

35 **2. CONSENT AGENDA**

36 **A. MINUTES OF MARCH 22, 2021 and APRIL 1, 2021**

37 **B. WARRANTS**

38 **C. LIQUOR LICENSES**

39 *Bruce Lee-Clark moved and Tom Haley seconded to adopt the Consent Agenda with*
40 *the Minutes of March 22, 2021 amended as follows:*

41 *Line 108, Change "April 14th " to "April 7th "*

42 *The motion carried unanimously.*

43 **3. COVID UPDATE**

44 Dr. Trey Dobson, SVMC Chief Medical Office, did the following COVID update:

- 45 • This is the 397th day of the pandemic and we have been vaccinating for 117 days.
- 46 • Vermont and Bennington County are at 24/100,000 cases of a positive COVID test with
47 the country at 19/100,000.
- 48 • Vermont has only seen 2%-5% of the population that has seen the virus, whereas, other
49 locations nationally that number is 30%.
- 50 • There is an 80% decline in hospitalizations and deaths since January.
- 51 • The older population has accepted the vaccine well (65+ and 75+ age groups are 80%
52 vaccinated) but the 20-40 year olds are hesitant to get it.
- 53 • 30%-35% of the population nationally has been vaccinated.
- 54 • We're not there yet, however, vaccinated people will not need to wear masks or social
55 distance and can gather in groups.
- 56 • Many people/states in the country are no longer doing mitigation. Vermont is not one
57 of them yet.
- 58 • It is not unlike the flu and the risk factors are shifting to personal decisions from the
59 government regulated requirements.
- 60 • The goal is to have 70% of Vermonters vaccinated and to no longer have to wear masks
61 or social distance by July 4th.

62 *Board questions/comments with responses from Dr. Dobson:*

63 Mr. Carroll: Is mutation and variant the same thing? Yes.

64 Mr. Carroll: Can it be determined if those exposed to the variants are having a different
65 immune reaction than those that have been vaccinated? We don't have enough data to know
66 but are confident that the vaccination provides an overall greater immunity to the virus.

67 Mr. Carroll: How long will the vaccines that we're receiving now remain effective? We believe a
68 year and will recommend booster shots at that time to keep up with the mutations similar to

69 what we do with flu shots. It may be every 2 years but is unlikely to be every 3 years or every 6
70 months.

71 Mr. Carroll: If a person has had COVID, can they still transmit the virus? They are much, much
72 less likely to do so as are those that have been vaccinated. The CDC has said that the risk is so
73 low that it is better for people to get out for their own mental health well-being.

74 Ms. Conner: Do you have any advice on how to manage our own fear of doing what we used to
75 do? The fears are real, and as large gatherings become uneventful, the fears will dissipate. The
76 hope is - at least for the next year - that enough people will be vaccinated or immune from
77 previous exposure to make up 80%-85% of the population so that "herd immunity" should
78 support the safety of activities.

79 Ms. Perrin: Can you speak to some of the concerns of those that won't get the vaccine? The
80 group of people that are anti-vaccine, in general, will never get the vaccine and that is their
81 right. The rest have concerns because of what they've read, talked to friends about, may be
82 considering getting pregnant, or the newness of the vaccine. These fears need to be weighed
83 against the risks of not getting the vaccination.

84 4. GROUND WATER RECLASSIFICATION

85 Commissioner Peter Walke, John Schmeltzer, Chuck Schwer, and Richard Speese did the
86 following presentation:

- 87 ➤ We have extended the public comment period to May 28, 2021.
- 88 ➤ We will also be attending the Village of North Bennington Trustee meeting tomorrow
89 and the Town of Shaftsbury Select Board meeting next Monday.
- 90 ➤ Once we understand the questions and concerns, we will schedule a Public Hearing on
91 just this topic for people to weigh in at.
- 92 ➤ We first discovered PFOA in 2016 near Chem Fab and were in the emergency mode for
93 about 1 ½ years.
- 94 ➤ The original agreement with Saint Gobain was in 2017 and amended in 2019. If this had
95 to be taken to court this would have been a long drawn out process, however, Saint
96 Gobain was willing to work with us.
- 97 ➤ The reclassification we are discussing tonight is the final phase of the extension of the
98 overall corrective action.
- 99 ➤ There were 480 residents or businesses that were able to connect from which 438
100 agreed to connect and 365 have been connected with the remainder expected to be
101 connected this summer.
- 102 ➤ We also have ongoing monitoring of those wells that are below the 20PPT (parts per
103 trillion), ongoing maintenance of the POET (Point-of-Entry Treatment) systems that had
104 contamination but the water lines were not extended, and 5 replacement wells
105 installed.
- 106 ➤ St. Gobain is obligated to monitor these wells and maintain the POET systems forever.

