

1 **BENNINGTON SELECT BOARD MEETING**

2 **130 RIVER STREET**

3 **BENNINGTON, VERMONT 05201**

4 **DECEMBER 19, 2022**

5 **MINUTES**

6 **SELECT BOARD MEMBERS PRESENT:** Jeannie Jenkins-Chair; Jeanne Conner-Vice Chair; Bruce
7 Lee-Clark; Gary Corey; Sarah Perrin; and Tom Haley.

8 **SELECT BOARD MEMBERS ABSENT:** Jim Carroll.

9 **ALSO PRESENT:** Stuart Hurd-Town Manager; Dan Monks-Assistant Town Manager; Shannon
10 Barsotti-Community Development Director; Dr. Trey Dobson; Donald Washum; Kelly Carroll;
11 Debbie Mann; Clark Adams; Robert Ebert; Jack Rossiter-Munley; Tordis Isselhardt; 5 citizens;
12 Mike Cutler and Calen Wieggers-CAT-TV; Jim Therrien-Bennington Banner; and Nancy H. Lively-
13 Secretary.

14 At 6:00pm, Chair Jeannie Jenkins called the meeting to order.

15 ***Bruce Lee-Clark moved and Sarah Perrin seconded to add Agenda Item 9A. Bennington***
16 ***Opioid Response Team Letter. The motion carried with Jim Carroll absent.***

17 **1. PLEDGE OF ALLEGIANCE**

18 The Pledge of Allegiance was recited.

19 **2. VISION STATEMENT**

20 Ms. Conner read the Town's Vision Statement that was adopted by the Select Board on
21 August 24, 2020:

22 "Bennington is a welcoming, engaged, inclusive, resilient community where everyone
23 regardless of identity shares in our vitality and benefits from an outstanding quality of life."

24 **3. CONSENT AGENDA**

25 **A. MINUTES OF DECEMBER 12, 2022 (if available)**

26 **B. WARRANTS**

27 ***Bruce Lee-Clark moved and Tom Haley seconded to approve the Consent Agenda with***
28 ***the Minutes of December 12, 2022 and the Minutes Addendum of December 12, 2022***
29 ***amended as follows:***

30 ***Minutes of December 12, 2022 -***

31 ***Line 12 and 220, Change “Jack...” to Jack Rossiter-Munley***

32 ***Line 13 and 80, Change “Mahoney” to “Munley”***

33 ***Line 13 and 142, Change “Mr. Edelson” to “Asher Edelson”***

34 ***Line 93, Change “Dahri” to “Dari”***

35 ***Minutes Addendum of December 12, 2022 -***

36 ***Line 2, Change “No staff present.” to “Stuart Hurd, Dan Monks and Shannon Barsotti***
37 ***present.”***

38 ***The motion carried with Gary Corey abstaining and Jim Carroll absent.***

39 **4. COVID UPDATE**

40 Dr. Trey Dobson did the following presentation:

- 41 • COVID has “waxed and waned” with 50 patients in Vermont currently hospitalized with
42 COVID. 4 of those are in the ICU.
- 43 • Several of those were hospitalized for another reason and happened to have COVID.
44 10%-15% were hospitalized directly for COVID.
- 45 • Locally we had 5 today with 1 in the ICU.
- 46 • Exercise the same COVID protocols over the holidays that we have had - masking, extra
47 care if traveling, and limit exposure if you’re high risk for whatever reason.
- 48 • There is an increase in influenza that will probably peak in early January.
- 49 • By the end of December, 50% of the hospitals in the country will end with a negative
50 balance. “This is unprecedented.”
- 51 • There are people in hospital beds that should have been discharged but don’t have the
52 services they need at home due to diminished work forces.
- 53 • 33% of the beds at SVMC are occupied by people that no longer need to be there.
- 54 • This means that people can’t get in or get transferred. 17 hospitals have been called to
55 transfer patients and no one is accepting them.
- 56 • The State is trying to help out with “stepdown units” which are places with 100 beds
57 where patients can go that no longer need to be hospitalized - provided they are able to
58 be staffed.
- 59 • The hope is to see improvement in 2023 but the reality is it won’t be until 2024.

