

M E E T I N G N O T I C E

BENNINGTON SELECT BOARD

Monday, December 12, 2022

Bennington Fire Facility

Multi-Purpose Room - 3rd Floor

130 River Street

Bennington, Vermont 05201

A G E N D A

6:00 PM

1. Pledge of Allegiance
2. Vision Statement
3. Consent Agenda 6:00 PM - 6:05 PM
 - A. Minutes of November 28, 2022
 - B. Warrants
4. Public Comment 6:05 PM - 6:20 PM
5. Bennington Free Library 6:20 PM - 6:35 PM
6. Green Mountain Community Network 6:35 PM - 6:50 PM
7. Implementing the Town Vision 6:50 PM - 7:00 PM
8. Policy - Quality Control Internal Investigations and Discipline 7:00 PM - 7:15 PM
9. Manager's Report 7:15 PM - 7:25 PM
10. Upcoming Agenda 7:25 PM - 7:30 PM
11. Other Business 7:30 PM - 7:35 PM
12. Executive Session
 - A. Contracts

We endeavor to host inclusive, accessible events that enable all individuals to engage and participate fully. To request an accommodation or for inquiries about accessibility, please contact Paul Dansereau, Facilities Director:
pdansereau@benningtonvt.org or call 802-447-9715.

1 **BENNINGTON SELECT BOARD MEETING**

2 **130 RIVER STREET**

3 **BENNINGTON, VERMONT 05201**

4 **NOVEMBER 28, 2022**

5 **MINUTES**

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

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

9 **ALSO PRESENT:** Stuart Hurd-Town Manager; Dan Monks-Assistant Town Manager; Jonah
10 Spivak-Communications Coordinator; Isabelle Harper and David Bond-Bennington College;
11 Michael Lemieux; Donald Washum; Shawn Pratt; Al Bashevkin; John Lamson; 7 citizens; Josh
12 Boucher CAT-TV; and Nancy H. Lively-Secretary.

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

14 **1. PLEDGE OF ALLEGIANCE**

15 The Pledge of Allegiance was recited.

16 **2. VISION STATEMENT**

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

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

21 **3. CONSENT AGENDA**

22 **A. MINUTES OF NOVEMBER 14, 2022**

23 **B. WARRANTS**

24 **C. LIQUOR LICENSES**

25 *Bruce Lee-Clark moved and Jim Carroll seconded to approve the Consent Agenda as*
26 *presented. The motion carried unanimously.*

27 **5. PUBLIC COMMENT**

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

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

Michael Lemieux: Shared the following ideas:

- To accommodate parking needs for the Benn Hi project - make Pleasant Street 1-way from Park Street to Main Street.
- At Upper Willow and the Splash Pad - put in bleachers and outhouses and keep the outhouses unlocked for events.
- On North Street headed south after the red light - eliminate the 2 parking places on the right where people are always dropping someone off.
- Offer \$1,000 reward for information on whoever vandalized the cemetery and he would donate \$100 toward that reward.

Donald Washum: Shared the following:

- Public Comment is too early in the meeting without the agenda items being heard. *Ms. Jenkins: Public comment is to comment on non-agenda items. The public may comment on any agenda item during that agenda item.*
- Update the public on the Benn Hi project more frequently.

Shawn Pratt: Is the co-owner of the Bennington Martens basketball team, now in its 2nd year, and is looking for more support. The team is a member of the American Basketball Association, home games take place on Saturdays or Sundays at 3:00pm at the Middle School and tickets are \$10/adult and \$5/children. Their schedule is on their website, www.benningtonmartensaba.org. The next home games are on December 4th, December 10th, and December 18th, and March 4th or 5th will be the last game of the season. One player is now pro in Slovenia.

5. RAIL CARS STORAGE

Isabelle Harper and David Bond from Bennington College did the following presentation:

- There is an inherent risk to having the LPG train cars on Rice Lane, they provide no benefit and the Board can implement solutions to this problem.
- For the last 5 years between 60-120 train cars have been parked on a neglected rail track from Lake Paran to the Bypass from July-December.
- Each tanker holds ~30,000 gallons of pressurized liquid petroleum gas and are parked ~75' from homes on Rice Lane.
- Earth Justice estimates that 20 LPG tankers contain the explosive power of a Hiroshima sized bomb.
- Though rare, when an explosion occurs it devastates the community they're in and overwhelm emergency response efforts.
- Blasts can do bodily damage up to a mile away and property damage runs into the millions.
- There have been two derailments locally - Hoosick Falls and North Bennington.
- Federal law prevents cities and states from preventing interstate commerce by rail. Trains in transit are under the explicit jurisdiction of the federal government.
- Representative Welch and Senator Leahy spoke to the Federal Rail Administration who said that the removal of the waybill removed these trains from being in "active transportation" to "storage" whereupon the federal jurisdiction does not apply and the cars in storage can be governed by applicable local regulations.
- We feel these regulations includes health and safety ordinances issued by the Select Board for the contents of the cars but not the cars themselves.
- We would like to either see an ordinance that prohibits the storage of non-odorized petroleum gas in quantities of over 25,000 gallons within 1,000 meters of homes, schools, and hospitals OR preempts the storage of more than 10,000 gallons of flammable gas without road access to include a fine of \$1,000/10,000 gallons of LPG over the allowed amount/day.

Board comments/questions answered by Ms. Harper and Mr. Bond:

Mr. Lee-Clark: Have you found any ordinances like these that have worked? *No.*

Mr. Lee-Clark: Who at the Federal Rail Administration gave you the information on the distinction between active transportation and storage and federal jurisdiction? *This came from Representative Welch and Senator Leahy's office.*

Mr. Lee-Clark: Does anyone know if the waybill has been removed from those cars? *Yes, we have photos of where they should be and they're not there.* Mr. Lee-Clark requested that the photos of where the missing waybill should be, as well as any other information that you have, be forwarded to the Town. *We will.*

Mr. Lee-Clark: Interstate commerce is federally preempted for a reason - so local municipalities will not set up systems that discriminate against others from coming in or leaving. "While I

103 think it's being misused here, I agree that federal preemption in this area, in general, makes a
104 lot of sense."

