

1 **BENNINGTON SELECT BOARD**
2 **MEETING HELD REMOTELY VIA ZOOM**
3 **BENNINGTON, VERMONT 05201**
4 **DECEMBER 14, 2020**
5 **MINUTES**

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

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

9 **ALSO PRESENT BY VIDEOCONFERENCE:** Stuart Hurd-Town Manager; Daniel Monks-Assistant
10 Town Manager and Planning Director and Director of the COVID-19 Response; Michael LaCroix-
11 VTRANS; Dennis Vertiyev, Jayson Gauvin, Steve Sacco, Erik Atkins, Wing Wong-Green
12 International Affiliates, Inc.; Andy Schlatter-Bennington College; Josh Boucher-CAT-TV; and
13 Nancy H. Lively-Secretary.

14 **PUBLIC CALL INS:** Lynn Mazza.

15 At 6:03pm, Chair Donald Campbell called the meeting to order and explained that, due
16 to the COVID-19 Pandemic State of Emergency declared by Governor Scott, and pursuant to
17 Addendum 6 to Executive Order 01-20, Act 92, this public body is authorized to meet
18 electronically. There is no physical location to attend this meeting, however, the public may
19 view it on CAT-TV and call in at 1-646-558-8656 and enter the meeting ID, 89443396797 when
20 prompted to do so. The call in information will be periodically posted on the screen and the
21 process for calling in was explained. If technology fails us, the meeting will be continued at a
22 time and place to be determined and all votes that are not unanimous will be done with a roll
23 call vote in accordance with the law.

24 **1. CONSENT AGENDA**

25 **A. MINUTES OF NOVEMBER 23, 2020 AND DECEMBER 8, 2020**

26 **B. WARRANTS**

27 *Bruce Lee-Clark moved and Jeannie Jenkins seconded to adopt the Consent Agenda as*
28 *submitted.*

29 Ms. Jenkins asked what the charges were for MSK, and Mr. Hurd answered that they are
30 related to the landfill site, Furnace Brook remediation, Roaring Branch sediment removal,
31 Morgan Spring relocation, and a power line project for a tank at SVC.

32 *The motion carried unanimously.*

33 **2. PUBLIC COMMENT**

34 None.

35 **3. ROUTE 67A/SILK ROAD CONCEPTUAL PLANS**

36 Green International Affiliates, Inc. has been working with VTRANS to design a round-a-
37 bout at the Silk Road and Bennington College entrance. They did the following presentation:

- 38 • The purpose and need of the project is to improve overall safety, reduce speeds on
39 Route 67A, improve sight distances, and improve pedestrian and bicycle
40 accommodations.
- 41 • Route 67A is a minor arterial with 11' lanes, 3' shoulders, and 40mph speed limit;
42 Matteson Road is a major collector with 11' lanes, no shoulders, and 30mph speed limit;
43 College Drive is a 22' private driveway; and Silk Road is a local road with 11' lanes and
44 30mph speed limit.
- 45 • There are two pedestrian crossings - one on Silk Road and one on Route 67A.
- 46 • There is a gas station that was closed in 1986 within the project area and we are aware
47 of potential contamination that will be handled accordingly.
- 48 • We noted the following issues with the Scoping Study Preferred Alternative:
 - 49 ➤ Slip lane conflict points
 - 50 ➤ Substandard deflection
 - 51 ➤ Impacts to Carver Property
 - 52 ➤ Impact to historic gate
- 53 • Our Conceptual Design Scoping Refinements are:
 - 54 ➤ Peanut shaped round-a-bout
 - 55 ➤ Reduced overall increase to impervious area
 - 56 ➤ Reduced impacts to historic property
 - 57 ➤ Elimination of slip lane and improved deflection
 - 58 ➤ Larger and better defined splitter islands that help reduce speed
 - 59 ➤ No impacts to Carver property
 - 60 ➤ Improved turning movements into College Drive
 - 61 ➤ Accommodations for future bicycle improvements
 - 62 ➤ No impacts to historic gate
- 63 • Proposed Conceptual Design includes:
 - 64 ➤ Route 67A - 11' lanes with 5' bike lanes (shoulders)
 - 65 ➤ Matteson Road - 10' lanes with 3' shoulders
 - 66 ➤ College Drive - 11' lanes remain around mountable island
 - 67 ➤ Pedestrian crossing with rectangular rapid flashing beacons across Route 67A
68 and Silk Road
 - 69 ➤ Silk Road - 10' lanes with 3' shoulders
 - 70 ➤ Concrete splitter islands on 3 of the 5 approaches
 - 71 ➤ Mountable islands at College Drive and Matteson Road to ease large truck
72 turning but are unappealing to regular sized vehicles, as well as, a stamped
73 concrete truck apron on the island, itself

