paul.
Motion to adjourn passed 8-0 at 8:50pm.

Next Meeting: Monday, May 24, 2010 at 7:00pm.

**Charter Commission Meeting Minutes
June 28, 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, Kathy Wagner (late), Steve Young (late)

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 serving in our military here in the community, around the country and abroad.

Chairman Farmer explains the agenda and briefly goes over the schedule of the Charter Commission's upcoming meetings and deadlines.

Public Comment began at 7:07pm.

Reed Clark, 79 Stonehenge Road, says he thinks it will be a mistake to change the charter for several reasons: 1. There are not too many people in the audience who are pro or con, so they do not understand the issue; 2. Believes people coming into town should at least try out the form of government that's been in NH for 300 years; 3. In terms of voting, Mr. Clark believes that people would only get to vote on what 3 out of the 5 town council members believe in; 4. Mr. Clark says that several thousands of dollars has been saved because of town meeting – it is important for people to have a say; 5. Mr. Clark says that if no one is interested in the politics in town, then why change it? Let the small amount of people who come to town meeting make the decisions. Mr. Clark mentions that while he was in the Foreign Service for 40 years, when visiting different countries he participated in the customs and practices of that country. He says that people who come from other states to NH should try out their type of government, and not try to make it like New Jersey or Massachusetts or Nebraska. He strongly suggests putting off a judgment about this subject due to lack of interest.

Commissioner Baldasaro points out that the charter has been changed over the years. He asks Mr. Clark if he believes a deliberative session with no quorum is the same as a town meeting. Mr. Clark says that there are differences, such as having 2 different budgets. Commissioner Baldasaro then states that town meeting disenfranchises the military because they are unable to vote at a town meeting.

Fred Hussler, 4 Woodbine Drive, speaks. He has lived in town for six years and has also lived in towns in Massachusetts, New Jersey and Pennsylvania. Mr. Hussler says he is not particularly happy with the current form of government in Londonderry. He does not think it's fair to those who couldn't attend the town meeting. Mr. Hussler likes it when everything is laid out in front of you – town meeting seems inefficient and not as effective. He spent 14 years in Grafton,

MA, where everything was laid out before the town meeting, which would last 1-3 nights. He says the problem with town meeting is that you don't get the turnout as you would for ballot vote. Mr. Hussler then thanks the commission for their work and for bringing different opinions to the table.

Commissioner Bove thanks Mr. Hussler for coming. He asks him out of all the places he's lived, which form of government did he like the best. Mr. Hussler likes voting with a ballot – he likes everything laid out for you and that you only have to vote once. He also likes that with everything laid out beforehand, you have the opportunity to ask questions.

(Kathy Wagner and Steve Young arrive at 7:20pm.)

Mr. Hussler said for the ballot vote, the school and town were both done at the same time.

Commissioner Baldasaro makes comment on quorums, and points out the Londonderry is one of only 7 towns that have quorums on the school side.

Commissioner Chris Paul asks Mr. Hussler if he would go to a deliberative session. Mr. Hussler points out that, obviously, if the issues are more controversial, more people will turn out. If the issues were innocuous, why bother – the people voters elected made good decisions.

Chairman Farmer asks Mr. Hussler what prompted him to come tonight. Mr. Hussler says it appeared that no one was coming, that the meetings were not well attended, and he wanted to give his opinion.

Old Business:

None.

Public Session:

Commissioner Baldasaro moves to open the Public Session. Motion seconded by Vice-Chair Navarro. Motion passes, 9-0.

Jeanie Samms from the Department of Revenue Administration (DRA) and Municipal Advisor for Londonderry is present to answer questions.

Chairman Farmer asks if DRA takes an active role in the default budget. Ms. Samms says DRA does not get involved because the default budget is a political issue – the governing body must make the default budget. The DRA cannot say what is a good default budget or a bad one; they do not audit the default budgets.

Commissioner Bove asks if an individual doesn't believe the default budget is correct, could a change be made. Ms. Samms says yes, it can, that the governing body can amend the budget after the deliberative session.

Commissioner Young asks if a default budget is contractual, isn't it unlikely that a change will be needed? Ms. Samms says a change does not need to be made during the deliberative session. Usually, a change is made because an audience member during the deliberative session points out an error on the budget.

Commissioner Baldasaro clarifies if the budget can be changed during the deliberative session. Ms. Samms says the local body could change the budget after the deliberative session. Discussion about use of an official budget committee – Ms. Samms says that in the 47 towns she works with, she can't think of any towns that use the budget committee for the official budget.

Commissioner Wagner asks if a question can be put on the ballot multiple times. Ms. Samms says that you can't change what a question asks, but you can amend an article to read as "to see." Commissioner Young says "you wouldn't want to amend 'to see' in a town meeting format because the voters are the legislative body." A member of the audience, Ann Gaffney, 28 Tokanel Drive, states that at town meeting, you could amend the dollar amount to \$0. Ms. Samms says there cannot be an amendment to a citizen's petition but during the deliberative session you can change the amount of money requested or write it as "to see." She goes on to say that "to see" can be amended to all warrant articles except for the operating budget. Commissioner Chris Paul asks if on the ballot you could have two questions, for example, 1. bond for a fire station; 2. If bond failed, have a one-time expense for the fire station. Ms. Samms says yes.

Chairman Farmer asks if DRA could declare something as illegal. Ms. Samms says an item on the ballot could be "disallowed," if an amendment is deemed improper. She says that you can't change the purpose on an amendment for ballot items (e.g. request to raise money to go into capital reserve cannot be changed to take money out of the capital reserve).

Commissioner Baldasaro asks when the DRA looks at the ballots – before or after the election. Ms. Samms says they don't look until afterwards, and they could do a "disallow after the election has ended. Commissioner Baldasaro asks if you could do a write-in campaign. Ms. Samms says to ask the Secretary of State's office.

Commissioner Wagner asks what would happen if during the deliberative session the default budget was changed significantly. Ms. Samms says they can have another public meeting after the deliberative session.

Chairman Farmer asks when doing a review of the election, is the will of the voters taken into consideration. Ms. Samms says yes.

Ms. Samms states that of the 105 municipalities in the state that she works with, 52% are SB2, and the number is growing every year.

Public Comment begins again at 8:10pm.

Ann Gaffney, 28 Tokanel Drive, says she has tried to come on three other occasions, but the meetings were already completed by the time she arrived. She states that if SB2 goes through, she would like no or a low quorum. In her view, when the school charter changed the quorum to 500, hardly any people came to the meetings anymore because the people didn't feel like they could be involved in the process. Ms. Gaffney does attend town meeting and makes sure to find out when it is so that she can be sure to attend. She likes that when people do come out, they ask questions and participate. She's afraid that the town will end up like the school side – she feels that on the school side, voters have no voice. She reiterates that she would like to keep the quorum low or have none if the town goes to SB2. She understands the disenfranchisement of the military and those who cannot attend town meeting. In her view, town meeting is the purest form of democracy – she feels people can have a voice, debate. Ms. Gaffney says with a ballot, you don't have the same opportunity to understand the issues. During town meeting, the dollar amounts discussed usually go down – not as often do they go up.

Commissioner Baldasaro thanks Ms. Gaffney for coming. He asks if she thinks the deliberative session without a quorum and town meeting are the same thing. Ms. Gaffney says she is gun shy to change anything right now. Commissioner Young asks Ms. Gaffney's opinion about this past year's article 5 on the school ballot to change the quorum from 500 to 350 – why did she think it didn't pass? Ms. Gaffney says people like what they know (keep things the same), and that most likely they didn't understand what they were voting on.

Commissioner Wagner asks Ms. Gaffney's opinion on no quorum for deliberative session. Ms. Gaffney says she would rather risk having one person being at the deliberative session. If the outcome turned out bad, maybe it would encourage people to participate. She said that if there is a quorum, it is harder for voters to be in control. Commissioner Deb Paul says if that was to happen, it would be a teaching lesson for the voters

Ms. Gaffney says she doesn't think it's bad when people come in for specific interests, because they have the right to do that if they want. She says you can only make decisions based on opinions.

Commissioner Young says a problem he has with SB2 is that voters are only presented with 2 budgets. He asks Ms. Gaffney for her opinion. She says that she believe infinite solutions is better than just 2 budgets. With h town meeting, you can negotiate all the rationales for proposals for change. She believes that if there was SB2, there will be less participation than there is currently. Commissioner Young brings up union contracts for teachers, and notes they have always passed. Ms. Gaffney says that people move to Londonderry for the schools, and

they are willing to pay for those services. She does not believe that, even with no quorum, the outcome would change.

Commissioner Wagner asks Ms. Gaffney why she thinks people are dissatisfied with the school's deliberative session. Ms. Gaffney says people don't know what they are getting for their tax dollars.

Vice Chair Navarro asks what Ms. Gaffney feels is the difference between a deliberative session and town meeting. Ms. Gaffney says people vote afterwards, but when you stick with town meeting, you are keeping the power with the voters.

Bob Napolitano, 14 Currier Drive, asks Commissioner Young when the school system went to SB2 in 2000, was the smallest number (default vs. proposed) always picked. Commissioner Young says that in his experience the last 8 years, the lower number was always picked except for 8 years ago, when it was higher by a small amount. Commissioner Young does point out that, because enrollment is the same or lower than 8 years ago, the schools have been able to implement changes to have the proposed budget be lower than the default. Mr. Napolitano says that the town has been growing – he wonders about the percentage of the budget the school was overall versus the town, especially if it's higher now than 12 years ago when SB2 was implemented. Mr. Napolitano continues the discussion, and notes that, if possible, the Charter Commission should try to set up the charter for the future, for how the town is changing. Secretary McIntyre asks Mr. Napolitano to clarify his statement – he says that he thinks Londonderry is not a small town anymore, and sees a government run by a mayor in the future. Commissioner Deb Paul notes that, just because of population size, you don't have to call it a city – it is just one choice of form of government.

