
VILLAGE OF ARDEN

SPECIAL TOWN ASSEMBLY – SUGGESTED CHARTER CHANGES

MARCH 4, 2024

Town Meeting Minutes
Observation Zoom

In-Person Attendance:

First	Last Name		First	Last Name	
Carol	DiGiovanni	1	Rob	Montejo	26
Steve	Tanzer	2	Ruth	Panella	27
Kevin	Wray	3	Jennifer	Borders	28
Warren	Rosenkranz	4	Walter	Borders	29
Ed	Rohrbach	5	Harold	Kalmus	30
Max	Walton NV	6	Sam	Panella	31
Steve	Benigni	7	John	Scheflen	32
Ray	Seigfried	8	Sachin	Puranik	33
Vicki	Scott	9	Sadi	Somerville	34
Marianne	Cinaglia	10	Stevie	Nolan	35
Helen 'Cookie'	Ohlson	11	Carol	Larson	36
Brian	Killian	12	Paul	Nolan	37
Iris	Roseman	13	Grace E	Ressler	38
Mike	Curtis	14	Stephen	Harcourt	39
Simon	Hamermesh	15	Larry	Walker	40
Susan	Stith	16	Elizabeth	Varley	41
Jeffrey	Steen	17	Terri	Lamborn	42
Garrett	Colgan-Snyder	18	Danny	Schweers	43
Jess	Colgan-Snyder	19	Beverly	Clendening	44
Bob	Erenburg	20	Daniel	Henn	45
Ellie	Hansen	21	Tom	Wheeler	46
Betty	O'Regan	22	Eric	Reed	47
Dorinda	Dove	23	Pam	Politis	48
Deborah M	Ricard	24	Cecilia	Vore	49
Kristina	Montejo	25	Laura	Wallace	50
			Mike	Moran	51

Zoom attendance: Clay Ridings, Toby Ridings, Lisa Mullinax, Gary Mullinax, Lynda Kolski, Marcia Scheflen, Irene O'Connor, Mary Young, Rae Campagnola, Shana Pinter, David Gerbac, Lee Hone.

Max B. Walton is a partner of Connolly Gallagher LLP. He was invited as a consultant in helping the town assembly to understand the suggested Charter changes presented by the Governance Task Force. In general, he acts as outside counsel in advising and litigation for Municipalities. He represents Kent County and New Castle County as an outside counselor and has been involved in a lot of Charter Changes throughout the state. For more information, please refer to his website: <https://www.connollygallagher.com/attorneys/max-walton/>

Call to Order - Chairman Jeffrey Politis convened the meeting to order at 7:34 P.M.

Note: The Governance Task Force (GTF) was created during the September 2021 Town Assembly Meeting and 7 residents were appointed to the GTF during the January 2022 Town Assembly Meeting. The GTF was charged with reviewing and suggesting changes to our governing documents. The GTF provided a summary of their suggested Charter changes during the January 2024 Town Assembly Meeting. During the same Meeting, a motion was approved to hold a Special Meeting of the Town Assembly to review these changes.

A Xerox copy of the suggested Charter changes was provided to all in-person attendees and those on Zoom were provided a link.

Hand Vote:

Choice A: Read all the suggested Charter changes and allow for clarification questions but hold debate till the end. Votes 21

Choice B: Read each suggested Charter change, debate each suggested Charter change before going to the next suggested change. Votes 22

Choice A: 21 votes

Choice B: 22 votes

Abstentions: 2

Purpose Address Governance Task Force Suggested Charter Changes

AGENDA

- Introduction by the Governance Task Force
Ray Seigfried read the following:

Joining me today is, Max B. Walton who is an attorney with Connolly and Gallagher; he specializes in government law.

My role in today's special meeting will be to review the recommendations so everyone understands what they are.

Before we review the recommendations, I want to provide some context about charters. A charter is a privilege for a local community to form its sense of governance. NCC has 13 charters, Kent has 20, Sussex has 24. A total of 57 chartered communities throughout Delaware. Once a charter is granted, some restrictions must be met. For example, Chartered communities can only recommend a change to a charter. The General Assembly and Governor will review that request and approve, disapprove, or modify the recommendation.

An ordinance, resolution, policy, or procedure passed by a chartered community is the final approval needed without any state review as long as it complies with state and federal law. Local chartered communities serve at the will of the state.

The GTF strived to balance what the state approved and what Arden could approve on its own. That led us to transfer current chartered clauses regarding the process of The Board of Assessors, Budget Committee, and Registration Committee out of the charter and place this language in an ordinance while keeping the responsibility and function of each of these in the charter.

I will start with the Preamble and go through every section to the end. I will stop after each section for any questions.

- Presentation and Discussion of Proposed Changes to the Charter
DRAFT 02/14/2024

The Section is an explanation of the color code used to explain the suggested changes to the Charter

Key:

~~strike through~~ = deleted text **red text** = additions
green = text to be removed from Charter and transferred to an ordinance

Special Note regarding green text for Section 7, 8 and 9

Several parts of Sections 7, 8, and 9 are recommended to be removed from the Charter and transferred into an ordinance without change from the text of the Charter. Those parts are as follows.

Section 7 Board of Assessors parts [a] and [b].

Section 8 Budget Committee part [a] and part of [b]

Section 9 Registration Committee part [a]

Reasoning for this recommendation

We are recommending the transfer of just the process statements and keeping the responsibility and function of The Board of Assessors, Budget Committee, and Registration Committee in the charter. Why? Delaware, like most states, is a non-home rule state. This means that our state allows communities to request a local government charter with the approval of the General Assembly. Once approved, any ordinance made on a local level, as long as they do not conflict with state or federal law, can be made without the approval of the State General Assembly. Any changes to the charter require approval by the State General Assembly. Therefore, to give Arden greater flexibility, we recommend taking the process statements out of our charter into an ordinance for our control.

Charter of Arden

The first section suggests add a Preamble of the Ardens to the Charter because the current charter has no Preamble. The Task force wanted to add a preamble because they believe it is a way to explain the uniqueness of Arden and it attempts to crystalize Ardens culture as to who we are as a community.