- 74 ➤ Bicycle access to the Ninja Path without needing to utilize the round-a-bout
- 75 ➤ There will be a stone swale by Matteson Road and an infiltration trench by the
- 76 Ninja Path for drainage
- 77 ➤ Lighting for vehicles at the round-a-bout and at all pedestrian crossings
- 78 ➤ Landscaping that will alert drivers to the presence of a round-a-bout but not
- 79 impede their views
- 80 • Proposed Conceptual Design - Turning Movements include:
- 81 ➤ College Drive and all other approaches access for large trucks. A 15' tractor
- 82 towing a 53' trailer (WB-67) making right and left turns has been accommodated
- 83 ➤ Pre-COVID traffic studies have been done and this design will accommodate
- 84 potential increased traffic for years to come
- 85 ➤ Vehicles can yield to a pedestrian crossing and then enter the vehicle flow of
- 86 traffic again at a separate point
- 87 • Conceptual Design - Project Cost Estimate:
- 88 ➤ Roadway and Drainage = \$2,387,648.66
- 89 ➤ Landscaping = \$ 45,728.85
- 90 ➤ Lighting = \$ 142,135.55
- 91 ➤ TOTAL ESTIMATE PROJECT COSTS \$2,628,140.38 (10% Contingency included
- 92 and federally funded)
- 93 • Current Status and Anticipated Schedule:
- 94 ➤ Conceptual Plans - submitted to VTRANS on November 6, 2020
- 95 ➤ Develop Preliminary Plans - May-July 2021
- 96 ➤ ROW (Right of Way) Process - September 2021-March 2022 (assuming all land is
- 97 donated)
- 98 ➤ Final Plans - August 2022
- 99 ➤ Contract Plans - January 2023
- 100 ➤ Advertisement - March 2023
- 101 ➤ Construction - April 2023-April 2024

102 Mr. Schlatter from Bennington College stated that in general this is a big improvement
 103 with some small details to be worked out. Mr. Vertiye verified that Bennington College is the
 104 only land donation at this time.

105 *Board questions/comments answered by Mr. Vertiye:*

106 Ms. Conner: Will there be signage to the Silk Road covered bridge and signage indicating an
 107 approaching round-a-bout? Yes and yes.

108 Ms. Conner: Will the stamped concrete part of the round-a-bout look similar to the one at
 109 Walmart? That hasn't been decided yet.

110 Ms. Conner: Is wear and tear an issue on stamped concrete? These areas are built knowing that
 111 heavy trucks will be travelling on them so the concrete is reinforced with rebar.

112 Ms. Conner: Can a motorized wheelchair go on the mountable islands? We will be sure that our
113 final design is ADA compliant.

114 Mr. Hurd: The brick stamped pattern would be good to separate the concrete of the round-a-
115 bout from the asphalt of the highways. The Town would also like some input as to the
116 landscaping of the round-a-bout as we had with the one at Walmart. Mr. Vertiye stated that
117 they will be consulting with the Town and Bennington College about the landscaping.

118 Mr. Hurd: Will we see lengthy traffic delays during construction? We will be coming up with a
119 phasing system that will allow traffic to continue traveling through this area during
120 construction.

121 Mr. Lee-Clark: How will runoff mitigation be handled? We will have a full drainage layout
122 keeping in mind that all drainage is to the southwest corner including existing catch basins and
123 rebuilding an existing outfall. Most of the water will be going back into the ground, however,
124 the impervious sections will be within our design for the necessary permits.

125 Ms. Jenkins: What do you consider when deciding on lighting? VTRANS has lighting standards
126 for round-a-bouts and we use those to not have too much lighting. The pedestrian crossings
127 and points of conflict in the round-a-bout must be well lit and, within the VTRANS standards,
128 the lighting used only shines down and does not shoot up or off to the side.

129 Mr. Campbell: Would it be safer if the pedestrian crossing on College Drive was moved farther
130 north? Since there would only be trucks entering, at the most, twice a day, this is infrequent
131 enough to not be an issue for the pedestrians and the mountable islands are not flush with the
132 pavement. But, relocating the crossing as suggested can be looked into.

