

## Minutes of the 2022 SALEM NH CHARTER COMMISSION

**Knightly Room at Salem Town Hall  
33 Geremonty Drive  
Salem NH 03079**

## Meeting #13: Wednesday, August 31, 2022

11 Present: Bernard W. Campbell (Chair), Joe Sweeney (Vice-Chair), Bonnie Wright (Secretary), DJ  
12 Bettencourt, Kevin Breen, Joseph Feole, Donna Loranger, and Kelly Moss.

## 14 Unable to attend: John Janigian

16 The meeting was called to order by Chairman Campbell, at 7:00. Pledge of Allegiance.

18 The next meeting will be called after the report is received back from the town attorney.

## Minutes:

## Meeting of August 17, 2022:

22 From the Draft Minutes, Pg. 1, Line 25 was amended to reflect that Kelly abstained from voting on the  
23 minutes of August 4, and Page 2, Lines 38-40 had the boldfacing removed, and the words "not  
24 pushing" were added.

**26 Motion by Mr. Bettencourt to accept minutes as amended. Seconded by Ms. Loranger**

27 **Vote:** 6-0-1. [Mr. Breen abstained as he wasn't present at this meeting.]

## New Business:

## Report from Town Hall

31 Mr. Devine, Assistant Town Planner was expected last week. He is on vacation this week. No  
32 one else was able to come in his place.

## Review of Draft of Charter

35 Chairman Campbell lead the Commissioners through a discussion about the draft of the charter.

## Article 7

37 **Mr. Bettencourt:** Changes causes some angst in the public. Review of goal: Reduce the  
38 number of warrant articles to simplify the ballot  
39

7.2: Citizen's Petition. Part A makes sense. Most of Part B makes sense. Consider dropping from 100 to 75 registered voters.

42 7.3: Initiative Petitions: Having a percentage can put people at a disadvantage if the previous  
43 election had a major issue, such as trash removal. Recommend same number for the  
44 Initiative Petition as Citizens Petition.

45 7.3B: Special election is problematic. Recommends putting it on the next regular election's ballot  
46 instead.

47 7.4 Referendum Petitions: 1,250 is a big jump from the current level. A higher number than the  
48 current number is acceptable, but not that high. Recommends make it decided at the next  
49 town election not at a special election; simpler and more like what we have today.

1 These are important issues for some people in town. Make it more simplistic, tie it closer to what  
2 we have today, but still meet the goal of thinning out the ballot.

3 **Mr. Campbell:** Agree. Concern: Initiative and Referendum vs. Citizens Petitions. If we take out  
4 special elections, will the attorneys reject it because it becomes a Warrant Article and  
5 requires 25 or 2% of all voters?

6 **Ms. Wright:** Can we do a compromise? Get a lot of signatures, and we'll do a special election,  
7 otherwise, get a small number of signatures and we put it on the ballot at the next election.

8 **Mr. Campbell:** We could try it.

9 **Ms. Moss:** Referendum: If we don't have a special election, it stands for a year or is repealed for  
10 a year. For an initiative, it's ok to wait for a year until it gets on the ballot; for a Referendum, it  
11 should be a special election. It needs a quick response.

12 **Ms. Wright:** Last week I pushed for a higher number for the Referendum. You asked me to  
13 articulate it this week. Ms. Moss just did. Still like 100 for Citizens Petition. Wrote down 250  
14 for Initiative. Is that what we agreed upon last time?

15 **Mr. Campbell:** For the group petitions, 75. You are only obligating the Town Council to hold a  
16 hearing. For Initiative, 175-200 is a large enough number that you have a committed body to  
17 come out. 250 for Referendum.

18 **Ms. Moss:** For a petition to the Council: It forces the Council to hold a hearing AND to vote. An  
19 action is required. Does that warrant a higher threshold?

20 **Mr. Feole:** Likes the language. 75 for Citizens Petition. Make Initiative and Referendum numbers  
21 higher. Likes language for special elections.

22 **Mr. Breen:** Not opposed to dropping the number down. Concerned about language that it cannot  
23 be brought up for 12 months. Can it move to the next step?