Preamble of Arden

We, the people of the Village of Arden, under the constitution and laws of the state of Delaware, to secure the benefits of local self-government and to provide for an open, honest, and accountable general assembly government, do hereby adopt this charter and confer upon the Village the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. This action affirms the values of direct democracy, strong volunteer political leadership, active citizen participation, diversity and inclusiveness, social justice, regional cooperation, and environmental stewardship. Founded in 1900 upon the economic theory of Henry George's Single Tax, principles of the Arts and Crafts movement, the Garden City concept, and other contemporary forward- thinking ideas, the Village of Arden has continued to nurture a diverse community that includes many artists, activists, and reformers.

Qualifying Questions/Comments: Preamble of Arden

Suggested reasons to remove the Preamble from the charter:

Principals of Arts of Craft movements has many definitions. Many people are not aware of the Garden City concept. Suggest it be more specific or eliminate it all together.

There are other ways to introduce the community and it does not affect how the government governs.

Recommend instead of adding a preamble, which implies approval or disapproval by the state government, in the charter replace it with a statement of philosophy that can be posted on the Village website or in a policy.

Recommends a table of content that would show everything in the Charter instead of a preamble

Suggested Corrections to the Preamble: In the Preamble it refers to ‘General Assembly government’ rather than Town Assembly form of government, which is Ardens form of government.

Clarification: The Charter has been modified twice through the General Assembly; 1971 (vote 1970) and 1993 (vote 1992). By-laws have been changed many times from 1916 to 1957.

That the town is not limited by the first sentence of the preamble as far as the town operates.

Name and General Powers Section 1

- (a) The inhabitants of the Village of Arden, in New Castle County, Delaware, and their successors within the limits hereinafter prescribed or hereafter established, are hereby constituted, created and established a municipal corporation and body politic forever, by the name and style of the "Village of Arden", hereinafter "the Village".
- (b) Under that name they shall have perpetual succession; may have and use a corporate seal, which may be altered, changed or renewed at pleasure; may sue and be sued; for any public, municipal educational or charitable purpose, may acquire by gift, grant, purchase, lease, demise, bequest or otherwise hold, real and personal property within and without the limits hereinafter prescribed; for the common benefit may dispose of real and personal property owned or held by it; and shall possess in addition to the powers expressly enumerated or specifically mentioned in this Act, all powers, which under the Constitution of the State of Delaware, it is now or in the future may be, lawful for this Act to enumerate. All powers of the Village, whether expressed or implied, shall be exercised as prescribed by this Act. If no procedure or manner of exercise be prescribed herein the same shall be exercised as prescribed by an appropriate ordinance or resolution of the Town Assembly of Arden.

GTF: Section 1: Names and General Powers has no recommendations (in black). Under section 1 (b) last sentence “All powers of the Village” Counsel explained what that means. Counsel: Going back a hundred years or more, there use to be something called “Specific Numerations Charter” which said you only have the powers that are set forth in your charter. In the 50ies and 60ies, title 22 Chapter 8 of the Delaware Code “Home Rule Municipality” of which you are not one. They gave all powers to the General Assembly; you could get if you went through a special process. After that, they put this language in the Charters which basically says you have all powers that the General assembly can grant if not denied or give you by specific numerations. The purpose of that was to stop lawsuits, saying that municipalities were acting beyond their authority. When you pass an ordinance or a resolution at the town assembly, as long as it does not violate state of federal law of the constitution or the Charter, you are allowed to do it.

Territorial Limits

Section 2

- (a) The corporate limits of the Village are hereby established and declared to be as follows:

BEGINNING at a point on the southeasterly right of way line or Marsh Road (at 60 feet wide), said point of Beginning being in the center line of the West Branch of Naamans Creek and a corner for lands now or formerly of the Trustees of Ardentown; thence from said point of Beginning and along the said center line of the West Branch of Naamans Creek by the various courses thereof in a generally southeasterly direction and along line of said lands now or formerly of the Trustees of Ardentown, lands now or formerly of the Albert T. Hanby Foundation, along the southwesterly boundary line of Highland Woods, along line of lands now or formerly of Stockdale Corp., and along the southwesterly boundary line of Indian Field, 3900±feet to a point; thence along the northwesterly line of Ardentown, South 62°08'-05" West, 2291.79 feet to a point in the center line of Grubb or Harvey Road, said course crossing over an existing monument set on the southwesterly side of Orchard Road (at 38 feet wide) and crossing Apple Tree Lane and Millers Road (at 38 feet wide) ; thence along the said center line of Grubb or Harvey Road, North 20°-05'-50" West, 5.75 feet to a point; thence along line of lands now or formerly of Alfred Strickler the three following described courses and distances: (1) South 63°05'-40" West, and passing through a 48 inch tulip poplar tree, 86.89 feet to a point; (2) South 60°-31'-00" West, 127.20 feet to a point; and (3) South 58°-45'-00" West, 131.90 feet to a point, a corner for said lands now or formerly of Alfred Strickler and lands known as Ardencroft; thence along the northwesterly line of said lands known as Ardencroft and lands now or formerly of the Ardencroft Association known as the Mushroom House Lot, South 57°-38'-50" West, 1356.16 feet to an existing pipe in the northeasterly line of lands now or formerly of Benjamin J. Steinbery et ux; thence thereby North 25°-04'-24", West, 1354.00 feet to a point, a corner for lands now or formerly of Samuel B. Eure et ux; thence along the northeasterly line of said lands now or formerly of Samuel B. Eure et ux, North 25°-00'-25" West, 777.10 feet to a monument located on the said southeasterly right of way line of Marsh Road; thence along the said southeasterly right of way line of Marsh Road the three following described courses and distances: (1) North 58°-31'-13" East, 758.02 feet to a point, said course crossing said Grubb or Harvey Road; (2) North 56°-54'-59" East, 1062.84 feet to a point of curvature; and (3) northeasterly along a curve to the left having a radius of 984.93 feet, an arc distance of 317.89 feet to a point in the said center line of the West Branch of Naaman's Creek and a corner for said lands now or formerly of the Trustees of Ardentown and the point and place of Beginning, said course being distant by a chord of North 47°-40'12" East, 316.51 feet from the last described point. CONTAINING within such metes and bounds, and including Grubb or Harvey Road, 159.00 acres of land be the same more or less...

Section 2 Territorial Limits (b) Amended Boundaries.