Reed Clark, 79 Stonehenge Road, notes that if Londonderry became a city, you still won't get to many people there to vote – you need to participate.

Charter Commission Discussion

Chairman Farmer asks other members of the Commission if there are any other guests they would like to invite to come before them before a decision is made. Commission would like to have someone from the Secretary of State's office come, if they are able to appear before July 20. The members of the Charter Commission decide to hold off inviting head of the Taxpayers Coalition. Vice Chair Navarro asks how the Commission is going to schedule everything and get it done in time. Chairman Farmer says he will send questions to the Town Attorney and ask him to appear at the July 26 meeting, which will also be a hearing and night of vote.

Discussion begins on how to format the report that the Charter Commission must submit to the town. Commissioner Wagner thinks that it should be kept simple; other Commissioners agree.

Approval of Minutes

Commissioner Baldasaro makes a motion to approve minutes of May 10, 2010. Motion is seconded by Vice Chair Navarro. **Motion passes, 9-0.**

Adjournment

Vice Chair Navarro makes motion to adjourn meeting. Commissioner Baldasaro seconds the motion. **Motion passes, 9-0. Meeting adjourns at 10:15pm.**

Next Meeting Dates:

Monday, July 12, 2010 at 7:00pm

Monday, July 26, 2010 at 7:00pm

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**Charter Commission Meeting Minutes
July 12, 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, Kathy Wagner, Steve Young

Meeting was called to order by Chairman Farmer at 7:00pm. Chairman Farmer led the Pledge of Allegiance, followed by a moment of silence for the men & women serving in our military in our country, in town and around the world.

Public Comment began at 7:02pm.

Martin Srugis, 17 Wimbledon Drive, comes before the Commission and says that he's been tossing both sides of the SB2 issue, and he has decided that he falls on the side that gives the most people the vote, which is an SB2-style government that votes on Tuesday. He talks about how at the last town meeting, only 300 or so people showed up, while at the Tuesday election, over 1,000 or maybe 2,000 people cast their vote. He believes the more the merrier – better to have polls open all day rather than just a few hours on a Saturday.

Chairman Farmer reads into the record an email that the Commission members received from Sean and Marie O'Keefe. They write that they support Londonderry's voters with SB2 with no quorum.

Public Session:

Commissioner Baldasaro makes a motion to open the Public Session. Motion is seconded by Commissioner Bove. **Motion passed, 9-0.**

David Scanlan, the Deputy Secretary of State, appears before the Charter Commission. He does work on charter and SB2 issues for the Secretary of State's Office, though doesn't claim to be an expert on either one. He says that the state reviews the proposals that towns make to ensure it follows state laws / statutes. He says that the DRA also follows proposals made by towns. Then, both agencies look over the proposal together, may make recommendations, okays the proposals, or give some ideas if there are a couple of flaws, etc. They try to make the process go as smooth as possible.

Mr. Scanlan says that the pros of having SB2 are that it allows the maximum number of people possible to vote and it includes absentee ballots. He says the cons are that generally, attendance at the deliberative session tails off – people forget about that part of the process.

Sometimes, active minority groups can dominate the deliberative session and change some of the petitioned warrants.

Commissioner Baldasaro thanks Mr. Scanlan for coming tonight and asks for clarification from Mr. Scanlan about controlling the deliberative session – isn't it the same as what you can do at town meeting? Mr. Scanlan says that he's not sure how Londonderry's town operates, but generally w/ SB2, a warrant is created, discussed and maybe amended during the deliberative session, but the moderator does not call for a final vote, that is left for the voters on the ballot on Tuesday. The amendments need to be germane; the substance of an article cannot change.

Chairman Farmer asks if Mr. Scanlan has ever seen "to see" on a ballot. Mr. Scanlan says it has happened. He says you may want to talk to someone in the AG's office to clarify.

Commissioner Wagner asks if a petition from a citizen can be changed at the deliberative session. Mr. Scanlan says yes. Secretary McIntyre mentions that she thought warrant articles brought up by citizens couldn't be changed. Chairman Farmer says that the Council can't really change it, but when goes to deliberative session, a small group of people could, in fact, change the entire article.

Vice Chair Navarro points out that the warrant is published before the deliberative session, so you can see the original intent of the warrant. Chairman Farmer says yes, it is published before the deliberative session.

Commissioner Bove asks if you can ask for "no reconsideration" at the deliberative session like you can at town meeting, so that people still there at the end when people have already left can't change what has already been decided. Mr. Scanlan says that is a valid concern. He says that usually the town moderator has the power to decide whether or not voters can reconsider a previous article. He said that the moderator runs the meeting, although the voters can overrule the moderator. Mr. Scanlan also states that there are provisions in the statutes restricting reconsideration.

Commissioner Chris Paul asks if there are laws re: articles must be published before the deliberative session. Mr. Scanlan says yes, they must be published beforehand, just like town meeting.

Commissioner Baldasaro asks Mr. Scanlan with his experience, are there more towns going SB2? Mr. Scanlan says that when SB2 was passed, there was a rush of towns that went that way in the mid-1990's. It has tailed off quite a bit. There are a few towns that tried to undo SB2, but only 1 or two have succeeded.

Chairman Farmer asks Mr. Scanlan about quorums – are we able to recommend whether to have one or not? Mr. Scanlan says there are not too many towns that have a minimum amount of voters. He wonders if it's constitutional. He says it is a good question for the AG's office. He does say that you do have to follow the town's charter. Commissioner Baldasaro points out

that he's spoken to some constitutionalists, and they say that a quorum is a way for government to take over the people. Mr. Scanlan agrees, and says that town government is supposed to be run by people. Commissioner Young, as a member of the School Board that does have a quorum, asks if quorum is really unconstitutional. Mr. Scanlan says he's not sure, he's not a lawyer.

Commissioner Young goes on to explain our hybrid form of government and says that on the school side, a citizen's petition cannot be changed during the deliberative session and goes directly to the voters. Mr. Scanlan says that towns with SB2 all have unique charters. He is confused by the definition of a citizen's petition and warrant petition. Commissioner Young asks if the Charter Commission's scope is too narrow. It might be a good question for the town attorney.

Commissioner Wagner asks if the town charter supersedes state law. Mr. Scanlan says no, not for state statutes, but there are statutes that allow towns to make some decisions on their own.

Commissioner Bove says that under the current form of government in Londonderry, the town council could change a petition if it doesn't meet certain requirements. If changed to SB2, will the petition process stay the same? Mr. Scanlan says he would have to look at the town charter. Commissioner Bove then explains that there are only two types of petitions, initiative and referendum. Mr. Scanlan says it doesn't sound like the current process is compatible with SB2.

Chairman Farmer says that the heart of the issue that the Charter Commission is looking at is just SB2. Commissioner Young then reads the question that was on the March ballot:

"Shall a charter commission be established for the sole purpose of establishing official ballot voting under Londonderry's current Town Council – Budgetary Town Meeting form of government?"

Commissioner Baldasaro asks Mr. Scanlan in his experience, if the Charter Commission decides to go with Official Ballot Voting and our wording was incorrect, could a lawyer be able to make the change? Mr. Scanlan says that nothing should be changed.

Pauline Caron, 369 Mammoth Road, asks Mr. Scanlan if union contracts can be changed at the deliberative session. Commissioner Young tells Ms. Caron that legally, you cannot change them on the school side. Chairman Farmer says you can't on the town side either, as was mentioned by DRA when they were here the last time.

There ensues a discussion between members on the difference between SB2 and Official Ballot Voting. Commissioner Wagner asks what the time frame for SB2? Mr. Scanlan says SB2 allows for voting in March, April or May.

Commissioner Young reiterates that Mr. Scanlan testified that in towns with SB2, attendance goes down during the deliberative session, special interest groups can form and that citizens petitions can be changed. Mr. Scanlan clarifies that not for citizens' petitions, but for regular warrant articles. Commissioner Baldasaro says that here in Londonderry, there are about 17,000 registered voters, yet only 300 attended town meeting. He asks Mr. Scanlan if this is the norm around the state – this lack of participation. Mr. Scanlan says that traditional town meeting requires a commitment of time. He says that as issues of today become more complex, people may not understand them fully. He said that times are changing and people cannot make it to town meetings for various reasons.

Mr. Scanlan does say that when we have completed our draft report, to bring it before the people who would have to approve it – DRA & the Secretary of State's office so that they can have a look at it and make any recommendations, suggestions, etc. Secretary McIntyre asks if there is a standard form for the report that other towns have used in the past. Mr. Scanlan says usually it's a simple letter with the Charter Commission's findings, followed by the amendment they would like to put forward.

Chairman Farmer thanks Mr. Scanlan for coming.

Charter Commission Discussion

Chairman Farmer begins discussion about the format of the final report. Commissioner Bove states that many topics have come up tonight at this meeting. He avers that the Commission needs to decide what exactly our recommendation will be and how we will word it.

Discussion continues on what the Charter Commission's original charge is.

Secretary McIntyre asks if it might be a better idea to hold off on voting until August since we'll be getting so much information on July 26th. Chairman Farmer says that we would need to look at scheduling. He also says that the Commission will be getting answers from the Town Attorney hopefully before the meeting, so members will have a chance to think them over. Discussion continues – it is decided to keep the vote to July 26th.

Approval of Minutes

Vice Chair Navarro makes a motion to approve minutes of June 28, 2010. Motion is seconded by Commissioner Deb Paul. **Motion passes, 9-0.**

Adjournment

Vice Chair Navarro makes motion to adjourn meeting. Commissioner Wagner seconds the motion. **Motion passes, 9-0. Meeting adjourns at 8:50pm.**

Next Meeting Dates:

Monday, July 26, 2010 at 7:00pm

Monday, Aug. 9, 2010 at 7:00pm

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**Charter Commission Meeting Minutes
July 26, 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, Kathy Wagner, Steve Young

Meeting was called to order by Chairman Farmer at 7:00pm. Chairman Farmer led the Pledge of Allegiance, followed by a moment of silence for the men & women who proudly serve in uniform.

