

BENNINGTON SELECT BOARD
MEETING HELD REMOTELY VIA ZOOM
BENNINGTON, VERMONT 05201

SEPTEMBER 28, 2020

MINUTES

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

SELECT BOARD MEMBERS ABSENT: None.

ALSO PRESENT BY VIDEOCONFERENCE: Stuart Hurd-Town Manager; Daniel Monks-Assistant Town Manager and Planning Director and Director of the COVID-19 Response; Attorney Merrill Bent; Jonah Spivak; Mike Cutler-CAT-TV; and Nancy H. Lively-Secretary.

PUBLIC CALL INS: Nancy White.

At 6:04pm, Chair Donald Campbell called the meeting to order and explained that, due to the COVID-19 Pandemic State of Emergency declared by Governor Scott, and pursuant to Addendum 6 to Executive Order 01-20, Act 92, this public body is authorized to meet electronically. There is no physical location to attend this meeting, however, the public may view it on CAT-TV and call in at 1-646-558-8656 and enter the meeting ID, 84998170121 when prompted to do so. The call in information will be periodically posted on the screen and the process for calling in was explained. If technology fails us, the meeting will be continued at a time and place to be determined and all votes that are not unanimous will be done with a roll call vote in accordance with the law.

1. CONSENT AGENDA

A. MINUTES OF SEPTEMBER 14, 2020

B. WARRANTS

Bruce Lee Clark moved and Jeannie Jenkins seconded to adopt the Consent Agenda with the Minutes of September 14, 2020 amended as follows:

Line 28 and Line 138, Change "Farrara" to "Ferrara"

Line 38 and Line 41, Change "GEBICS" to "GBICS"

Line 133, Change "counsel and the police department." to "counsel, police department and the State's Attorney's office".

The motion carried unanimously.

2. PUBLIC COMMENT

Nancy White: Noted that we were told that we would have an update on recreation in January or February that didn't happen, and Mr. Hurd stated that will be in late October/early November as we prepare for budgets.

35 Is our Rec Center now classified as a 'Regional Recreation Community Center'? Mr. Hurd responded that
36 this was the goal when we contracted with the YMCA, and, with resident and non-resident
37 memberships, "it always has been". The Rec Center will be a future agenda item.

38 Is Shannon Barsotti writing grants for non-profits through the Town Office? Mr. Hurd explained that with
39 most State and Federal grants it is a flow through system and the Town must be the applicant. The
40 grant for the YMCA is for fencing at the Rec Center that the YMCA will be overseeing.

41 **3. POLICY - DISPLAYS, SIGNS, AND ART ON PUBLIC PROPERTY**

42 Attorney Merrill Bent explained that there will be more people coming forward with various
43 forms of expression they want displayed in public areas that the Town controls. There is a difference
44 between protected First Amendment free speech and Government speech. A policy will define the lines
45 between the two, as well as, the process for those that want to pursue their expression in public areas.
46 The messages that appear on public property should be from the Town, and not just the individual.

47 *The Board suggested the following changes to the Policy as it had been presented:*

48 Mr. Campbell -

- 49 • Change "Selectboard" to "Select Board" throughout the document.
- 50 • Section 2. Public Safety, Line 1, Change "Prior to any review by the Town of Bennington
51 Selectboard, all Projects shall be submitted to the Bennington Department of Public
52 Works (DPW) and in the case of State Highways and Class 1 Town Highways to VTRANS"
53 to "Prior to any consideration by the Town of Bennington Select Board, all projects
54 proposed to be on a public road shall be submitted by the Town Manager to the
55 Bennington Department of Public Works (DPW) and in case of State Highways and Class 1
56 Highways to VTRANS"
- 57 • Section 4. Project Locations, Paragraph 1, Lines 2-5, Delete the second sentence.
- 58 • Section 4. Project Locations, Paragraph 3, Line 4, Change "have members of" to "have
59 multiple households of"
- 60 • Section 6. Design Guidelines and Standards, Paragraph 1, Line 1, Change
61 "VTRANS,Projects" to "VTRANS, the Town Manager and such other relevant jurisdictional
62 authorities that may be applicable, Projects"
- 63 • Section 6. Design Guidelines and Standards, B. Standards, 8., Line 2, Change "promote" to
64 promotes"
- 65 • Section 6. Design Guidelines and Standards, B. Standards, 16., Line 2, Change "months.
66 The" to "months unless extended per Section 8. Post-Installation, 5. The"
- 67 • Section 7. Review Process, Step 2 Review by Selectboard, Paragraph 1, Line 2, Change
68 "conditions, the" to "conditions, and after initial application is deemed sufficient for
69 review by the Town Manager, the"
- 70 • Section 7. Review Process, Step 2 Review by Selectboard, Paragraph 1, Line 3, Change
71 "next regularly" to "next available regularly"
- 72 • Section 7. Review Process, Step 3 Installation, Paragraph 3, Line 3, Change "right-of-way."
73 to "right-of-way, e.g., temporary barriers."
- 74 • Section 8. Post-Installation, 3., Line 2, Change "painting" to "Project"