105 Ms. Jenkins: If the purpose of storing them here is so they can be deployed quickly, are they
106 really not in transit, and Mr. Lee-Clark added that it is more technically related to the waybill.
107 *Also, there are regulations for the storage of LPG that involve them being in a facility, and*
108 *having them stored in our community the way they are, bypasses those regulations.*

109 Mr. Monks: Stated that the Town received the same e-mail last year and it continued to
110 reference significant case law that would limit us in regard to regulations. We still need to look
111 into it, but the last time we checked with our attorney, she said that they would need to see the
112 waybill, itself, and review the case law. We have requested the waybills from Representative
113 Welch's office.

114 Ms. Perrin: Is it accurate that the proper storage of these cars is in a yard? *The proper storage is*
115 *a facility with many safeguards and regulations attached.* Ms. Perrin: Thank you for your
116 research.

117 Ms. Jenkins: Is the next step to go to the federal delegation? *We go to the federal delegation*
118 *and they say to come to the municipality, and we come to the municipality and you say to go to*
119 *the federal delegation.*

120 Ms. Jenkins: We are all on the same page as to what we want to do, however, we have had no
121 indication that we can do what we are all wanting to do.

122 Ms. Jenkins: Have you heard from other communities with this issue? *Yes, other communities in*
123 *Vermont, Albany, NY, and up and down the east coast.* Ms. Jenkins added that it makes sense
124 to start forming a coalition of communities that are interested in this issue across the country.

125 Ms. Jenkins: Why did you choose the amounts you chose for the ordinance? *We wanted it to be*
126 *per gallon and not per car, and what the value was on the cars.*

127 Ms. Conner: Would imagine there are many ordinances and procedures in many departments
128 of the federal government that err on the side of safety and health, but this one doesn't.

129 Mr. Lee-Clark: If we take this on it isn't the Federal Rail Administration that we will be fighting.
130 It will be the rail companies and the gas companies and they've got deep pockets.

131 *Public comments/questions answered by Ms. Harper and Mr. Bond"*

132 Al Bashevkin: This is not only a Bennington issue, it's a national issue. We should play "the long
133 game" and put pressure on our elected officials in Congress to look at this as a national public
134 health issue.

135 John Lamson: Questions can be posed to an attorney in different ways. The Town should
136 approach our attorney saying that we want to take this on with an ordinance and want support

for this position instead of asking for their opinion. *Mr. Monks added that when the Town worked with our attorney last year, he was very interested in getting the waybills and we were unable to get them last year because they “fell through the cracks”. We will attempt to get them again this year and will only create an ordinance that is enforceable.*

Ms. Jenkins stated that next steps are to look at the waybills, pursue “the long game” with our elected officials in Congress, and reach out to other communities similarly impacted. Thank you to Ms. Harper and Mr. Bond for bringing it up again as it is a shared goal. Ms. Harper added that if Bennington were to take this on with an ordinance, it could be used as a model to other communities across the country.

6. IMPLEMENTING THE TOWN VISION

There was nothing new to report at this time.

7. MANAGER’S REPORT

Mr. Hurd did the following report:

Three Water System Project - (Tier Two Projects) The final South End project to address pressure deficiencies in our system, a Gage Street water main replacement project, and the Settlers Road/Springhill Road water main extension project are all coming to fruition and have met the requirement to be funded. The South End and Gage Street project will require a bond vote in March 2023 for \$3M and are potentially 90%-95% reimbursable. The Settlers Road/Springhill Road project is 100% reimbursable by the State.

River Walk Redesign and Upgrade - This project for which we have received a State grant is moving forward to formal design and bidding for the next construction season. The project will feature a wider, paved pathway and improved lighting. Over time new benches and other amenities will be added. Ms. Conner will relay this information to Kelly Carroll.

Benmont Avenue/County Street Sewer Line Replacement - The portion of the project within Benmont Avenue is completed. Paving was scheduled for November 22nd. An additional 60’ of sewer main has been extended up County Street towards Depot Street and Casella plans to extend the remainder of the sewer main to Depot Street before Christmas.

8. UPCOMING AGENDA

December 12, 2022 - Green Mountain Express

December 12, 2022 - Bennington Free Library

December 12, 2022 - Dr. Trey Dobson COVID Update

December 19, 2022 - 2nd December Select Board Meeting

December 19, 2022 - Benn Hi Update

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

171 January 7, 2023 - Budget Meeting

172 January 14, 2023 - Budget Meeting

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

174 **9. OTHER BUSINESS**

175 Mr. Lee-Clark: Even though the Rail Trail is open, will we have a formal opening? Mr. Monks
176 stated that will be in the spring.

177

178 *At 7:03pm, it was moved and seconded to adjourn the meeting. The motion carried*
179 *unanimously.*

180

181

182 Respectfully submitted,

183 Nancy H. Lively

184 Secretary

185

MEMORANDUM

To: Select Board

From: Stuart A. Hurd, Town Manager



Re: Policy on Quality Control, Internal Investigations and Discipline

Date: December 7, 2022

Working with the Chief, the Lieutenant, the Assistant Manager, and Town Counsel, we have developed the attached Policy for your consideration. It formally outlines how complaints are handled, the role of the Chief and of Supervisors in the Department and disciplinary actions, and brings the CPARB into the review process in place of the Select Board.

We believe this clarifies the role of CPARB in the complaint process. It allows for a review of the Chief's decisions while protecting the constitutional right to privacy for the individual.



Quality Control, Internal Investigations and Discipline	Related Policies:
	Code of Conduct
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this Office for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable Vermont Statutes:	
Date Adopted:	Review Date:

POLICY: To provide citizens and employees the ability to bring forward complaints about the conduct of members whenever that citizen or employee believes a member has acted improperly. A process has been established which enables the BPD to initiate positive, corrective action, discipline, and re-training or education for improper conduct while protecting members from unwarranted criticism for properly discharged duties. All complaints will be investigated in accordance with federal and state law, the Town of Bennington's Personnel Policy, the New England Police Benevolent Association Working Agreement ("Working Agreement"), BPD Internal Affairs Policy & Procedures, and the procedures described herein.