133 Mr. Campbell: Do bikes have to merge with cars when they are going east? Vehicle traffic at
134 this point is traveling slowly and the intent is for the bikes to travel within the vehicle traffic and
135 not alongside it. Bikes can avoid the round-a-bout by using the Ninja Path.

136 Mr. Campbell: Thanked Mark Anders and Jim Sullivan from BCRC for the work they had
137 previously done on this project.

138 **4. COMMUNITY POLICING UPDATE**

139 **A. POLICIES 2ND READING**

140 **1. USE OF FORCE**

141 *Bruce Lee-Clark moved and Jeannie Jenkins seconded to adopt the Response to*
142 *Resistance/Use of Force Policy as presented.*

143 Ms. Jenkins added that this is a "good policy", "is clearer and a little stronger" than
144 some other policies that we've seen and is strongly in favor of it.

145 *The motion carried unanimously.*

146 **2. DUTY TO INTERVENE**

147 *Jeannie Jenkins moved and Bruce Lee-Clark seconded to adopt the Duty to Intervene*
148 *Policy as presented.*

149 Ms. Perrin asked if we couldn't find any CALEA Standards for this policy, and Mr. Lee-
150 Clark answered that the League of Cities and Towns did not have them on their policy and have
151 not responded to his inquiry about them. The CALEA Standards are not part of the policy but
152 can be added later as a reference.

153 Mr. Lee-Clark added that this policy "makes it crystal clear that there is protection for
154 any officer that does intervene and that officers have an obligation to intervene as soon as it is
155 safe to do so". And, if they do not intervene, they are in violation of the policy and can be
156 disciplined.

157 *The motion carried unanimously.*

158 **3. USE OF CONDUCTED ELECTRICAL WEAPONS**

159 Ms. Conner clarified that there was not another word that could replace "prolonged" in Use of
160 Conducted Electrical Weapons, K. Mr. Lee-Clark stated that "prolonged means unreasonably
161 and there isn't another word that would do what we need it to do".

162 *Bruce Lee-Clark moved and Jeannie Jenkins seconded to adopt the Use of Conducted*
163 *Electrical Weapons Policy as presented. The motion carried unanimously.*

164 Thank you to all of the citizens who were part of the Committee that worked on these
165 policies. They were Peter Niles, Dan Merges, Ricardo Wilson, and Alison Levy.

166 **B. POLICIES 1ST READING**

167 **1. INVESTIGATION AND REPORTING OF HATE CRIMES**

168 Mr. Lee-Clark noted that this was an IACP model policy and most of the Committee's
169 work was done with the definitions. Board comments/questions will be taken back to the
170 Committee for discussion.

171 *Board questions/comments:*

172 Mr. Campbell: II. Policy, Line 19-20, questions "shall employ all necessary resources" in that the
173 BPD may not have all the necessary resources available for their use.

174 Mr. Campbell: III. Definitions, A. Bias, "ethnicity" has been taken out then it seems like F. Ethnic
175 Group should also be taken out.

176 Mr. Campbell: III. Definitions, H. Sexual Orientation, Delete "Examples include but are not
177 limited to: homosexual, bisexual, and heterosexual."

178 Ms. Connor: III. Definitions, I. Sex, there are people that have physical attributes that are both
179 male and female.

180 Ms. Jenkins: III. Definitions, D. Hate Group, only lists three organizations that track hate groups
181 and there must be more. Mr. Lee-Clark stated that these three groups - the Southern Poverty
182 Law Center, Anti-Defamation League, and the FBI - were listed on the IACP model policy and are
183 the only reputable organizations that track hate groups. Ms. Jenkins would like it added that
184 these three are good examples as there may be more going forward.

185 *Public questions/comments:*

186 Lynn Mazza: What is the process for changing policies that have been adopted? Ms. Jenkins
187 stated that all of the public comments that came in on the three policies adopted tonight were
188 broad and did not address specific language. Just because a citizen, or board member, feels
189 something should be changed, doesn't mean that it will be. The Committee is made up of
190 citizens. Also, any general questions that were asked will be addressed at a later time.

191 Thank you to all of the citizens who were part of the Committee that worked on this
192 policy. They were Grace Winslow, Jamar Bevins, Cindy Taylor, and Mark Blank.