This is about adding two parcels to the Arden Charter to put them in the municipal limits. Counsel: Annexations are done through a process that are outlined in the Delaware state code Title 22, section 101. Also, state planning requires a comprehensive plan amongst other plans. The difficulty with Arden is that they own these parcels, which are outside of town and do not have the planning mechanism. Two ways to be able to annex: One is the General Assembly through a Charter change if they choose to do it. They own those parcels and can make it part of the change. If denied, then it is done through the state code, which is long and cumbersome process to Annex. The idea of the Task force was to request this of the General Assembly. (Note: Arden still owns these parcels. They are not technically part of the town and "they are not the governing governance but they are the governing body" because they own them).

Qualifying Questions/Comments: Section 2 Territorial Limits (b) Amended Boundaries

Clarification of the process to annexation: Two ways to put them in your town limits: Because you already own them, ask the General Assembly to put them in your town limits. That is the suggested charter change. Or you have to go through the Annexation process (laborious process). If you go rout 1, take it directly to the General Assembly, they have the ability to override process step 2, if they choose.

In essence, by accepting route 1, it is a stream line process of them approving it. It is only a recommendation at this point.

5 Mill – There is a court settlement. The property was purchased.

Survey was provided by New Castle County.

Not in support of going direct to the General Assembly because it is a back door route and is not the proper way to do it. Wants a comprehensive plan which will benefit the whole community.

In support of going directly to the General Assembly. There is no need for a comprehensive plan because Arden owns them and they have no plans to developing them. Support this change provided a referendum will be presented to the town assembly to see if there is an interest in annexing these two properties.

(b) Amended Boundaries

Sherwood Forest Addition purchased on February 7, 2004 5.02 acres

BEGINNING at a point in the Southeasterly side of Marsh Road (at sixty feet wide) distant Southwesterly seven hundred twenty-eight and fifty-six one-hundredths feet measured along said Southeasterly side of Marsh Road from the intersection thereof with the center line of Grubb

Road, said point of Beginning being a comer for lands now or formerly of Arden Trustees; thence from said point of Beginning along line of lands now or formerly of Arden Trustees, South twenty-one degrees, one minute, thirty seconds East, seven hundred seventy-seven and ten one-hundredths feet to a point, a comer for lands now or formerly of Joseph L. Stecker; thence along line of lands now or formerly of Joseph L. Stecker South seventy degrees, fifteen minutes ten seconds West, three hundred feet to a point; thence by line of lands of Sherwood Green North nineteen degrees, twenty minutes, twenty-four seconds West, seven hundred thirty-nine and three onehundredths feet to a point in said Southeasterly side of Marsh Road; thence thereby North sixty-two degrees, twenty-eight minutes, thirty-six seconds East, two hundred eighty feet to said comer for land now or formerly of Arden Trustees and to the point and place of Beginning. Containing within said described metes and bounds 5.026 acres of land, be the same more or less.

Mill Race ADDITION purchase June 30, 2017, 1.6 acres

LOT 3, Section F:

BEGINNING at a point In the northwesterly side of Mill Race Road, at 40 feet wide, said point being southwesterly 171.75 feet measured along said side of Mill Race Road from a concrete monument marking the southerly end of a junction curve connecting said side of Mill Race Road with the westerly side of Ravine Road, at 40 feet wide and In the division line between Lots Nos. 2 and 3, Section F; thence thereby, North 59 degrees 00 minutes West 93.01 feet to a point in the division line between Lot 3, Section F, and lands late of Albert T. Hanby; thence thereby South 31 degrees 00 minutes West, 135 feet to a point in the division line between Lots Nos. 3 and 4, Section F; thence thereby, South 59 degrees 00 seconds East,

58.73 feet to a point In the northwesterly side of Mill Race Road; thence thereby, northeasterly along a curve to the right 87.81 feet to a concrete monument marking the beginning of a tangent; thence North 55 degrees 31 minutes East, 25 feet along said side of Mill Race Road to a concrete monument marking the beginning of a curve to the left; thence northeasterly along said side of Mill Race Road, 28.69 feet to the place of Beginning. BE the contents thereof what they may.

LOTS 4,5,6, Section F:

BEGINNING at a point in the middle of West Branch of Naaman' s Creek, at the division line between Highlands Woods and lands now or formerly of Albert T. Hanby, said point of Beginning being marked by a drill hole in a rock as shown on said plat; thence along the division line between Highland Woods and lands now or formerly of said Albert T. Hanby, North 31 degrees East 205 feet more or less to a point In the division line between Lot No. 3 and Lot No. 4, Section F; thence along the division line between

Lot Nos. 3 and Lot No. 4, Section F, South 59 degrees East, 58.73 feet to a point In the southwesterly side of Mill Race Road, at 40 feet wide; thence In a southerly direction by the said side of Mill Race Road, along a curve to the left a distance of 88 feet to a point in the division line between Lot No. 4 and Lot No. 5, Section F; thence southeasterly along said side of Mill Race Road along a curve to the left, 87.78 feet to a point marking the beginning of a tangent; thence northeasterly along said side of Mill Race Road along said tangent 67.28 feet to a point marking the beginning of a curve to the right; thence along said side of Mill Race Road along said curve to the right, 65.31 feet to a point in the division line between Lot No. 6, Section F and other lands now or formerly of Stockdale Corporation; thence thereby South 39 degrees 49 minutes West 203.84 feet to a point in the center line of the west branch of Naaman' s Creek; thence thereby northwesterly 303 feet more or less to the place of Beginning. BE the contents thereof what they may.

(b)(c) The Town Assembly may, at any time hereafter, cause a survey and plot of the village to be made, and said plot or any supplement thereto, when so made and approved by the Town Assembly, signed by the Secretary of the Town Assembly, who shall affix thereto the municipal corporate seal of the Village, and upon being recorded in the office of the Recorder of Deeds of the State of Delaware in and for New Castle County, shall be the record thereof, and such record, or a duly certified copy thereof, shall be evidence in all Courts of Law and Equity of this State.

Qualifying Questions/Comments: Section 3 Definitions

These are legal definition lifted from Black's Law dictionary.

(e) through (h) (in red) is suggesting adding the definition: ordinance, resolution, policy and motion to the charter because people were confused about these terms.