24 **Mr. Campbell:** If Town Council has a close vote, I don't think this prevents it from being brought  
25 up. We can make it clearer.

26 **Mr. Breen:** Does the language restrict us?

27 **Mr. Campbell:** The intention is to keep the same issue from being brought up over and over.  
28 Language added that this will not prevent the issue from being brought up as an initiative or  
29 referendum.

30 **Ms. Wright:** Instead of 12 months, change it to say that it cannot be brought up until after the  
31 next municipal election.

32 **Mr. Bettencourt:** Give the council the flexibility to table an issue for some time to see how it  
33 works out.

34 **Mr. Campbell:** We have 60 days, could change it to 90.

35 **Ms. Wright:** Would prefer it to stay at 60. If someone is going to the trouble of getting enough  
36 signatures, they should see action sooner rather than later.

37 **Mr. Campbell:** They deserve a decent hearing.

38 **Ms. Loranger:** Initiative Petition. 250 is good. Mr. Chairman has suggested 175. Split the  
39 difference, and go with 200.

40 **Mr. Feole:** I like 250. About 5% of current turnout.

41 **Mr. Bettencourt:** I like 200. Can sell it to those who were concerned.

42 **Ms. Moss:** 200 vs. 250 isn't much. 200 is less intimidating. We can go higher later.

43 **Mr. Breen:** My impression was that 10% was the concern, not a specific number.

44 **Mr. Campbell:** Those who spoke to him were uncomfortable with the 10%, because it's a  
45 changing number. The actual number has not been a concern for most.

46 **Mr. Feole:** 200. Can be amended later if necessary.

47 **Ms. Loranger:** 200 is reasonable. You should have to work to get an initiative petition, and have  
48 your people behind you. 200 is a good compromise.

49 **Mr. Campbell:** 200 is high enough to eliminate nuisance petitions, but shouldn't appear to be too  
50 intimidating.

51 **Ms. Wright:** Will concede, again.. But will push for a high number for a referendum.

1   **Mr. Campbell:** We all agree a referendum should be higher. Would push for 250 as a minimum.  
2   **Mr. Sweeney:** Hold Initiative to next election. Referendum, with a higher threshold, to force a  
3        special election. 90 days for special election may be too close. Doesn't want a special  
4        election near Christmas. 120 days would be better.  
5   **Mr. Feole:** Agrees with Mr. Sweeney. 400 is a good threshold for a referendum.  
6   **Ms. Wright:** We currently have 1250. 400 is too low. Would like 500.  
7   **Ms. Kelly:** 500, due to cost of special election.  
8   **Mr. Breen:** 500. Town Clerk reviews info. 90 days might be tough to pull together a special  
9        election.  
10   **Ms. Wright:** If someone is going to the trouble to collect that many signatures, they shouldn't  
11        have to wait 4 months.  
12   **Mr. Campbell:** Agrees, but is concerned about the logistics. Disappointed no town  
13        representative here as expected. Would like their feedback, which can be addressed after the  
14        town attorney reviews the document. Supports 120 days. Unfair to make the petitioner or the  
15        town wait, as the policy is put on hold.  
16   **Ms. Moss:** The document says Council has 30 days to submit, and 35 days to schedule a  
17        special election.  
18   **Mr. Campbell:** Is 35 days enough time?  
19   **Ms. Moss:** Should it be 60 days?  
20   **Ms. Wright:** How many days from the Municipal election to the Charter Commission election?  
21   **Mr. Campbell:** Maybe 6 weeks, 40 days.  
22   **Ms. Wright:** That was enough. Is the initiative still a special election?  
23   **Mr. Campbell:** Push initiative to the March election.  
24   **Ms. Wright:** How about a lower number to put it on the ballot, and a higher number to trigger a  
25        special election?  
26   **Mr. Bettencourt:** That makes sense.  
27   **Mr. Campbell:** Will circulate it. Within the next few days, will write two versions. 500 for special  
28        election (initiative or referendum) and 200 for the initiative to go on the ballot. Will send an  
29        email when it is done.  
30   **Ms. Moss:** Under group petition, it says the Town Manager must notify the top ten petitioners,  
31        but for initiation, only the first person needs to be notified. Why difference?  
32   **Mr. Campbell:** Make it consistent with one.  
33   **Mr. Sweeney:** Notify the first person, who is presumably the petitioner.  
34   **Ms. Moss:** Section 7.2.B: says no action is required for suspension of an adopting budget or  
35        land use.  
36   **Mr. Campbell:** Referendum required to stop action.  
37   **Ms. Moss:** Interprets group petition to stop a land use regulation as the Council doesn't need to  
38        act.  
39   **Mr. Sweeney:** Council can vote to not make any change as requested in the group petition. With  
40        an Initiative petition or a Referendum, there is action required, either changing as requested  
41        by petitioners, or a vote by town (Initiative on the ballot or referendum by special election.)  
42   **Ms. Moss:** Hearing and vote required. Referendum: Land use doesn't need to be suspended.  
43   **Mr. Campbell:** Trying to determine why it's there. Avoid litigation because a developer has  
44        already started work?  
45   **Ms. Moss:** This language takes more control away from the voters.  
46   **Mr. Feole:** Should leave it because a developer may have based work on the decision. It can be  
47        changed for future projects on the ballot or with a referendum.  
48   **Mr. Bettencourt:** We've made compromises tonight to make the right balance. Departing from  
49        current threshold, but we've created new avenues that have not been available, and more  
50        immediacy than we've had. Appreciate the balance. Things are different but new  
51        opportunities.

