

Bedford Charter Commission Preliminary Report

DRAFT v6

Draft for public review

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Charter Commission Members

Terry Wolf, Chair	Sue Labrie
Kelleigh Gleason, Vice Chair	Bryan Lord
Paul Brock, Secretary	Matthew McLaughlin
Linda Camarota	Lori Radke
Jeff Kerr	

Executive Summary

In 2023, a petitioned article was presented which stated “Shall a Charter Commission be established for the sole purpose of establishing official ballot voting under the current form of government?” The warrant article appeared on the March 2023 ballot and was approved 2304 to 891. Nine commissioners were elected: Paul Brock, Linda Camarota, Kelleigh Gleason, Jeff Kerr, Susan Labrie, Bryan Lord, Matthew McLaughlin, Lori Radke and Terry Wolf.

The Charter Commission was not charged with deciding the merits of official ballot voting. Rather, the charge was to study the issue and bring forth a report that defined how best to implement official ballot voting in Bedford.

Proponents of moving to official ballot voting cite the availability of absentee ballots, increased voter participation and the ability to vote on the school and town budgets at the same time. Fifty-seven people voted this past March for Bedford’s \$38M in town appropriations, including three collective bargaining agreements and \$3.28M in capital reserve deposits.

Town meeting proponents say the in-person format provides for more informed debate. There are concerns moving to official ballot voting would increase the number of absentee ballots, create a longer voting time and has the potential for a default budget if the budget fails.

The commission met **nine** times from April through September 2023, inviting managers from towns with official ballot voting and subject matter experts in government structure, elections and bond rating. The town attorney provided an outline of the necessary outcomes and a timeline.

A hearing was held in June for the public to share comments. A second public hearing is scheduled for September 26, 2023 at 6pm to receive feedback on the preliminary report.

In June, the commissioners agreed to form two subcommittees to review the

Bedford Town Charter and proposed revisions and the other wrote the report required by statute. These documents were reviewed by the town attorney to ensure compliance with the state law.

The charter commission voted 8-1 to accept the proposed charter recommendations. In March 2024, Bedford voters will vote on the proposed charter changes. Approval of the changes means that future elections would be by official ballot. Non-acceptance means the town would continue to vote on budgetary items in person at town meeting.

The commission would like to thank everyone who shared their expertise, many of them traveling and patiently answering questions. The commission is also grateful for the work and support of Town Manager Rick Sawyer and Dawn Bufford.

March 2023 Ballot

“Shall a Charter Commission be established for the sole purpose of establishing official ballot voting under the current form of government?”

Introduction

Since its incorporation in 1750, Bedford has governed itself by a form of government usually referred to as “town meeting.” Viewed by some as the ultimate form of democracy, town meeting allows registered voters, gathered as a body, to discuss, vote and make decisions about issues and finances affecting the town.

An official Town Charter was created in 1987, establishing a Town Council form of government with a town budgetary meeting. Town meeting is held the day after the March election, usually at 7pm, and attendees have the opportunity to debate, amend and vote on budgetary items.

In xxxxxxx, SAU25 (School Administrative Unit 25, responsible for the management of the Bedford schools) was established and Bedford had two governmental organizations - one for the schools and one for all other town matters. Both were managed via the “town meeting” form of voting in which voters would gather to discuss, amend and vote on articles proposed by either the Town Council or the School Board.

In 1995, the NH Legislature passed RSA 40:13 (often referred to as SB2 or Official Ballot Referenda) which allowed for a two-session town meeting. Session One, known as the “deliberative session” still allowed voters to gather, discuss, receive explanations and possibly amend the articles to be voted by official ballot at Session Two. Session Two is commonly known as election day, with all the warrant articles appearing on the ballot and voters have the access to vote across multiple hours and by absentee ballot.

In 1995, the Town Council created a Charter Review Committee to explore moving to official ballot voting and decided to stay with town meeting.

In 1996, Bedford voters considered whether Bedford should adopt official ballot voting for SAU25. Prior to this, most school town meetings were attended by less than 100 voters out of a voting population of 14,244. Arguments for the vote were mostly centered around achieving a broader voter involvement in school decisions. Arguments against were focused on the belief that town meeting attendees would be more well informed and thus able to make better decisions for the schools. The proposal passed and SAU25 has operated under SB2 since 1997. As a result, financial and budgetary decisions for the school district are made by everyone who votes in the March election, not just by the small number that turn out for the deliberative session, the school version of town meeting.

In 2004, a petitioned warrant article was put on the ballot to adopt official ballot voting as well as create districts for the Town Council. Both items failed.

In 2023, a petitioned article was presented which stated “Shall a Charter Commission be established for the sole purpose of establishing official ballot voting under the current form of government?” The article passed by a vote of 2304 to 891 and the Commission was created as a result of the petitioned warrant article.