Not sure if this is the appropriate place since these are definitions from a dictionary. Suggest creating a definition Ordinance since they carry a lot of weight.

Section 3

As used in this Act

- (a) Resident shall mean a person, ~~male or female~~, ~~above age of~~ eighteen (18) ~~years or older years~~, who shall have resided in the Village for a period of six consecutive months immediately preceding each referendum or each meeting of the Town Assembly of Arden held pursuant to this Act.
- (b) General referendum shall mean an election or vote of the residents of the Village at which the vote of a majority of the residents of the Village shall be necessary for the passage or approval of any matter or the election of any candidate voted upon thereat, unless otherwise expressly provided in this Act.
- (c) Trustee shall mean a person serving as Trustee under a certain Indenture made the 31st day of January 1908 wherein the lands described in Section 2 hereof, were conveyed upon certain trusts.
- (d) Leaseholder shall mean a person who leases a portion of the lands described in Section 2 hereof, from the Trustees serving under said Indenture. 58 **Del. Laws**, c. 91
- (e) **An ordinance is a municipal regulation enacted by the Town Assembly which carries the state's authority and has the same effect within the municipality as a state statute.**
- (f) **A resolution is an act of the Town Assembly which formally expresses the will or action of the Town Assembly.**
- (g) **A policy is a standard course of action officially established by the Town Assembly; a procedure is a specific course of action adopted by the Town Assembly for implementing a policy.**
- (h) **A motion is a proposal made in a meeting of the Town Assembly for taking a formal action or position.**

Structure of Government

Section 4

The government of the Village and the exercise of all powers conferred by this Act, except as otherwise provided herein, shall be vested in the Town Assembly of the Village of Arden, referred to herein as the "Town Assembly". The Town Assembly shall consist of all residents of the Village.

Qualifying Questions/Comments: Section 4 Structure of Government

Clarification

The task force definition of the term “Town Assembly” were pertaining to the voters, the people themselves, regardless of whether it was done at a town assembly or a referendum. Whenever you see the wording Town Assembly it means the populus.

Meetings of the Town Assembly

Section 5

- (a) Regular meetings of the Town Assembly shall be held on the fourth Monday of January, March, June and September of each year after the approval of this Act at the Gild Hall in the Village or other suitable public **physical or virtual venue** in the Village. Written notice of the **agenda**, time, date and place of all regular meetings of the Town Assembly shall be **mailed delivered** by the Secretary of the Town Assembly to all residents of the Village at least **5-7** days prior thereto, **or as state law requires**.

Qualifying Questions/Comments: 5 (a) Meetings of the Town Assembly

Clarification

Zoom meetings

It allows zoom meeting but is not require to have virtual meetings. Under Freedom Of Information Act after Covid the state amended the law to allow virtual meetings. That’s a choice whether or not the Assembly elects to do that. Concern that we are doubling since the state allows virtual. Counsel: The state law allows you to do virtual meeting; if your charter said no virtual meetings, then your charter governs because there is nothing that is mandatory requires you to have a virtual meeting. If it is permissive and you make the choice either by ordinance or otherwise whether you want to have those meetings. Would prefer Virtual meeting Ordinance because it would not have to go to the state to change. The state allows it at this point and we are not going against the state. If state at some points decides not to allow virtual meetings for whatever reason, the Arden Charter would be in violation of the state law

Under state law you still have to post agenda, date, time and place (on site physical anchor location to meet FOIA requirements). It could be physical or virtual if you remove the wording “in the Village” and just have it read “in a suitable public venue”.

Comments about adding two more town meeting to shorten them instead of the current 4 quarterly town meetings. It was reviewed by GTF briefly. Chair: In the sixties there were multiple special town meetings for a topic that would take it out of the regular quarterly town meeting.

Last sentence reads Or as state law requires

The idea is the Task force was recommending changing this to read as the state law reads but if the state law changes, they did not want the Charter to be stuck so that is why they added “or as state law requires”

Deliver includes mailing.

Does Charter embrace by-laws. Counsel: The Charter functions like an Ordinance. The charter is in itself is a superseding document. It is a state law.

- (b) Special meetings of the Town Assembly shall be called by the Secretary of the Town Assembly (1) upon the written request of 25 residents, provided that such request shall state the purpose for calling such meeting, which purpose shall be set forth in the notice of such meeting; or (2) upon the affirmative vote of a majority of residents in attendance at a regular or special meeting of the Town Assembly provided that any motion for the calling of a special meeting shall state the purpose therefor, which purpose shall be set forth in the notice thereof. Notice of the agenda, time, date and place of any special meeting of the Town Assembly shall be ~~mailed~~ delivered to all residents at least ~~5~~ 7 days before the date thereof, or as state requires. The business of the special meeting shall be confined to the subject mentioned in the call. The date of the special meeting shall be determined by the Advisory Committee. The Special meeting shall be held not more than ~~30~~ 45 days after the Secretary’s receipt of the written request signed by 25 residents requesting the meeting or the date of the meeting at which the call of the special meeting was approved.

Qualifying Questions/Comments: 5 (b) Meetings of the Town Assembly

Suggest Special meetings have a maximum and minimum period of time between meetings to allow sufficient time for any referendum votes.

- (c) At all meetings of the Town Assembly thirty-five (35) residents shall constitute a quorum for the enactment of all ordinances, the adoption of all resolutions and motions, and the transaction of all business properly before the Town Assembly

Qualifying Questions/Comments: 5 (c) Meetings of the Town Assembly

This provides the process to amend or review an ordinance.

Request a change in ordinance process. Currently three consecutive reading at town assembly. Each time there is a modification it is a new ordinance. To correct this, read three times in its final form.

Village Chair: The current process is that ordinances are read at a town meeting. People have a chance to comment on it. Those who are presenting the ordinance have an opportunity to change it. It can be changed and then presented again at a second town meeting which is considered the second reading. As pointed out, that has been changed from the first reading. There is an opportunity to make comments. A third reading at a third town assembly in which it could have been

modified again. The third reading is the one that is voted on regardless whether it has been changed or not.

Counsel: Generally, when you introduce an ordinance, most have two readings instead of three. If there is a major change to the ordinance, it has to be reintroduced. What is viewed as a major change vs minor change varies drastically. For example, change from 5 days to 7 days is considered minor but if you are changing the whole purpose that is different.