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

61 Ms. Conner: Do we have traveling nurses or locums at SVMC and has COVID exposed the
62 inadequacies in the health care system that were always there but are now just unavoidable?
63 *Traveling nurses are extremely expensive and we have only had 4 at SVMC. Traveling nurses, as*
64 *well as, lab techs, etc. will continue but is decreasing from what was July/August 2022.*

65 **5. PUBLIC COMMENT**

66 The following Public Comment Practices to make the experience for all involved a
67 productive and informative use of the Public Comment period at Select Board meetings was
68 placed on the podium for those that wish to make Public Comments to reference:

- 69 1. Public Comment is to allow residents an opportunity to share information or make
70 announcements that benefit the community at large.
- 71 2. The topic should not be related to an agenda item. If a member of the public wants to
72 comment on an agenda item they can do so during the discussion of that item.
- 73 3. Comments should be 3 minutes or less.
- 74 4. You are required to state your real name and town of residence.
- 75 5. Sharing comments, announcements and concerns are encouraged rather than asking
76 questions. Public Comment is not a time for discussion. If you have specific questions it is best
77 to call the Town Manager to get a full explanation and accurate information.
- 78 6. If the topic requires much discussion the item will be considered as an agenda item at a
79 future meeting.

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82 Donald Washum: Is running for the Select Board in March 2023 and his issues to address for
83 Bennington are - heroin and fentanyl; school tax and property tax; behavioral issues in the
84 schools; housing issues-affordable and in general. These are things that need to change, and
85 the only way to change them, is to vote.

86 Debbie Mann: The Silver Sneakers can only have 12-15 people/class and she would be upset if
87 someone that has paid their dues wasn't able to get into the class; The Senior Center will be
88 closed between Christmas and New Year's due to lack of staffing. This is a difficult time for
89 many and they depend on each other's support and socialization; We should put a water
90 fountain in at the Town Office so we can stop buying bottled water; The room should be up to
91 temperature before the Select Board meeting starts so the blower doesn't further impair
92 hearing when it is difficult to begin with. *Ms. Jenkins: The acoustics are terrible in this room and*
93 *we will follow up to see if Meals on Wheels will be open between Christmas and New Year's.*

94 **6. BENN HI UPDATE**

95 Mr. Monks and Ms. Barsotti did the following presentation:

- 96 ➤ The 30,000 square feet of community space at the Benn Hi will house the Senior
97 Center, Meals on Wheels, a gymnasium and an indoor recreation facility with
98 fitness rooms.

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- The housing portion will be in the older section of the building and contain 37 units of housing - both market rate and affordable.
 - It will provide recreation for all ages, particularly seniors and youth, improve the neighborhood on both Main and Pleasant Streets, provide space for community partnerships such as the Council on Aging, and refurbish an historic building that has been vacant since 2005.
 - We have been continuing our pre-development efforts since last October 2022 to be reported on to the Select Board and public in 120 days to hopefully outline the best way to proceed with the Benn Hi project.
 - All information is posted on the website as it becomes available.
 - Questions may be sent to info@benningtonvt.org .
 - Our 4 charges were:
 - ✓ Formalize our agreement with Hale Resources
 - The Town and Hale Resources have both retained the services of attorneys and consultants that specialize in public/private party agreements to draft a development agreement.
 - A development agreement identifies the responsibilities of both parties before, during, and after the improvements are completed at Benn Hi - including the requirements of a TIF bond.
 - We hope to have the beginnings of a development agreement within the next month or so.
 - ✓ Identify cost savings and quantify the cost of the whole project
 - We are meeting with Goldstone Architecture and Engelberth Construction bi-weekly to identify and discuss cost savings. For example, ground source heat pumps are less expensive than our original plan of air-to-air heat pumps.
 - ✓ Continue the pursuit of additional funding
 - Even though each funding source may have their own requirements, we have agencies in Vermont who are excited about the project and willing to work with us.
 - There was a meeting of state agencies in Manchester that were there to discuss the 2nd phase of ARPA funding through them and what the requirements are for that.
 - The Deputy Commissioner of Housing came to Bennington for a tour of the Benn Hi building.
 - Another meeting was a Round Table of the agencies that specialize in Housing which we attended and presented the Benn Hi Project.
 - Funding sources we intend to apply for are: The Community Recovery Revitalization Program through the Department of Economic Development (ARPA Funding for Capital Improvement