CONTENTS: General Philosophy

- I. Origin of Complaints
- II. Rights of the Member
- III. Quality Control
- IV. Authority of the Chief
- V. Discipline
- VI. Role of Supervisors, Authority to Discipline, General Continuum
- VII. Appeals
- VIII. Dismissal
- IX. Records
- X. Additional Sources & References

GENERAL PHILOSOPHY

The BPD has a well-established tradition of serving the community with integrity and professionalism. To maintain our proud tradition and continue improving the quality of service the BPD provides to the community, each and every member must accept their responsibility for maintaining high professional standards. This policy is also intended to serve as a component of the BPD's effective internal affairs program as contemplated in 20 V.S.A. § 2401 (4).

I. ORIGIN OF COMPLAINTS

- A. Allegations of violations of the BPD's policies and procedures may be initiated from within or outside of the BPD. Every such allegation and/or charge will be investigated by the BPD and reviewed by the Lieutenant and Chief of Police.
- B. An employee electing to lodge a complaint against another employee may transmit the complaint verbally or in writing to their immediate supervisor. The supervisor shall document the complaint in writing and notify the Chief of Police, via the chain of command.
- C. A citizen or other civilian verbally lodging a complaint against a member will be asked to document the complaint by completing a "Citizen's Complaint Form", which requires the complainant's name, address and telephone number and a brief statement describing the incident. If complainant elects not to document their complaint, the person receiving a verbal complaint shall endeavor to obtain pertinent facts from the complainant and then refer the complaint to the On Duty Supervisor, who shall fill out the "Citizen Complaint Form" with as much information as is available. All complaints must be reported to the Chief of Police, via the Chain of Command.
- D. This policy does not apply to minor misunderstandings on the part of a complainant, which can be quickly resolved with an explanation of Vermont State law and/or Department policy. Such minor misunderstandings may be resolved by the shift supervisor and should be documented in writing to the Lieutenant and Chief of Police. If the complaining citizen or other civilian is not satisfied with this resolution, they may complete a "Citizen's Complaint Form" as outlined in Paragraph C, above.
- E. The Chief of Police shall review every Citizen's Complaint received by the BPD and shall determine what further investigation is necessary to make a determination with respect to the Citizen's Complaint. The Chief will forward all relevant information to the Lieutenant whenever the Chief shall determine that further investigation is necessary.

- F. Every effort shall be made to facilitate the convenient, courteous and prompt receipt and processing of every Citizen Complaint. Any member who interferes with, discourages or delays the making of such complaints, shall be subject to disciplinary action.
- G. A "Citizen's Complaint Form" shall be available to the public.

II. RIGHTS AND OBLIGATIONS OF THE MEMBER

The rights and obligations of members who are under investigation and subject to interrogation or any reason which could reasonably lead to disciplinary action are set forth in the Working Agreement and Vermont law. The procedure outlined in the Working Agreement shall be followed for all internal investigations, regardless of the involved member or officer's rank. The procedure for internal investigations involving non-sworn members shall be consistent with the applicable agreement (The New England Police Benevolent Working Agreement or Town of Bennington's Personnel Policy). In addition, the following shall also apply to the extent consistent with the Working Agreement and Vermont law:

- A. The member will be informed prior to the interview that they are a subject of investigation, the nature of the investigation, and their rights and responsibilities relative to the investigation.
- B. All interviews are to be limited in scope to activities, circumstances, events, conduct or acts, which pertain to the incident that is the subject of the investigation. A member may be requested to participate in other investigative processes that are specifically directed and narrowly related to the investigation.
- C. No member shall be compelled to take a polygraph, participate in a photo or live line-up, disclose financial records, or submit to medical examinations during the course of an internal investigation.
- D. Investigations shall be completed promptly, normally within thirty (30) days. The time required may vary from case to case based on the nature of the allegation(s) and the complexity of the investigation. If additional time is necessary to complete the investigation, the Chief of Police may authorize an extension of up to sixty (60) days, for a maximum time limit of ninety (90) days.

III. QUALITY CONTROL & INVESTIGATIONS

- A. Organization
The Chief of Police shall oversee the Quality Control and Investigations. The Chief shall staff the office as needed with personnel trained in Internal Affairs Investigations to achieve its objectives.

- B. In the course of an investigation, the assigned Lieutenant shall report on a regular basis directly to the Chief of Police on all complaints investigated and the status of each such investigation and in turn, the Chief of Police shall keep the Lieutenant advised of all incoming complaints. The Chief of Police will be notified as soon as possible by the affected Supervisor of any complaint that may result in an investigation.
- C. Procedures
1. Trained personnel will commence any investigation so directed by the Chief of Police. A supervisor may investigate minor complaints (i.e. rudeness) for the purpose of performance, counseling and coaching. Trained personnel shall investigate or cause to be investigated any allegation of criminality on the part of a member of any conduct that could result in a record of permanent discipline.
 2. Upon receiving a complaint from the Chief of Police, the Lieutenant will select an investigator to conduct the investigation.
 3. The investigator shall have freedom of movement, authority to interview all personnel regarding infractions of the BPD's policy, procedure, rules and regulations, or state or federal law, in reference to any ongoing investigation.
 4. No retaliatory measures shall be taken against anyone due to any investigation conducted under its authority.
 5. During the course of any investigation conducted all relevant records and reports from any source within BPD's control shall be immediately available to the investigator upon request. The Office of Quality Control shall have the authority to request relevant records and reports outside of BPD's control as necessary for the investigation.
 6. Upon completion of investigations, the investigator in charge shall prepare a report of findings, which shall be promptly furnished to the Chief of Police, through the Chain of Command.
 7. Upon completion of the Chief's decision-making process, the results may be provided to the Town of Bennington's Community Policing Advisory Review Board (CPARB). Should CPARB wish to review the complaint or other incident, the Chief shall provide CPARB with all information gathered in the course of the investigation redacting names as appropriate. The information provided to CPARB shall exclude personnel records as protected under Vermont law, and the disciplinary outcome of any internal investigation. Review by CPARB shall be performed in accordance with its mandate as set forth in "Resolution for Community Policing

and Review Board” as the same may be amended by the Select Board from time to time. Upon completion of any such review, CPARB will share its impressions with the Chief of Police, in Executive Session to the extent such review implicates the provisions of 1 V.S.A §313(a)(1)-(10). The Results of CPARB’s review shall be given in an open session of a CPARB meeting.

