

1 BENNINGTON SELECT BOARD

2 MEETING HELD REMOTELY VIA ZOOM

3 BENNINGTON, VERMONT 05201

4 JULY 22, 2020

5 MINUTES

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

8 **ALSO PRESENT BY VIDEOCONFERENCE:** Stuart Hurd-Town Manager; Mike Cutler-CAT-TV; and Nancy H.
9 Lively-Secretary.

10 **PUBLIC CALL INS:** None.

11 At 6:00pm, Chair Donald Campbell called the meeting to order and explained that, due to the
12 COVID-19 Pandemic State of Emergency declared by Governor Scott, and pursuant to Addendum 6 to
13 Executive Order 01-20, Act 92, this public body is authorized to meet electronically. There is no physical
14 location to attend this meeting, however, the public may view it on CAT-TV and call in at 1-646-558-8656
15 and enter the meeting ID, 87028601470, when prompted to do so. The call in information will be
16 periodically posted on the screen and the process for calling in was explained. If technology fails us, the
17 meeting will be continued at a time and place to be determined and all votes that are not unanimous will
18 be done with a roll call vote in accordance with the law.

19 Mr. Campbell recognized the passing of Board Member Bill Scully for his service to the community
20 and extended the Board's sympathy to his family. More will be said about him at the July 27th meeting.

21 **1. REPORT ON THE EVALUATION OF PUBLIC OFFICERS**

22 Mr. Campbell stated that Act 56 provides that the Town Manager, or members of the Select Board,
23 have the function of reviewing police complaints and evaluating the public officers involved. We have been
24 charged with reviewing allegations of substantial misconduct, alleged unprofessional misconduct by police
25 officers. The Select Board realizes that specific allegations of misconduct by a police officer must be
26 treated as confidential, we have already reviewed the complaint before tonight in Executive Session.
27 Tonight is not a regular Select Board Meeting. What we're doing tonight is considering findings of the Chief
28 of Police and agreeing or disagreeing with those findings based largely on advice from Captain Scribner
29 from the Vermont State Police and our Town Counsel. Our interim process in reviewing a complaint is
30 summarized as follows:

- 31 1. When a complaint is filed, the Police Chief writes a report addressing the complaint.
- 32 2. The Select Board acting as the Citizen Review Board, reviews and documents the report.
- 33 3. The Board decides whether to accept the Chief's report.
- 34 4. If the Board identifies potential illegal conduct by a particular officer, all materials are kept
35 confidential while an investigation takes place.
- 36 5. If the Board decides that the evidence may support findings of illegal conduct by a particular officer,
37 the Board may forward the report to the State's Attorney or Attorney General for further review.

38 6. If the report indicates no cause for criminal charges or police policy violations and the Board finds
39 no basis for overturning the Police Chief's conclusions, the report and all supporting materials are
40 made public.

41 *Question to the Board - "Do you accept the Police Chief's report on the complaint filed on May 27, 2020*
42 *first by Liz Fiscoff, and then by Joel Fowler and Cassandra Keating? And, if not, how do you wish to*
43 *proceed?"*

44 *Bruce Lee-Clark moved and Jeannie Jenkins seconded regarding the complaints filed against*
45 *various members of the Bennington Police Department by Joel Fowler and Cassandra Keating; after*
46 *reading the report of the complaints prepared by the complainants and responses by the Bennington*
47 *Police Department, and after reviewing the video footage from various dash and body cameras, the*
48 *Bennington Select Board finds that they are in concurrence with the judgement of the Chief of Police*
49 *regarding complaints 1-5 and 8, that the complaints were unfounded. Regarding complaints 6 and 7,*
50 *they were not properly presented by appropriate individuals, and therefore they were not investigated or*
51 *considered. Inasmuch as the complaints are dismissed, the full record, including any video viewed by the*
52 *Select Board in this matter will be released to the public immediately. The motion carried unanimously.*

53 *Bruce Lee-Clark moved and Jim Carroll seconded regarding the complaints against various*
54 *members of the Bennington Police Department, while the Select Board, sitting as the advisory council of*
55 *citizens, found that the complaints did not identify criminal acts or civil wrongs or violations of*
56 *departmental policy, the Board also wishes to express its concerns regarding several of the practices*
57 *depicted in the complaints filed. These include speaking to a complainant about a serious matter while a*
58 *young child was present and could overhear, addressing matters of great concern in a very public*
59 *location, and pro-active contact with landlords regarding prospective tenants. We believe that though*
60 *these are not violations of departmental policy, and that officers acted with courtesy, we also believe*
61 *that better judgment could have been used in conducting investigations. The practice of pro-active*
62 *contact with landlords and sharing information not available through a standard Freedom of Information*
63 *Act (FOIA) request should be discontinued immediately unless doing so would place an individual in*
64 *imminent danger. We request that the department examine its practices and protocols in light of these*
65 *community expectations and standards. The motion carried unanimously.*

66 The Board informally agreed to release the videos at this time.

67 The police report will be released and the body camera and dashboard camera videos were aired on
68 CAT-TV as follows:

- 69 1. In front of the laundromat - Complaint #3.
- 70 2. In Hannaford parking lot with expletives deleted - Complaint #4.
- 71 3. In the Former Middle School parking lot and has been pixilated - Complaint #8.
- 72 4. Dashboard camera video with no sound - Complaint #8.
- 73 5. Dashboard camera video when officer made the arrest after the police chase.

74 Mr. Hurd stated that the materials will be available for public review on the Police Department
75 website and the Town website under this meeting's agenda as soon as we can get them loaded on.

76 2. PUBLIC COMMENTS

77 None.

78 *At 6:40pm, Jeanne Conner moved and Sarah Perrin seconded to adjourn the meeting. The motion*
79 *carried unanimously.*

80 Respectfully submitted, Nancy H. Lively, Secretary