Concerned about time to change an Ordinance. Combination of 5(b) and 5(e) combined given that 5 (b) did not provide for any minimum number of days before a special town meeting and 5 (e) which provides for a special town meeting as being eligible for readings of changes of ordinances. Potentially there could be a change to an ordinance in a few days or many days. You could change an ordinance in less time than that it would take to have the regular quarterly town meeting. Does not agree with the whole system.

(d) Each resident attending a meeting of the Town Assembly shall have one vote on each matter brought before such meeting. The Secretary of the Town Assembly shall take the yeas and nays and, unless otherwise specified in this Act, a majority of the yeas shall be sufficient to pass all ordinances, resolutions and motions at any meeting of the Town Assembly and to transact all business properly brought before the meeting.

~~(e) No ordinance of the Village shall be voted upon by the Town Assembly unless submitted to the Town Assembly in writing and read at the two consecutive meetings, whether regular or special, next preceding the meeting at which such ordinance shall be voted upon. No motion to enact, amend or repeal an ordinance of the Village shall be voted upon by the Town Assembly unless submitted to the Town Assembly in writing and read at the two consecutive meetings next preceding the meeting at which such ordinance shall be voted upon. The two meetings may be regular meetings or a special meeting called for that purpose.~~

Qualifying Questions/Comments: 5 (e) Meetings of the Town Assembly

5 (e) “by the Town Assembly unless submitted to the Town Assembly in writing
...”

Clarification: Change to read unless submitted to the town assembly meeting in writing. They are saying to submit ordinance to the town assembly which we define as “all residents”, which may or may not be what we want. But what we do today is to submit it in writing at the town assembly meeting.

Correction: No motion to enact, amend... place a comma after the word amend.

Comment: Need a list of definitions. Difference between Town Assembly vs the town assembly meeting.

- (f) A referendum, as defined in Section 3B herein, can be called for by a majority vote at a Town Assembly meeting.
- (g) The Town Assembly shall determine its own rules and order of business for its Town Assembly meeting and shall keep a journal of its proceedings and the yeas and nays which shall be taken upon the passage of every ordinance and resolution.
- ~~(g)~~(h) The Town Assembly shall elect a resident to serve as Chair~~man~~ of the Town Assembly who shall preside at all meetings thereof. The Chair~~man~~ shall serve for a term of one (1) year or until ~~his~~ their successor is duly elected by the Town Assembly in accordance with the provisions hereof. The signature, certifications or attestation of the Chair~~man~~ of the Town Assembly to any document pertaining to the affairs of the Village called for by any act, statute, rule or regulation of the State of Delaware or any agency thereof shall be good and sufficient compliance therewith, notwithstanding that such act, statute, rule or regulation designates such document to be signed, certified or attested by the Mayor, City Manager, President of Council or like designated chief executive of an incorporated municipality of the State of Delaware.
- ~~(h)~~(i) The Town Assembly shall elect a resident to serve as Secretary of the Town Assembly for a term of one year or until ~~his~~ their successor is duly elected by the Town Assembly in accordance with the provisions hereof. The Secretary shall have charge and custody of the books, journal, records, papers and other effects of the Village and shall keep the same in a safe and secure place. ~~He~~ The secretary shall keep a full and complete record of all of the transactions of the Town Assembly. ~~He~~ The secretary shall file and keep in a safe place the seal of the Village and all papers and documents arising out of the proceedings of the Town Assembly and relative to the affairs of the Village. ~~He~~ The secretary shall deliver the same to ~~his~~ their successor in office. ~~He~~ The secretary shall attest the seal of the Village when authorized by the Town Assembly and shall perform such duties and have such other powers as may be prescribed by ordinance. All books, records and journals of the Village in the custody of the Secretary may, in the presence of the Secretary, be inspected by any resident, Trustee or leaseholder of the Village desiring legitimate information at any time or times as may be convenient. The compensation of the Secretary ~~for his duties as such,~~ shall be determined by the Town Assembly.

Officials and Committees of the Town Assembly

Section 6

- (a) The Town Assembly may elect such officials, ~~including a Treasurer,~~ and such agents, committees, and commissioners of the Village which the Town Assembly may deem proper and necessary for the management of the Village and for the operation and enforcement of this Act and of any ordinances and resolutions adopted hereinunder. Any person so elected shall be a resident of the Village and shall serve at the pleasure of the Town Assembly. ~~but in no event longer than two years unless re-elected.~~
- (b) All persons presently serving on committees of the Town Assembly shall continue in office until their successors are duly elected. ~~in the manner herein provided.~~

Qualifying Questions/Comments: Section 6 Officials and Committees of the Town Assembly

The use of the word “official” is not clear. Does not understand how the Treasurer position is considered an official. Chair: That was defined in the creation of the position of the Treasurer in the document presented to the Town Assembly meeting. GTF officials is a broader definition and could include appointed, hired.

Since the Commissioner position has not been in use since 1966, request to take it out of the Charter. (It’s in several place).

Section 7: Board of Assessors, Section 8: Budget Committee, Sections 9: Registration Committee

By proposing to remove from the Charter the process statements of the Assessors, Budget Committee and Registration Committee and put them into Ordinances is an amending the Charter. Does that need to be done via a Charter change which

would require a General Assembly Approval? Counsel: If you make any change to the Charter, the General Assembly has to approve it.

Board of Assessors

Section 7

- (a) The Board of Assessors shall consist of seven (7) residents elected in the manner herein provided: Candidates for the Board of Assessors shall be nominated by the Town Assembly at its regular September meeting of each year. No later than 45 days after such nomination, the Registration Committee of the Village shall mail ballots containing the names of all nominees to each resident of the Village. The ballots shall be in such form as the Registration Committee shall prescribe and shall contain suitable boxes for marking the choices of the voters. Each resident shall return his marked ballot to the Registration Committee within 30 days after the mailing thereof. The Registration Committee shall tally the votes cast and report the results of the election at the first regular meeting of the Town Assembly following the election. The election and the result thereof shall be governed by the Hare System of Proportional Representation.
- (b) The members of the Board of Assessors shall serve for one year or until their successors are duly elected in accordance with the provisions of this Act.