- D. The Chief of Police shall maintain a complete record of complaints. These records shall be maintained separate from all other department records and shall be strictly confidential.
- E. The assignment of Internal Affairs functions does not relieve Supervisors of their responsibilities for the prompt investigation of all alleged acts of misconduct or other breaches of discipline by members they supervise.
- F. It is not practical, nor possible, to establish a firm and set penalty and corrective measure for every conceivable situation necessitating disciplinary action or review for unprofessional conduct. Extenuating or mitigating circumstances and other factors will govern the severity of disciplinary action, consistent with the Working Agreement and Vermont law.
- G. The Lieutenant shall ensure the following with regards to maintaining contact with the original complainant:
 - 1. The complainant shall be advised when their complaint is received.
 - 2. When reasonably requested, the complainant will be periodically informed as to the status of their complaint.
- H. On an ongoing basis, the Chief of Police shall compile a statistical summary of all complaints investigated. This summary shall be made available to BPD members and to CPARB. If the summary report indicates the need for training is detected, the CPARB may make appropriate recommendations to the Chief of Police. Additionally, each instance in which a complaint is received is an opportunity to examine practices, procedures, and conduct. Each should be examined and alterations to policy, practice, or operations may be necessary, unless it involves mandated policies and procedures in the State of Vermont.

IV. AUTHORITY OF THE CHIEF OF POLICE

- A. The Chief of Police shall:
 - 1. Review every investigation to determine the appropriate disposition.
 - 2. Make a finding, using the following disposition categories:
Unfounded - The investigation indicates that the act or acts complained of did not occur or failed to involve members or police officers.

Exonerated - Acts reported did occur, but were justified, lawful and proper.

Non-sustained - Investigation fails to disclose sufficient evidence to prove clearly or disprove the allegations made in the complaint.

Sustained - The investigation disclosed sufficient evidence to clearly prove the allegations made in the complaint.

Non-involved - The investigation establishes that the individual named in the complaint is not involved in the alleged incident.

3. The Chief of Police or their designee shall make reasonable efforts to notify the complainant, in writing, of the outcome of the investigation.
- B. The authority of the Chief of Police and Town Manager to suspend members or officers from duty is derived from the Working Agreement.

V. DISCIPLINE

The BPD strives to engage in progressive and corrective discipline. Whenever it is necessary to discipline a member, it shall be done fairly and in such a manner to avoid undue embarrassment of the member in front of the public, fellow members or other employees. All disciplinary action shall be consistent with the requirements of the Working Agreement and State law.

- A. The BPD recognizes and encourages the use of training as an effective method of improving employee productivity, morale, and adherence to policies. The BPD agrees with the tenants of progressive and corrective discipline, where appropriate.
- B. The severity of a disciplinary action shall be commensurate with the cause of action. The specific types of disciplinary measures to be taken against a member are defined in the applicable Working Agreement or Town's Personnel Manual.
- C. The BPD encourages supervisors to verbally counsel and coach members for minor transgressions, when appropriate. Counseling shall not be considered a disciplinary measure and may not need to be documented. There may be occasions, however, when a supervisor will document an informal verbal counseling by making an entry into the Guardian Tracking System. This entry is not discipline. It is merely a record of the issue made available to other supervisors, should there be additional transgressions. Any action taken beyond an entry into the Guardian Tracking System shall be considered a disciplinary action and must be consistent with the provisions of this directive and the applicable Working Agreement.

D. Factors in Disciplinary Decisions

Described here are the factors that will be considered in the disciplinary decision process for alleged breaches of policy or rules. It is critical that a system of discipline be established that contributes to minimizing abuse of police authority and promotes the BPD's reputation for professionalism. Each member must understand and be guided by the standards that have been established in the Code of Conduct.

It is recognized and understood that members will make errors from time to time in carrying out their responsibilities. While each error offers an opportunity for the BPD and member to learn, it is also understood that some errors will have greater consequences than others for the public, the department and the member.

Disciplinary action must be imposed in a consistent and fair manner. Consistency is defined as holding everyone equally accountable for unacceptable conduct. Fairness is defined as understanding the circumstances that contributed to the conduct while applying the consequences in a way that reflects this understanding. In order to ensure that members are treated in a consistent and fair manner, the determination of consequences for conduct that does not meet the BPD's expectations will be made based upon a balancing of factors, in a manner consistent with the Working Agreement and Vermont law.

Discipline Factors

Member Motivation: The BPD exists to serve the Bennington Community. One factor in examining a member's conduct is whether or not the member was acting in the public interest. A member who violates a policy or procedure in an effort to accomplish a legitimate police purpose, and who demonstrates an understanding of the broader public interest inherent in the situation, will be given more positive consideration in the determination of consequences than one who was motivated by personal interest. From time to time, it may be difficult to distinguish between public and personal interest. As an example, arresting a dangerous criminal is in the public's interest. The greater public interest is for the police to carry out its responsibilities while protecting the public's Constitutional guarantees. But if an officer attempts to devise an innovative, nontraditional solution for a persistent crime or service problem and unintentionally runs afoul of minor procedures, the desire to encourage creativity may carry significant weight in determining any discipline that might result.

