

1 **BENNINGTON SELECT BOARD**

2 **BENNINGTON FIRE FACILITY**

3 **130 RIVER STREET**

4 **BENNINGTON, VERMONT 05201**

5 **MAY 28, 2019**

6 **MINUTES**

7 **SELECT BOARD MEMBERS PRESENT:** Donald Campbell-Chair; Jeannie Jenkins-Vice-Chair; Jeanne Conner;
8 Chad Gordon; Jim Carroll; Carson Thurber; and Bill Scully (left at 7:00pm).

9 **SELECT BOARD MEMBERS ABSENT:** None.

10 **ALSO PRESENT:** Stuart Hurd-Town Manager; Daniel Monks-Assistant Town Manager and Planning Director;
11 Bhima Nitta-Power Guru; Rose Telford; Charlie Rossiter; Angus Hogan; David Pearson; Susan Beal; Jeff Noyes; Pam
12 Coffield; Jerry Byrd; Tim Marr-President of Southshire Community Solar; Mark Anders-BCRC; 15 citizens; Mike
13 Cutler-CAT-TV; Jim Therrien-Bennington Banner and Nancy H. Lively-Secretary.

14 At 6:04pm, Chair Donald Campbell called the meeting to order.

15 **1. PLEDGE OF ALLEGIANCE**

16 The Pledge of Allegiance was recited by all present.

17 **2. CONSENT AGENDA**

18 **A. MINUTES - MAY 13, 2019**

19 **B. WARRANTS**

20 *Carson Thurber moved and Jeanne Conner seconded to approve the Consent Agenda with the*
21 *Minutes of May 13, 2019 amended as follows:*

22 Line 94 - change "cognoscente" to "cognizant"

23 Line 145 - change "Jean" to "Jeanne"

24 Line 216 - change "Street" to "Spring"

25 Mr. Hurd also explained that the check to Shea and Mahar was to repair a stone at the cemetery
26 because when we sell a grave site we're selling perpetual care.

27 *The motion carried with Jim Carroll abstaining.*

28 **3. PUBLIC COMMENTS**

29 Charlie Rossiter commented that a center line should be painted on Silk Road and that there
30 should be a sign for Bennington at the intersection of Routes 2 and 7 in Williamstown. Mr. Hurd added
31 that all of the roads that were paved last year will be lined in FY20 this summer.

32 Rose Telford stated that the seniors were supposed to be taught about computers and the
33 phones, and wondered when that would be done. Mr. Hurd will get in touch with the responsible staff
34 and see where we are at with the process of hiring a professional to do the instruction.

35 **4. COMMUNITY SOLAR PROJECT**

36 Mr. Campbell and Mr. Scully recused themselves from this agenda item.

37 Vice-Chair Jeannie Jenkins stated that the discussion this evening is on the Shadowbrook Farm
38 Community Solar Project at 1819 Monument Avenue. Ms. Jenkins read from The Town Plan that it
39 “strongly supports the development of small scale 150kW or less electricity generation from solar
40 energy at homes, businesses, schools, or other institutions, as well as, community solar projects.
41 Community solar projects offer an opportunity for people who might not otherwise have access to the
42 benefits of solar energy generation to participate in a clean energy project. These projects may include
43 people who do not own property themselves, or those who own buildings with limitations by shading or
44 the size, orientation, or structural stability of the roof. Moreover, community solar projects offer
45 efficiencies of scale that make individual investments more viable for people of moderate incomes.”

46 Ms. Jenkins continued that the Board’s decision tonight is not whether the facility should be
47 built, but whether or not there is sufficient screening to make it a preferred site. The Planning
48 Commission approved the project with the proviso that the screening plan be improved by: a) making it
49 less linear and uniform in character; and b) making it more diverse in species, to create a natural looking
50 screen appropriate to its surroundings.