Public Session:

Commissioner Baldasaro makes a motion to make public a letter from Town Attorney Bart Mayer. Motion seconded by Vice-Chair Navarro. **Motion passes 9-0.** Letter is distributed to members of the audience and media who are present.

Town Attorney Mayer appears before the Charter Commission to address publicly the questions that have arisen from at the previous meetings. He first says that the Commission will be creating something of their own, not adopting SB2. He said the statute we would specifically be working with is Chapter 49-D: 3. He then speaks to the issue of a quorum. He said that the Charter Commission is not authorized to call for one for the deliberative session – it would be inconsistent with the law. Commissioner Young asks how does he explain that in 1999, 2000, 2009 (at least three times), the school district has sent its charter for approval from the Department of Revenue Administration, the Attorney General's office and the Secretary of State's office to review. At no time have there been any comments about the issue of a quorum, a lack of response meaning it can be taken as approval. Town Attorney Mayer makes three points - he does not know under what authority the Londonderry School District has written its charter and does not know if they have different guidelines than the town, which follows RSA 49-D. Commissioner Young does say the school district did use RSA 49-D: 3, II-a when creating the charter. Attorney Mayer doesn't quite understand why they used it, as it governs towns, not school districts. The second point Attorney Mayer makes is to not rely on the absence of comment, because it does not technically mean agreement. Finally, he also states that New Hampshire is a delegated state – we can only exercise the authority given to towns laid out by the legislature.

Commissioner Baldasaro asks about the quorum and its constitutionality. Attorney Mayer says the town meeting remains the same whether you go with an official ballot system or not – the deliberative session is just like another meeting. Having a quorum might be depriving individuals of their right to participate. The legislature doesn't seem fit to have a quorum, and sound argument could be made that the Constitution would be violated if you instituted one.

Commissioner Chris Paul asks if the quorum really is out of our realm at this point. Attorney Mayer says yes, it's beyond the authority of the Charter Commission at this point in time.

Continued discussion on the quorum issue.

Attorney Mayer next addresses the Charter Commission's question on whether they can impose any control over the deliberative session. Attorney Mayer says no, they cannot change the internal operation of a town meeting. The moderator and the voters have control. He says that the Charter Commission can only address how they want the citizens to vote. Commissioner Bove asks for clarification about the moderator and asks if it's within their power to restrict reconsideration. Attorney Mayer says that voters can overrule the moderator, but in most towns, most people move to restrict reconsideration. He says you cannot reconsider an item at the same meeting. Chairman Farmer says then that it is not in the Charter Commission's purview to put rules on the deliberative session.

Attorney Mayer next points out that we are not adopting RSA 40:13, we are creating our own change to the town charter.

Commissioner Bove asks when a decision is made later tonight, what should the format of the report be. Attorney Mayer says the Commission should include the specific amendments and changes that it would like to make (e.g. delete _____ insert _____). The Commission would then propose the package at the town meeting in March. The proposal should be very detailed. Attorney Mayer says he sees the report as first a narrative on why the Commission voted the way it did and then have the specific changes it would like to make to the charter. Commissioner Baldasaro asks if we use the text of the RSA, like the school district did? Attorney Mayer says it should more laid out; include all of the dates for when meetings and votes should take place, etc.

Chairman Farmer asks if the March 2010 vote outcome should sway the Commission on how voters were feeling about making a change. Attorney Mayer says no, all the vote did back in March was initiated the process to create a Charter Commission to study the subject.

Commissioner Bove asks how the article would actually read – how does the voter see all the changes that we could propose? Attorney Mayer responds that maybe the proposed changes could be posted with the exactly language or amendments. He said the Commission could also draw up a summary for the voters to read, could have the Commission's report available at the ballots.

Chairman Farmer asks Attorney Mayer about the Budget Committee and whether the Commission could recommend to have one. Attorney Mayer says it's really beyond the Commission's jurisdiction.

Commissioner Baldasaro asks about petitions. Attorney Mayer says that petitions are governed by statutes and that there is a process for both initiative and referendum petitions. Chairman Farmer points out that it is not the Commission's place to make any rulings on petitions.

Commissioner Bove inquires about the use of "to see" on articles – are they just for budgetary items? Attorney Mayer says no, and cites a case in Barrington, NH. He says the Supreme Court's emphasis was on the deliberative session, that it has all of the powers of town meeting except for the final vote – there is no difference between the two types of meetings.

Commissioner Young points out that with official ballot, voters are only presented with two choices, but in town meeting, there is infinite opportunity to change the budget. Attorney Mayer notes that there are also infinite possibilities at the deliberative session instead of the town meeting. He also says you are also not only dealing with the budget, there could be special articles about appropriations, etc.

Discussion regarding having multiple articles proposing the same thing and contingent articles. Attorney Mayer said it could happen that an issue is put up on the warrant three times. Commissioner Wagner says that changes could be made at the deliberative session and voters are stuck with what people did during the deliberative. She points out people could wreak havoc on the budget during the deliberative and then voters are stuck – why bother to have a deliberative? Vice Chair Navarro points out the same thing could happen already during the town meeting. Chairman Farmer mentions that the distinction between town meeting & deliberative session is that with official ballot voting, there is a safety valve, that being the default budget.

Commissioner Baldasaro asks whether the minority report is mandatory. Attorney Mayer says is not required, but they can if they would like, as long as it's under 1000 words.

Chairman Farmer thanks Attorney Mayer for coming in tonight. The Commission invites Attorney Mayer to stay during the hearing in case the public has any questions for him.

Public Hearing

Secretary McIntyre makes a motion to open the public hearing. Motion is seconded by Vice-Chair Navarro. **Motion passes, 9-0.**

Chairman Farmer points out that this is the second public hearing the Charter Commission has had.

Pauline Caron, 369 Mammoth Road, asks about the agenda. She says that under "Regarding the Report," Other Topics, section 2-f, it says "Language that requires the ballot to state 'Deliberative Session Recommends...'. In the same way as current ballot has TC and BC recommends. Chairman Farmer says that the question has not been answered tonight, but it is regarding on the current ballot, on the bottom of each article it shows whether the Town Council and / or Budget Committee recommends it. Attorney Mayer says that having that

language would be redundant, but you could possibly put "to see" if an article is not recommended at the deliberative. Chairman Farmer asks if you can include on the official ballot how the voting went at the deliberative. Attorney Mayer says he hadn't thought of that option and that he would have to look into it, but adds it's a little concerning, because that deals with how the ballot is created.

Bob Napolitano, 14 Currier Drive, asks Attorney Mayer if he knows any of the towns that went to SB2, and then went back to town meeting. Attorney Mayer says that he represents the town of Enfield, which did revert back. He does not know why, however, as he did not attend the hearing. Chairman Farmer points out that Pelham, which is an SB2 town, looked into going back to town meeting, but it was defeated overwhelmingly. Secretary McIntyre asks Attorney Mayer what the population of Enfield was, to which he responded somewhere around 5000-10000. Commissioner Baldasaro mentions that the three towns that did go back to town meeting were very small, and that the town of Enfield has around 3000 residents.

Mr. Napolitano then asks the Commissioners if they have had a chance to look at the percentage of the overall budget of the school versus the town. He wondered whether it has gone up since SB2 was enacted twelve years ago. Chairman Farmer asks if Town Manager Dave Caron can look up the information, to which Mr. Caron says yes. Mr. Napolitano is just looking for the numbers and percentages of the budgets relative to total tax dollars collected.

Mr. Napolitano then says that he has a concern for no quorum, and is afraid a special interest group can go in and make major changes to the budget. Mr. Napolitano believes that the current system of town meeting has worked fine and does not believe it is broken. He goes on to say that people who have been coming to town meeting for a long time have the interests in the town in mind.

Mary Wing Soares, 2 Gail Road, says that she is in favor of keeping town meeting. She feels that town meeting is a positive process and that it would be better to educate voters about town meeting and encourage them to attend. If they don't participate, it's their choice. Commissioner Baldasaro points out that with official ballot voting, people who are on vacation, have to work, those in the military may not be able to be part of the budgetary process, but they can have a say with the end result with absentee ballots. Commissioner Deb Paul says that, as a local newspaper owner, she has worked very hard to educate people about town meeting and informing them about the process. She says that despite all of the newspaper's efforts, she has not seen a difference in the attendance at town meeting. She says it truly is a choice of whether to participate, but for some reason, people don't make it.

Sean O'Keefe, 163 Mammoth Road, says that he supported putting this issue on the ballot as a councilor. He says it is difficult for people to get to a meeting. He spoke to his brother, who is in the military, who didn't like that he couldn't vote on his own town's tax rate. He said that with official ballot voting, people do have the final say. Regarding the deliberative session, he believes that attendance for the school district's deliberative session has gone down because of the quorum and that people don't feel like they can have a say, make a change. He trusts

voters – he says the world will not end if it changes to official ballot voting. He supports SB2, no quorum, and feels that this change is way overdue.

Dottie Grover, 537 Mammoth Road, says that she believes people have a choice to exercise their right to vote and she is very passionate about this right. She reads a letter she wrote to the Commission as well as gives a copy of an article from the Local Government Center on another option that the Charter Commission could make, which is to change the charter to have Representative Town Meeting (*see attached letter #1*). With RTC, neighborhoods would elect someone to attend town meeting for them. Other members of the public could attend the town meeting, but could not vote there. Ms. Grover also argues that absentee ballots do not include information, and people who vote this way would be uninformed. Commissioner Baldasaro points out that there are many media outlets, newspapers, online or on cable that people can find out about the issues before they vote.