Degree of Harm: The degree of harm resulting from an error is a factor in deciding the consequences of a member's conduct. Harm can be measured in a variety of ways. By way of example only, harm can be measured in terms of the monetary cost to the BPD and/or the community,

whether personal injury results from error or by impact of an error on the public's confidence in the BPD.

Member Experience: The level of experience of a BPD's member to which an error is attributable is a factor relevant to determining appropriate discipline. By way of example only, whether a member is relatively new or an experienced member in an unfamiliar assignment might be treated more leniently than a member who has significant experience.

Intentionality: Errors can be classified as intentional or unintentional.

An unintentional error is an action or decision that turns out to be wrong, but based upon the information available at the time it was taken, was reasonably believed to be in compliance with policy and the most appropriate course. Unintentional errors also include those momentary lapses of judgement or acts of carelessness that result in minimal harm. BPD's members will be held accountable for these errors, but the consequences will be more corrective than punitive unless a pattern emerges.

An intentional act or a decision occurs when a member knew or should have known, that such act or decision was in conflict with law, established training or procedures, rules, or policy. Generally, intentional errors will be treated more seriously and carry greater consequences than unintentional errors. Within the frame-work of intentional errors, there are certain behaviors that are entirely inconsistent with the responsibilities of the police profession. These include dishonesty, theft, physical abuse of citizens, disparate treatment of community members based on immutable characteristics (such as race, ethnicity, or national origin), and other equally serious breaches of the trust placed in officers of the police officer's profession. An officer will face discharge from the BPD when it is clear that the officer has intentionally engaged in behavior constituting a serious breach of the public trust.

Officer/Member Past Record: To the extent allowed by law and Working Agreement, a member's past record will be taken into consideration in determining the consequences of a failure to meet the BPD's expectations. A member that repeatedly makes errors can expect the consequences of this behavior to become progressively more punitive. A member's past record reflecting hard work, dedication and achievements to the community and department will be given requisite consideration in the determination of any disciplinary action.

VI. ROLE OF SUPERVISORS, AUTHORITY TO DISCIPLINE, GENERAL CONTINUUM

- A. Outcomes of reviews or investigations may result in a continuum of responses which include education and training, performance counseling, corrective actions or discipline. The continuum includes but is not limited to (responses may include more than one of the items in the continuum in

some instances), in no specific order based on behavior set out in this policy.

Non-Disciplinary Outcomes

1. Verbal performance counseling and/or Guardian Tracking entry
2. Training/re-training
3. Written performance notation
4. Written counseling
5. Referral to professional counseling - such as the Employee Assistance Program

Disciplinary Outcomes

6. Written reprimand
 7. Suspension, forfeiture of pay or forfeiture of accrued earned time
 8. Reassignment/Demotion
 9. Suspension, forfeiture of pay or forfeiture of accrued earned time
 10. Dismissal
- B. The Chief of Police has the authority to take the following disciplinary actions with respect to a subordinate:
1. Issue verbal reprimands
 2. Issue written reprimands
 3. Temporarily suspend a member using administrative leave
 4. Recommend to the Town Manager further disciplinary action
- C. The Town Manager and Chief of Police may issue verbal or written reprimands. The Chief of Police, or in their absence, the Chief's designee is the only member of the BPD with the authority to discipline other members of the BPD, as outlined in the Working Agreement and state law.

VII. APPEALS

Any appeal relative to disciplinary action shall be handled according to the applicable Working Agreement, the Town of Bennington's Personnel Policy, and in conformity with state law.

VIII. DISMISSAL

All dismissals shall occur in accordance with the applicable Working Agreement or Town of Bennington's Personnel Policy, and in conformity with state law. If employee misconduct results in dismissal of a trial period employee, it shall be the responsibility of the Chief of Police or their designee to provide information regarding the content of the member's personnel file as it relates to dismissal.

IX. RECORDS

Maintenance and retention of records of disciplinary action are governed by the applicable New England Police Benevolent Association Working Agreement or the Town of Bennington's Personnel Manual as it relates to dismissal.

X. ADDITIONAL SOURCES & REFERENCES

Agreement between the Town of Bennington Police Department and the New England Police Benevolent Association.

The policies and procedures outlined above are hereby adopted by the Chief of Police of the Town of Bennington, Vermont this _____ day of _____, 2022 and is effective as of this date until amended or repealed.

Paul J. Doucette, Chief of Police

MANAGER'S REPORT
December 12, 2022

ACTION

Nothing at this time.

INFORMATIONAL

Willow Park Playground Update Paul Dansereau's update is attached. We have made some great progress during the warm weather.

Benmont Ave/ County Street Sewer Line Replacement This project has moved onto County Street with a goal to finish before the Christmas Holiday. In the Spring, the Town hopes to replace the County Street sidewalks in the project area and pave where needed.

Rail Cars The Town has requested and is awaiting the waybill. We will get together with counsel when we have that.

Fiscal Year 2024 budget I plan to present the completed General, Highway and Fire Fund budgets to you on December 19th. Work sessions will take place on January 7, 14, and the 21 if needed. The Annual Town Meeting Warning must be signed by the Board at its January 23 meeting.

Water System Projects Bond MSK Engineering will be on hand at the January 9th meeting to present the two projects for which the Town is considering a bond vote

FOLLOW UP

The Community Development and Permitting/Planning Reports are attached.