Qualifying Questions/Comments: Section 7 (a), (b) Board of Assessors

GTF: The reason to take it out of the Charter and put it into ordinances is that in the future if something needs to change or be modified and it is in the charter, it means that the GTF has recommended capability and they do not have approval. They would have to go to the state in which they are the ultimate deciders to modify or approve. If it is in an ordinance, we have full control. The past four town meeting were governed by the bounds. They are trying to keep the purpose and the responsibility clearly in the Charter and just taking out the process; how are they elected? What is the process of what they do? It's about how they do it not what they do it.

Do not support the change because this is a way to change things with fewer people. We: are a direct democracy as far as the town assembly. The town assembly meeting represents a small collection of the people. This would make it possible for a small subset of Town Assembly to make significant changes without others knowing about it. People who do not attend won't be aware of these changes. By taking it out, suddenly this becomes more vulnerable. Also, the processes are taken out and those processes are part of guidelines and guardrails that are in place for a reason. GTF: The purpose and the responsibility of those guardrails remain in the Charter.

Counsel: Substantive reason to make this change. You can have it in the charter which leads it to be inflexible or you can have it in an ordinance which provides greater flexibility. It is a preference of the body. To change the charter or to recommend to the General Assembly Counsel: The town assembly meeting can

make a motion to ask the Delaware General Assembly to change the charter. (Take it to your state representative and state senator. They will put it into a bill form which sometimes takes a while. Then it goes to committee. So long as you can get on the committee schedule, then it generally moves quickly. The closer you are to the end of the General Assembly term, the less likely to be scheduled). An ordinance has to go through at least three town meetings to change. All municipalities that the counsel represent that go through a charter change only do a resolution. It's not an ordinance because it is a law.

As far as ordinances to change the charter, can the town assembly meeting select the type of vote that would include all residents vote and not limited to a few? The town assembly meeting can present this to the state legislator. Something this important should be going through the entire town assembly.

Remove the Hare System because it does not represent my vote. Request to consider another system.

~~(e)~~(a) **The Town Assembly shall elect a Board of Assessors consisting of seven (7) residents for a one-year term.** The duties of the Board of Assessors shall consist of assessing the full rental value **or community standard of living** of leased lands in the Village. The Board shall conduct **a minimum of two hearings during their deliberations** ~~May and June of each year~~ which shall be open to all residents, Trustees and leaseholders of the Village. ~~Notice of the time, date, agenda and place of each hearing shall be mailed to all residents, leaseholders and Trustees at least five (5) seven (7) days before such hearing.~~ The Board shall fix rules and regulations for the conduct of the hearings, provided that reasonable opportunity shall be afforded to all persons entitled to notice thereof to be heard at such ~~h~~hearings. The Board shall report its assessment rate to the regular June meeting of the Town Assembly.

Qualifying Question/Comments: Section 7 (c)(a) Board of Assessors

Leave May and June open meetings in the Charter.

The notice of the time, date, agenda and place have been stricken from the Charter because it is a FOIA requirement.

Remove "or community standard of living"

Not a big turn over with the Assessors even though it is a one-year term.

~~(d)~~(b) The Assessors shall, before assuming office, take an oath of office before any person qualified under the Laws of the State of Delaware, to administer oaths, which oath shall be in the following form: "I do solemnly swear (or affirm) that I will faithfully perform and discharge my duties as Assessor of Arden to the best of my ability and that I will as nearly as possible assess the full rental value for Arden lands as required by the Deed of Trust and the Leases of Arden."

Qualifying questions/comments: Section 7 (d)(b) Board of Assessors

This has not been taken out of the Charter but think it is incongruent because section (b) specifically only states full rental value and they are taking section (a) to include community standard of living. “I.....do solemnly swear (or affirm) that I will faithfully perform and my duties as Assessor of Arden to the best of my ability and that I will as nearly as possible assess the full rental value of Arden lands as required by the Deed of Trust and the Leases of Arden.”

Adding Community standard in (a) and in (e)(a) the oath make sense. The most recent Assessor’s reports refer to the community standard of living then the BOA has done their work. This helps to make it consistent, and supports the legality of the assessment.

- ~~(e)~~ (c) The assessment rate determined by the Board for the assessment of Arden lands shall be final and conclusive, provided that any leaseholder of the Village shall have the right to appeal such determination by submitting a proposed assessment rate to the Town Assembly at its regular September meeting. In the event that such proposed rate shall receive the affirmative vote of two-thirds of the residents voting at such meeting, such proposed rate and the rate determined by the Board shall both be submitted to a general referendum of the residents of the Village. The referendum shall be conducted by the Registration Committee. The rate approved by a majority of residents shall be the rate in effect until redetermined in the manner herein provided.
- ~~(b)~~(d) The Board of Assessors shall determine the applicability of differential factors to the application of the assessment rate upon leaseholds in the Village. The Board shall afford leaseholders the opportunity to be heard upon any question arising thereunder.
- ~~(e)~~(e) It shall be the duty of the Board to keep and maintain a full and accurate record of its deliberations and proceedings, including all information and data considered in its determinations. Such record shall be open to the inspection of any Trustee, resident or leaseholder at any time or times as may be convenient. Upon the expiration of their term in office, the assessors shall deliver the same to their successors.

Budget Committee

Section 8

- (a) The Budget Committee shall consist of five residents of the Village elected by the Town Assembly. Three members of the Committee shall be elected by the Town Assembly at its regular March meeting in each odd-numbered year following the approval of this Act. Two members of the Committee shall be elected by the Town Assembly at its regular March meeting in each even-numbered year following the approval of this Act. Each member, so elected, shall serve in office for two years or until his successor is duly elected.
- ~~(b)~~(a) The Budget Committee shall consist of five (5) residents of the Village elected by the Town Assembly. The Budget Committee shall prepare a budget ~~governing~~ **reflecting** (1) the expenditure of ~~all~~ Village funds, the use and expenditure of which are not specifically governed by Federal, State or County laws, rules and regulations; and (2) **governing** the expenditure of all monies derived from the collection of ground rents, the lawful use and expenditure of which are now and hereafter subject to the approval and consent of the residents of the Village.

