

1 **BENNINGTON SELECT BOARD**

2 **MEETING HELD REMOTELY VIA ZOOM**

3 **BENNINGTON, VERMONT 05201**

4 **JULY 13, 2020**

5 **MINUTES**

6 **SELECT BOARD MEMBERS PRESENT BY VIDEOCONFERENCE:** Donald Campbell-Chair; Jeannie Jenkins-
7 Vice Chair; Jeanne Conner; Jim Carroll; Bruce Lee-Clark; and Sarah Perrin.

8 **SELECT BOARD MEMBERS ABSENT:** Bill Scully.

9 **ALSO PRESENT BY VIDEOCONFERENCE:** Stuart Hurd-Town Manager; Daniel Monks-Assistant Town
10 Manager and Planning Director and Director of the COVID-19 Response; Dr. Trey Dobson-SVHC Medical
11 Director; Mike Cutler-CAT-TV; and Nancy H. Lively-Secretary.

12 **PUBLIC CALL INS:** Lynn Mazza; Rep. Mary Morrissey; Anna Messer; Francis (last name unknown); Mike
13 Bethel; Nancy White; and Sam Restino.

14 At 6:03pm, Chair Donald Campbell called the meeting to order and explained that, due to the
15 COVID-19 Pandemic State of Emergency declared by Governor Scott, and pursuant to Addendum 6 to
16 Executive Order 01-20, Act 92, this public body is authorized to meet electronically. There is no physical
17 location to attend this meeting, however, the public may view it on CAT-TV and call in at 1-646-558-8656
18 and enter the meeting ID, 86892257479, when prompted to do so. The call in information will be
19 periodically posted on the screen and the process for calling in was explained. If technology fails us, the
20 meeting will be continued at a time and place to be determined and all votes that are not unanimous
21 will be done with a roll call vote in accordance with the law.

22 **1. CONSENT AGENDA**

23 **A. MINUTES OF JUNE 15, 2020, JUNE 22, 2020, JULY 2, 2020, AND JULY 9, 2020**

24 **B. WARRANTS**

25 **C. LIQUOR LICENSES**

26 *Jim Carroll moved and Bruce Lee-Clark seconded to approve the Consent Agenda with the*
27 *Minutes of June 22, 2020 amended as follows:*

28 *Line 86, Add "All Board members agreed to watch the Meeting on CAT-TV."*

29 *The motion carried with Bill Scully absent.*

30 **2. COVID UPDATE**

31 Dr. Trey Dobson, SVHC Medical Director, did the following presentation:

- 32 • When COVID was determined as a pandemic 124 days ago, there were 28 deaths. We are now at
33 140,000.
34 • We have learned -

- 35 ✓ It spreads when people are in close contact via respiratory droplets from speaking,
36 coughing, sneezing or from hand-to-hand to mouth, nose, or face. It does not spread
37 from packages, money, etc.
- 38 ✓ "It spreads more efficiently than influenza and less efficiently than measles."
39 ✓ "The goal is not to follow guidelines - the goal is to reduce the transmission of the virus."
40 ✓ If everyone did these 5 things all the time, we would stop COVID:
- 41 ➤ Use hand hygiene in and out of a group and several times in a group.
 - 42 ➤ 6' distancing.
 - 43 ➤ Face masks if indoors. Outdoors transmission has not been documented
44 anywhere in the world.
 - 45 ➤ Screening and/or testing - if we had a test that everyone could take on their own.
46 It is expected that we should have such a test by this fall.
 - 47 ➤ The culture of people looking out for each other needs to happen everywhere.
- 48 • Masks will not protect you in crowded situations such as bars or parties.
 - 49 • We have had 1,200 positive tests in Vermont and that is expected to double.
 - 50 • If you have COVID, contact your doctor, isolate yourself, and you will probably - for the most
51 part - be OK. If you're sick, go to the hospital.
 - 52 • If you test positive and you're asymptomatic, you can return to work after 10 days. If you're
53 symptomatic, you can return to work 10 days from when the symptoms began and with no fever
54 for 3 days.
 - 55 • The tests must be PCR tests and not the ones given in Urgent Care Centers.
 - 56 • If you've been exposed to someone with COVID - that is being within 6' for at least 15 minutes
57 with no masks - then you should self-quarantine for 14 days or test negative after 7 days.
 - 58 • We will be living with COVID for another year or longer:
 - 59 • Don't be paralyzed with the fear of COVID while not being in denial of its existence.
 - 60 • There are 155 vaccines being worked on with the most effective ones currently being used for
61 the military. Some of the 155 are being developed with a process that has been effective for
62 other diseases, so time will tell if they will be successful for COVID.
 - 63 • We expect pockets of outbreaks to occur especially with the change of seasons and more people
64 spending more time indoors.
 - 65 • There were recently 30 people that have tested positive at Manchester Urgent Care from the
66 Antigen tests which are less expensive and not as accurate. These are not the PCR tests that
67 have been approved by the State of the ones used by hospitals. These people are being tested
68 with the PCR tests in Londonderry to determine if they are actually positive or are actually
69 negative.