75 Mr. Lee-Clark -

76 ***Bruce Lee-Clark moved and Sarah Perrin seconded the following:***

77 ***Section 3. Request Process, Line 4, Change "deliberation." to "deliberation, or in the***
78 ***alternative, accompanying by a petition describing the Project and signed by 2% of the voters of***
79 ***Bennington."***

80 Mr. Lee-Clark is still not comfortable with the requirement of a sponsor and this gives an
81 alternative method to those wanting to do a Project.

82 Ms. Bent stated that if those requesting a Project couldn't get a Select Board sponsor, but did get
83 the required 200 signatures, the project probably wouldn't receive the Select Board's approval anyway.
84 Due to the current "trend" of people wanting to do this type of thing, may become time consuming to
85 the Board.

86 Ms. Jenkins likes the sponsorship idea with fairness in mind for those making the request and the
87 Board, but can also see the Board's interest in knowing if there were 5% of the voters in favor of the
88 request. The petition should be secondary to a sponsor and it should be 5% of the voters instead of 2%
89 so we have a more significant number of voters that have signed a petition. "I don't want it be an
90 either/or, I would want it to be a one/two."

91 Mr. Carroll noted that an individual can come before the Board, after the Town Manager has
92 deemed their request reputable, so he doesn't see the point of adding another layer to the process. Mr.
93 Lee-Clark clarified that it isn't an additional layer, it is an alternative to those that are not comfortable
94 coming to the Select Board.

95 Mr. Monks reminded everyone that this is Government speech, not Freedom of speech, meaning
96 "this is what the Select Board wants to put out there". The petition isn't appropriate and would create a
97 burden on the Town Clerk's office for each one that may be presented. Any citizen can come before the
98 Board during Public Comments to make their case without a petition.

99 Ms. Conner wondered if there could be a mechanism in place at the idea phase of a request that
100 may eliminate an individual from spending a lot of time, and potential, money on something that
101 wouldn't be feasible. And, the verbiage of providing "the highest quality artwork" is too vague.

102 Ms. Bent noted that 5% is the norm for petitions, and perhaps the Board would want to state
103 that just because an individual has gotten a Board sponsor doesn't mean that their request will be
104 successful. Also, suggested the following change to address Ms. Conner's concerns:

- 105 • Section 6 Design Guidelines and Standards, A. Guidelines, 2., Line 1, Change "Provide the highest
106 quality" to "Provide professional quality"

107 Mr. Campbell stated that this is a policy, not an ordinance, so we can change it if we feel it isn't
108 working.

109 ***Bruce Lee-Clark moved and Sarah Perrin seconded to amend the previous motion as follows:***

110 **Section 3. Request Process, Line 4, Change “deliberation.” to “deliberation, or if no sponsor is**
111 **found, a proposal may be accompanying by a petition describing the Project and signed by 5% of the**
112 **voters of Bennington.”**

113 Ms. Conner felt that it may not be clear to individuals that a petition will only bring their Project
114 to the Select Board for a decision and not go to the voters. Mr. Campbell noted that Ms. Bent will add
115 language to clarify that.

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

117 *Board suggestions to the Policy as presented continued:*

118 Ms. Jenkins -

- 119 • Section 7 Review Process, Delete the first sentence “The Primary Contact must obtain a
120 Selectboard sponsor who will assist the Primary Contract and any group or individual seeking the
121 project with the review process.”

122 Mr. Carroll - Agrees with the change above.

123 Ms. Conner - would like clarification of the process, and Ms. Bent stated 1st - Ask for a sponsor; 2nd - Go
124 to the Town Manager for an administrative review, and if it follows all of the guidelines; 3rd - It will go to
125 the Select Board as a whole.

126 Ms. Perrin - Suggests the request go to the full Board to see if there is an interest to sponsor it further to
127 eliminate a Board member agreeing to sponsor but then not ultimately voting for it.