- 140 Projects up to \$1M, or 20% of a project); Downtown
141 Improvement Application Fund (\$200,000 grants for site work);
142 and Community Block Grant Funding (infrastructure funding
143 application due in April).
- 144 ○ Funding sources with Hale Resources are: Historic Preservation
145 Tax Credits (up to 25% of the project cost); New Market Tax
146 Credits (more competitive focusing on job creation); United
147 States Department of Agriculture (grants and loans for
148 community facilities - last on the list because we hope to fund
149 the project without any loans).
 - 150 ○ Hale Resources have applied at the Vermont Housing and
151 Conservation Board and can also apply for the Community
152 Recovery Revitalization Program for the housing section.
153 Community Development Block Grants, and the new funding for
154 Energy Efficiency are a couple others.
 - 155 ○ Other housing funding sources are the Housing Improvement
156 Program and more energy incentives from Green Mountain
157 Power and Efficiency Vermont.
 - 158 ○ Without the ARPA Funding locally and statewide, this project
159 would be virtually impossible to pull off.
- 160 ✓ Explore ownership models for funding
- 161 ○ This is also being worked on with our attorneys and consultants
162 to create the most cost effective ownership or lease structure.
 - 163 ○ Options include - the creation of condominiums, long term
164 leases, sub leases, etc.
 - 165 ○ It looks like the best way to proceed is for Hale Resources to
166 purchase the entire property at the purchase price and create
167 three condominiums units - one for the Market Rate section; one
168 for the Affordable Housing section; and one for the Community
169 Space.
 - 170 ○ There would be a long term lease to the Town with potentially
171 sub leases to others within the community space.
 - 172 ○ Since we are working with “tens” of funding sources that each
173 have their own requirements, we still don’t know exactly how
174 this will work. Our attorneys are working on it.
 - 175 ○ Once this is worked out, there will not be any uncertainty going
176 forward.

177 *Board comments/questions answered by Mr. Monks and Ms. Barsotti:*

178 Mr. Corey: If Hale Resources buys the whole building, would it generate tax revenue? *Yes. We*
179 *are considering a TIF bond as a funding source so tax revenue must be generated to pay for the*
180 *bond.*

181 Ms. Perrin: What is the reasoning for the 3 condo units to be split and how would they be split?
182 *Condominiums is the best way that the attorneys feel to meet funding requirements. The*
183 *affordable housing must be separate from the market rate housing and condominiums was the*
184 *best solution for that. It could work with 2 condo units but having 3 is felt to be the best*
185 *solution.*

186 Mr. Lee-Clark: Because not all of the funding sources will have reached a decision in 120 days,
187 what is the best guestimate as to how much information we will have in 120 days when asked
188 to make a go, or no go, decision? *We anticipate coming to you with a plan stating how much*
189 *the project will cost and where we're at with all sources of funding - this is secured, this is*
190 *applied for, this is the gap, etc.*

191 Mr. Lee-Clark: What is the expected completion of the draft development agreement? *We may*
192 *not have the actual agreement in 120 days but we should have a list of the expectations for*
193 *both parties, and/or a letter of intent signed by both parties, and the structure we see going*
194 *forward.*

195 Mr. Lee-Clark: Is there a reason you haven't mentioned who is representing us? *No. Our*
196 *attorney is Attorney Jeremy Farkas, MSK Attorneys and Hale Resources attorney is Attorney*
197 *Craig Miskovich.*

198 Ms. Conner: Thank you for your work on the project and has the number of apartments
199 decreased? *Yes, due to the requirements of Historic Preservation if you are asking for money*
200 *from them. The Community Block Grants won't fund apartments in the basement of a flood*
201 *zone, so the apartments planned for the basement cannot be done. There are other possibilities*
202 *for that space but it won't be apartments.*

203 Ms. Conner: What is the reason behind separating the affordable housing from the market rate
204 units? *For purposes of documentation in writing a mortgage they need to be grouped instead of*
205 *scattered. It's an unfortunate outcome from the funding sources but is not apparent from the*
206 *outside.*

207 Ms. Conner: Everyone needs to understand that a project of this magnitude with multiple
208 funding sources is very complex and frustrating. Moving slowly is the only appropriate way to
209 go.