Tom Freda, 30 Buckingham Drive, asks what percentage is needed to pass the charter amendment. Attorney Mayer thinks it is just a simple majority, but he will provide a written response to this question. Mr. Freda goes on to say that he has watched all of the Charter Commission meetings, but he hasn't heard any valid reason to keep town meeting. He thinks it is not fair to the 40 to 50 people who cannot attend for whatever reason. He points out the numbers could be higher in certain years when the band goes to New York to march in the St. Patrick's Day parade. Mr. Freda asks the Commission to go to official ballot voting.

Chris Melcher, 4 Bancroft Road, says that he was against official ballot voting from the start. He didn't think the Council should have put the article on the ballot this year to have a Charter Commission. He thinks if we are going to be examining this issue, why not open the whole charter? He thinks that official ballot voting makes people more lazy. Mr. Melcher then asks who will be writing the report. Chairman Farmer replies that the draft is due August 26. The Commission will not author the complete report – it will work with town staff to figure out what exact changes to the charter need to be made. The final response is not due until October 26. Mr. Melcher then asks about having the deliberative session for the school and town on the same night, as Commissioner Young had brought up at the previous meeting. Commissioners agree that the meeting might be too long.

Dottie Grover, 537 Mammoth Road, asks if there is going to be a minority report written. Chairman Farmer says there is no requirement to do so. Ms. Grover states that she does hope that if one is written, the people who write the report should get the same assistance from town staff at those who write the official report.

Glenn Douglas, 6 Overlook Avenue, says he's all for SB2. He has followed the issue for three to four years now, and he thinks that Londonderry should move forward and let voters have a say. Regarding the topic of educating the voters, he says that he has heard that argument from people all the time, and it drives him crazy. He believes it does not work; voters make the choice not to go. If he had his way, people should attend all the meetings, budget workshops,

etc. He believes that having a default budget provides for a safety valve – if you don't like the changes made at the deliberative session, vote for the default.

Pauline Caron, 369 Mammoth Road, asks about the deliberative session if the town goes to official ballot voting. She wonders if the meeting will be on a weeknight or on a weekend day. Chairman Farmer says that is something we would have to look at.

Commissioner Young asks Town Attorney Mayer if ratified union contracts could be changed by voters during the deliberative session. Attorney Mayer says that all questions would go onto the ballot but a union contract would be a non-binding vote, as it must first be agreed upon by the governing body and the union. He goes on to say that you cannot amend a contract, but the article itself can be amended. It is pointed out that there is usually always a warrant underneath the contract saying that if it does not pass, can there be a special meeting about it.

Reed Clark, 79 Stonehenge Road, notes that when he was in the Foreign Service, he followed what other people of different cultures did (e.g. take shoes off before you go into a house). He says that if you come from another place, you should try out the things here. Look at how New Hampshire has run their towns since the 1700's – it has always worked. He says that with a town meeting, more variety of people can come and speak. He believes that with a deliberative session, you can only vote on what 3 out of the 5 town councilors want to have on the warrant. Mr. Clark also points out that last year, at town meeting, the budget dropped by \$10,000. He thinks you should not change something (i.e. town meeting) without having tried it first. He believes it's wrong for people to change to official ballot voting because only a few people wanted it. He votes no change to the town charter. Chairman Farmer responds to Mr. Clark, noting that the charter has been changed many times. He also points out that the authority is clear that the voters chose the people on the Commission, and they can make a recommendation to have the people vote on the issue in March. Commissioner Chris Paul asks Mr. Clark if he was a taxpayer of the town while he was abroad, to which Mr. Clark responds yes. Commissioner Chris Paul then asks if he voted in every election. Mr. Clark says he voted on anything that he could.

Bob Napolitano, 14 Currier Drive, asks if the vote goes tonight with official ballot voting, how will the Commission get the word out? Vice Chair Navarro urges people to come out and vote in March – it is their choice if they want it or not. Chairman Farmer points out that once the final report is issued in October, our role as Commissioners ends. As private citizens, they will support or not support the issue.

Commissioner Wagner reads into the record an email from Councilor Tom Dolan, 19 Isabella Drive (*see attached letter #2*).

Pauline Caron, 369 Mammoth Road, points out that those who vote with absentee ballots will not be able to vote during the deliberative session. Chairman Farmer responds by saying those with absentee ballots cannot vote during the process, but they can have their say during the final vote, something that they currently cannot do with town meeting.

Vice Chair Navarro makes a motion to close the public hearing at 10:03pm. Motion is seconded by Commissioner Baldasaro. **Motion passes, 9-0.** A small break is taken.

Charter Commission Discussion

Commissioner Wagner makes a motion to make a decision tonight on the issue of official ballot voting. Motion is seconded by Commissioner Baldasaro. **Motion passes, 9-0.**

Commissioner Baldasaro makes a motion to establish official ballot voting under Londonderry's current Town Council – Budgetary Town Meeting form of government. Motion is seconded by Vice-Chair Navarro. **Motion passes, 6-3.**

Approval of Minutes

Commissioner Baldasaro makes a motion to approve the minutes from July 12, 2010. Motion is seconded by Commissioner Bove. **Motion passes, 9-0.**

Other Business

Secretary McIntyre asks Chairman Farmer about the next meeting being noted on the agenda as "TBD." Chairman Farmer asks Town Manager Dave Caron if he could bring specific language changes that would need to be made for the charter. Chairman Farmer says the next meeting will be more like a workshop-style meeting to start working on the report. It is agreed that the next meeting will be on Monday, August 9, 2010. Commissioner Chris Paul asks if the meeting can be held somewhere else, a place that is more casual. Chairman Farmer says that we will continue to keep the meetings public and taped for viewers.

Adjournment

Vice-Chair Navarro makes a motion to adjourn the meeting. Commissioner Baldasaro makes a quick comment to compliment everyone who came out tonight to speak. Commissioner Bove also mentions that he would like to write the minority report, and asks Commissioners Young and Wagner if they would like to help, to which they respond yes.

Motion to adjourn is then seconded by Commissioner Chris Paul. **Motion passes, 9-0. Meeting adjourns at 10:20pm.**

Next Meeting Date:

Monday, Aug. 9, 2010 at 7:00pm

July 26, 2010

To the Charter Commission,

I have been watching the Charter Commission meetings with great interest. I believe I understand the charge is to advise the Town with regard to the issue of ballot voting. Although you are required to give only give a yes or no recommendation, you are also required to give a report that I expect would explain the reasons for your recommendation.

During this process, with the help of various experts, there has been information presented that was certainly surprising to me and seemed to surprise Commission members as well. For example, I was under the impression that a default budget was generated via a process dictated by state law. To discover that not only is there no set formula in place but that the default budget can also be amended by the School Board even after the deliberative session, was certainly surprising. It was also interesting to hear that a quorum might not even be a legal requirement for a deliberative session.

NH RSAs include a number of forms of government. Of particular interest to me is the RTM or Representative Town Meeting. I had raised this form as a possibility when the Charter Commission was formed and found it quite interesting that the LGC published an article on it recently. I have attached a copy of that article.

I have been attending Town Meetings since I was 10 years old. When growing up in Chester, it was considered a very exciting night out. As non-voters, the children were welcome to sit, quietly, in the balcony at Town Hall. We learned the ins and outs of the process and were fully ready to participate when we were old enough to vote. This is where I fell in love with Democracy. I understood it was my responsibility to participate and be heard on the issues that were important to me.

The RTM is the closest thing to the old town meeting form of government that I am aware of. It has a proven record in a number of NE towns. I think it should be considered in Londonderry.

The goal is to have more involvement in the voting process. The current methods have resulted in fewer people having a chance to ask their questions before they go to the polls. Ballot voting alone means that there are fewer opportunities to engage voters in the discussion.

With the RTM, we could create as many districts within the town as we wanted. Neighborhoods could elect someone very close by to represent them at the annual meeting. Although only the elected representatives could actually vote at the meeting, other voters would be allowed to attend and to express their opinions in an effort to affect the vote.

I hope that you will include this information in your report. I don't want to break my 50 year record of attendance at town meetings. And I don't want to lose the opportunity to continue this form of government because others have chosen not to attend.

I challenge Londonderry to be the leader once again and thoroughly examine the RTM.



DOTTIE GROVER
537 Mammoth Road
Londonderry, NH 03053

434-5143

Letter from Tom Dolan

To the commissioners:

First of all, thank you for stepping up to serve the community and sacrificing your personal time away from your families.

In 1995, the NH senate voted to adopt a new form of government commonly known now as SB2. It was a political response to the spending seen by many communities to upgrade the education infrastructure (mostly new schools) for the rapidly expanding school age populations at the time in NH.

Londonderry saw that same growth as many flocked here from more expensive states. In short, it was thought that this would slow the spending at local levels on schools. This type of state meddling in local politics by state politicians that feel they know best has always been resented by local citizens.

Some towns that have dumped their traditional town meeting are having regrets and are looking to go back. In Amherst, Jack Kunkel, a member of the town Ways and Means Committee, was quoted in the Nashua Telegraph "SB2 has many good goals, but I've spoken with people who have been in town politics off and on for 20 or 30 years, and most feel that it's downgraded the quality of the conversation and decision-making we had with Town Meeting," Kunkel said.

Proponents of the SB2 government scheme are often excited about the prospects of preserving town meeting discussions at a relatively poor facsimile called the "Deliberative Session." A brief examination of any recent deliberative session in an SB2 town reveals nothing less than dismal attendance (often only a few dozen voters whether there's a quorum or not). This means the very small minority of voters who attend the town-meeting like session have extraordinary power to amend and shape the articles and the budget that the rest of the town will vote on at the polls. Very few voters hear or participate in the debate on warrant articles. As a result, many town officers surveyed by at least one researcher doubted that the voters understood the articles they were voting on. Exit interviews in several towns confirmed that voters had difficulty understanding the language of certain articles. In recent years, we have also seen a dramatic increase in the number of deliberative sessions that amend warrant articles to remove all but the first two words ("to see"), rendering the article essentially meaningless and preventing the wider voting public from having any say on the article at all. For example, this happened last year in Hampton according to Hampton Selectman Jerry Znoj.