Qualifying questions/comments: Section 8 ~~(b)~~(a): Budget Committee

In ~~(b)~~(a) (2) governing vs. reflecting). Governing (expenditures) vs (budget) reflecting. Governing expenditures in (2) relates to ground rents and Budget reflecting has to do with overall expenditures. It is not clear. The intent is money coming in that was not land rent money. Some Committees receive grant money. Trying to address what are we governing and what are we reflecting? Money that

is not land rent (grants or other monies). Do they now have to do a referendum to allow them to spend the grant?

Request to make an allowance for restrictive gifts. GTF suggests at the town meeting an ordinance be developed.

- (b) The budget prepared by the Committee shall be reported at a regular meeting of the Town Assembly each year. The Town Assembly may modify or amend all or any portion of the budget. The **proposed** budget, with any amendments thereto, shall be approved by the Town Assembly and submitted to a general referendum of the residents of the Village. **The referendum shall be conducted by the Registration Committee within 45 days after the regular September meeting of the Town Assembly. The Registration Committee shall mail ballots to all residents of the Village. The ballots shall contain suitable boxes for marking the approval or disapproval of the entire proposed budget and each item therein enumerated. No ballot shall be counted unless received by the Registration Committee on or before a date fixed by the Committee which shall in no event be less than fifteen (15) days from the date the Registration Committee mails the ballots to the residents of the Village. The budget, if approved by a majority of the residents of the Village, shall govern the use and expenditure of the monies therein specified for and during the fiscal year of the Village commencing March 25 next following the referendum.**

Qualifying questions/comments: Section 8 (b) Budget Committee

Last sentence “the entire proposed budget and each item therein...” switch out the ‘and’ for ‘or’.

First sentence “The budget prepared by the committee shall be reported at a regular meeting of the Town Assembly each year.” The current charter says that it will be reported at the September town meeting.

Motion:

I move to cease the proceeding of this special town assembly (meeting) after the review of Section 9 of the proposed charter changes and call for another Special town assembly to be convene to complete the review and the discussion of the charter changes. Seconded. Called. Hand count: yeas 26
Nays 13 **Motion Approved.**

Registration Committee

Section 9

- (a) The Registration Committee shall consist of: (1) five residents of the Village elected by the Town Assembly. Two members of the Committee shall be elected by the Town Assembly at its regular March meeting in each odd-numbered year. Three members of the Committee shall be elected by the Town Assembly at its regular March meeting in each even-numbered year. Each member, so elected, shall serve in office for two years or until his/her successor is duly elected; and (2) the Senior Trustee of Arden and the Secretary of the Town Assembly. The Clerk of the Trustees shall be an ex-officio member of this committee.

~~(a)~~ (a) The Registration Committee shall consist of: (1) five residents of the Village elected by the Town Assembly. The Senior Trustee of Arden and the Secretary of the Town Assembly. The Clerk of the Trustees shall be an ex-officio member of this committee. The Registration Committee shall register all residents of the Village as defined in Section 3 of this Act and shall keep a full and accurate record thereof which shall set forth the date each resident establishes his residence. The registration

record shall be conclusive evidence of the entitlement of the persons therein listed to vote at meetings of the Town Assembly and referenda held hereunder.

Qualifying questions/comments: section 9 ~~(b)~~ (a) Registration Committee

(b)(a) New section in red

Correction: Currently there are five (5) elected members of the registration committee and there are three (3) ex-officio members (meaning by virtue of their office) which would be: the senior trustee, Secretary to Trustee and Secretary to the town assembly.

Suggested editing.

The registration committee shall consist of (1) five residents of the Village elected by the Town Assembly, and (three) ex-officio (members), including the Senior Trustee of Arden, the Secretary of the Twon Assembly, and the Clerk of the Trustee.

Request the (3) three ex-officio roles.

~~(e)~~(b) The Registration Committee shall supervise all referenda and elections held hereunder and shall fix rules and regulations, not in consistent with the provision of this act, for the proper and orderly conduct thereof. The Registration Committee shall certify in writing to the Town Assembly and to the Trustees the results of all referenda held hereunder. 69 Del. Laws, c. 30

Qualifying questions/comments: section 9

Correction: inconsistent is one word (line 2 section ~~(e)~~ (b))

Motion to Adjourn

Respectfully Submitted,

Elizabeth Resko, Village of Arden Town Secretary

A Special Town Assembly will be scheduled to continue review of the Governance Task Force recommendations charter changes. A copy of the suggested Charter changes to be discussed for the next Special Town Assembly are on next page.

Vacancies

Section 10

In case of vacancy created in any office established under the provisions of this Act and the doings of the Town Assembly by reason of death, resignation, loss of residence in the Village, conviction of a felony or otherwise, the Town Assembly, at the earliest possible meeting, shall elect ~~some suitable person~~ a resident to serve the unexpired term of such office.

Powers and Ordinances

Section 11

The Village shall have all powers possible for the Village to have under the Constitution and laws of Delaware as fully and completely as though they were specifically enumerated by this Act. In furtherance thereof, the Town Assembly is hereby vested with the authority to enact ordinances and adopt resolutions relating to any subject within the powers or functions of the Village, or relating to the government of the Village, its peace and order, ~~its sanitation,~~ beauty, the health, safety, convenience and comfort of its population, and the protection and preservation of property and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances or resolutions on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated. Notwithstanding any statute, act or law of the State of Delaware to the contrary, the power to acquire and/or to vacate the use of lands, tenements, personalty property, easements, rights of way or any interest in property within the limits of the Village, as described in Section 2 hereof, by way of condemnation and eminent domain shall be and is vested exclusively in the Town Assembly; provided, however, that the Town Assembly may, but is not obliged to do so, consent to the exercise of any such power by an agency, commission or department of the State of Delaware for any lawful purpose.

The Village may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with any one or more states or civil divisions or agencies thereof, including the government of New Castle County, or the United States or any agency thereof.

It shall be the duty of the Town Assembly, at a reasonable time or times, to compile the ordinances, **policies**, codes, orders and rules of the Town Assembly of the Village. The Town Assembly shall ~~have a reasonable number of~~ **provide access to** copies ~~printed~~ for the use of the officials of the Village and for public information. From time to time, upon the enactment of new ordinances, **policies**, codes, rules and regulations, or upon the enactment of amendments to the same, the Secretary of the Town Assembly shall enroll the same in the ~~journal~~ **record** of the Town Assembly and keep copies of the same ~~in a book~~ to be provided for that purpose so that the same may be readily **accessed and** examined.