210 *Public comments/questions answered by Mr. Monks and Ms. Barsotti:*

211 Clark Adams: If Hale Resources buys the whole building, how does this affect the Town's
212 funding sources if we don't own the building? *We need to acquire more funds for the*
213 *improvements than for the purchase of the building. It is very typical with a very long term*

214 *lease for the tenants - the Town - and their subtenants to assume the cost of the renovations.*
215 *Our mission is to get our rent payment down by doing the renovations ourselves. This also*
216 *allows us to have access to funding streams that are not available to municipalities.*

217 Robert Ebert: Why can't all of the apartments be affordable and what role does TIF play in this
218 project? *Mixed housing is the most successful approach instead of all affordable or all market*
219 *rate. However, the requirement from funding sources is for 20% of the market rate apartments*
220 *to be affordable for the length of time that they have set. We see TIF funding going toward*
221 *Phase 2, or the recreational portion, for up to \$2M. TIF bonds are funded by the additional*
222 *revenue generated by the project. This is a commitment that the developer has to make and is*
223 *aware of.*

224 Jack Rossiter-Munley: Are there any restrictions due to the separation of affordable housing
225 from the market rate housing? *The permanently affordable housing will be on the 2nd floor of*
226 *the newer section of the Benn Hi building. It is separate but not isolated and there will not be*
227 *any distinction from the outside. The affordable units within the market rate units will be mixed*
228 *throughout that section. Ideally, all units should be mixed throughout, but funding sources have*
229 *issued the separation requirement.*

230 Tordis Isselhardt: Is there a plan to manage the property if Hale Resources goes out of
231 business? *The Town's interest is protected regardless, however, the funding sources won't give*
232 *dollars to an entity that they feel isn't sustainable. Also, there will be bonds that make sure that*
233 *the work gets done. There is very little risk with these projects because the State and Federal*
234 *funders "have no stomach for risk" and will step in to be sure that there is management in*
235 *place.*

236 **7. FY24 BUDGET OVERVIEW**

237 Mr. Hurd did the following presentation:

- 238 ❖ The General, Highway and Fire Fund budgets combined show an increase of 8.31%.
- 239 ❖ It is impacted greatly by the current 7.7% inflation in October when food and fuel are
240 included.
- 241 ❖ From last year - salt costs up 13% and paving costs up 70% with insurance and wages
242 also up.
- 243 ❖ November inflation has dropped to 7.1% but costs have remained high.
- 244 ❖ The tax rate is based on last year's Grand List and last year's revenue stream. Using
245 prior years' experience we are look at a tax rate increase of 8.9% which is double what
246 we would normally see.
- 247 ❖ Areas to decrease - fewer projects, fewer miles paved. And, look into highway grants,
248 and, as a last resort, using the Fund Balance.
- 249 ❖ Budget meetings are January 7th, 14th, and 21st (if necessary) from 8:00am-Noon at the
250 Bennington Fire Facility Multi-Purpose Room-3rd Floor, filmed by CAT-TV, and open to
251 the public. All departments will be present to speak to their budgets.

252 **8. POLICY - QUALITY CONTROL, INTERNAL INVESTIGATIONS AND DISCIPLINE - 2ND READING**

253 Ms. Jenkins explained that this policy came about to move the review of complaints
254 against the police from the Select Board to CPARB. We had 2 choices - one, a Charter Change
255 or ask the Legislature to put in legislation to allow communities to do this. Instead, the general
256 order that this policy came from is a general order for any police department because there is a
257 portion of the State Law that allows for a citizen review of police actions and could be used
258 statewide for other municipalities.