- 107 ➤ PFOA lasts for a long time in the soil and ground water so there will be the need to
108 monitor and have a process in place for any new wells that may be drilled in the area.
109 ➤ The reclassification prohibits drilling a well within 200' of a water line unless unable to
110 do so due to the presence of ledge, for example. The preferred option though, is to
111 connect to town water..
112 ➤ We are reclassifying a large area. We know there is potable water within that area
113 given that there are 144 wells that are clean and some areas where the only option to
114 receive potable water is from a well - hence, the strict guidelines in drilling.
115 ➤ There are instances when two wells next to each other will have one contaminated and
116 the other one clean. The deeper the well the better chance it has of being clean,
117 whereas, the more shallow a well the better chance it has of being contaminated. No
118 new shallow or spring water wells will be allowed.
119 ➤ If property values are impacted it is because there is contaminated ground water and
120 not what we call it. However, we have seen little effect on property values because of
121 all of the testing that we have done to the property.
122 ➤ The State's responsibility was to ensure that people are drinking clean water but there is
123 another path for people to take if they are experiencing decreased property values
124 through the Class Action Suit.
125 ➤ The Reclassification Order reclassifies the ground water from a Class 3 to a Class 4. The
126 Order does not affect existing wells.
127 ➤ Adjustments can be made to the Reclassification Order if testing shows improvements in
128 the area.
129 ➤ The DEC (Department of Environmental Conservation) must be notified if a new well will
130 be used for industrial, commercial, or geo-thermal use, and the Agency of Agriculture
131 must be notified if a new well is for agricultural use.
132 ➤ The Final Reclassification Order will be posted on the DEC website.

133 *Public comments/questions answered by the DEC Team:*

134 Rep. Tim Corcoran: Are we obligated to make this change? Is Saint Gobain obligated to monitor
135 the wells that are below 20PPT? What is the PFOA effect on fishing and growing vegetables in
136 the soil? DEC: Yes, legally we have signed the agreement with Saint Gobain that we would do
137 this, however, even without that, this is the right approach to protect the residents in the area.
138 Yes, Saint Gobain is obligated to monitor and correct, if and when, wells test above the 20PPT.
139 This doesn't affect the surface water or the soil - it's the ground water with the
140 recommendation not to water the plants with contaminated water.

141 Barry Mayer: Has a 60' well in Shaftsbury and has always tested under 10.6. What if you can't
142 drill a well and get clean water? How do the class action suits affect property values? What is
143 the definition of a deep well and a shallow well? And, why wasn't the reclassification line on the
144 south side of Town Line Road instead of the north side where no water has tested positive?
145 DEC: Saint Gobain is obligated to first provide bottled water, then a POET system, and to see if

146 drilling a replacement well is a feasible solution or connecting to town water. One of the
147 litigations in the Class Action Suit is for decreased property values. There is no cutoff footage
148 between deep and shallow wells, it's what the drilling has to go through and the source of the
149 aquifer that makes the distinction. There are wells on the north side of Town Line Road that
150 are testing above zero but below 20PPT so they need to be monitored for the future.

151 Nancy Pearlman: What is the number of homes in the reclassification zone that were not
152 offered town water? And, who would pay for residents to connect to town water if they were
153 within the 200'? DEC: We estimate around 175 homes but we will get the exact number. And
154 all work to provide people with clean water - if their wells test above the 20PPT - will be paid
155 for by Saint Gobain.

156 Eric White: If a well went dry and had not been tested or you wanted to develop a new
157 property, who would be responsible for paying for the new water lines? FYI - He does not
158 believe that this will not affect property values. DEC: The resident would be but Saint Gobain
159 would be obligated to monitor the new well and, if the new well was contaminated, they would
160 be responsible to provide you with clean water. However, if you connected to town water, that
161 expense would be on the resident.

162 Robin Outwater: His neighborhood has been tested and is clean, so do they need to be
163 considered in the reclassification area at this time? DEC: That may have been true of one
164 residence but there are POET systems in the area so there has been contamination that would
165 be still present if a shallow well were to be drilled. We are reclassifying the ground water and
166 not individual wells.

167 Chad Gordon: His water has never been above the 20PPT limit and wonders why he needs to be
168 in the reclassification area and how do you explain that to a potential buyer? DEC: We know the
169 deep wells are clean but there's a high probability that, if a shallow well were dug in the future,
170 it would be contaminated and there are years of data that can be shown to a potential buyer
171 backing up what you're saying. We also do "comfort letters" to potential buyers for further
172 verification.

173 Al Bashevkin: Thanked the State for their diligence in ensuring that people have clean water.
174 Where are the borings that are used for sampling taken from? Can we have a copy of the
175 PowerPoint presentation? Instead of reclassifying the area, a solution would be to extend the
176 availability of town water to us. DEC: We can indicate on the map where the borings were
177 taken from. We do sample both the water going into the houses and the water after the POET
178 system, but, due to COVID we were just taking the samples from an outside spigot. The dual
179 sampling will resume soon. Yes, we will put the presentation on our website.

