

1 **BENNINGTON SELECT BOARD**

2 **BENNINGTON FIRE FACILITY**

3 **130 RIVER STREET**

4 **BENNINGTON, VERMONT 05201**

5 **JANUARY 22, 2018**

6 **MINUTES**

7 **SELECT BOARD MEMBERS PRESENT:** Donald Campbell-Vice Chair; Jim Carroll; Carson Thurber; Jeannie Jenkins;
8 Chad Gordon and Jeanne Conner.

9 **SELECT BOARD MEMBERS ABSENT:** Thomas Jacobs.

10 **ALSO PRESENT:** Stuart Hurd-Town Manager; Dan Monks-Zoning Administrator and Assistant Town Manager;
11 Zirwat Chowdhury-Community Development Director; Representative Mary Morrissey; Jason Dolmetsch-MSK
12 Engineering and Design President; Ludy Biddle-NeighborhoodWorks Executive Director; Gregg Over-
13 NeighborhoodWorks Project Manager; Laura Block; Joey Kulkin; William Stewart; Steve Smith; 18 citizens;
14 CAT-TV; Jim Therrien-Bennington Banner and Nancy H. Lively-Secretary.

15 At 6:00 pm, Vice Chair Donald Campbell called the meeting to order.

16 **1. PLEDGE OF ALLEGIANCE**

17 Recited by all present.

18 -----
19 *Jeanne Conner moved and Carson Thurber seconded to move Agenda 5. Public Hearing, Bennington*
20 *Town Plan Amendment, Energy Element Continued to be the first agenda item. The motion carried*
21 *unanimously.*

22 **5. PUBLIC HEARING, BENNINGTON TOWN PLAN AMENDMENT, ENERGY ELEMENT CONTINUED**

23 Mr. Campbell noted that the Hearing was warned for 6:40pm and should anyone want to speak at that
24 time they will be allowed to.

25 Mr. Monks explained that this is the second of two required Hearings. After the Hearing is closed, the
26 Board can choose to adopt it as is, reject it, make changes to it and have two more Hearings, send it back to
27 the Planning Commission for their opinion followed by two more Hearings, or do nothing at this time, as long
28 as, something is done within a year.

29 Mr. Campbell stated that the Board had just received a 7-page letter from the Town's legal counsel in
30 response to the letter from Allco Renewable Energy Limited dated January 8, 2018. This will be reviewed in
31 Executive Session with a decision on the Board's action on the Energy Amendment following that review.

32 *At 6:07pm, Jeanne Conner moved and Chad Gordon seconded to close the Public Hearing. The*
33 *motion carried unanimously.*

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35 **2. CONSENT AGENDA**

36 **A. MINUTES OF JANUARY 2, 2018; JANUARY 6, 2018; JANUARY 8, 2018**

37 **B. WARRANTS**

38 In the Minutes of January 8, 2018, change "Cabelia" to "Kobelia" on Page 1 and Page 3.

39 *Jeannie Jenkins moved and Jim Carroll seconded to approve the Consent Agenda as amended with*
40 *the spelling change as indicated. The motion carried unanimously.*

41 -----

42 **3. NEIGHBORWORKS GRANT PRESENTATION**

43 *Jim Carroll moved and Carson Thurber seconded to table the NeighborWorks Grant Presentation until*
44 *later in the meeting. The motion carried unanimously.*

45 _____

46 **4. LEAD REDUCTION GRANT PRESENTATION**

47 Jason Dolmetsch shared the following information on the Lead Reduction Grant:

- 48 • Lead can be present in several locations - service line made of lead pipe; service line containing
- 49 a lead "gooseneck" or "pigtail" or other fitting; or copper pipes with solder containing lead.
- 50 • This grant is for the purpose of determining where there are lead service lines in Bennington.
- 51 • There are 28 known sites that either the Town or the customer has a lead service line, and
- 52 there are 960 where the service line material is not known.
- 53 • There could ultimately be as many as 1,900 service lines that are completely or partially lead.
- 54 • The goal of the grant is to collect curbsides and service lines inside the area where lead service
- 55 lines may be present, develop protocol where the unit material type is not known; and to
- 56 develop a lead replacement program with funding strategies.
- 57 • A letter has been drafted to reach out to the customers that may be part of the 1,900 units and
- 58 volunteers are encouraged to come forward.
- 59 • The overall project runs until the end of August 2018 with sampling and testing to be
- 60 completed by March 31, 2018.
- 61 • EPA protocol with an analyzer enables the determination of the presence of lead within
- 62 minutes.
- 63 • The Town currently does corrosion control which greatly reduces the amount of lead in the
- 64 system and is consistently below the EPA "action level".