December 7, 2022

Town of Bennington Willow Park Play Structure Project Update 12/07/2022

Prepared by: Paul T. Dansereau

- 1. Purpose:** Provide the Town of Bennington Select Board an update of the Willow Park Play Structure Project.
- 2. Current Status:**
 - a. On Thurs (12/1) a crew from JMCR Safety Surfacing Corp (from Carle Place NY) mobilized on site and received delivery of the Poured in Place Rubber sub-base, binder, and color coat materials.
 - b. On Fri (12/2) the JCMR installation crew began the installation of the 1.5 inch sub-base surfacing on the Lower Willow Park playground. The installation crew is using heaters to enable the product to be mixed and installed.
 - c. The installation of the 1.5 inch sub-base provides the required safety fall protection within the playground.
 - d. The Upper Willow Park Playground required an additional 1 inch of gravel sub-base to ensure the Upper Playground final rubber surface coat was flush to the inner curb.
 - e. Play by Design mobilized a crew on site Mon (12/5) and emplaced the additional 1 inch of gravel on the Upper Willow Park Playground; addressed several punch list items for the Upper and Lower Playground equipment; and completed a check of all playground equipment.
 - f. On Mon (12/5) the JCMR installation crew completed the 1.5 inch sub-base surfacing at the Upper Willow Park Playground.
 - g. Weather continue to remain a key factor to complete the final 0.5 inch color coat poured in place rubber.
- 3. Additional updates will follow as they become available.**

M:\Building & Zoning\Paul\Building & Grounds\Willow Park Play Structure\Executive Summary and References 12012021\Willow Park Play Structure Project Update as of 12 07 2022.doc

Recreation:

YMCA program planning:

The Bennington Community Center (Rec Center) pool schedule and fall programs for adults and youth are updated regularly on the Facebook page and town's website. New exercise equipment is available in the weight room, and a strength and conditioning room has opened up in the basement. YMCA after-school programs and youth and adult fitness programming are happening at the Bennington Sports Center as well, with many new classes for seniors. Teen use of the Community Center continues to grow. I collaborated with an MAUHS student who created a teen survey for participants who are using the Center. Questions included how they use the facilities and what improvements they would like to see on the campus, both indoors and outdoors. Kayla and Taylor are exploring grant funding to use the basement for additional teen programming.

Bennington Outdoor Recreation Collaborative:

The Town of Bennington received a \$10,000 grant from the Vermont Community Foundation to support outdoor recreation with wayfinding signs, photography, graphic design, and print media. Jonah Spivak redesigned the Town's recreation page to highlight more outdoor recreation opportunities and partners. GVH studio has completed the wayfinding signs and they are being installed by the Town's highway department now.

Bennington Community Center green space improvements:

The Town of Bennington received a Recreation Facilities grant from the State of Vermont to add fencing around the green space next to the Morgan Springs water facility on the Community Center campus. This is a sizable green space that the YMCA is using for youth programming, outdoor exercise classes, and community picnics. An Animating Infrastructure grant from the Vermont Arts Council is supporting art installations along the fence, such as creative benches and gates, collaborating with local artists and designers through the Vermont Arts Exchange. We are also working with a local landscape designer for ideas on landscaping the area. Matthew Perry and local artists Joe Chirchirillo and Michael Biddy are almost finished installing the new benches. I met with Bennington Historical Society members to gather photos and stories about Morgan Spring that will be on new signage around the green space. GVH Studio is creating and installing the signs this month. TCB Designs is creating a site map to illustrate future improvements for the green space.

Trolley line path:

I am on the advisory committee for the Trolley Line path scoping study that is led by Cat Bryars and Mark Anders of BCRC. This study examines the feasibility of converting the abandoned electric trolley car bed in Southwestern Vermont into a 14-mile shared-use path for pedestrians and cyclists traveling between Bennington and Pownal, VT and Williamstown, MA.

Willow Park play structure upgrade:

I am on the working group with Paul Dansereau, Mark Sawyer, and Jonah Spivak. We reviewed the proposals that responded to the RFP and selected Play by Design to lead the project. Play By Design removed the old play structures and the new play structures have been installed but some modifications are needed before the park can reopen in the spring.

Vermont Begins Here:

Eight Oh Two Marketing is continuing the digital marketing campaign to promote Bennington. We are running Facebook ads to promote holiday travel to Bennington. The VBH blog post for December promoted the In the Shadow of the Hills auction at the Bennington Museum as well as local holiday shopping in downtown Bennington.

Bennington Community Market:

I have been working closely with the board of the Bennington Community Market, located at 239 Main Street. The market received a town loan of \$200,000 to construct a commercial kitchen at the market space and purchase equipment for the market. They have now raised over \$500,000, including the town loan. They have a website- <https://www.benningtonmarket.com> and have launched a social media campaign and fundraising campaign. The market also received their 501c3 status from the IRS as a non-profit organization. Construction is almost complete on the space and the market's general manager is hiring staff and preparing the market for opening in early 2023.

Congressman Peter Welch nominated the Bennington Community Market along with other local partners for a federal earmark and he visited the market on his recent trip to Bennington.

Community Development Block Grants:

The Town received a Vermont Community Development grant of \$500,000 to support the Shire Housing Bennington Family Housing project at 300 Pleasant Street, and this project is nearing completion. Shires Housing has received VCDP funding through the Town for two recovery housing projects on North Street and Gage Street. I submit paperwork required for each grant agreement and subgrant agreement along with progress reports on the projects.

Historic Preservation Grants:

I worked with GVH Studio on a history/recreation/arts and culture panels for a new downtown kiosk funded with an historic preservation (CLG program) grant. The kiosk was installed in the green space at the back entrance to the Putnam block. I also submitted another historic preservation grant in partnership with Bennington College to put the college campus on the National Register of Historic Places, and we were awarded this \$5,000 grant.

Franklin Lane Improvement Project:

The Town's Highway Department has finished the paving at the site and the final lighting and metal screening is being installed over the next few weeks. This project is funded with a \$50,000 Downtown Transportation Fund grant. These improvements will be completed by the end of the year.

Walloomsac Riverwalk Improvement Project:

The Town also received a \$200,000 grant for improvements along the Riverwalk that will begin next spring. I met with Dan Monks and Michael McDonough to discuss next steps for the project, including new lighting along the Riverwalk.