180 Rep. Mary Morrissey: Have the two homeowners that called to be tested this week ever been
181 tested before? How many homeowners have not had their water tested in the designated
182 contaminated areas? DEC: No. We don't know the answer to that. We have reached out, and

183 continue to reach out, to residents at an unprecedented rate to inform them of the situation
184 but the decision to be tested, or not tested, is still theirs.

185 *Board comments/questions answered by the DEC Team:*

186 Jim Carroll: Is most of the contamination from the air that is going into the ground water but
187 not necessarily the aquifer? How were the boundaries determined and not farther out? Did
188 Saint Gobain agree to these boundaries? DEC: In many areas it is in the ground water that may
189 seep down into aquifers but closer to the plant it is also prevalent in deeper ground. We based
190 the boundaries on the air modeling, the borings, and the drinking water well tests. They look
191 rigid, because we are following parcel boundaries. Yes, these are the boundaries that Saint
192 Gobain agreed to, however, the agreement is reviewed every 5 years to be sure that best
193 practices are being followed. They are required to follow the agreement until all of the ground
194 water is testing clean.

195 Gary Corey: Can you reclassify a deep well differently than a shallow well? Are the stricter
196 regulations when drilling a well more expensive, and if that well tests positive, is Saint Gobain
197 financially responsible for making it clean? DEC: We aren't able to reclassify differently within
198 the confines of what the legislature has given us nor would we be able to make that distinction
199 and be protective. Yes, the new drilling regulations are more expensive - it would vary
200 depending on the individual conditions - and would be the responsibility of the landowner. We
201 can't provide a dollar estimate but will provide the Board with the additional equipment that is
202 needed to follow the new regulations. And, yes, Saint Gobain is responsible to supply clean
203 water to the resident if their newly drilled well is contaminated.

204 Jeanne Conner: Feels that the reclassification may end up benefitting the landowners because
205 guaranteeing that a parcel of land will have clean water "is not nothing". If it's possible, would
206 Saint Gobain pay for residents to connect to town water rather than having to pay for the
207 continuous testing? DEC: That is the purpose of the 5-year review of the agreement - to ensure
208 that the current remedy is the most appropriate.

209 Sarah Perrin: What do you see as an ideal solution in an ideal world to have the water classified
210 as non-potable? DEC: Money is always an object and the engineering specifications and the
211 ability to get drinking water is always an object. What we're doing provides the data on the
212 existing wells and a process for going forward that is clear to all of the residents in the area. "I
213 don't have a magic wand and I don't like pretending that I have a magic wand."

214 Stuart Hurd: Is there an opportunity with the infrastructure monies coming our way to pay for
215 certain residents to be connected to town water? DEC: Yes, there are ARPA (American Rescue
216 Plan Act) monies specifically for water and waste water but we haven't been given any
217 guidance as to what that means yet. This will be discussed in the legislature soon. And, yes,
218 there are also infrastructure monies.

219 *It was the consensus of the Board to put Ground Water Reclassification on the agenda of*
220 *the April 26, 2021 meeting.*

221 **5. PUBLIC COMMENTS**

222 Nancy White: Can hikers use the bathrooms, showers, and camp on the Rec Center property?
223 Mr. Hurd answered that hikers are allowed to use the Rec Center facilities but no allowed to
224 camp on site.

225 Nancy White: Do we know what the new water site will look like and what the cost of it will be?
226 Mr. Hurd responded that we have a permit that shows the site plan which is available at the
227 permitting office and the project is out to bid so we don't know what the exact cost will be yet.
228 However, we will know that soon as we want to do this project this year.

229 Nancy White: When will the Senior Center open? Mr. Hurd stated that will be soon. We have
230 guidance requirements from the Governor and we need to be sure the spacing is within those
231 requirements.

232 Nancy White: What will the cost be to the Town this year for the two ball fields on the old SVC
233 property? Mr. Hurd answered that the cost of mowing and maintenance - including a part time
234 employee and porta potties - will be ~\$15,000. For this we get the use of the fields and the
235 ability to lease them out. We do expect some income from this but probably not enough to
236 completely cover the cost.

237 Kelly Carroll: Invited everyone to the Pathway Walk on April 17, 2021 at 10:00am starting at
238 Depot Street. Who would be the point person to discuss a plaque for Emily Hamann and ADA
239 benches along the Pathway? Mr. Hurd answered that the Town will be planting a tree in Emily's
240 memory and that he has been working with Sierra to have a 5"x10" plaque designed with a
241 photo, her name, "In living memory", and her birth and death dates. The Town will also look at
242 the benches in the near future.