70 *Board questions/comments answered by Dr. Dobson:*

71 Ms. Conner: Explain the difference between children, teenagers, and adults as far as contacting and
72 transmitting the disease. Also, clarify why the death rate is dropping even though the cases are
73 increasing. Dr. Dobson: The model is that children and teenagers are less likely to become symptomatic
74 because they may have a better natural immune system to COVID but we don't know that for sure. And,
75 because they are not symptomatic due to a lower level of the virus in their systems, they are less likely

76 to transmit the disease. We expect the death rates to increase over the next few weeks but not at the
77 rate we saw in April.

78 Mr. Campbell: Is it correct that the State can't force someone to take a test and that the results are
79 protected by HIPPA laws? It is required that positive result numbers of certain diseases be reported to
80 the State, however, individual names are withheld. Businesses can make testing a requirement to be
81 able to work there.

82 Mr. Hurd: Added that the Town is dealing mostly with outdoor activities and discussing how we can re-
83 open the town offices. We are not close to coming up with a plan on how to do that.

84 3. COMMUNITY POLICING UPDATES

85 Ms. Jenkins updated the following:

- 86 ○ The Community Policing and Related Topics Section is up on the Town's website. It
87 includes the scope of work with the Vermont Partnership for Fairness and Diversity
88 (VPFD), resources from the IACP that includes model policies, links to resources at the
89 Bennington Free Library, Park McCullough Library, and the school system.
- 90 ○ Applications for the Community Policing Advisory Boards were due today at 5:00pm. Ms.
91 Conner, Michele Johnson (Town Contractor Administrator), and Curtiss Reed from VPFD
92 will review the applications and conduct interviews for the positions.
- 93 ○ Due to a conflict of interest, Dr. Mary Gannon will not take part in the VPFD's Community
94 Policing work in Bennington.
- 95 ○ The training for the Select Board, Police Chief, Police Lieutenant, Town Manager,
96 Assistant Town Manager, and Community Development Director will take place this
97 week.
- 98 ○ The June 4th incident at Lake Paran has been disturbing to many in the community
99 because of the language used by a white male adult to a black teenager. The similarities
100 to the killing of George Floyd "has made it impossible to not see this as an act of racism".
101 "However, this is not the place for that determination." Even though the teenager did
102 not press criminal charges, the police issued a municipal citation for disorderly conduct
103 and fine. As required when any bias may be involved, the incident has been logged into
104 the Bias Reporting System for review by the Attorney General's office.

105 *Public comments/questions:*

106 Lynn Mazza: If it's obviously racism to everyone, why can't we refer to it as such everywhere? Ms.
107 Jenkins answered that the reason this is not the place is because no one on the Board has seen the
108 police report and the purpose of logging any possible bias incident into the Reporting System is so the
109 Attorney General's office can use their resources to do the research that needs to be done to look at it.

110 Lynn Mazza: Expressed her frustration that we can't call the obvious racism incident racism at all local
111 levels without the Attorney General declaring it so. Ms. Jenkins stated that the only parties there were
112 the ones involved, and with no actual complaint filed, we don't know what really happened. And, even
113 if the Community Boards were in place, we would still have to follow the same procedure. Mr. Lee-Clark
114 added that it is required by State law to report this to the Bias Reporting System so we have no choice

115 but to do so, and noted that all we know is what was in the Banner. Mr. Carroll reiterated that we
116 haven't seen the report and it would "be irresponsible" for us to make a judgement.

117 4. SVC USE AS A SUMMER CAMP

118 Mr. Campbell stated that there are many unknowns - what happens when a Board dissolves, how
119 a bankruptcy works, what happens when a bankruptcy is protected, etc. The Town's specific role is built
120 around Building, Fire and Life Safety and any ordinances that cover the operation while the State
121 regulates the COVID guidelines. This is a private transaction between consenting parties, however, noise
122 has been an issue and all of the documentation is in place to take judicial action tomorrow should that
123 not improve this evening. "The Board will not tolerate any anti-Semitic speech during our meeting."

124 Mr. Monks added that we are working closely with the State on the COVID guidelines. We have
125 inspectors in the building to ensure that the Building Fire and Life Safety codes are being met so they are
126 also seeing the numbers of people in the dorms. This information has been reported to the State for
127 them to determine if any correction needs to be made.