259 *Board comments/changes/questions:*

260 Ms. Jenkins and Ms. Conner: Page 2, General Philosophy, Change to “The BPD’s goals include
261 serving the community with integrity and professionalism, and to maintain this level of
262 professionalism and continue to improve the quality of service the BPD provides to the
263 community. Each member must accept their responsibility for maintaining high professional
264 standards. This Policy is also meant to serve as a component of the BPD’s affective Internal
265 Affairs Program as contemplated in T.20 VSA Sec 2401.”

266 Ms. Jenkins: Page 3, II RIGHTS AND OBLIGATIONS OF THE MEMBER, Line 4, Change “outlined
267 the” to “outlined”

268 Mr. Hurd: Page 2, I. ORIGIN OF COMPLAINTS, B., End of Line 4, Add “Should the complaint be
269 against a supervisor, the Chain of Command shall dictate who shall receive the complaint.
270 Should it be against the Chief, the Town Manager shall be the recipient of the complaint.”

271 Ms. Jenkins: Page 4, III. QUALITY CONTROL & INVESTIGATIONS, C. Procedures, 5., Line 3,
272 Change “The Chief shall” to “The Chief or their designee shall”

273 Ms. Jenkins: Page 4, III. QUALITY CONTROL & INVESTIGATIONS, C. Procedures, 7., Line 2,
274 Change “may” to “shall”

275 Mr. Hurd: Page 6, V. DISCIPLINE, A., Line 3, Change “tenants” to “tenets”

276 Mr. Hurd: Page 10, Add, “This Policy is hereby adopted by the Bennington Select Board on this
277 (date) of (month, year). Select Board Chair (signature).

278 Mr. Lee-Clark: Page 4, C. Procedures, 1., Line 3, Change “i.e.” to “e.g.”

279 Ms. Perrin: Page 7, D. Factors in Disciplinary Decisions, Line 3, Change “minimizing” to
280 “eliminating”

281 Ms. Perrin: Page 7, D. Discipline Factors, Line 12, Change “an innovative, nontraditional” to “a
282 nontraditional”

283 Ms. Perrin: Page 7, D. Discipline Factors, Line 14, Change “procedures, the desire to encourage
284 creativity may” to “procedures, it may”. Discussion ensued that this change didn’t need to be
285 made, and since the Board members agreed with the concept but felt the wording could be

286 improved, they will have staff look at the last sentence - including the meaning of 'persistent
287 crime' for improved wording.

288 Ms. Perrin: Page 10, Last sentence, Change "is effective as of this date until amended or
289 repealed" to "is effective for two years from the adoption date until amended or repealed."

290 Mr. Lee-Clark: Where is the Complaint Form? Mr. Spivak: At www.benningtonpolice.com under
291 the Complaints link.

292 Mr. Lee-Clark: Requested that policies to be reviewed be sent to the Board with numbered lines
293 and for cross outs to be used for deletions and italics to be used for additions.

294 Mr. Hurd: We are gathering definitions so direct any suggestions that you may have to me. Mr.
295 Lee-Clark added that the reason for 'Definitions' is because that is the way an outside party is
296 supposed to read the terminology in the document.

297 *Public comments/changes/questions:*

298 Kelly Carroll-CPARB Chair: CPARB Recommendations:

- 299 - Remove the General Philosophy
- 300 - Defining/clarifying the differences between simple misunderstandings and complaints
- 301 - Clarifying role of the communications dispatcher in the Origins of Complaints
- 302 - Changing i.e. to e.g.
- 303 - Clarifying how often complaint reports will be sent to CPARB - they want them monthly
- 304 - Clarify the parameters of counseling - not to document, to document, and to discipline
305 Page 6, Section C.
- 306 - Page 7, change minimizing to eliminating
- 307 - Page 7, last sentence - innovative, persistent, and encourage creativity - (as was discussed
308 by the Select Board above)

309 Robert Ebert: Page 6, V. Discipline, C. Line 2, "minor transgressions" - What is the definition of
310 minor transgressions?