243 *Ms. Conner, Ms. Perrin, and Mr. Haley will be meeting to re-evaluate how we look at*
244 *Public Comment and to make the process better for everyone. The hope is to bring some ideas*
245 *back to the Board in a month.*

246 **6. COMMUNITY POLICING, POLICY PROCEDURES REVIEW**

247 Ms. Conner reported:

- 248 ❖ The policies and procedures have been posted on the website and the link will be
- 249 available to the public for comment on April 19, 2021 at 8:00am.
- 250 ❖ Due to the confusion between Policy and Procedure, Mr. Lee-Clark will make it clearer
- 251 to the public on the Traffic Enforcement policy as to what they will be commenting on.
- 252 Therefore, this policy will not be available for comment in the first group as originally
- 253 expected.

254 Ms. Jenkins reported:

- 255 ❖ The ACLU held a press conference last week announcing a complaint to the Human
- 256 Rights Commission on the Interim Protocol we had established for the review of a
- 257 complaint nearly a year ago. The Community Policy Group has asked the Town Manager
- 258 to have our Town Counsel re-exam the Interim Protocol to be sure that we are
- 259 protecting the privacy of complainants as thoroughly as we can while maintaining a
- 260 level of transparency that we feel is comfortable to the community.

261 **7. VCDP GRANT RESOLUTIONS**

262 *Bruce Lee-Clark moved and Jim Carroll seconded to approve the Resolutions to accept*
263 *and agree to the terms and conditions of the Grant Agreements for the Community*
264 *Development Block Grants with CARES Act Funding (CDBG-CV) for the following:*

265 *\$20,000 Sunrise Family Resource Center*

266 *\$30,000 Berkshire Family YMCA*

267 *\$49,478 UCS Head Start Program*

268 *The motion carried with Gary Corey abstaining.*

269 **8. RESOLUTION-ELECTRONIC PAYMENT OPTIONS**

270 Dan Monks explained that we currently accept credit cards over the phone or online to
271 pay property taxes, water and sewer bills. We want to be able to accept credit cards in the
272 office and add the ability to pay parking tickets, town clerk fees, building and zoning permits,
273 etc. with credit cards. There is a flat fee of \$4.95 per utility bill and a percentage cost of 2.65%
274 for property tax bills paid by the customers. The public is made aware of the fees currently
275 when done by phone so they will be made aware in the office, as well. There is no fee to the
276 Town.

277 *Sarah Perrin moved and Bruce Lee-Clark seconded to approve the Resolution*
278 *Authorizing the Use of Credit Cards for Payment of Any Type of Bill or Fee to the Town of*
279 *Bennington. The motion carried unanimously.*

280 **9. MANAGER'S REPORT**

281 Mr. Hurd reported as follows:

282 Conflict of Interest Statement - Each Board member is required to sign the Conflict of
283 Interest Policy and the Code of Conduct imbedded in the Purchasing Policy annually.

284 Black Lives Matter Mural - The Black Lives Matter Mural was defaced by what appears
285 to be 3 young adults or juveniles. The mural was quickly cleaned by a group of citizens and our
286 security cameras were able to record the event. The investigation continues.

287 Town Offices Reopening - Staff will be meeting toward the end of the month to
288 determine if the building can reopen for public use and what requirements will need to be in
289 place. We will announce our decision by May 1, 2021.

290 Mr. Hurd announced:

- 291 ✓ There is an Emergency Health Warrant for 915 County Street. The owner of the
292 property is deceased. Trash and rat infestations are evident and the Town will be
293 cleaning up the property. Any agent of the owner has the right to appeal to the Select
294 Board as the Board of Health. The Notice has been posted for no later than April 14,
295 2021.
- 296 ✓ Green Up Day is May 1, 2021 and we will find out where bags can be picked up for that.

297 **10. UPCOMING AGENDA**

- 298 April 26, 2021 - Land Use and Development Regulations Hearing
- 299 April 26, 2021 - Ground Water Reclassification
- 300 April 26, 2021 - Community Policing Update - Two Policies for 1st Reading
- 301 April 26, 2021 - Board and Commissions Seats Process
- 302 April 26, 2021 - YMCA to Discuss Membership Rates
- 303 April 26, 2021 - Loan Application - Water System

304

305 **11. OTHER BUSINESS**

306 No comments.

307 **12. EXECUTIVE SESSION**

308 **A. LITIGATION**

309 **B. PERSONNEL**

310 *At 9:20pm, Bruce Lee-Clark moved and Jeanne Conner seconded the adjournment of*
311 *the meeting finding that an Executive Session be held on Litigation and Personnel as*
312 *premature public knowledge would place a person involved in the subject matter at a*
313 *substantial disadvantage. There will be no actions taken on these items when going back*
314 *into Open Session. The motion carried unanimously.*

315

316

317

318 Respectfully submitted,

319 Nancy H. Lively

320 Secretary

321