51 Bhima Nitta, owner of Power Guru Solar Electric Systems, shared the following information:

- 52 • This is a 150kW community solar project that will take up ½ acre from a total of 230
53 acres.
- 54 • It will sit 1,500’ west of Monument Avenue with the closest neighbors being the Coffield
55 property 800’ to the east.
- 56 • The plantings of white pines on the east would screen the side view of the solar array.
- 57 • The plantings that screen the southern views would be either dogwoods or arborvitae at
58 the southern hedgerow bordering the Beal and Hogan properties at a distance of
59 approximately 50’ in the Hogan property.
- 60 • If the Hogan’s were to build a house on that site, it may be 200’ or so from the hedgerow.
- 61 • Simulated photos of the proposed plantings were shared with the Board that showed the
62 views from the east and south in the winter and the summer.
- 63 • The original array proposal was at 30° from 2.5’ to 10.8’ and the current proposal is at 20°
64 from 2’ to 7.7’. The arrays will be closer together by 8’ and the total project width will be
65 reduced from 54’ to 48’.
- 66 • He is accountable for the screening.
- 67 • The idea that you can hide a solar project so that no one ever sees it isn’t practical.

68 *Board comments:*

69 Mr. Carroll: The dogwood will shed their leaves in the winter providing no screening. Aesthetically, the
70 screening should be arborvitae and/or other evergreens. Mr. Nitta agreed.

71 Ms. Conner: Can the arrays be seen from an elevated position, and Mr. Nitta stated that they could be
72 seen from ~25' in the air.

73 Ms. Conner: Noted that deer love to eat arborvitae which destroys the screening, and Mr. Nitta agreed
74 and could use white pine and spruce instead. Ms. Conner hopes this project is successful so that more
75 people would participate in community solar.

76 Mr. Gordon: Likes the current proposal and the looks of the adjustments that have been made with the
77 2nd set of plantings.

78 Mr. Thurber: Verified that Mr. Nitta had spoken to the neighbors, and Mr. Nitta stated that he had sent
79 them the simulations but not spoken to them.

80 *Citizens made the following comments:*

81 Angus Hogan:

- 82 ➤ They don't oppose the project, however, have asked them to move it 150' to the other side of
83 the hedgerow.
- 84 ➤ Photos were shared from the site of their proposed house showing existing dead trees.
- 85 ➤ A Bennington Banner 'Your Opinions' article that Susan Beal and David Pearson wrote in 2015
86 was shared where they stated that cell towers and solar arrays have a similar aesthetic impact.
- 87 ➤ The proposed screening "will degrade" the views that the Town have said are important.
- 88 ➤ A better screening choice would be a berm with plantings on top of it.

89 *Mr. Nitta commented: A berm would be 350' long, 20' wide, and 10' tall constructed with 2,500 yards of*
90 *material and extremely expensive.*

91 Susan Beal:

- 92 ✓ Even though the purpose of this discussion is screening, we have had many conversations with
93 the Vermont Land Trust to get to this point. Moving the location 150' isn't possible because
94 there are 230 acres conserved of which 17 acres are set aside in perpetuity with 10 acres of
95 those developable. "That is a nest egg for future generations."

96 Jeff Noyes:

- 97 ❖ The first he had heard of the project was on May 14th and he is concerned that there will be a
98 transfer station, extensive road work, and conduit that would be directly in his front yard.

99 *Mr. Nitta commented: There would be a 10'-12' extension of an existing road with some traffic during*
100 *construction and only for property maintenance purposes after that. The conduit would go up an*
101 *existing pole and the transformer would be 3'x3'x4'.*

102 Pam Coffield:

- 103 ▪ Does not oppose the project but can see more than just the side view of the array, the sun will
104 reflect off of them, and feels that some of the information that has come out isn't accurate.
- 105 ▪ Whatever the Planning Commission and/or Select Board decide is irrelevant because the Public
106 Utilities Commission (PUC) has the final decision.

107 Dan Monks explained that neither the Planning Commission or Select Board can issue permits so the PUC
108 can approve the project even if the Select Board does not. Mr. Nitta added that the neighbors have the
109 right to give their positions to the PUC for consideration.

110 Jerry Byrd:

- 111 ○ Has done a solar project with Mr. Nitta on Buck Hill Road that was done in two phases - Phase 1
112 for 100kW and Phase 2 for another 100kW, and it "is barely visible".
- 113 ○ The focus on screening "is absurd" since we have allowed the powerlines to scar our mountains.
- 114 ○ Several non-profits are in line to participate in community solar.
- 115 ○ "Solar panels are the most beautiful thing ever."