128 We have also had multiple conversations with our attorneys and the camp director as to the
129 bankruptcy, but this does not impact how they are using the property. If, however, the purchase of the
130 property occurs, the long term use will be brought before the Development Review Board (DRB) for their
131 decision, as well as, the opportunity for any public comments that there may be at that time.

132 *Board comments/questions:*

133 Mr. Carroll: Would any change of use of the property require DRB approval? Mr. Monks answered, yes.
134 The only use that would not require review is if it were to become another college.

135 Mr. Carroll: Read from an e-mail sent by Mr. Monks to Senators Campion and Sears: ".....the Town has
136 no control over private entities regardless of how important to the community the property involved
137 may be.....the accusation of a lack of transparency on behalf of the Town is simply not true, and
138 furthermore, does not help to address the concerns that residents may have."

139 Mr. Carroll: The camp is also paying the Sheriff's Department for campus security.

140 Ms. Conner: What is the situation with the BATS trails? Mr. Campbell responded that the Vermont Land
141 Trust has a permanent conservation easement on the wooded area above the mansion to the top of the
142 mountain which allows for pedestrian access and are confident that access will remain regardless of who
143 the new owners will be. While the camp is going on, however, because of COVID, access to the trails
144 through the campus will temporarily be interrupted. Trails can still be accessed from points other than
145 through the campus.

146 Mr. Campbell: Asked about the bankruptcy. Mr. Monks noted that the bankruptcy has currently been
147 dismissed but will be refiled. Any purchaser of the property would welcome a bankruptcy or foreclosure
148 so as not to have to take on all of the SVC debt. It is likely that we will be looking at a bankruptcy or
149 foreclosure auction before the property changes hands.

150 *Public comments/questions:*

151 Representative Mary Morrissey: Has been contacted by numerous concerned citizens about how the
152 presence of this camp has "slid under the radar" and how it will affect the COVID protocols that our

153 citizens have followed for 4 months and “virtually been shut down as a community”, as well as, the
154 excessive noise that has been promised to stop and hasn’t. How is the weekly testing that is supposed
155 to be happening taking place? Mr. Monks stated that Paul Dansereau has sent much information to the
156 State and the State Senators have reached out directly to the Attorney General’s office, Agency of
157 Commerce and Community Development, and the Department of Public Service asking them to monitor
158 the situation. The Town has no authority to enforce the State guidelines concerning COVID, but the
159 State has been satisfied, at this point, that the camp is following their guidelines. Having said that, the
160 State is even limited on enforcing their own guidelines because most of them are only
161 “recommendations”.

162 Rep. Morrissey: Is there any construction taking place on the historic mansion? Mr. Monks answered Mr.
163 Dansereau confirmed that there is not, and added that those with noise complaints should contact the
164 Police Department at 442-1020 to document the complaints should a judicial action need to be taken.

165 Anna Messer: If this group purchases the property, would they be paying property taxes? Mr. Monks
166 noted that there are different categories for tax exemption so we can’t answer that until we know what
167 their exact use will be.

168 Francis (last name unknown): Who spends \$300,000 on electrical work for 6 weeks? Mr. Monks
169 responded that there is a reputable, licensed electrician there taking care of all of the fire safety issues
170 with smoke detectors, fire alarms, etc. but we can’t speak to how much this is costing. There is no
171 evidence as to the \$300,000, nor are we entitled to know. The State regulates electrical permits, the
172 Town does not.

173 5. REQUIREMENTS FOR SUBMITTING BALLOT ITEMS

174 Mr. Campbell stated that the question had been brought up as to petitioning requirements for
175 local ballot initiatives due to COVID and read a letter from Cassandra Barbeau, Town Clerk on the subject
176 where she recommends not to waive the petition signature requirement contained in the Charter.

177 Mr. Lee-Clark clarified that the person who brought this issue to him was not the one referenced
178 in Ms. Barbeau’s letter. Nevertheless, it seemed to make “some modicum of sense given the decision by
179 the Secretary of State regarding candidates”. The health risk of getting petition signatures is the same as
180 getting signatures to run for office.

181 *Public comments/questions:*

182 Mike Bethel: Will go and get petition signatures as is required. If done in time for November, it will be
183 on the November ballot, and if not, then it will be on the March ballot. Mr. Hurd: Clarified that there are
184 Public Hearings required before a vote and it is a Board decision when to put an item on the ballot. It is
185 unlikely that there would be time to place anything on the November ballot plus all the additional work
186 involved with numerous absentee ballots. To then add a local issue on top of that would not be
187 warranted.