Because the voting power at the deliberative session, the first meeting, is not final, the meeting is considered lacking in importance. Data from towns that have SB-2 show a marked reduction in meeting attendance. In many cases the small number of attendees means the quality of the debate is poor and they tend to just go along with the recommendations of the governing body.

We all have experienced some of the weaknesses of traditional open town government where only a few hundred people attend and make significant financial decisions on behalf of the citizens who choose not to attend. However, this situation is even more acute in SB2 governments, where only a few dozen voters are given authority to shape the budget and warrant articles at the deliberative session simply because no one else bothers to attend. In both forms of government, absentee voters are allowed no proxy votes and therefore cannot participate. SB2 does not and cannot fix that.

Moving to SB2 for the town government creates a very different political dynamic for our community. As a community leader for several years, I (along with others) have struggled to maintain community engagement and participation for our citizens. We have taken steps to have both formal and informal community engagement sessions, public hearings, open houses, "coffee with the Councilor", Leadership Londonderry, and the list goes on. I firmly believe that voter participation and engagement are crucial to our social fabric. Any incremental steps to dumb down the political process and further reduce people-to-people interaction in the name of any political movement brings us closer to becoming just another deadbolt town, where people huddle behind their deadbolts and peek out carefully from behind the curtain.

Moving to SB2 consolidates considerable budgetary/taxing power to a majority of 3 Councilors on the Town Council. While flattered that supporters of SB2 in Londonderry have faith in the sitting Town Council to not abuse this shift in power to them/us, I'm not so sure that I'm confident that Councils of the future will be so trustworthy. Theories are nice, but the reality is that taxes will go up as well-meaning Councilors push their tax/spend agenda through the SB2 process right past the voters. The recourse will be to unseat the elected officials, but that may take several years. As one town councilor, I don't want that power. I say keep the control of spending in the hands of the people. One person, one vote. Keep the town meeting and let people vote and control their own tax bills. Respectfully,

Tom Dolan
19 Isabella Drive

**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 now 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.

HI. 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

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 Official Ballot Session of the Budgetary Town Meeting, held on the second Tuesday in March at such place, convenient to the public, as the Council shall direct. Notice of such public hearing, THE Deliberative Session of the Budgetary Town Meeting and 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 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 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	<u>Budget Workshop</u>
	8:00 AM	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> (Note: - RSA 32:5- 1 - seven days' notice required)
12/20/10	Mon., Jan. 3, 2011	<u>First budget hearing, preliminary budget adoption and determination of Bond Hearing (if any)</u> (Note: Financial Management Policy requires action no later than 60 days prior to Annual Town Meeting)
1/11/11	Fri., Jan. 7, 2011	<u>Public notice of bond hearing (if necessary) and preliminary warrant approval</u> (Note: RSA 33:8-a -Seven (7) days' notice is required)
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> (Note: RSA 32:5-1. Seven days' notice required)
1/11/11	Tues., Feb. 1, 2011	<u>Deadline for petitioned warrant articles</u> (RSA 39:3 - Must be received on the 5th Tues. before Annual Mtg.)
1/18/11	Thurs., Feb. 03, 2011	<u>Second budget public hearing, adoption of FY 12 Budget and final vote on warrant</u> (Note: State statutes require hearing at least 25 days before Annual Meeting, or February 12, 2010.)
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}
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Please respond to the Concord office

July 28, 2010

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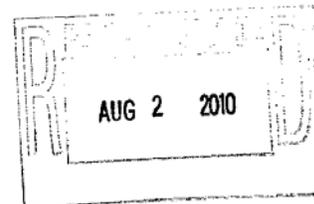
RE: Establishing Office Ballot Voting

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.

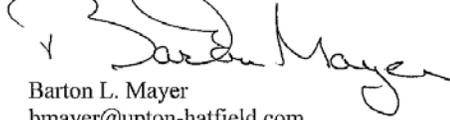
Perhaps the confusion arises because RSA 40:14, governing the method of adopting the official ballot referendum form of town meeting requires a 3/5 majority vote. However, you need to understand that the town meeting is not adopting RSA 40:13, but rather charter amendments proposed by the Commission.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



July 28, 2010
Page 2

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 initial "B".

Barton L. Mayer
bmayer@upton-hatfield.com

BLM/lm

cc: David Caron, Town Manager

G:\BLM\LONDONRY\LETTERS\2010\Farmer ballot voting 7.28.10.doc

**Charter Commission Meeting Minutes
August 16, 2010**

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

In Attendance:

Vice-Chair Cris Navarro, Secretary Lara McIntyre, Commissioners Al Baldasaro, Marty Bove, Chris Paul, Deb Paul, Steve Young.

Meeting was called to order by Vice-Chair Navarro at 7:02pm. Vice-Chair Navarro led the Pledge of Allegiance, followed by a moment of silence for our troops.

Public Session

Vice-Chair Navarro mentions that Chairman Farmer will be late or unable to attend tonight's meeting. Chairman Farmer has been working on the outline for the report.

Commissioner Baldasaro discusses the topic he brought up last week regarding having state statues referred to in the revised charter. He did some research, particularly looking at Article 39 of the New Hampshire constitution, where it states that towns and cities must comply with New Hampshire state law, so whether we refer to it or not in the town charter, we have no choice but to comply.

Commissioner Baldasaro also wants to clarify that we are not adopting SB2. SB2 is the Senate Bill that gave a choice to cities and towns to approve having a deliberative session and official ballot voting. "SB2 town" is just a nickname people have given to towns that have adopted the official ballot voting style of government.

Charter Commission Discussion

Vice-Chair Navarro discusses what the Charter Commission will need in the report. Items include all of the approved minutes from past meetings, documents and handouts from visitors, the language in the charter that will be changed if approved by voters, any letters or opinions from the Town Attorney. Vice-Chair Navarro says she will talk to Chairman Farmer to make sure the outline gets out to members via email this week.

Vice-Chair Navarro asks Secretary McIntyre if she can work on a table of contents with appendix for all items that will be included in the report. Secretary McIntyre says she can work on it.

Commissioner Bove says that he cannot access the meeting minutes from the town's website, and can only get the draft minutes from August 9th. Secretary McIntyre says she will check with Margo LaPietro from the town to look into the matter.

Vice-Chair Navarro says we will need to meet again next week to finalize the draft report. Secretary McIntyre says she will check with Margo LaPietro from the town to schedule the School Board meeting room for Monday, August 23rd.

Approval of Minutes

Commissioner Baldasaro makes a motion to approve the minutes of August 9, 2010. Motion is seconded by Commissioner Chris Paul. **Motion approved, 6-0-1.**

Other Business

None.

Adjournment

Commissioner Young makes a motion to adjourn the meeting. Motion is seconded by Commissioner Deb Paul. **Motion approved, 7-0. Meeting is adjourned at 7:15pm.**

Next Meeting Date:

Monday, August 23, 2010 at 7:00pm (tentative)

DRAFT
Charter Commission Meeting Minutes
August 23, 2010

Meeting was held in the SAU Conference Room, 268C Mammoth Road, Londonderry.

In Attendance:

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

Meeting was called to order by Chairman Brian Farmer at 7:05pm. Chairman Farmer led the Pledge of Allegiance.

Public Session / Charter Commission Discussion

Chairman Farmer distributes the draft report that he has written (*see attached document*). The report is due on Thursday, August 26th. Chairman Farmer says that he has all copies of the documents that need to be included in the draft report.

Commissioner Bove is working on drafting the minority report, which will be included in the table of contents with the official report from the Charter Commission.

Commissioner Baldasaro inquires about language in Section 5.3 of the charter concerning having notice one week prior to the Deliberative Session and Official Ballot Session. He asks if that is state law or just part of the charter. Brian says that the language was already in the charter. Commissioner Baldasaro reminds members that the town must comply with state law, and there could be some changes coming up regarding notice. Chairman Farmer says that if a state law changes, the charter will be changed to comply with the law.

Commissioner Baldasaro asks if the Commission will be voting on the language of the charter change. Chairman Farmer and other Commission members agree that a vote should be taken. Commissioner Baldasaro makes a motion to accept the changes to Sections 5.3 and 5.4 of the charter. Motion is seconded by Vice-Chair Navarro. **Motion approved 6-1.**

Continued discussion on the draft of the Charter Commission's report. Chairman Farmer will make small edits for spelling errors and work on a table of contents.

Chairman Farmer mentions that the report is due August 26th to the Town Clerk, and she has until September 5th to send out to state entities (Secretary of State, DRA, Attorney General's offices). The Town Attorney will look at it between August 26th and September 5th to make sure it looks okay to send. Chairman Farmer says that the state will give a written response on their decision.

Commissioner Bove mentions that he likes how the report was done – very factual and non-biased. Vice-Chair Navarro also compliments Chairman Farmer for how well the draft report looks.

Secretary McIntyre asks if the draft will be released to the public, or only the final report. Chairman Farmer says to include the draft report in the minutes so that the public can see it.

Approval of Minutes

Commissioner Baldasaro makes a motion to approve the minutes of August 16, 2010. Motion is seconded by Commissioner Bove. **Motion approved, 6-0 (1 abstention).**

Other Business

Commissioner Bove thanks the other Commissioners for keeping open minds and says he's enjoyed working with everyone. Sentiments echoed by other members of the Commission.

Adjournment

Commissioner Baldasaro makes a motion to adjourn the meeting. Motion is seconded by Commissioner Bove. **Motion approved 7-0. Meeting is adjourned at 7:45pm.**

Next Meeting Date:

TBD

Draft Report of the Charter Commission
of
The Town of Londonderry, New Hampshire

Introduction – This is the draft report of the nine-member Town of Londonderry Charter Commission elected by the voters to study the question of whether or not the Town of Londonderry should adopt Official Ballot voting under Londonderry’s current Town Council – Budgetary Town Meeting form of government.