116 Tim Marr, President of Southshire Community Solar:

117 🗣 Spoke in support of community solar and the work ethic of Mr. Nitta.

118 ***Carson Thurber moved and Chad Gordon seconded to support the screening as recommended***
119 ***by the Planning Commission for the Power Guru Shadowbrook Farm Community Solar Project at 1819***
120 ***Monument Avenue, Bennington, Vermont, and request that the Public Utilities Commission require***
121 ***that the screening be vibrant and maintained.***

122 Mr. Gordon stated that the PUC could approve this regardless of the Board's action, or lack of
123 action, tonight, and Mr. Monks stated they could, however, the decision of the Board has a strong
124 influence on the PUC's decision. The Board has three options: 1. Approve it; 2. Not approve it because it
125 isn't appropriate for a preferred site; or 3. Take no action at all.

126 ***The motion carried with Jim Carroll opposed.***

127 **5. PROPOSED GRANT - KOCHER DRIVE PEDESTRIA PROJECT**

128 Mark Anders, BCRC, and Mr. Monks did the following presentation:

- 129 ● This project has been in the making for many years and pedestrians have no crosswalks and are
130 crossing 5 lanes of traffic.
- 131 ● It will go from East Road along Kocher Drive, crossing Route 7, to Aldi's and Molly Stark to
132 eventually connect to the Rail Trail that is very near completion.
- 133 ● The original federal funding was 'earmarked' which has not been done in at least 10 years and
134 we have received two other additional funding sources for the project.
- 135 ● Project funding and costs - "the worst case scenario" of remaining project costs -
136 \$951,506 - Construction (based on average bid price)
137 \$142,725 - 15% Contingency
138 \$ 61,379 - Construction Inspection
139 \$1,155,610 - Total
- 140 ● Local funds are at 14%, or \$160,745, instead of the usual 20%.
- 141 ● Aldi's had previously committed ~\$60,000 so the additional cost to the Town would be
142 ~\$105,000.
- 143 ● The request of the Board tonight is to authorize the Town to apply for a new VTrans grant to
144 bridge the funding gap since the lowest responsive bid in March came in nearly 60% above the
145 available funds.

- The grant applications are due in June with a decision made late summer. We would go out to bid in late fall for a spring construction.
- The local funds are not front loaded. They are paid as costs are expensed.

Chad Gordon moved and Carson Thurber seconded to authorize the Town of Bennington to apply for a VTrans grant for the Kocher Drive Bike/Ped Path. The motion carried unanimously.

6. MANAGER'S REPORT

Mr. Hurd reported that the Moose Caboose has requested a waiver of Vendor Ordinance length for food carts. Our Ordinance limits food carts and trucks to 7'x12' and this cart is 29' long stem to stern. The only exceptions to the Ordinance where waivers would apply is for antique vehicles or special interest vehicles. The Hampton Inn has given them permission to set up there.

Mr. Monks added that we routinely tell people that their vehicles don't comply with the Ordinance and cautioned the Board on setting a precedent for a vehicle that is 2 ½ times the acceptable length.

Ms. Jenkins: How does this differ from the caboose at the Bennington Station, and Mr. Monks answered that those requesting the waiver could go through the permitting process to declare it a building. Technically, the Vendor Ordinance requires that the "carts" be moved every evening which they probably haven't considered.

Carson Thurber moved and Jeannie Jenkins seconded to deny the Vendor Ordinance waiver for the Moose Caboose. The motion carried unanimously.

Mr. Campbell stated that the request was submitted respectfully and perhaps they can pursue other avenues for their business.

Mr. Hurd reported that all incumbents for the Boards and Commissions appointments are seeking reappointment, and the Energy Committee only has four applicants including Bill Scully, a Select Board member. Mr. Hurd also clarified that the Town Service Officer position remains on the books but is not an active position because the Agency of Human Services now appoint places for transients to find housing and meals in emergency situations. The Constable position is also not active.

It was the consensus of the Board that they do not need to interview incumbents seeking reappointment to the respective Board and Commissions, and to table the Energy Committee until there are more applicants.

Mr. Hurd reported that a work session needs to be set for the Water/Sewer Fund budgets for adoption, and the rates to be set at a regular Board meeting. The Work Session was set for June 17, 2019 at 5:30pm at the Bennington Fire Facility.