193 **2. FAIR AND IMPARTIAL POLICING**

194 Mr. Lee-Clark noted that this policy was originally drafted by the Vermont Criminal
195 Justice Training Council and was created by the League of Cities and Towns. This is statutorily
196 required and is meant to ensure that there will be fair and impartial policing to everyone, even
197 those with "personal characteristics" that may evoke bias but are not in a protected group.
198 Board comments/questions will be taken back to the Committee for discussion.

199 *Board questions/comments:*

200 Ms. Conner: III. Definitions, B. Personal characteristics. Should addiction be added or would
201 that fall under mental illness?

202 Thank you to all of the citizens that were part of the Committee that worked on this
203 policy. They were Father Bob Weisman, Kate Canning, Greg Burda, and Alonna Harte.

204 Also, thank you to the permanent Committee members. They are Officer Dan Ferrara,
205 Select Board member Bruce Lee-Clark, and Assistant Town Manager Dan Monks.

206 -----

207 Ms. Connor reported the following:

- 208 ❖ The Community Discussion Boards were taken down right after Thanksgiving.
- 209 ❖ There were a total of 101 comments and thanks to those that commented.
- 210 ❖ The Committee was pleased with the thoughtfulness of most of the comments and felt
211 it was a worthwhile exercise.
- 212 ❖ A summary by question, by theme:
 - 213 ✓ 1. What do you expect of a police officer? Comments: Trust, respect,
214 compassion, safety, and integrity; fair treatment for all; appreciation for the
215 work that the police department does.

- 216 ✓ 2. What makes you feel safe in your community? Comments: Having the police
217 more connected to the community; positive responses from the police
218 department; concern for authoritarianism and abuse of power.
219 ✓ 3. What do you think the BPD could do to improve life and safety? Comments:
220 Mental health issues; need for an oversight committee; concern for transparency
221 and accountability; gratitude and compliments.
222 ✓ 4. How can the community and BPD better engage with each other? Comments:
223 Community oversight; BPD to immerse themselves in a greater degree such as
224 walking their beats and getting involved in community groups. One person
225 asked for forgiveness for mistakes that he or she had made.
226 ❖ All comments are on the Town's website.

227 Ms. Jenkins reported the following:

- 228 ❖ Applications are now open until noon on December 28th for the winter/spring advisory
229 groups to look at the next 6 policies.
230 ❖ Anyone that lives and/or works in Bennington may apply - even if you have already
231 served on a Committee.
232 ❖ The scope of work and application are on the Town's website under
233 Resource/Community Policing/Policy Review Process.
234 ❖ Interviews will begin the week of January 4th.
235 ❖ We are looking for 24 people and the 3 permanent members will remain the same.
236 ❖ All interviews and meetings will be via Zoom.

237 5. CHARTER AMENDMENT, SIGN WARNING

238 Mr. Hurd stated that this is a Charter amendment proposal for a Mayoral form of
239 government, similar to the one we had in 2018. It requires 2 public hearings with 30-day notice
240 before the first hearing and the second hearing must occur within 10 days of the first meeting.
241 The 1st meeting will be February 1st and the 2nd meeting will be February 8th. It will be on the
242 ballot but the Board Chair needs to sign it so that it can be published by January 1st.

243 *Bruce Lee-Clark moved and Jeannie Jenkins seconded to adopt the Notice of Public*
244 *Hearing Proposed Amendments to the Charter of the Town of Bennington as presented and*
245 *authorize the Select Board Chair to sign. The motion carried unanimously.*

246 6. AGENCY PETITION REQUIREMENT

247 Mr. Hurd stated that the Town has been approached by an agency that wishes to
248 increase the amount of money that they have previously received from the Town in the past.
249 To do so, it is our policy that agencies must petition to be funded for an increased amount. The
250 agency wants the Board to put them on the ballot without having to petition citing the difficulty
251 getting signatures due to COVID. We have a precedent set because the Mayoral request came
252 to us via petition, and if this request is granted, that would open up the possibility that all of the
253 agencies would request the same exception.

254 Board discussion ensued noting that all the agencies generally get funded, they all do
255 good work, the amount that is funded is over \$100,000 that increases the tax rate, it had been
256 previously requested that signatures be waived and we declined, you can get signatures
257 without walking up to people and asking for them, it wouldn't be fair, and a precedent has been
258 set.