65 *It was the consensus of the Board to support the Lead Reduction Strategies Grant work done by MSK*
66 *Engineering and Design.*

67 -----

68 **3. NEIGHBORWORKS GRANT PRESENTATION**

69 Ludy Biddle, Executive Director, and Gregg Over, Project Manager, of NeighborWorks are requesting an
70 amendment to the 2016 VCDP grant for 15 more rental units in Bennington, or an additional \$105,000 to
71 identify landlords to do more units. They shared the following presentation with the Board:

- 72 • There is enough money left from the original grant of \$250,000 to pay staff so the \$105,000 request is
73 strictly for landlord incentives.
- 74 • The original grant has also enabled the establishment of a Bennington satellite office with more
75 presence in town instead of only working out of West Rutland.
- 76 • Two courses, We Can Fix It for women, and the Everyday Chef for how to cook with what cooking
77 mechanism you have, are now being offered in Bennington.
- 78 • Work is currently being done on three buildings - 272/274 Union Street with an investment of
79 \$128,000 to go from two units to four and is 35% complete; 322/324 Gage Street with an investment
80 of over \$40,000 for three units and is 25% complete; and 343 Safford Street with an investment of
81 \$155,000 to renovate three units, for a total of 10 units.
- 82 • The \$105,000 request would be 15 grants of \$7,000 each to inspire and empower more landlords to
83 rehab and create 12-15 additional rental units with five year covenants, which will remain affordable to
84 low income households in Bennington for up to five years.

85 *Board comments/questions:*

- 86 • Mr. Gordon: What does someone have to do to be eligible to apply for the grants, and Mr. Over
87 answered to adhere to the covenants of the grant, such as, renting 51% of the units to individuals who
88 are 80% or below the average median income (AMI), rent within the HUD guidelines, and make health,
89 safety and efficiencies for the units
- 90 • Ms. Jenkins: How do you outreach to the landlords, and Ms. Biddle stated through Kris Callaert, the
91 website and Facebook. Ms. Jenkins added that there needs to be improvement in the outreach
92 process going forward.
- 93 • Mr. Carroll: Added that a list of landlords can be found at the Assessor's Office.
- 94 • Ms. Jenkins: How do you explain the low completion rates (35% and 25%), and Mr. Over noted that the
95 lending office has had some of its own inefficiencies with the other holdup being the receipt of the
96 necessary paperwork from the landlords, themselves.
- 97 • Ms. Jenkins: What is the availability of certified energy auditors, and Ms. Biddle stated that they have
98 three building performance institute (BPI) certified on staff in West Rutland with any work that needs
99 to be done given to local contractors.
- 100 • Mr. Thurber: Understanding it is a pilot project, some individuals have indicated that it is an extremely
101 slow process to get the money, and Ms. Biddle explained that there are many "hoops to jump through"
102 because these are federal dollars.
- 103 • Mr. Thurber: Most of the landlords that participated in the first year were large, successful landlords
104 and would think that the small, struggling landlords would be more for what these funds are for. Mr.
105 Over stated that they hope to bring more on board with this project. Mr. Thurber added that the first
106 year has been a learning experience, and given the expense of rehabilitating these units for low income
107 housing rents, is very difficult for the small landlords and these funds would be a great help to them.
- 108 • Ms. Conner: Is concerned that all of the eligible landlords were not made aware of the funds and
109 encouraged NeighborWorks to do a better job of informing the smaller landlords of what is available.
110 Also, is there a deadline for completion, and Mr. Over answered 6 months with extensions for certain
111 criteria. NeighborWorks receives all of the grant funds and distributes them to the landlords. The
112 landlords are also personally responsible for any overages that may occur.
- 113 • Mr. Campbell: Is the Town giving up anything by supporting this grant, and Mr. Over said that it is his
114 understanding that one VCDP grant does not overlap with another. Ms. Chowdhury added that we are

115 responsible for reporting the outcomes of the grants to VCDP and she would need to know how to
116 obtain this information from NeighborWorks. Ms. Chowdhury will look at the Memorandum of
117 Understanding (MOU) that the Town has with NeighborWorks and review the performance standards.