1      **Mr. Campbell:** The Charter would require Town Council to take public input at their regular  
2      meetings.

3      **Ms. Wright:** Not taking sides, but people were unhappy with what happened at the SelectBoard  
4      meeting on Monday. With the current form of government, there is nothing that can be done  
5      about it. We are giving people a way to remedy things if anything like that should ever  
6      happen again.

7      **Mr. Bettencourt:** Bonnie has raised a really important point. The Charter can't address  
8      everything. Regardless of how you feel about what happened on Monday. We are trying to  
9      address all of the big things.

10     **Mr. Campbell:** If we have an Ethics Committee, is a Recall Provision redundant? It has to be  
11     structured in specific ways. Do we want to leave it? If so, keep it at 10% or a specific  
12     number?

13     **Ms. Moss:** Leave it in. If lawyers pull it out, oh well. We tried. Any board could become corrupt.  
14     This gives the voters an opportunity to remedy it if the Ethics Committee doesn't do what it  
15     should. High threshold. 1,000.

16     **Mr. Sweeney:** It's something the voters want. Leave it in. Let the lawyers review. If they pull it, at  
17     least we tried. Agrees avoiding percentage is best, but the number should be close to 10% of  
18     what we have now. 2,000.

19     **Mr. Bettencourt:** Comfortable with recall provision, but we should be clear about the type of  
20     things that would trigger a recall i.e. Ethics and dereliction of duty, not someone who  
21     committed a crime or stop attending meetings, not unpopular positions.

22     **Ms. Wright:** As written, 10% to get to the town clerk, then 25% of registered voters. 25% of all  
23     voters will not sign on to a frivolous issue.

24     **Mr. Campbell:** I see and recognize your point. If we make the threshold high enough it will take  
25     the politics out. 2,000 vote threshold, then 5,000 registered voters.

26     **Ms. Moss:** Concerned about creating a crime.

27     **Mr. Campbell:** 6.3.A. Forfeit office for creating a felony.

## 29     **Conduct of Officials and Code of Ethics:**

30     Mr. Campbell: Mrs. Sytek was concerned about donations of food to groups

31     **Mr. Breen:** Every employee in MA must sign a code of ethics. Not to exceed over \$50 per  
32     employee.

33     **Ms. Moss:** Remove business. With the exception of a business meal not to exceed over \$50. A  
34     thank you card with a meal would not be included.

35     **Mr. Sweeney:** Selectmen have to vote on accepting gifts.

36     **Mr. Campbell:** Reminder that this applies to people who might have dealings with a board.

## 38     **Ethics Committee**

39     *Mr. Campbell had made some tweaks since our last meeting. He read through what is now in the  
40     draft charter.*

41     **Mr. Feole:** Good with the language. Doesn't want the committee elected. Wants the committee  
42     appointed by a supermajority of the Council.