Mr. Hurd reported that we are moving to purchase the land for the relocation of the Morgan Spring delivery system. There is a potential vendor/financial partner but we have not heard back from them at this time.

185 Mr. Hurd reported that the Management Agreements are now in place among the PFOA parties
186 and bids will be out soon. Work will likely start in early summer with construction expected to take two
187 years to complete.

189 In addition, Mr. Hurd stated that the Charter was adopted last week and is on its way to the
190 Governor's desk for an anticipated July 1, 2019 effective date. Most of the changes that were taken out
191 pertained to "the way we do business as opposed to the business, itself". These were the recall
192 position, the Board removing a member for absenteeism, changes in the term and evaluation of the
193 Town Manager, and changes to the Downtown Improvement District. The Local Option Tax, however,
194 did pass. If and when that goes to the voters, and they approve the local option sales tax, that could
195 generate \$700,000-\$900,000 annually. 70% stays with the Town and 30% goes to the State to come
196 back to the Town in State properties in the form of pilot payments or payment in lieu of taxes.

197 On another note, Mr. Campbell noticed on the quarterly statement that the General Fund and
198 Highway Department are pretty close to 91% and 95% expended, respectively. Mr. Hurd responded that
199 we're not concerned about the General Fund and have been working with Mr. Joly on the overspending
200 in the Highway Fund. That is mostly due to the paving projects from the PFOA project. The auditors will
201 be looking at the General Activities Fund which is a combination of General, Highway, and Fire - "we'll be
202 OK'.

203 7. UPCOMING AGENDAS

204 The following are planned for the indicated meeting dates:

- 205 ✓ June 10th - UCS Plan and Goldstone Phase II for the Rec Center.
- 206 ✓ June 10th - The Cultural and Arts Council Presentation by Shannon Barsotti.
- 207 ✓ June 10th - Set DID tax rates.
- 208 ✓ June 17th - Water/Sewer Work Session, and the Manager will set staff salary increases.
- 209 ✓ June 24th - Set Water/Sewer tax rates, Building Bright Futures, the Initiative for Youth, and the
210 Bennington Rescue Squad.
- 211 ✓ On other dates - job diversity, economic development, recreation, housing and food services,
212 senior services, and health services. More to come.

213 8. OTHER BUSINESS

214 Mr. Gordon: Announced that the Underclassman Awards are on May 29th, the Senior Awards are
215 on June 5th, and Graduation is on June 7th

216 Ms. Jenkins: Announced that the 3rd Annual Southern Vermont Economic Summit was held last
217 Thursday that brought together Bennington and Windham counties. We were well represented and
218 there was a lot of energy throughout the day.

219 Mr. Campbell: A great job on Mayfest and a thank you to all of the legislators that helped push
220 our Charter changes through.

221 Mr. Carroll: Asked about the General Stark plaque, and Mr. Hurd said that we have the plaque
222 and we have the pole, we just need to get our crews to put it up. He will see that it is done before Battle
223 Day.

224 Mr. Thurber: Clarified that his remarks earlier about the bike trail were in no way directed to
225 Town staff, and Mr. Monks understood that.

226 Mr. Thurber: Announced that he would be resigning from the Board effective July 1, 2019 due to
227 a change of jobs and a change of residency. A thank you went out to everyone that gave him the
228 opportunity to serve on the Board, including past Chairman, Tom Jacobs.

229 Ms. Conner: Announced that PROUD, an uplifting community event involving kindergarten
230 through high school students will be taking place at the High School football field on May 31st at 6:00pm.

231 Ms. Conner: Has received an e-mail from a concerned citizen about the safety of the chickens
232 that cross the road from Route 7A to (perhaps Ore Bed Road?) and wondered if there was something we
233 could do. Mr. Hurd stated that we don't have any ordinances that would address this.

234 9. EXECUTIVE SESSION

235 A. REAL ESTATE

236 *At 8:20pm, Jeannie Jenkins moved and Jim Carroll seconded that the meeting was adjourned*
237 *finding that an Executive Session be held on Real Estate as premature public knowledge would place a*
238 *person involved in the subject matter at a substantial disadvantage. The motion carried unanimously.*

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241

242 Respectfully submitted,

243 Nancy H. Lively

244 Secretary

245