118 **Carson Thurber moved and Chad Gordon seconded to send a Letter of Support for the Vermont**
119 **Community Development Program (VCDP) Implementation Grant SS-2015 amendment application in the**
120 **amount of \$105,000 with NeighborWorks of Western Vermont (NWWVT) to act as the sub-grantee. The**
121 **motion carried unanimously.**

122 -----
123 **At 7:10pm, Jeanne Conner moved and Jim Carroll seconded to re-open the Public Hearing,**
124 **Bennington Town Plan Amendment, Energy Element Continued. The motion carried unanimously.**

125 Laura Block asked how the Board was going to proceed with their decision on the Town Plan Energy
126 Element Amendment, and Mr. Campbell answered that the Board will review the letter they just received this
127 evening from counsel in Executive Session, and then either vote after that this evening or, if deemed
128 necessary to get more legal advice, at the next meeting.

129 Ms. Block expressed how disappointed she was with the length of time this process has taken.

130 **At 7:17pm, Jeanne Conner moved and Jeannie Jenkins seconded to close the Public Hearing,**
131 **Bennington Town Plan Amendment, Energy Element Continued. The motion carried unanimously.**

132 -----
133 Mr. Hurd summarized the process that was done for the salt shed design and construction and the
134 subsequent mitigation grant program as follows:

- 135 ➤ In 2016, the public works facility and sand/salt shed were designed.
- 136 ➤ In May 2017, a successful bond vote was received for the public works facility on Bowen Road, and a
137 proposed location for the sand/salt shed was established.
- 138 ➤ On August 24, 2017 the sand/salt shed design was finished, construction bids were sent out, and
139 contracts were awarded on September 13, 2017.
- 140 ➤ Concurrent with this process, staff at the BCRC were made aware that there were few applicants for
141 the Mitigation Grant.
- 142 ➤ On August 14, 2017, one of our staff put together the one page application that was due the next day
143 that clearly showed the shed's design and location.
- 144 ➤ We received verification of the grant award on September 25, 2017 with a letter dated September 14,
145 2017 attached.
- 146 ➤ We had already awarded contracts for the project which was well into its progression.
- 147 ➤ This is a federal grant and there are 20 steps that you need to follow to be eligible. We had already
148 completed 18 of the steps without following the federal process.
- 149 ➤ We were not required to follow the federal process because, at that time, we were not anticipating the
150 use of any federal funds.
- 151 ➤ Because we were so far along in the process, the grant never should have been awarded to us.
152 Nevertheless, the award came.

- 153 ➤ Could we have scrapped the entire process and started over? Yes, we could have, but the monies that
- 154 had been spent to date would not have been eligible for federal funding. And, then, the process would
- 155 have had to start over under federal guidelines.
- 156 ➤ Given the loss of dollars that had already been spent, the expense of re-doing everything while
- 157 following federal regulations, and the extended time frame of completion - we declined the grant.
- 158 ➤ An example when federal dollars are involved is the Pleasant Street Enhancement Grant. The grant
- 159 was first awarded in January 2008 and 10 years later we still haven't gotten the final approval to go
- 160 ahead with federal dollars.
- 161 ➤ Had we accepted the grant, the cost would have increased, there would potentially have been no
- 162 change in the bond payment, and the time to completion would have been an estimated 3 to 7 years.

163 -----

164 **6. CITIZENS COMMENTS**

165 Joey Kulkin stated that Mr. Hurd decided to build the sand/salt shed without a wetlands permit, the

166 Town is under investigation and may be fined \$42,000, and we've declined the opportunity to get a \$340,000

167 grant.

168 Mr. Kulkin was going to poll the Board with the following 4 questions - 1. When was the Board first

169 aware of the permit issues?; 2. When did the first shovel start digging up dirt for the salt shed?; 3. Did any

170 Board member ask for favors in gaining the Act 250 permit and who did you ask?; Who other than Larry

171 McLeod, Dan Monks, and R.J. Joly know about the permits?, but Mr. Campbell stated that this was a time for

172 citizens comments "and not a debate".

173 Mr. Carroll answered two of the questions - 1. 6-8 weeks ago and have been discussing it in Executive

174 Session since; 3. "Favors? Favors, are you kidding me?that's insulting".

175 No other Board members had any comments.

176 -----

177 William Stewart asked how the Board plans on recouping the \$340,000 lost "out of negligence" and

178 was Mr. Hurd bonded? Mr. Campbell reiterated that this was Citizens Comments and not a debate. Mr. Hurd

179 added that he is bonded.