43     **Ms. Moss:** 6.6.B: The Town Clerk shouldn't have to be the Secretary. Why not a committee  
44     member?

45     **Mr. Campbell:** Town should appoint a professional secretary to keep minutes.

46     **Mr. Bettencourt:** Comfortable up until the committee. Joe is right. This should not be elected.  
47     Concerns about qualifications. There is an Ethics Committee in the NH Legislature. Until the  
48     Ethics Committee determines that a complaint has merit, that complaint must be kept  
49     confidential. Due process and fairness; must protect the reputation of the person. Previous  
50     problems in the community were dealt with by the Attorney General. What would the Ethics  
51     Committee hope to achieve?

1   **Mr. Campbell:** Concern about confidentiality is reasonable.

2   **Mr. Breen:** More comfortable with an appointed committee. Employees in a bargaining unit: How  
3       would it affect our employees? A collective bargaining agreement would take precedence on  
4       how discipline is reviewed and issued.

5   **Ms. Loranger:** Who appoints the Ethics Committee in the Legislature?

6   **Mr. Bettencourt:** The Speaker appoints the House members, and the Senate president appoints  
7       Senate members. Both parties have to be represented.

8   **Ms. Loranger:** Ethics committees in other communities are for elected officials.

9   **Mr. Campbell:** Currently it says officials, board members, and employees.

10   **Ms. Loranger:** Should we remove employees?

11   **Mr. Breen:** Not suggesting we remove employees. There could be an ethical situation that  
12       warrants a review. It could conflict with the way it's handled in a collective bargaining unit.

13   **Ms. Loranger:** Wouldn't the bargaining unit take over?

14   **Mr. Breen:** Most contracts will say this contract supersedes policy.

15   **Ms. Loranger:** Prefers elected. If the Town Council appoints the ethics committee, would that  
16       pose an issue?

17   **Mr. Campbell:** Elected gives it independence but recognizes the concern about qualifications.

18   **Ms. Wright:** Instead of 5, how about 7, with 3 elected (one per year), and 4 appointed?

19   **Ms. Loranger:** You are just adding ...

20   **Mr. Campbell:** It's complicated.

21   **Ms. Moss:** If we appointed, it's by a super majority, that might eliminate some concerns.

22   **Ms. Loranger:** Would there be politicking going on to get people to be appointed? What  
23       happened Monday was very scary to watch.

24   **Mr. Campbell:** One concern about having this position being elected, would we get enough  
25       people to run? We need some kind of oversight. The goal is for them to meet once per year  
26       to educate about ethics. But it should be there, because we are committed to making sure  
27       our boards not only are transparent, but also the appearance of being transparent.

28   **Mr. Bettencourt:** We must have due process. How do you avoid politics becoming part of this?  
29       Must have a confidentiality period while the committee determines if the complaint has merit.

30   **Mr. Campbell:** It's not clear, but we can make it clear. The Ethics Committee needs to  
31       determine the validity of the merits of a matter before it goes to a public hearing.

32   **Mr. Bettencourt:** In the NH Legislature, it's a crime to make public a complaint before it is  
33       determined if it has merit.

34   **Mr. Sweeney:** Agrees with confidentiality, and concern about bargaining units. Agrees with  
35       appointments with a super majority.

36   **Mr. Campbell:** I think we agree we want the Ethics Committee appointed by a super majority.  
37       Include a period for the Ethics Committee to review a matter before going public. Remove  
38       town employees, because they are covered by collective bargaining. Specify town employees  
39       who are not covered by a collective bargaining unit?

40   **Mr. Breen:** Not against excluding employees. Should be subject to policies and procedures. Just  
41       concerned about policies that conflict with the agreement.

42   **Mr. Campbell:** The Ethics Committee does not bring forth complaints; they investigate  
43       complaints by others.

44   **Mr. Breen:** Matters could be quickly turned over to the police. I'm hoping people appointed will  
45       be skilled enough to recognize those situations.

46   **Ms. Moss:** If we are appointing, because we want certain qualifications, should we list what  
47       those qualifications are?