128 *Ms. Bent will send a red lined version of the Policy showing all of the suggestions, as well as, the*
129 *three comments from the BBC that she has but were not discussed at the meeting, for review at the*
130 *October 12, 2020 Select Board meeting.*

131 ***Jeannie Jenkins moved that we keep the Interim Policy in place until October 12, 2020. The***
132 ***motion failed due to a lack of a second.***

133 **5. BATTLE DAY REVIEW**

134 Jonah Spivak shared the following:

- 135 ➤ We had our 243rd Celebration of the Battle of Bennington six weeks ago.
- 136 ➤ Thanks you’s went out to the following organizations and individuals:
 - 137 ✓ The Town - Stu Hurd, Shannon Barsotti, Sarah Perrin
 - 138 ✓ The Police Department - Paul Doucette
 - 139 ✓ All Fire Departments - Local and Regional - Jim White, Rick Knapp, Harry Ostrander
 - 140 Crawford
 - 141 ✓ Speakers at the Battle Ceremony - Including the Two Student Speakers - Sophia Anisman
 - 142 and Chase Dobson
 - 143 ✓ The Entire 2020 Celebration Committee

144 Our goals of celebration during a pandemic year were to:

- 145 ○ Remember those who fought in the Battle of Bennington

- 146 ○ Remember the essential workers who helped behind the scenes during the Battle
- 147 ○ We are the only community in the United States that has continually celebrated its battle since it
- 148 took place.
- 149 ○ Honor our current day essential workers as defined by the State
- 150 ○ Honor our volunteers and acknowledge and recognize the contributions of ordinary Vermonters
- 151 - including our Veterans
- 152 ○ Involve the people of Bennington and the surrounding towns as inclusively as possible
- 153 ○ Affirm Bennington's position as one of the beacons in Vermont history
- 154 ○ Creating favorable publicity for the Town at the local and State level with outreach to our
- 155 neighboring states
- 156 ○ Create a celebration that works both live, on TV, and Facebook. 5,200 people watched it on
- 157 Facebook and thousands on CAT-TV. Mr. Spivak continued that the overall consensus was that
- 158 we met our goals and exceeded our expectations.

159 Mr. Spivak read the letter of appreciation from Lemay Barkley, a 96-year old, World War II veteran
160 for being able to watch this on television. A plaque recognizing CAT-TV's Service to the Community will
161 be presented to them at a later date.

162 The Board is appreciative of all of the work that went into the celebration.

163 4. COMMUNITY POLICING UPDATE

164 Mr. Lee-Clark reported the following:

- 165 ❖ On September 23rd, 4 community members and 3 permanent committee members met to
- 166 discuss three policies - Response to Resistance Use of Force, Duty to Intervene, and Use of
- 167 Conductive Electric Weapons.
- 168 ❖ The meeting took 3 hours this time but may not always be this long.
- 169 ❖ The Committee worked diligently and creatively particularly in the sections of purpose, policy,
- 170 and definitions.
- 171 ❖ The drafts have been reviewed by Mr. Monks, are currently with Mr. Lee-Clark, and will be
- 172 returned to the Committee to review, as well. The hope is that their review will be completed by
- 173 the end of this week.
- 174 ❖ After the Committee's review, they will be reviewed by the Police Chief, Town Counsel, and the
- 175 State's Attorney's office. After their reviews, they will go to the Town Office for distribution, and
- 176 hopefully, to the Select Board at a late October meeting where the public will be able to attend.
- 177 ❖ The next Committee meeting will be October 7th from 4:00pm-7:00pm to look at the Fair and
- 178 Impartial Policing Policy with the rest of the agenda posted on the Town's website.
- 179 ❖ Mr. Lee-Clark reiterated Ms. Jenkins high praise of the community members, and was also
- 180 challenged by their expertise and preparation. The participation of Patrolman Dan Ferrara has
- 181 been extremely helpful in this process.

182 Ms. Conner reported the following:

- 183 ❖ To help bring in community members comments that haven't already participated in the process,
- 184 we are going to be placing 5 boards around town that have the Mission Statement and a
- 185 question to answer on them. Each board will be up for two weeks and we will be doing 3 rounds

186 with a different question every 2 weeks. They will be monitored daily to remove any
187 inappropriate comments.

- 188 ❖ This will begin on October 1st and the 5 locations are: The exterior of GBICS on Dewey Street; St.
189 Peters Sanctuary bulletin board on the Pleasant Street side; inside Powers Market; the exterior of
190 the Rec Center near the main entrance; and the exterior of the Town Office.
- 191 ❖ All exterior locations are undercover and sticky notes and pens will be provided.
- 192 ❖ The first question as suggested by our Consultant Curtiss Reed, is “What do you expect of a
193 police officer?”