259 The Board decided to stay with the existing policy requirements.

260 **7. PENALTY WAIVER PROPOSAL A COVID-19 RESPONSE**

261 Mr. Hurd noted that several residents and commercial customers have approached the
262 Town because they were unable to pay their tax bills in full. Because of this, he has proposed a
263 Penalty Waiver for 2020 only as follows:

- 264 ○ For Residential Customers (single family)
 - 265 ▪ First time delinquent in 5 years
 - 266 ▪ Will enter into agreement to eliminate delinquency within 12 months
 - 267 ▪ Penalty waived when agreement is completed.
- 268 ○ For Commercial Customers, Multi-family Customers
 - 269 ▪ First time delinquent in 5 years
 - 270 ▪ Must provide proof of COVID impact
 - 271 ▪ Will enter into agreement to eliminate delinquency within 6 months
 - 272 ▪ Penalty waived when agreement is completed.
- 273 ○ Failure to keep the Agreement voids it.
- 274 ○ There are some taxpayers who were first time delinquents that have paid the penalty. I
275 propose that we return the penalty payment to them. The number is relatively small.

276 The amount of the penalty totals \$54,460 and impacts 141 properties.

277 *Board questions/comments:*

278 Mr. Carroll: Why do residential have 12 months to pay and commercial only have 6 months?

279 Mr. Hurd answered that his thought was that commercial customers could have access to
280 CARES funding when residential customers would not. However, he has no problem making
281 them both a 12 month payback. Mr. Carroll would want that done.

282 Mr. Lee-Clark: Describe how the penalty works. Mr. Hurd responded that the statutory penalty
283 is 8% applied the day after taxes are due. There is also interest accrued but we are not waiving
284 the interest, just the penalty.

285 Ms. Conner: Have you given any thought that people may be in a similar situation in 2021? Mr.
286 Hurd noted that he had and "that's a bridge we cross when we come to it". Ms. Conner added
287 to be sure it is clear to those involved that this is a onetime deal, and Mr. Hurd agreed.

288 *Jeannie Jenkins moved and Sarah Perrin seconded to accept the Penalty Waiver 2020*
289 *Proposal amended as follows:*

290 *For Commercial Customers, Multi-family Customers, change "within 6 months" to*
291 *"within 12 months".*

292 *The motion carried unanimously.*

293 **8. MANAGER'S REPORT**

294 Mr. Hurd reported as follows:

295 ▪ Lead Line Borrowing Application - In our application for the \$11M lead line service line
296 replacement project, we must apply to the States Revolving Loan Program. The State is
297 allowing us to combine Step II, Final Design, and Step III, Construction in the application.
298 Due to COVID and Virtual meetings, the Chair must be authorized to sign. This is
299 essentially a grant with no repayment.

300 *Bruce Lee-Clark moved and Jim Carroll seconded to authorize the Select Board Chair to*
301 *sign the State Revolving Loan Programs Funding Application. The motion carried*
302 *unanimously.*

303 ▪ COVID Update - We're told 6,000 doses of the vaccine are on the way to Vermont. The
304 State will determine who receives them first. In the meantime the precautions remain
305 in effect.

306

307 ▪ PFOA Construction - Construction has now stopped for the Winter.

308

309 ▪ WWTF Upgrade - This project is essentially completed. The Town will replace the fence
310 along Harrington Road and add some landscaping as well.

311 **9. UPCOMING AGENDA**

312 December 28, 2020 - Approve the Town Meeting Warning

313 December 28, 2020 - Police Department Training Presentation

314 December 28, 2020 - Audit Presentation

315 January 2, 9, and 16, 2021 - Budget Meetings

316 **10. OTHER BUSINESS**

317 Mr. Campbell: There were 19 CARES grants that went out in the State and 4 of them came to
318 Bennington. Kudos to Shannon Barsotti and other staff for their work on bringing these dollars
319 to Bennington.

320 Mr. Campbell: Also kudos to our partner, the Southern Vermont Health Care Center.

321 Mr. Lee-Clark: Happy Hanukkah and Merry Christmas.

322 Ms. Conner: Additional kudos to Ms. Barsotti for her work on the Franklin Lane grant and the
323 work being done on the John Mills House on the corner of Pleasant and Valentine.

324 Ms. Jenkins: Be sure to check out the façade of Your Belly's Deli and note the fine job they have
325 done with that.

326 Mr. Carroll: Happy Hanukkah and Merry Christmas.

327 Ms. Perrin: Happy Holidays.

328

329 *At 8:32pm, Sarah Perrin moved and Jeanne Conner seconded the adjournment of the*
330 *meeting. The motion carried unanimously.*

331

332

333 Respectfully submitted,

334 Nancy H. Lively

335 Secretary

336

337