48   **Mr. Breen:** That is the governing body's role.

49   **Ms. Loranger:** We need some kind of skeletal system in order to give them a framework to work  
50       with. Does this cover those who have been elected prior to the adoption of the Ethics  
51       Committee?

1      **Mr. Campbell:** Can put it in the transition section: All current board members must sign the  
2      Ethics agreement.  
3

4      *Mr. Campbell did some wordsmithing on the Ethics Committee section and read aloud part of*  
5      *what was written.*

6      **Ms. Moss:** Can we include that, if appropriate, it should be referred it to the police?

7      **Mr. Breen:** Concern about holding a public hearing before it's appropriate. It needs to be  
8      confidential. Concern about people manipulating the Ethics Committee for what they see as a  
9      violation.

10     **Mr. Campbell:** At what point does it become public?

11     **Mr. Breen:** Employee is owed due process.

12     **Mr. Campbell:** Balance of Public interest vs. Private interest. Where is that line?

13     **Mr. Breen:** Ethics Committee is appointed by Town Council, reports to the Council. Let the Town  
14     Council decide when to go public.

15     **Ms. Loranger:** If the Ethics violation is made in a nonpublic session, how does that work?

16     **Ms. Moss:** Ethics Committee's work should be all non-public.

17     **Ms. Wright:** What if the issue is with a Town Councilor? Is it appropriate to go that route?

18     **Mr. Campbell:** The Ethics Committee would never have the power to remove a Town Councilor.  
19     There would be other Town Councilors who can handle it. Perhaps a by-law change of Town  
20     Councilors that they cannot sit in on their own hearing. Can re-write it so the Ethics  
21     Committee would work in confidentiality, reports to the Town Council. Then the Town Council  
22     can choose a variety of punishments, to address Mrs. Sytek's comments about punishment.

23     **Ms. Moss:** At the state level it's a crime to reveal ethics charges when it should be confidential.  
24     Can we do that? Mr. Campbell will investigate.

25     **Mr. Breen:** Should dovetail Chapter 40 for ethics in the Municipal Code.

## 27     **Article 8: General Provisions**

28     *Mr. Campbell read through the boiler-plate language.*

29     **Ms. Wright:** 8.6.B: Majority of town voters? All registered or voters in any election?

30     **Mr. Campbell:** Minor wordsmithing, and Mr. Campbell continued reviewing.

31     8.14: Keep at 2/3's. Will specify the exact number after we decide if we will have 7 or 9  
32     councilors.

## 34     **Article 9: Administrative and Judicial Boards**

35     *Mr. Campbell continued to review.*

36     Nods to agree that we will leave in Economic Development Committee, Recreation Advisory  
37     Committee and Historic District Commission. No objections.

## 39     **10: Transition**

40     **Ms. Moss:** 10.2. When do the Selectmen become Councilors?

41     *Mr. Campbell did minor wordsmithing to clarify this. All agreed.*

42     *Mr. Campbell continued to review.*

45     **Mr. Campbell:** Final decision: 7 or 9 councilors?

46     **Ms. Moss:** Clarify that Councilors cannot make a change in their pay until the next fiscal year.

47     **Ms. Wright:** Why don't the Selectmen automatically become Town Councilors when the charter  
48     Is passed?

49     **Mr. Campbell:** Need the provision number of members. Would not have the full slate until the  
50     May election.

1     **Mr. Bettencourt:** We've done a lot of hard, good work. To ensure that it gets passed in March,  
2     we need to start talking it up now. Our changes are moderate, but it might be perceived that a  
3     lot has changed. We need to talk about what we have done, and why.  
4

5     **Coalition for a Better Salem**

6     Website that Mr. Campbell has started to put together.

7     Clearing house for info about the Charter, and other municipal elections.  
8

9     **Town Council: 7 or 9 councilors?**

10    **Mr. Janigian:** Wrote that he supports 7

11    **Ms. Loranger:** Likes dynamic of 9 people. More beneficial to the town to elect 9 at large  
12     councilors. Mr. Sweeney liked 3x3x3 rotation. If 9 doesn't work, we can go back to 7.