Community Development Report: December 7, 2022

Shannon Barsotti

Benn Hi Redevelopment Team:

I am on the team with other town staff Dan Monks, Mark Sawyer, and Paul Dansereau and we are meeting weekly to plan the redevelopment of Benn Hi. The Town hired Goldstone Architecture to create conceptual plans and Engelberth Construction to do a cost estimate on the project. I organized meetings with Jeff Goldstone and our partners at the Senior Center, Meals on Wheels, and the Berkshire Family YMCA for their input on program design. Jonah Spivak and I are meeting with seniors at the Senior Center regularly to discuss the next steps for the project. The Town signed a Memorandum of Understanding with Hale Resources, a private local housing developer, to work on a plan for creating housing at Benn Hi. I am researching grants to help support the redevelopment of the building and identifying partners for the community spaces. Zak Hale and I attended a housing meeting in Wilmington on Dec. 1 that was convened by Southern Vermont Economy Project. Jon Hale, Dan Monks, and I led a tour of Benn Hi this week with Alex Farrell, Deputy Commissioner for the Vermont Department of Housing and Community Development. I also attended a meeting in Manchester with state officials to discuss ARPA funding from various state agencies.

Town website redesign project team:

I met with Jonah Spivak to review the proposals submitted for the Town's website redesign and interviewed final candidates. The web developer Revize was awarded the contract for the Town's website and is working on the redesign.

Armory Reuse Study:

I am on the committee that the BCRC is convening to explore the municipal and community reuse of the Armory building. The study is funded by a Municipal Planning Grant.

Vermont Council on Rural Development

VCRD asked me to join their board as a local government representative and I attended their board meeting on November 16.

Community Outreach:

In the past month, I have met with the Benn Hi Redevelopment team, Berkshire Family YMCA management team, the Bennington Senior Center, Meals on Wheels, Hale Resources, Eight Oh Two Marketing, Historic Preservation Commission, Bennington Historical Society, Bennington Community Market, Bennington College, Vermont Arts Exchange, Goldstone Architecture, Better Bennington Corporation, Armory Reuse Committee, Willow Park Committee, Southern Vermont Economy Project, Southwestern Vermont Council on Aging and the Vermont Council on Rural Development.

**12-Years At a Glance
Permit Totals Only**

Month	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
January	6	12	11	5	8	15	10	5	6	5	11	15
February	7	7	6	7	15	8	5	7	5	8	9	10
March	6	31	13	12	10	14	19	11	13	9	19	22
April	34	31	18	22	27	14	15	15	23	11	29	33
May	27	27	38	20	23	19	27	23	24	19	23	29
June	34	32	20	19	21	19	10	14	12	25	16	21
July	20	24	33	29	47	16	29	30	28	12	16	20
August	14	30	21	29	20	18	25	25	16	27	16	28
September	15	21	32	27	22	21	21	23	26	9	14	23
October	19	38	30	21	28	9	19	20	20	17	29	17
November	22	10	16	11	12	8	16	11	8	15	19	19
December	17	18	18	7	10	5	8	11	11	5	10	
Total	221	281	256	209	243	166	204	195	192	162	211	

**Summary of Building Permits Issued
November 2022**

Construction Type	Month to date	Month to Date Volume	Year to date	Year to Date Volume
	Permit Totals		Permit Totals	
Single Family Dwelling	1	\$200,000.00	6	\$1,625,000.00
Duplex	0	\$0.00	0	\$0.00
Mobile Homes	2	\$116,000.00	5	\$437,100.00
Apartments	0	\$0.00	0	\$0.00
Apartment Renovations	0	\$0.00	8	\$272,400.00
Condominiums	0	\$0.00	0	\$0.00
Residential Renovations	1	\$40,000.00	18	\$938,859.00
Residential Additions	0	\$0.00	7	\$903,800.14
Commercial Construction	0	\$0.00	4	\$2,195,000.00
Commercial Renovations	2	\$30,200.00	18	\$2,462,458.00
Industrial Construction	0	\$0.00	1	\$608,898.00
Industrial Renovations	0	\$0.00	3	\$72,900.00
Garages	1	\$100,000.00	12	\$373,600.00
Sheds	4	\$12,850.00	18	\$83,329.00
Decks	1	\$20,000.00	14	\$150,250.00
Institutions	0	\$0.00	0	\$0.00
Signs	1	\$50.00	30	\$101,591.00
Use & Zoning	2	\$16,957,250.00	13	\$48,274,750.00
Subdivision	0	\$0.00	4	\$0.00
Home Occupation	0	\$0.00	1	\$0.00
Propane Tank/Storage Tank	0	\$0.00	0	\$0.00
Boilers/Furnaces/RTU's, A/C	0	\$0.00	6	\$97,050.00
Tents	0	\$0.00	6	\$25,605.00
Handicap Access/Ramps	0	\$0.00	3	\$16,000.00
Concreate Slabs	0	\$0.00	0	\$0.00
Cell Towers/Communications	0	\$0.00	0	\$0.00
Solar Installations	0	\$0.00	13	\$412,599.25
Camps	0	\$0.00	0	\$0.00
Withdrawn	1	\$0.00	3	\$0.00
Demolition	2	\$0.00	22	\$0.00
Fire Supression	0	\$0.00	6	\$0.00
Sprinkler System	0	\$0.00	4	\$0.00
Exhaust Hood	0	\$0.00	2	\$0.00
Fire Alarm	1	\$0.00	10	\$0.00
Total	19	\$17,476,350.00	237	\$59,051,189.39