Commission Research

Local Governments in New Hampshire

The New Hampshire Municipal Association provided a detailed presentation to the commission on the multiple variations of town government in New Hampshire. In the simplest form:

- Traditional town meeting: all items are open to discussion and voted upon at one session
- Town council: the town charter details the legislative authority of the council and which items will be approved by voters, either at town meeting or through official ballot voting
- Mayor-Alderman: the mayor is elected and runs the city (Manchester & Nashua)
- Council-Manager: the mayor is elected or appointed by the council, a city manager is appointed by the council (Berlin, Concord and Dover are a few examples)

For more details on local governments, see *NHMA – Bedford SB2 Presentation*.

The vast majority of towns that are still governed by town meeting have a population of 8,000 people or less with the exception of Hanover. Almost all towns in southern New Hampshire use official ballot voting. Bedford, with a population of 23,598, is the only town of its size to follow town budgetary meeting, which ranked 11th among New Hampshire's incorporated cities and towns.

Default Budgets

At town meeting, the meeting ends once a budget is adopted. In the case of SB2, the legislature created a “default budget” in case the proposed operating budget fails.

The default budget is calculated following statute. If the proposed operating budget fails, the default budget is adopted. The municipality has the option to hold one special meeting to present a new version of the budget. The default budget applies only to the operating budget.

The definition of default budget in the proposed charter revision:

“Default Budget” means “default budget” as defined in RSA 40:13, IX (b), or as amended, which is 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 and by salaries and benefits of positions that have been eliminated in the proposed budget. For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, and eliminated positions shall not include vacant positions under recruitment or positions redefined in the proposed operating budget, as determined by the governing body. In calculating the default budget amount, the governing body shall follow the statutory formula which may result in a higher or lower amount than the proposed operating budget”

The commission spent a significant amount of time discussing the definition of default and the implications of a default budget. For context, the Bedford School District has had a default budget once since it adopted SB2 in 1997.

Bond Rating

The commission has heard concerns that moving to official ballot voting could risk the town's rating. Stephen Maceroni, PFM with PFM Financial Advisors met with the commission on May 31, 2023. Mr. Maceroni stated that Bedford is the only AAA rated municipality with Moody's in NH. Moody's uses a score card which is broken down by:

- Economy- 30% (residential income - 10%; full value per capita - 10%; economic growth - 10%)
- Financial performance - 30% (available fund balance - 20%; liquidity ratio - 10%)
- Institutional framework - 10%
- Leverage - 30% (long-term liabilities - 20%; fixed costs - 10%)

In the AAA definition of institutional framework, "The majority of revenues is not subject to externally imposed caps and the governing body can increase revenue meaningfully without limitations or without approval of voters or other governments." Mr. Maceroni didn't believe that a change in voting on the budget would impact the bond rating unless there is a trend of failed budgets and the town isn't able to govern prudently under a default budget.

Warrant Articles

The commission reviewed ballots from Bedford, Derry, Durham, Hooksett, Londonderry, Merrimack and Newmarket. Ballots are created based on a community's expectations and vary widely in length, with some having four warrant articles and others as many as forty. The commission was concerned about the potential length of the ballot and ballot fatigue.

The proposed charter language gives the Town Council the discretion to decide the number of warrant articles for capital purchases and reserves. New capital reserve accounts are required to be a separate warrant article the first year.

March Election Voting Data

Voting on school district and town ballots is held each year on the second Tuesday in March.

Voter turnout at town election, held the second Tuesday in March, for elected officials, bonds and zoning amendments

	Registered Voters	Ballots Cast	Voter Turnout
2023	16,307	3,831	23.5%
2022	15,953	5,133	32.2%
2021	19,304	3,018	15.6%
2020	18,121	3,710	20.5%
2019	17,565	3,640	20.7%
2018	17,062	2,448	14.3%
2017	17,236	2,491	14.5%
2016	16,068	3,558	22.1%

Voter turnout at Town Budgetary Meeting, the Wednesday after the town election, to vote on the town budget

	Registered Voters	Town Meeting Voters	Voter Turnout
2023	16,307	57	0.35%
2022	15,953	70	0.44%
2021	19,304	67	0.35%
2020	18,121	81	0.45%
2019	17,565	153	0.87%
2018	17,062	39	0.23%
2017	17,236	41	0.24%
2016	16,068	30	0.19%

The number of absentee ballots cast at town election, held the second Tuesday in March, and the percentage of overall ballots cast

	Registered Voters	Ballots Cast	Absentee Ballots	Absentee Ballot %
2023	16,307	3,831	462	12.06%
2022	15,953	5,133	338	6.58%
2021	19,304	3,018	290	9.61%
2020	18,121	3,710	178	4.80%
2019	17,565	3,640	190	5.22%
2018	17,062	2,448	280	11.44%
2017	17,236	2,491	235	9.43%
2016	16,068	3,558	150	4.22%

Voter data provided for the Bedford Charter Commission by Sally Kellar, Bedford Town Clerk

Meetings – Overview

The Charter Commission held 9 meetings between April and September 2023.