13    **Mr. Feole:** Strongly wants 7, moving from 5 to 7 is a small change.

14    **Mr. Breen:** Did support 7. Minimal change. Likes the 3x3x3 rotation. Prefers 7, but can go with 9.

15    **Mr. Sweeney:** Likes 3 people elected every year. There's a greater chance that the whole  
16     geography could be represented. Would support 7 if it would make a difference in getting it  
17     passed in March. 9 has worked well for this commission. Does not see going from 9 to 7; it  
18     could go up from 7 to 9 in future years.

19    **Ms. Moss:** Likes the 3x3x3. Also wants to consider the size of Salem and the amount of  
20     representation. More people are more perspective. Supports 9.

21    **Ms. Wright:** People want the Charter Commission because of lack of transparency. With 9, there  
22     are fewer opportunities for back-room deals. If 9 doesn't work, Hudson went from 15 down to  
23     5, so we can reduce it if needed.

24    **Mr. Campbell:** Can go either way. Is 7 or 9 the thing that will affect votes in March?

25    **Mr. Bettencourt:** No. Was never brought up in public hearing/public feedback.

26    **Mr. Campbell:** A 5-person majority is significantly larger than a 3-person majority.

27    **Mr. Bettencourt:** Call for a straw poll to get a sense of where we are.  
28

29    *Mr. Campbell called for a response:*

30    Mr. Sweeney: 9

31    Mr. Bettencourt: 9

32    Ms. Moss: 9

33    Ms. Loranger: 9

34    Ms. Wright: 9

35    Mr. Feole: 7

36    Mr. Breen: 7

37    Mr. Janigian: 7 (via email)

38    **Mr. Campbell** likes round numbers, so supports 9. Still nervous that we won't get to 60% in  
39     March.

40    **Ms. Loranger:** Saw a comment on Facebook that we can't get enough people to run. The same  
41     people run over and over. Open it up to 9, we may have more people running, because they  
42     have a chance.

43    **Mr. Campbell:** Electing 3 people every time means splitting the vote more ways.

44    **Mr. Bettencourt:** We've never had a problem filling 9 seats for State Reps, and 13 when we  
45     were combined with Windham. State Reps are paid \$100 per year. Counselors are paid  
46     \$3,000 per year. We won't have a problem finding qualified candidates.

47    **Mr. Campbell:** I will put this together with 9 councilors. We can review it when it comes  
48     back from the town attorney. If we hear a lot of complaints, we can go back to 7.

49    **Ms. Wright:** You were going to mail a few items to us before it goes to the town attorney.

1   **Mr. Campbell:** I will. Might send the language that I'm sending to town council at the  
2    same time.

3   **Ms. Wright:** Would prefer to see it before it goes out.

4   **Mr. Campbell:** Will do his best. Wants this to go to the town attorney no later than the  
5    middle of next week.

6   **Ms. Wright:** As Secretary, I would like to respectfully request to proofread it before it's  
7    sent.

8   **Mr. Campbell:** A second set of eyes. Agreed.

9   **Mr. Breen:** 6.3 Explanation of Code Provisions. Question about appointing town  
10    employees to town offices.

11   **Mr. Campbell:** It was amended. Town employees may not be elected to the Budget  
12    Committee or Town Council, the two bodies that deal with employee salaries. Town  
13    employees may serve on all other boards or committees.

14

15

## 16   **Public comments**

17   There is no one here to speak.

18

19   **MOTION BY Ms. Wright to adjourn.** Seconded by Ms. Loranger.

20   **Vote:** 8-0-0

21   Meeting adjourned at 9:25

22   .

23

24   Minutes taken by:    Bonnie Wright

25   Minutes Approved:   Salem 2022 Charter Commission

26   Date:                    \_\_\_\_\_

27

28

## 29   **Video:**

30   The video of this meeting may be viewed at:

31   <https://www.facebook.com/sctv17/videos/483639809923829>

32   <http://sctv-17.com/CablecastPublicSite/search?channel=1&query=charter%20commission>

33

## 34   **Charter Commission Meeting Schedule:**

35   No meetings are currently scheduled.

36   We will wait until we hear back from our attorney to schedule the next meeting.