188 Ms. Perrin recommended that this Agenda item be tabled.

189 6. MANAGER’S REPORT

190 Mr. Hurd reported the following:

- 191 ✓ *PFOA Construction:* Contracts 5, 6, and 7 are all nearing completion. Most will be on municipal
192 water with a few remaining on the POET systems or be hooked up to alternate wells because our
193 system cannot safely access their property. Contracts 8 and 9 for East Road, Willow Road, and
194 Chapel Road, will more than likely go into 2021.
- 195 ✓ *WWTF Upgrade:* The contractor is working there now and final punch list items are expected to
196 be completed by late fall.
- 197 ✓ *Financial Condition for FY2020:* Current year-end report will be on the July 27th meeting.
- 198 ✓ *Tax Rates 2020:* Proposed tax rates will be on the July 27th meeting.

199 **9. UPCOMING AGENDA**

200 July 27, 2020 Meeting - Set Tax Rates

201 July 27, 2020 Meeting - FY2020 Financial Condition

202 July 27, 2020 Meeting - Community Policing Report

203 July 27, 2020 Meeting - BCIC Scoping Report to Use Abandoned Trolley Bed Between Bennington
204 and Williamstown for a Bike Path

205 July 27, 2020 Meeting - Opioid Task Force

206 July 27, 2020 Meeting - Street Mural All Black Lives Matter

207 Discussion ensued as to the pros and cons of meeting in person or via Zoom. The next meeting
208 on July 27, 2020 will be via Zoom and meeting in person vs. Zoom will be discussed at that time.

209 *July 20, 2020 Meeting - Report on An Evaluation of a Public Officer*

210 **8. OTHER BUSINESS**

211 Ms. Conner reported the following:

- 212 ❖ The Rec Center will be closed August 17th through September 8th for annual maintenance and
213 some additional construction. Members may frequent other Berkshire YMCA facilities during
214 that time. Contact the Rec Center to coordinate this.
- 215 ❖ The pool reservation system is working well at 1 person/lane.
- 216 ❖ Family pool time with 1 parent and 1 child/lane will be on Tuesday and Thursday evenings from
217 5:00-6:00pm. Call to make a reservation.
- 218 ❖ Camp Youth Program is going well at Willow Park serving 30-35 kids/week split into two groups.
219 The SVVSU lunches are being delivered to the campers Monday through Friday, and day care for
220 after-hours is available as needed.

221 Mr. Carroll reported the following:

- 222 ❖ The COVID-19 Rental and Mortgage Assistance Program just started this morning that will help
223 low income Vermont homeowners who have fallen behind on their mortgage and facing
224 financial hardship due to the COVID-19 pandemic. The program will pay 3 months mortgage
225 directly to the mortgagor to prevent foreclosure. It is administered by the Vermont Financial
226 Housing Agency and is prioritized to those most in need first. Information is at VFHA.org/map.

227 ❖ The renters program, also implemented today, is first come/first serve. There are direct links for
228 assistance on Mr. Carroll's Facebook page.

229 **11. PUBLIC COMMENT**

230 Mike Bethel: Disappointed that a half an hour was spent on a COVID update, as well as, forcing people to
231 wait until the end of the meeting for Public Comments. Meetings should be held in person again.

232 Mike Bethel: Will there be ADA access to the Putnam Block? Mr. Monks: Yes, they are required to
233 comply with the ADA.

234 Mike Bethel: Will the Putnam Block Phase 2 be a TIF? Mr. Monks: There hasn't been a request yet and
235 Phase 2 isn't imminent at this time.

236 Mike Bethel: When is the Splash Park going to be done? Mr. Monks: We're working with the contractors
237 now to try and come up with a time line.

238 Nancy White: We need to start utilizing the Fire House to hold in-person meetings. What is the capacity
239 of the ground floor of the Fire House? Mr. Hurd: That would have to be calculated for seating
240 arrangements.

241 Nancy White: The precedent of having a local election held in March was set when the Town had the
242 vote on the Charter changes in June when the deadline for March wasn't met. If Mr. Bethel gets the
243 signatures in time for the November election, it should take place in November.

244 Sam Restino: Meetings should remain on Zoom - even though it's inconvenient to call in - until it's safe
245 to meet in person. Perhaps having Public Comments at the beginning and end of the meeting would
246 pacify those that are impatient.

247 Sam Restino: The high grass should be mowed at the corner of East Road and Branch Street to improve
248 the image of the Town and for safety reasons. Perhaps volunteers could maintain that property with
249 permission from the Town.

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251

252 *At 8:43pm, Bruce Lee-Clark moved and Sarah Perrin seconded to adjourn the meeting. The*
253 *motion carried with Bill Scully absent.*

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256

257 Respectfully submitted,

258 Nancy H. Lively

259 Secretary

260