311 Robert Ebert: Page 7, Last sentence - This isn't about a "cop on the street", it's about a police
312 officer who just goes out and does a "great idea" that he or she has about a "persistent
313 problem" instead of discussing it with their supervisor first.

314 Ms. Jenkins stated that there will be a 3rd Reading on this Policy at the next Select Board
315 meeting.

316 **9A. BENNINGTON OPIOID RESPONSE TEAM LETTER**

317 Ms. Conner read the Letter from the Bennington Opioid Response Team that they're
318 asking the Select Board to sign on to. This Letter will be hand delivered on Thursday to the
319 Opioid Settlement Advisory Committee.

320 ***Bruce Lee-Clark moved and Tom Haley seconded to sign and approve the Bennington***
321 ***Opioid Response Team Letter to the Opioid Settlement Advisory Committee with edits.***

322 Clark Adams stated that the main focus is not Big Pharma but the illegal drugs and
323 opioid compounds being brought into this country by drug cartels. That organization is
324 addressing the institutional business of the drug industry and not the true major problem. Is
325 this settlement from the drug industry and not drug dealers?

326 Ms. Jenkins answered that it is neither of those. It is coming from the State, from Big
327 Pharma settlements, and distributed to the counties. The purpose of this letter is to advocate
328 on how we want our share of those monies directed.

329 Ms. Conner added that no one disagrees that there is a bigger problem, but this letter is
330 not meant to address that.

331 ***The motion carried with Jim Carroll absent.***

332 **9. MANAGER'S REPORT**

333 Mr. Hurd recognized Joe Krawczyk who passed last week. He was on the Select Board
334 from 2008-2014 with the latter years as Chair and went on to be a Representative for
335 Bennington and Bennington County in the House. He was a friend, an incredible leader, and
336 supporter of our municipal government. He will be missed.

337 Mr. Hurd did the following report:

338 *Benmont Avenue/County Street Sewer Line Replacement* - The last section on County Street
339 from the tracks to Depot Street remains. 9 lead lines were found from Benmont to the tracks
340 so that portion of the project slowed down. The work will be paid for from the lead service line
341 replacement monies and completion is still expected before Christmas. We will be paving and
342 doing the sidewalks in the spring.

343 Mr. Haley noted the huge pot holes on County Street and wanted to have signage put
344 up to warn the public. Mr. Hurd reiterated that work is expected to be completed this week.

345 Mr. Hurd added that we did have drinking fountains at the Town Office but they became
346 contaminated and no one wanted to use them. So we began offering bottled water to staff and
347 the public that has come from Vermont Pure and Morgan Springs.

348 **10. UPCOMING AGENDA**

349 Nothing new was added to the upcoming agenda that hadn't been mentioned at a
350 previous meeting.

351 January 9, 2023 - MSK Presentation on Bond Vote Projects

352 January 7, 2023 - Budget Meeting

353 January 14, 2023 - Budget Meeting

354 January 21, 2023 - Budget Meeting (if necessary)

355 **11. OTHER BUSINESS**

356 Mr. Corey and Mr. Haley: Happy Holidays.

357 Ms. Conner: She and Ms. Isselhardt attended the Martens basketball game yesterday and said
358 they are fun to watch. The next home game is January 8, 2023.

359 Ms. Perrin: Happy Hanukkah and check out the lights around town.

360 Mr. Lee-Clark: Thank you to Dick Sears for work which will be presented to the Legislature this
361 coming session on how to address those 17-21 for utilizing deadly weapons, deadly force, and
362 selling drugs. If a landlord is "reckless" in renting to someone doing this, then they become
363 liable as well. The draft is available and it is very targeted to the kinds of situations we've seen
364 in Bennington. Support it if you can and talk to your legislators. It is a bit of a loophole in our
365 State laws. Mr. Hurd added that it also creates a \$10M fund for communities that are dealing
366 with these issues.

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368 ***At 8:15pm, Sarah Perrin moved and Bruce Lee-Clark seconded the adjournment of the***
369 ***meeting. The motion carried with Jim Carroll absent.***

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371

372 Respectfully submitted,

373 Nancy H. Lively

374 Secretary

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