Enforcement, Fines and Penalties

Section 12

- (a) The Justices of the Peace sitting (whether regularly, specially or otherwise) in the Justice of the Peace Court located nearest to the Village shall have jurisdiction and cognizance of all offenses against the provisions of this Act or the authorized ordinances of the Village committed within the limits of the Village as far as to arrest

and hold to bail or fine and imprison offenders; provided that ~~he shall impose no fine or, penalty, in excess of that fixed by the ordinance and shall not commit to no prison sentence for a longer term than 30 days.~~ **or sentence of imprisonment in excess of the limits prescribed by State law.** ~~The New Castle County Correctional Institution may be used for imprisonment under the provisions of this Act provided that the Town Assembly shall pay for the board of persons committed for breaches of ordinances which are not breaches of the general law.~~

- (b) No ordinance of the Village shall provide for a fine in excess of ~~\$100~~ **the limits prescribed by State law.** ~~or imprisonment of more than 30 days.~~
- (c) Any person convicted before such Justice of the Peace for the violation of any Village ordinance may appeal from such conviction to the Superior Court in and for New Castle County ~~upon giving bond to the State with or without surety, as such Justice of the Peace shall determine, binding the person taking the appeal to appear before the Court. Notice of such an appeal shall be given to such Justice of the Peace within five (5) days from the time of conviction, counting the day of conviction as one, and the bond with surety, if any, shall be filed within five (5) days. No bond upon appeal from a conviction for violation of a Village ordinance shall exceed the sum of one hundred dollars (\$100). Such appeal shall be prosecuted and the proceedings shall be had as in an appeal from a conviction before a Justice of the Peace in the case of a violation of the laws relating to the operation of motor vehicles.~~

Police Force

Section 13

The Town Assembly may appoint a police force consisting of such person or persons as the Town Assembly may deem **appropriate.** ~~wise and advisable. The Town Assembly shall from time to time, upon recommendations of its Safety Committee, adopt rules and regulations as may be necessary for the organization, government and control of the police force. The members of the force shall be subject to the direction of the Town Assembly and may be removed by the Town Assembly at any time. They shall preserve peace and order and shall compel obedience within the Village limits to the ordinances of the Village and the laws of the State; and they shall have such other duties as the Town Assembly shall from time to time prescribe.~~

~~Each member of the police force shall be vested with all powers and authority of a constable of New Castle County within the Village limits and within one mile outside such limits, and in the case of the pursuit of an offender, his power and authority shall extend to all parts of the State of Delaware.~~

~~Every person sentenced to imprisonment by the Justice of the Peace, as provided in Section 12 of this Act, shall be delivered by a member of the police force to the New Castle County Correctional Institution, to be there imprisoned for the term of the sentence.~~

~~It shall be the duty of the police to suppress riotous, disorderly or turbulent assemblages of persons in the streets and public places of the Village, or the noisy conduct of any person in the same, and upon view of the above, or upon the view of the violation of any ordinance of the Village relating to the peace and good order thereof, the police shall have the right and power to arrest without warrant and to take the offender before the Justice of the Peace, as aforesaid.~~

Contracts of the Town Assembly

Section 14

The Town Assembly is vested with authority on behalf of the Village to enter into contracts for the rendering of services to the Village and/or the purchase of supplies and doing of work for any municipal purpose of the Village. All formal contracts shall be signed by the Chair~~man~~ of the Town Assembly, with the seal of the Village attached and attested by **a second official of the Village.** ~~the Secretary of the Town Assembly.~~

Fire, Zoning and Housing Codes

Section 15

~~For protection against fire and for the preservation of the beauty of the Village and the health of the inhabitants, the Town Assembly may adopt ordinances to zone or district the Village and to make particular provisions for particular zones or districts with regard to buildings and building materials; to prohibit the use of building materials that may be deemed to create a fire hazard, and this power shall embrace new buildings or additions to or alterations of existing structures of every kind, to condemn and/or vacate buildings or structures, or portions thereof, that constitute a fire and/or health menace and to require or cause the same to be torn down or removed or so altered as to eliminate the menace of fire or danger to health; to prescribe the height and thickness of walls of any building and the kind and grade of materials used in the construction thereof; and to establish a building line for buildings to be erected.~~

~~The Town Assembly may adopt zoning ordinances limiting and specifying districts and regulating thereon buildings, structures and uses according to their construction and according to the nature and extent of the use or business to be carried on therein.~~

~~The powers to be exercised under and by virtue of this Section shall be deemed to have been exercised under the police power and for the general welfare of the inhabitants of the Village.~~

~~The Town Assembly may create a Village Zoning Commission for the development, improvement and beautification of the Village and may prescribe its powers and duties.~~

~~The Town Assembly may provide for the issuance of building permits and may forbid the construction of any new building or the addition to, or alteration or repair of any existing building unless a building permit has been obtained therefor.~~

~~The Town Assembly may adopt a housing code to regulate and govern the occupancy of residential structures in the Village, the structural requirements of residential and commercial properties for the health, safety, welfare and comfort of occupants thereof, and to appoint a commission to carry out and enforce the provisions of the housing code.~~

Savings Clause

Section 165

All ordinances, resolutions and motions adopted by the Commissioners of the Village of Arden and in force at the time of the approval, acceptance and going into effect of this Act are continued in force until the same or any of them, shall be repealed, modified or altered by the Town Assembly under the provisions of this Act. All the acts and doings of the Commissioners of the Village of Arden or of any official of the Village of Arden which shall have been lawfully

done or performed under the laws of this State, prior to the approval, acceptance and going into effect of this Act are hereby ratified and confirmed unless otherwise provided herein.

Severability

Section 176

If any part of this Act shall be held unconstitutional, such holding shall not in anywise invalidate the remaining provisions of this Act.

Section 187

This Act shall be deemed and taken to be a public Act.

56 **Del. Laws**, c. 125; 58 **Del. Laws**, c. 91; 69 **Del. Laws**, c. 30