April 19, 2023

The Charter Commission held its first meeting. Town Clerk Sally Kellar swore in members of the commission.

- Terry Wolf was elected chair, Kelleigh Gleason vice chair and Paul Brock secretary
- Commission members approved the bylaws as presented and reviewed the timeline
- Commission members discussed the process with the Town Attorney Michael Courtney from Upton & Hatfield

May 3, 2023

- Town Manager Rick Sawyer provided background on Bedford’s charter and the various governmental structures of towns and cities in NH
- The commission discussed:
 - Pros and cons of official ballot voting
 - Default budgets
 - Future agenda items & guests to invite

May 17, 2023

- The Charter Commission heard from two invited presenters:
 - Secretary of State’s Office – Bud Fitch

- Department of Revenue Administration – Bruce Kneuer

- Review of Bedford voting data

May 31, 2023

- Prior to the meeting, commission members reviewed charters and ballots from Bedford, Derry, Durham, Hookset, Londonderry, Merrimack and Newmarket
- Invited guest presenters:
 - Town of Durham – Todd Selig, Town Administrator
 - Town of Londonderry – Michael Malaguti, Town Manager
 - PFM Financial Consultants – Stephen Maceroni
 - NH Municipal Association – Katherine Heck and Natch Greyes
- Public Hearing

June 21, 2023

- Public Hearing – members of the public shared their feedback
- Discussion – commission members discussed the merits and drawbacks of town meeting and official ballot voting
- Commission members agreed to form two subcommittees, one to draft proposed ballot changes and one to write the report

July 26, 2023

- Commission members reviewed the first draft of proposed changes to the Town Charter
- Commission members reviewed an outline of the commission report

August 9, 2023

- Commission members reviewed and revised an updated draft of proposed changes to the Town Charter
- Commission members agreed to share the draft change with the town attorney

August 23, 2023

- Commission members reviewed the proposed changes to the Town Charter with the town attorney
- Commission members briefly reviewed a draft of the preliminary report

September 6, 2023 – scheduled

- Commission members will review the preliminary report

September 26, 2023 – scheduled

- Commission members will review the preliminary report

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Next Steps

There are several steps in the process before seeking voter approval in March 2024.

Public Hearing – September 26, 2023

A public hearing is set for Tuesday, September 26, 2023 at 6pm. The public can share feedback with the commission. This is consistent with the multiple public hearings held throughout the preparation of the report as well as the public input received during the commission's meetings.

File Preliminary Report – By October 15, 2023

File the preliminary report with the municipal clerk, the secretary of state, the attorney general and the commissioner of the department of revenue administration to review the proposed charter revisions to ensure they are consistent with the general laws of NH.

State Officials Approval/Disapproval – By November 29, 2023

The secretary of state, the attorney general and the commissioner of the department of revenue administration have 45 days after receipt of the report of approval or disapproval.

Update & Resubmit (if necessary) – By December 29, 2023

Upon receiving notice of an objection, the charter commission may make such changes as appear necessary and resubmit

the proposed charter within 30 days to the official or officials who raised the objections.

File Final Report – By January 15, 2024

The charter commission shall submit the final report to the municipal officers, which shall include the full text and explanation of the proposed new charter, such comments as the commission deems desirable, an indication of the major differences between the current form of government and the proposed charter, and a written opinion by an attorney that the proposed charter is not in conflict with the constitution or the general laws.

Informational Sessions – January – March 2024

There will likely be opportunities (BCTV et al) for those in support of the conclusions in this report, as well as for opponents, to voice their opinions.

Warrant Article – March 2024 Election

The warrant article as it appears in this report will appear on the Ballot. If **50% +1** of the voters approve, Bedford will become an official ballot voting town. If the Article does not achieve a majority, then Bedford's traditional method of voting at Town Meeting will continue.

Minority Report

Include minority report here, if necessary

Attorney Opinion

To be added: a written opinion by an attorney admitted to the bar of this state that the proposed charter is not in conflict with the constitution or the general laws.

Proposed March 2024 Warrant Article

To be added: text of the warrant article which will appear in March 2024

Proposed Charter Changes

The Town of Bedford Charter governs the town and is 42 pages. The Charter Commission has created two versions of the proposed charter revisions - a redline version focused on Articles V and IX and a redlined version of the full charter.

- Article I: Incorporation; Town Form of Government; Power
- Article II: Elections; Election Officials; Conduct of Elections
- Article III: Town Council
- Article IV: Administration of Government
- Article V: Finance
- Article VI: Personnel Policies
- Article VII: Conduct of Officials
- Article VIII: Citizen Concerns; Initiative Petition; Referendum; Recall
- Article IX: Town Report; Town Meeting
- Article X: General Provisions
- Article XI: Administrative and Judicial Boards

a redline version of focused on Articles V and IX

a redlined version of the full charter