180 -----

181 Steve Smith wondered if there were plans to put more staff at the Senior Center, and Mr. Hurd stated

182 that meetings are being held to resurrect coverage at the Senior Center from staff at the Rec Center with the

183 goal being to have a Rec Center staff person there at all times.

184 Mr. Smith noted that there are several volunteers at the Senior Center and asked if they are covered

185 by liability insurance, and Mr. Hurd answered that they were unless the volunteer causes the injury.

186 -----

187 **7. ADOPT THE FY2019 BUDGET; APPROVE THE ANNUAL MEETING WARNING**

188 *Carson Thurber moved and Jim Carroll seconded to approve the FY2019 Budget and the Annual*

189 *Meeting Warning as submitted.*

190 Ms. Conner asked if this wording is as it will appear on the ballot, and Mr. Hurd said that it was.

191 *The motion carried unanimously.*

193 **8. SPEED LIMIT AMENDMENTS**

194 Mr. Hurd explained that this is a “housekeeping issue” because the 40 mph speed zones on Route 7
195 South and Route 9 East were never added to the town’s Article 10 Traffic Control Ordinance.

196 *Jeanne Conner moved and Chad Gordon seconded to adopt the ordinance amendment as follows:*

197 **Article 10 Traffic Control Ordinance**

198 **10-19.03 Speed Limits**

199 **2. The maximum speed limit shall be 40 mph as follows:**

- 200 • *On Vermont Route 9, beginning at the easterly exit drive at the Chain-up area 0.4 miles west to the*
201 *easterly entrance of Kelley Fuels.*
- 202 • *On Vermont Route 7, beginning at the entrance to the Greenberg Reserve 0.4 miles north to the*
203 *former Bennington Village boundary line.*

204 *The motion carried with Jim Carroll abstaining.*

206 **9. LIQUOR LICENSES**

207 The following 2018 Liquor License Renewal Applications were circulated for signatures:

208 **1st Class Renewals -**

- 209 1. Sodexo Vermont, Inc. (SVC)

210 **2nd Class Renewals -**

- 211 1. Apple Barn
 - 212 2. Bennington Jolley #117
 - 213 3. Bennington Jolley #145
 - 214 4. Beverage Den
 - 215 5. North Bennington Variety
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217 **10. MANAGER’S REPORT**

218 Mr. Hurd reported that Shires Housing, Inc. plans to construct a housing development just over the
219 North Bennington Village line in Shaftsbury, and in order to do this, they require municipal sewer from the
220 Town of Bennington. Mr. Hurd is requesting Board authorization to enter into an MOU which would allow the
221 development to move forward. The MOU states that Shires Housing will build and maintain the sewer line up

222 to the Village line with the ability to stop service for non-payment without digging it up, and it requires an
223 upfront payment for anticipated use with a true up at year end.

224 *The Board would like more information on the project before going forward, and Mr. Hurd will supply*
225 *that for the next meeting.*

226 Mr. Hurd stated that there is an applicant for the Housing Authority Board and he will set up the Board
227 interview just before the next business meeting.

228 Mr. Hurd reported that he has authorized the Bennington Redevelopment Group (BRG) to use the
229 Town as the short term Grantee in its application for a \$630,000 VHCB grant for housing in the rehabilitated
230 Putnam Block with the understanding that BRG will make a presentation to the Select Board in February if
231 they do not have another 501c3 in place. The application deadline is January 24th.

232 **11. OTHER BUSINESS**

233 Mr. Carroll clarified that the salt shed decision is a Personnel issue which prevents the Board from
234 discussing it in public.

235 Mr. Campbell stated that he feels that Citizens Comments is a time for citizens to comment and for the
236 Board to listen, and offered to discuss this with other Board members offline if they interpreted it differently.

237 **12. EXECUTIVE SESSION**

238 **A. LEGAL**

239 *At 7:58pm, Chad Gordon moved and Carson Thurber seconded finding that an Executive Session be*
240 *held on Legal as premature public knowledge would place a person involved in the subject matter at a*
241 *substantial disadvantage. The motion carried unanimously.*

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243

244

245 Respectfully submitted,

246 Nancy H. Lively

247 Secretary