Background – The current Town Charter was adopted by Town Meeting on March 12, 1996. This established the current Town Council – Budgetary Town Meeting form of government currently practiced in Londonderry. The Charter has been revised a total of five times by Town Meeting vote; each revision covering different topics and indicating a willingness on the part of Londonderry’s voters to address the need to modify the Town’s Charter with the passage of time.

A petition to change to official ballot voting was received by the Town Council in January of 2004. This petition had been signed by 532 voters. A review of the petition by the Town’s Attorney was discussed at the Town Council meetin on January 12, 2004. During this discussion it was opined that that the petition itself was flawed as it had not followed the proper process and as a result the Town Council did not accept the petition as valid.

On September 21, 2009 the Town Council voted to place a question on the ballot for March 2010 that would allow the voters to decide whether a Charter Commission would be established to study changing from the current method of voting on the budget at Town Meeting or changing to Official Ballot voting. The specific language of the question on the ballot is as follows:

Article 2: Shall a Charter Commission be established for the sole purpose of establishing official ballot voting under Londonderry’s current Town Council – Budgetary Town Meeting form of government?

Voting was held on March 9, 2010 and the vote for Article 2 was 1901 to 1074. With that vote came the election of the nine members of the Charter Commission out of a field of 21. The following are the members of the Charter Commision: Al Baldasaro, Marty Bove, Brian Farmer, Lara McIntyre, Cris Navarro, Chris Paul, Debra Paul, Kathy Wagner and Steve Young.

Meetings and Meeting Summary:

State Law requires that the Charter Commission have an Organizational Meeting and a Public Hearing within fourteen days of that meeting. The elected Commissioners opted to have several additional meetings beyond those that were required to permit ample opportunity for the public to be heard and to allow opportunities for invited guest speakers to appear before the Commission to offer their perspective. Recorded minutes for all meeting are held in the Office of the Town Clerk. The following is a brief summary of all meeting held by the Commission.

March 29, 2010 – Organizational Meeting: The Commission held an organizational meeting to elect officers.

Brian Farmer – Chairman

Chris Navarro – Vice Chairman

Lara McIntyre – Secretary

Invited guest Bart Mayer, Town Counsel for the Town of Londonderry explains that the Charter Commission is now established for a specific and limited purpose, which is to look into creating an official ballot system for the town.

April 12, 2010 – Public Hearing: The Charter Commission hosts its required Public Hearing to take testimony from members of the public. The meeting is lightly attended.

April 26, 2010 – Public Meeting: The Charter Commission meets in public. Invited guest Dave Caron, Town Manager for the Town of Londonderry discusses the current Town Charter and the specific areas that the Commission is allowed to address.

May 10, 2010 – Public Meeting: The Charter Commission meets in public. Invited guest Susan Hickey, Assistant Town Manager – Finance and Administration for the Town of Londonderry and Peter Curro, Business Administrator for the Londonderry School District speak about the budgeting process followed by the Town and School District highlighting the differences so that the Commission members can understand the budget and default budget processes.

June 28, 2010 – Public Meeting: The Charter Commission meets in public. Invited guest Jeanie Samms from the Department of Revenue Administration (DRA) and Municipal Advisor for Londonderry is present to answer questions. Regarding the DRA's role in the budgetary process. She provides two handouts from the DRA to members of the Commission.

July 12, 2010 – Public Meeting: The Charter Commission meets in public. Invited guest David Scanlan, the Deputy Secretary of State, appears before the Charter Commission. He does work on charter and SB2 issues for the Secretary of State's Office, though doesn't claim to be an expert on either one. He says that the state reviews the proposals that towns make to ensure it follows state laws / statutes.

July 26, 2010 – Final Public Hearing: The Charter Commission meets in public. Invited guest Bart Mayer, Town Counsel for the Town of Londonderry Town Attorney Mayer appears before the Charter Commission to address publicly the questions that have arisen from previous meetings. The Commission opens the Public Hearing which is again lightly attended. In a vote of 6-3 the Commission agrees to recommend to the voters of the Town of Londonderry that they adopt Official Ballot Voting as part of their Town Charter.

August 9, 2010 – Public Meeting: The Charter Commission meets in public. The Commissions members have a discussion regarding the issue of a "quorum" at any future Deliberative Session that may result for the voters decision on Official Ballot Voting in March 2011. The Commission votes 7-0 to not include any language regarding a quorum.

August 16, 2010 – Public Meeting: The Charter Commission meets in public.

August 23, 2010 – Public Meeting: The Charter Commission meets in public. The commission met to discuss and amend the draft report prior to its delivery.

Proposed Charter Amendments:

The following sections of this report provides insight into the specific areas of the Charter that will be changed as a result of a Yes vote on the Article to be presented to the voters in March 2011. The first section illustrates the changes by showing the specific additions and deletions that will need to be made in order to amend the Charter to include Official Ballot voting. The additions to the Charter are shown in bold (**bold**) and the deletions are shown as strikethroughs (~~strikethroughs~~).

The second section shows the complete language of the change as amended. The principle choice to be made by the voters is the choice between the continuation of the current process of voting in which voters desiring to participate must vote at both the Tuesday Session of Annual Town Meeting and then return to vote again at the Saturday Session - or – to change to Official Ballot Voting in which all matters are voted on at the Tuesday Session and the Saturday Session is done away with. Should the voters choose to adopt Official Ballot voting there will be a Deliberative Session prior to the final vote at the Tuesday Session in which articles may be amended by as many registered voters who show up at the meeting. Final voting will occur on Tuesdays and includes the choice between the budget adopted at the Deliberative Session and a default budget.

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

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 Official Ballot Session of the Budgetary Town Meeting, held on the second Tuesday in March at such place, convenient to the public, as the Council shall direct. Notice of such public hearing, THE Deliberative Session of the Budgetary Town Meeting and 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 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 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.

DRAFT

NH Department of Revenue Administration
Municipal Services Division
P.O. Box 487
Concord, NH 03302-0487
(603) 271-3397
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TECHNICAL ASSISTANCE For SB2 (Official Ballot Referenda)

What is the official ballot referenda?

It is a form of town meeting that has two sessions. The first session (deliberative session) is for explanation, discussion, debate and amendments to the proposed operating budget and warrant articles. The second session (voting session) allows voters to cast their votes for local elections, zoning articles and all warrant articles.

Why is it referred to as SB2?

The original bill proposing the official ballot referenda was Senate Bill 2 in 1995. Legislation in 2000, made "SB2" the official name for this official ballot referenda form of government.

How does a town adopt the official ballot referenda?

How does a town adopt the official ballot referenda?

The local governing body must hold a public hearing at least 15 days prior to the question being voted on, (RSA 40:14, IV). The question as worded in RSA 40:14, V, "Shall we adopt the provisions of RSA 40:13 (known as SB2) to allow official ballot voting on all issues before the (insert local political subdivision) on the second Tuesday of (insert Month), is placed on the warrant for the annual meeting. Passage requires a 3/5 majority vote of those voting. At this time the month for holding the second session (voting) can be designated as March, April, or May.

Another form of official ballot voting may be adopted under the charter process under RSA 49-D.

When does it take effect?

When does it take effect?

It will take effect at the next annual or special meeting. If you are currently SB2 and vote to change the date of the second session to April or May, it will take effect at the next annual meeting [RSA 40:14, XI, (e)].

How will the meeting change? Can opinions still be voiced?

There are a few significant changes that occur. First is the creation of a second session specifically for voting. The deliberative session (first session) is similar to the traditional town meeting but is held earlier. During this meeting, all articles can be explained, discussed, debated and amended. The articles as presented or amended will be placed on the official ballot and voted on at the second session. Most SB2 municipalities hold their first session in late January to early February and voting in March (second session).

See our timelines for the specific dates this year. Another change is the procedure for adopting the budget. The article proposes an operating budget and a default budget (should the proposed operating budget fail). Special and individual warrant articles are separate from the operating budget as prescribed by RSA 40:13, IX. A hearing on the entire budget and default budget must be held prior to posting the warrant and budget in accordance with RSA 40:13, II-a through II-d.

What is a default budget? Is there a special default budget form? Can it be amended? *A default budget is the budget that is adopted when the proposed operating budget fails if a special meeting is not called to reconsider the operating budget. The default budget is the same as last year with certain adjustments. The calculation must be disclosed on a special default operating budget form showing last year's operating budget with adjustments made per RSA 40:13, IX (b). This form is available on our website at www.nh.gov/revenue/munc_prop/municipalservices.htm. The default budget can be adjusted by the governing body (or budget committee under RSA 40:14-b), acting upon relevant new information. This can be done at any time before the ballots are printed, provided an amended default budget form is prepared.*

What if the proposed operating budget fails?

What if the proposed operating budget fails?

If the operating budget fails, the default budget is adopted unless the governing body decides to hold one special meeting to address a revised operating budget. See RSA 40:13, XI.

Who calculates the default budget for SB2 municipalities?

The local governing body calculates the default budget. However, if a town wishes to have the budget committee calculate the default budget, the question can be put before the voters on the warrant for the annual meeting after a public hearing is held on the question. Passage requires a 3/5 majority ballot vote. Required wording per RSA 40:14-b is:

“Shall we adopt the provisions of RSA 40:14-b to delegate the determination of the default budget to the municipal budget committee which has been adopted under RSA 32:14?”

What about reconsideration of special or individual warrant articles?

RSA 40:13, XV does not allow reconsideration on votes cast at the second session.

What is the difference between a special and an individual warrant article?