194 Ms. Jenkins reported the following:

- 195 ❖ We had signed a contract with the Vermont Partnership of Fairness and Diversity to work with
196 Curtiss Reed in addressing the 25 recommendations that we received from the IACP. This has
197 been very beneficial in having an initial meeting to gather community input on Community
198 Policing, provide guidance and support to the Select Board Work Group and Police on
199 Community Policing, a training for the Select Board, Police Chief, Police Lieutenant, Town
200 Manager, Assistant Town Manager, and Community Development Director, selection and
201 training of community researchers, community meeting to develop the Town’s Vision Statement
202 and the police Mission Statement, and developing the review of police policies by using the
203 community committee model.
- 204 ❖ After consultation with the Police Chief, Police Lieutenant, and Town Management, the Work
205 Group would like to request an additional \$6,415 to continue the work with the Partnership
206 through December. This would allow for continued work with the police department and an
207 additional full day of training with the Department’s leadership (\$5,830), and a small number of
208 hours of consultation with the Select Board Work Group (\$585).
- 209 ❖ This would bring the cost of the Partnership from \$21,700 (remembering that the VT Community
210 Foundation contributed \$22,000) to \$28,115.

211 *Jeannie Jenkins moved and Bruce Lee-Clark seconded to extend the contract with the Vermont*
212 *Partnership of Fairness and Diversity to December 2020 for an additional \$6,415 as described above.*

213 Mr. Campbell thanked the Vermont Partnership of Fairness and Diversity for their work and the
214 Vermont Community Foundation for their contribution.

215 Ms. Perrin asked how many people would be at the training, and Ms. Jenkins answered that the
216 Police Chief wanted this for the leadership staff which is 7 or 8 officers to insure that the leadership staff
217 of the police department is well versed in community policing.

218 *The motion carried unanimously.*

219 **6. MANAGER’S REPORT**

220 Mr. Hurd reported as follows:

- 221 ▪ Community Engaged Policing - Joined with 24 members of our Police Department at a 2-day
222 training on September 14th and 15th put on by Rick Arrington. Mr. Arrington is an experienced
223 police officer and consultant on Community Policing. It was very informative and useful. For
224 example, Mr. Peel in the 1800’s had given 9 statements about “What is Community Engaged

- 225 Policing?" that still hold true today. Much of the training was on assessing the problems in a
226 neighborhood and working with the community for solutions.
- 227 ▪ Discontinuance of TH 85 - On October 12th there will be a site visit and public hearing at 4:00pm
228 and 6:15pm, respectively, for the Furnace Brook Road or the Town Dump Road so-called. The
229 Town and VTRANS have been ordered by the EPA to cap it. We have agreed to do the work, and
230 MSK and VTRANS are working on a plan that will be acceptable to EPA. The PFOA material will be
231 able to be used to cap this area because the principal contaminant is lead.
 - 232 ▪ PFOA Construction - Work is winding down and it is anticipated that the 3-year PFOA Project will
233 be completed by July 2021 with very few problems.

234 7. UPCOMING AGENDA

- 235 October 12, 2020 - Display Policy Review
- 236 October 12, 2020 - Hearing on TH 85 Discontinuance
- 237 October 12, 2020 - Standing Community Policing Update
- 238 October 26, 2020 - Rec Center Update
- 239 October 2020 - Town Manager Review

240 8. OTHER BUSINESS

241 Mr. Lee-Clark: If you're a registered voter, you should have received - or will soon - your absentee ballot.
242 If not, contact the Town Clerk to be sure that you're registered. And, if you intend to vote via absentee
243 ballot, please complete the form correctly.

244 Ms. Conner: It was good to see people walking on the path on Kocher Drive. And, is it too early to get
245 the pulse of people's ability to pay their property taxes? Mr. Hurd replied in general it's too early,
246 however, he has heard from several in the hospitality business that they may have payment issues. That
247 is probably where most of the problems will be because they were hit so hard by COVID.

248 Ms. Jenkins: Noted that the Stark Street Playground "is as delightful as it can be" including the fairy
249 house on the trail to the hospital.

250 Mr. Carroll: The legislature passed the budget with no deficit and no increase in taxes.

251 Ms. Perrin: Announced the Lions Club will be having a bake sale on Saturday and Sunday at the VFW on
252 North Street. They are also having Halloween on the Green at the old Tuttle's lot on October 31st from
253 11:00am-1:00pm.

254 Mr. Campbell: Reminded everyone to get their flu shot at the hospital's drive-thru system.

255

256 *At 7:56pm, Sarah Perrin moved and Bruce Lee-Clark seconded the adjournment of the meeting.*
257 *The motion carried unanimously.*

258

259

260 Respectfully submitted,

261 Nancy H. Lively

262 Secretary

263