Special warrant articles as defined in RSA 32:3, VI, are appropriations:

- 1) Submitted by petition; or,*
- 2) Raised by bonds or notes; or,*
- 3) To a separate fund created pursuant to law, such as capital reserve funds or trusts funds; or,*
- 4) Designated on the warrant as a special article or as a non-lapsing or nontransferable article.*

*A special warrant article must be accompanied **ON THE BALLOT** with a recommendation (for or against) by the governing body and budget committee (if there is one).*

Individual warrant articles are not necessarily the same as "special warrant articles". An example of an individual warrant article might be negotiated cost items for labor agreements or items of a one time nature addressed independent of the operating budget.

Why is it important to distinguish between a "special" or "individual" warrant article? *The required wording for the operating budget in RSA 40:13, XI specifically states that the operating budget does not include any other appropriations including those voted for in special warrant articles and other appropriations voted separately. The wording of these articles determines whether they can be considered part of the default budget next year.*

Can petitioned articles be changed at the first session?

Can petitioned articles be changed at the first session?

Under current law, petitioned articles can be amended by the first session, however, no new subject matter may be introduced.

What is the due date for petitioned warrant articles (RSA 39:3 and 197:6) and collective bargaining cost items (RSA 273-A: 1,III) for inclusion in the budget? *For a March meeting, RSA 40:13, II-a, (b) requires a submission date no later than the second Tuesday in January.*

If the collective bargaining warrant article fails, will the court allow a special meeting? *The governing body may insert a warrant article authorizing one special meeting to address negotiated cost items without petitioning the superior court. See our suggested warrant article publication for wording. If an article requesting a special meeting is not put on the warrant or if it is voted down, the governing body may petition the superior court to hold a special meeting.*

What forms need to be completed to set the tax rate?

What forms need to be completed to set the tax rate?

A list of all documents and their due dates required to set the tax rate can be found on our website. SB2 requires additional documents to verify that all appropriations have been made consistent with procedural requirements of the statutes or are not prohibited by statute. These additional documents are:

Signed Minutes from the Deliberative Session;

Signed Official Ballot; and

The Count of the Ballot Votes verified with the town or district clerk's signature.

The verified count could be included on the official ballot.

How to go back to the old town meeting format.

How to go back to the old town meeting format.

The Official Ballot Referenda may be rescinded in the same manner as adopted except the wording of the question shall be as prescribed in RSA 40:14, VII. It requires a 3/5 majority vote of those voting to be rescinded.

Operating Budget Wording for "SB2"

The required wording of the operating budget per RSA 40:13, XI is as follows:

“Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$ _____? Should this article be defeated, the default budget shall be \$ _____, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only.”

It excludes special warrant articles and other appropriations voted separately. To help voters understand the budget amount and wording presented in this article, we suggest you add a note similar to this:

NOTE: This operating budget warrant article does not include appropriations contained in ANY other warrant articles.

The goal is to make the ballot clear as to what is or is not included in the operating budget. DO NOT use a SWEEP (or all inclusive) article, which is essentially a double vote on some items and contrary to RSA 40:13, XI.

Our Suggested Warrant Article publication offers many examples of warrant article wording along with information that may be useful when considering how an article should be written. This publication, timelines, and numerous other technical publications can be found on our website.

If you have any questions concerning how to perform any of the above steps or to be sure your warrant articles are in proper form, please call your auditor at 271-3397 or email at fristinitiallastname@rev.state.nh.us

TITLE III TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 40 GOVERNMENT OF TOWN MEETING

Optional Form of Meeting--Official Ballot Referenda

Section 40:13

40:13 Use of Official Ballot. –

I. Notwithstanding RSA 39:3-d, RSA 40:4-e, or any other provision of law, any local political subdivision as defined in RSA 40:12 which has adopted this subdivision shall utilize the official ballot for voting on all issues before the voters.

II. The warrant for any annual meeting shall prescribe the place, day and hour for each of 2 separate sessions of the meeting, and notice shall be given as otherwise provided in this section. Final budgets and ballot questions shall be printed in the annual report made available to the legislative body at least one week before the date of the second session of the annual meeting.

II-a. Notwithstanding any other provision of law, all local political subdivisions which adopt this subdivision, who have not adopted an April or May election date under RSA 40:14, X, shall comply with the following schedule pertaining to notice, petitioned articles, hearings, and warrants for the annual meeting:

(a) The final date for posting notice of budget hearings under RSA 32:5 and RSA 195:12 and hearings under RSA 33:8-a shall be the second Tuesday in January.

(b) The ""budget submission date" as defined in RSA 273-A:1, III and the final date for submission of petitioned articles under RSA 39:3 and RSA 197:6 shall be the second Tuesday in January.

(c) Budget hearings under RSA 32:5 and RSA 195:12 and hearings under RSA 33:8-a and RSA 675:3 shall be held on or before the third Tuesday in January.

(d) Warrants under RSA 39:5 and RSA 197:7 and budgets shall be posted and copies available to the general public on or before the last Monday in January.

II-b. Notwithstanding any other provision of law, all political subdivisions which hold their annual meetings in April shall comply with the following schedule pertaining to notice, petitioned articles, hearings, and warrants for the annual meeting.

(a) The final date for posting notice of budget hearings under RSA 32:5 and RSA 195:12 and hearings under RSA 33:8-a shall be the second Tuesday in February.

(b) The ""budget submission date" as defined in RSA 273-A:1, III and the final date for submission of petitioned articles under RSA 39:3 and RSA 197:6 shall be the second Tuesday in February.

(c) Budget hearings under RSA 32:5 and RSA 195:12 and hearings under RSA 33:8-a and RSA 675:3 shall be held on or before the third Tuesday in February.

(d) Warrants under RSA 39:5 and RSA 197:7 and budgets shall be posted and copies available to the general public on or before the last Monday in February.

II-c. Notwithstanding any other provision of law, all political subdivisions which hold their annual meetings in May shall comply with the following schedule pertaining to notice, petitioned articles, hearings, and warrants for the annual meeting:

(a) The final date for posting notice of budget hearings under RSA 32:5 and RSA 195:12 and hearings under RSA 33:8-a shall be the second Tuesday in March.

(b) The "budget submission date" as defined in RSA 273-A:1, III and the final date for submission of petitioned articles under RSA 39:3 and RSA 197:6 shall be the second Tuesday in March.

(c) Budget hearings under RSA 32:5 and RSA 195:12 and hearings under RSA 33:8-a and RSA 675:3 shall be held on or before the third Tuesday in March.

(d) Warrants under RSA 39:5 and RSA 197:7 and budgets shall be posted and copies available to the general public on or before the last Monday in March.

II-d. The voter checklist shall be updated in accordance with RSA 669:5 for each session of the annual meeting.

III. The first session of the annual meeting, which shall be for the transaction of all business other than voting by official ballot, shall be held between the first and second Saturdays following the last Monday in January, inclusive of those Saturdays; between the first and second Saturdays following the last Monday in February, inclusive of those Saturdays; or between the first and second Saturdays following the last Monday in March, inclusive of those Saturdays at a time prescribed by the local political subdivision's governing body.

IV. The first session of the meeting, governed by the provisions of RSA 40:4, 40:4-a, 40:4-b, 40:4-f, and 40:6-40:10, shall 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, and RSA 40:10, II shall not apply. Warrant articles may be amended at the first session, subject to the following limitations:

(a) Warrant articles whose wording is prescribed by law shall not be amended.

(b) Warrant articles that are amended shall be placed on the official ballot for a final vote on the main motion, as amended.

V. [Repealed.]

V-a. Any town may vote to require that all votes by an advisory budget committee, a town budget committee, and the governing body or, in towns without a budget committee, all votes of the governing body relative to budget items or any warrant articles 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. If a town has not voted to require such tallies to be printed in the town warrant next to the affected warrant article, the governing body may do so on its own initiative.

VI. All warrant articles shall be placed on the official ballot for a final vote, including warrant articles as amended by the first session. All special warrant articles shall be accompanied on the ballot by recommendations as required by RSA 32:5, V, concerning any appropriation or appropriation as amended.

VII. The second session of the annual meeting, to elect officers of the local political subdivision by official ballot, to vote on questions required by law to be inserted on said official ballot, and to vote on all warrant articles from the first session on official ballot, shall be held on the second Tuesday in March, the second Tuesday in April, or the second Tuesday in May, as applicable. Notwithstanding RSA 669:1, 670:1, or 671:2, the second session shall be deemed the

annual election date for purposes of all applicable election statutes including, but not limited to, RSA 669:5, 669:19, 669:30, 670:3, 670:4, 670:11, 671:15, 671:19, and 671:30 through 32; and votes on zoning ordinances, historic district ordinances, and building codes under RSA 675.

VIII. The clerk of the local political subdivision shall prepare an official ballot, which may be separate from the official ballot used to elect officers, for all warrant articles. Wording shall be substantively the same as the main motion, as it was made or amended at the first session, with only such minor textual changes as may be required to cast the motion in the form of a question to the voters.

IX. (a) "Operating budget" as used in this subdivision means "budget," as defined in RSA 32:3, III, exclusive of "special warrant articles," as defined in RSA 32:3, VI, and exclusive of other appropriations voted separately.

(b) "Default budget" as used in this subdivision means the amount of the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, and reduced by one-time expenditures contained in the operating budget. For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body, unless the provisions of RSA 40:14-b are adopted, of the local political subdivision.

X. If no operating budget article is adopted, the local political subdivision either shall be deemed to have approved the default budget or the governing body may hold a special meeting pursuant to paragraph XVI to take up the issue of a revised operating budget only; provided that RSA 31:5 and RSA 197:3 shall not apply to such a special meeting. If no operating budget article is adopted the estimated revenues shall nevertheless be deemed to have been approved.

XI. (a) The default budget shall be disclosed at the first budget hearing held pursuant to RSA 32:5 or RSA 197:6. The governing body, unless the provisions of RSA 40:14-b are adopted, shall complete a default budget form created by the department of revenue administration to demonstrate how the default budget amount was calculated. The form and associated calculations shall, at a minimum, include the following:

- (1) Appropriations contained in the previous year's operating budget;
- (2) Reductions and increases to the previous year's operating budget; and
- (3) One-time expenditures as defined under subparagraph IX(b).

(b) This amount shall not be amended by the legislative body. However, this amount may be adjusted by the governing body, unless the provisions of RSA 40:14-b are adopted, acting on relevant new information at any time before the ballots are printed, provided the governing body, unless the provisions of RSA 40:14-b are adopted, completes an amended default budget form.

(c) The wording of the second session ballot question concerning the operating budget shall be as follows:

"Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$ _____? Should this article be defeated, the default budget shall be \$ _____, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."

XII. Voting at the second session shall conform to the procedures for the nonpartisan ballot

system as set forth in RSA 669:19-29, RSA 670:5-7 and RSA 671:20-30, including all requirements pertaining to absentee voting, polling place, and polling hours.

XIII. Approval of all warrant articles shall be by simple majority except for questions which require a 2/3 vote by law, contract, or written agreement.

XIV. Votes taken at the second session shall be subject to recount under RSA 669:30-33 and RSA 40:4-c.

XV. Votes taken at the second session shall not be reconsidered.

XVI. The warrant for any special meeting shall prescribe the date, place and hour for both a first and second session. The second session shall be warned for a date not fewer than 28 days nor more than 60 days following the first session. The first and second sessions shall conform to the provisions of this subdivision pertaining to the first and second sessions of annual meetings. Special meetings shall be subject to RSA 31:5, 39:3, 195:13, 197:2, and 197:3, provided that no more than one special meeting may be held to raise and appropriate money for the same question or issue in any one calendar year or fiscal year, whichever applies, and further provided that any special meeting held pursuant to paragraphs X and XI shall not be subject to RSA 31:5 and RSA 197:3 and shall not be counted toward the number of special meetings which may be held in a given calendar or fiscal year.

Source. 1995, 164:1, eff. July 31, 1995. 1996, 276:1, 2, eff. June 10, 1996. 1997, 318:4, 5, 12, eff. Aug. 22, 1997. 1999, 86:1-3, eff. Aug. 2, 1999. 2000, 16:2, 3, 4, 5, eff. April 30, 2000. 2001, 71:5-7, eff. July 1, 2001. 2004, 219:1, eff. Aug. 10, 2004. 2007, 305:2, eff. Sept. 11, 2007. 2009, 2:2, eff. Feb. 20, 2009.

Please respond to the Concord office

July 23, 2010

Charter Commission
Town of Londonderry
268B Mammoth Rd.
Londonderry, NH 03053

Dear Commissioners:

This letter is in response to the request of Brian Farmer that I provide guidance to the Commission relative to a series of questions concerning establishing a quorum requirement for the deliberative session of the Town Meeting, the effect of the March Town Meeting vote, establishing the Commission, establishing dates for voting, crafting of the Charter Commission's report, the establishment of a budget committee, and restricting and controlling the deliberative session and the power of the moderator.

The Town of Londonderry operates under a Town Council/Town Manager form of government with a budgetary Town Meeting. See RSA 49-D:3, I and II. In March of 2010, the voters established a Charter Commission "for the sole purpose of establishing official ballot voting under the current form of government." Thus, the Commission's portfolio is limited.

The Supreme Court has repeatedly stated that "[i]t is a long established principle under our law that towns are but subdivisions of the State and have only those powers the State grants to them." *Girard v. Allenstown*, 121 N.H. 268, 270 (1981). RSA Chapter 49-B does not grant any broader authority. *Id.* at 272. As the Supreme Court observed in the case of *City of Manchester School District v. City of Manchester*, 150 N.H. 664, 667 (2004):

The current versions of the home rule statutes were adopted in 1991. Together these statutes, RSA Chapters 49-B, 49-C and 49-D, constitute a detailed, comprehensive scheme for the establishment and

operation of local government. RSA Chapter 49-B gives municipalities explicit authority to choose a form of government. Their choices, however, are limited....RSA 49-B:2, II (2003) limits a town's choice to the forms of government outlined in RSA Chapter 49-D. Similarly, the structure of the form of government selected is dictated by RSA Chapters 49-C and 49-D.

(citations omitted).

Given the foregoing, the municipality must find in the general statutes specific authorization to establish a quorum requirement in the general statutes. RSA 49-D:3, II-a provides for "official ballot" town meetings, and states, in pertinent part as follows:

When an official ballot town meeting is included in any charter, the provisions of general law relative to town meetings, their warning, the right for petitioned articles at such meetings and the conduct at such meetings shall apply to the official ballot and open town meeting in all respects.

There is nothing in the provisions of the general law that provides for a quorum at a town meeting. See, e.g., RSA Chapters 39 and 40. This observation is reinforced by reference to RSA Chapter 31:5, governing appropriations at special meetings. That statute does establish a "quorum," by requiring a vote of at least 50% of the voters who are on the checklist of the town in order to raise additional funds, subject to an exception not pertinent here. The import of this is that the Legislature certainly knew how to establish a quorum requirement had it intended such for an annual meeting. I cannot identify any authority for the Commission to establish a quorum requirement for the deliberative session of the annual town meeting.

I am not in a position to say how the Londonderry School District came to enact a quorum requirement for its deliberative session. In this case, the Town's Charter is governed by RSA Chapter 49-D, which does establish certain limits on the discretion of the Town. Perhaps there is different legislative authority for a school district.

It follows that the Charter Commission may not impose limitations upon the powers of the deliberative session, moderator, contingent articles, petitioned articles, new spending added on the floor of the deliberative session, one time expenditures, "recommendations" of the deliberative session, and restricting reconsideration. It is instructive at this point to direct your attention to the case of *Grant v. Town of Barrington*, 156 N.H. 807 (2008). In that case, the plaintiff challenged an amendment at the deliberative session of a town meeting governed by the provisions of RSA 40:13, that eliminated all of the language following the words "to see". The court, observing that "amendment of warrant articles at a deliberative session is authorized," and upheld the amendment as within the authority of the town meeting. Nothing in RSA 40:13 withdrew the authority of the deliberative session of the town meeting. Given the language of RSA 49-D:3, II-a, one is compelled to conclude that the existing law governing the powers of a town meeting and moderator, as well as those laws governing warrant articles, are controlling. Of course, placing any budgetary article on the ballot is well within the contemplated scope of charter amendments which may be recommended by the Commission.

The March 2010 vote did nothing more than establish the Charter Commission. It did not “negate the entire Town Charter.” It did not establish “official ballot voting.” Again, it merely established the Commission. It is the role of the Commission to present amendments “which the Commission intends shall be submitted to the voters.” RSA 49-B:4, V. In other words, the vote merely established the procedure by which the citizens would have the opportunity to consider proposed amendments. It does not compel the Commission to propose any particular amendment, nor does it operate to alter the charter in any way.

The authority under which the Charter Commission is operating is the vote of the citizens to establish the Charter Commission to consider “establishing official ballot voting under the current form of government.” As this necessarily involves two sessions of the Town Meeting, a deliberative session and a subsequent date for official ballot voting, it may be necessary to alter the dates for consideration of the budget and presentation to the citizens. Consequently, it is within the power of the Charter Commission to move the date for voting.

You have asked whether a report of the Commission is required in the event of a “no” vote. RSA 49-B:4, V provides that “the Charter Commission shall submit to the municipal officers its final report.” The word “shall” is mandatory, and therefore a report is required. The statute allows for a minority report, which “shall not exceed 1,000 words.” The “minority report” is to be compiled by the “minority.” The final report “shall include the full text and explanation of the proposed new charter or charter revision, such comments as the Commission deems desirable, an indication of the major differences between any current and proposed charters and a written opinion by an attorney admitted to the Bar of this State that the proposed charter or charter revision is not in conflict with the constitution or the general laws.”

Finally, you have asked whether the Charter Commission has the authority to provide language that establishes a budget committee. I am not persuaded that the establishment of a budget committee is necessary or implied in order to establish official ballot voting.

I trust that the foregoing is responsive to your inquiries. I look forward to meeting with you on the evening of July 26th.

Very truly yours,

Barton L. Mayer
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BLM/bgb



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July 28, 2010

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RE: Establishing Office Ballot Voting

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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.

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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.

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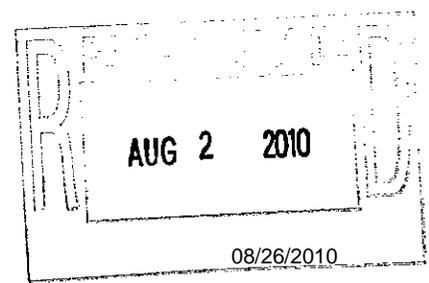
Perhaps the confusion arises because RSA 40:14, governing the method of adopting the official ballot referendum form of town meeting requires a 3/5 majority vote. However, you need to understand that the town meeting is not adopting RSA 40:13, but rather charter amendments proposed by the Commission.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

Attorneys At Law

Russell F. Hilliard
Justin C. Richardson

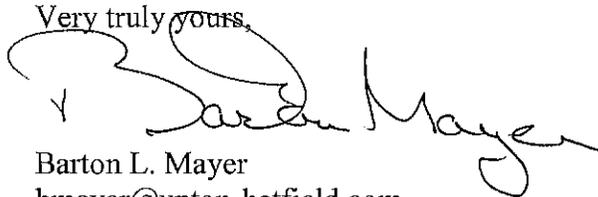
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I trust that the foregoing is responsive to the Commission's inquiry. As always, if you have any additional questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Barton L. Mayer". The signature is written in a cursive style with a large initial "B".

Barton L. Mayer
bmayer@upton-hatfield.com

BLM/lm

cc: David Caron, Town Manager