Town of Bennington Planning and Zoning

Detailed Permit Report

Permit types included: Building

Approval status included: Granted

Occupancy status included: Any status

Decision dates included: Between 11/01/2022 and 11/30/2022

<i>Parcel number Land Record Book and Pages</i>	<i>Permit number</i>	<i>Owner's name Applicant's name Location</i>	<i>Permit type Cert. of Occ.</i>	<i>Decision</i>	<i>Fee paid Cost of project</i>
45011700	22-140	BABSON JR JOHN John Babson Jr 231 CHAPEL RD Construct A 1500 Sq-Ft Single-Family Dwelling	Building C.O. Pending	Granted 11/01/2022	190.00 200,000.00
43525300	22-143	TURGEON STACEY L Apex Solar Power and EV 34 ROBINSON AV Install Rooftop Solar	Building C.O. Pending	Withdrawn 11/17/2022	25.00 5,280.00
50548400	22-149	BENNINGTON FREE LIBRARY Lynne Fonteneau McCann 101 SILVER ST Renovate Storage Room Into A Children's Bathroom (46.2 Sq-Ft)	Building C.O. Pending	Granted 11/07/2022	50.00 20,200.00
44500300	22-151	SMITH EDWARD H Grennon Project Services 96 NORTHSIDE DR Renovate Existing Restroom to Meet ADA	Building C.O. Pending	Granted 11/08/2022	50.00 10,000.00
45014124	22-153	GARDEN HOMES VT LP Thomas O'Brien 117 ABBOTT ST Install New Manufactured Home (933 Sq-Ft)	Building C.O. Pending	Granted 11/21/2022	187.00 58,000.00
45014124	22-154	GARDEN HOMES VT LP Thomas O'Brien 117 ABBOTT ST Install A New Prebuilt 8x8 Shed	Building C.O. Pending	Granted 11/17/2022	35.00 2,125.00
45014123	22-155	GARDEN HOMES VT LP Thomas O'Brien 127 ABBOTT ST Install New Manufactured Home (933 Sq-Ft)	Building C.O. Pending	Granted 11/21/2022	187.00 58,000.00
45014123	22-156	GARDEN HOMES VT LP Thomas O'Brien 127 ABBOTT ST Install New Prebuilt 8x8 Shed	Building C.O. Pending	Granted 11/21/2022	35.00 2,125.00
39501900	22-157	KRAWCZYK DAVID M & KERRY M Paul Snide 232 WHIPSTOCK RD 432sf barn and kitched renovation in the house	Building C.O. Pending	Granted 11/21/2022	81.20 100,000.00

Town of Bennington Planning and Zoning

Detailed Permit Report

<i>Parcel number Land Record Book and Pages</i>	<i>Permit number</i>	<i>Owner's name Applicant's name Location</i>	<i>Permit type Cert. of Occ.</i>	<i>Decision</i>	<i>Fee paid Cost of project</i>
49513300	22-158	GRAY NATHAN A Nathan Gray 121 MCCALL ST Renovate house	Building C.O. Pending	Granted 11/23/2022	126.40 40,000.00
57511900	22-159	BRIGGS SHANE BRIGGS SHANE 311 BEECH ST 12x10 shed	Building C.O. Pending	Granted 11/28/2022	25.00 1,600.00
19501100	22-161	MARTIN KIMBERLEY A MARTIN KIMBERLEY A 3010 CHAPEL RD 10x20 shed	Building C.O. Pending	Granted 11/28/2022	50.00 7,000.00
58512200	22-162	WRIGHT RICHARD G JR & JANE P Murray Brothers Inc 16 CENTER ST Deck 22x10	Building C.O. Pending	Granted 11/28/2022	25.00 20,000.00

12/01/2022

08:35 am

Town of Bennington Planning and Zoning
Detailed Permit Report

Page 1
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Permit types included: Local/Custom

Approval status included: Granted

Occupancy status included: Any status

Decision dates included: Between 11/01/2022 and 11/30/2022

<i>Parcel number Land Record Book and Pages</i>	<i>Permit number</i>	<i>Owner's name Applicant's name Location</i>	<i>Permit type Cert. of Occ.</i>	<i>Decision</i>	<i>Fee paid Cost of project</i>
45014123	2022	GARDEN HOMES VT LP Matthew Kakule 127 ABBOTT ST Remove/Relocate a 14x17 Mobile Home	Local/Custom C.O. Not required	Granted 11/09/2022	25.00
36511600	2022	LOOMIS RONALD Ron & Fletcher Loomis 226 NORTHSIDE DR Demo Home - Due To Being Abandoned/Fire	Local/Custom C.O. Not required	Granted 11/04/2022	50.00

12/01/2022

08:35 am

Town of Bennington Planning and Zoning
Detailed Permit Report

Page 1
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Permit types included: Sign

Approval status included: Granted

Occupancy status included: Any status

Decision dates included: Between 11/01/2022 and 11/30/2022

<i>Parcel number Land Record Book and Pages</i>	<i>Permit number</i>	<i>Owner's name Applicant's name Location</i>	<i>Permit type Cert. of Occ.</i>	<i>Decision</i>	<i>Fee paid Cost of project</i>
44501400	S22-032	LAUMEISTER BRUCE Robert Piritz 252 BENMONT AV Diablos	Sign C.O. Not required	Granted 11/18/2022	40.00

Town of Bennington Planning and Zoning

Detailed Permit Report

Permit types included: Zoning

Approval status included: Granted

Occupancy status included: Any status

Decision dates included: Between 11/01/2022 and 11/30/2022

<i>Parcel number Land Record Book and Pages</i>	<i>Permit number</i>	<i>Owner's name Applicant's name Location</i>	<i>Permit type Cert. of Occ.</i>	<i>Decision</i>	<i>Fee paid Cost of project</i>
45017301	22-146	TOWN OF BENNINGTON Vermont Army National Guard BOWEN RD Construction Of New Vermont Army National Guard	Zoning C.O. Pending Readiness Center	Granted 11/16/2022	350.00 16,900,000.0
55500100	22-160	SOUTHWESTERN VERMONT HEALTH SOUTHWESTERN VERMONT HEALTH 100 HOSPITAL DR Temperary tent for ramp	Zoning C.O. Not required	Granted 11/18/2022	50.00 57,250.00

12/01/2022

08:36 am

Town of Bennington Planning and Zoning
Detailed Permit Report

Page 1
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Permit types included: Fire Alarm

Approval status included: Granted

Occupancy status included: Any status

Decision dates included: Between 11/01/2022 and 11/30/2022

<i>Parcel number Land Record Book and Pages</i>	<i>Permit number</i>	<i>Owner's name Applicant's name Location</i>	<i>Permit type Cert. of Occ.</i>	<i>Decision</i>	<i>Fee paid Cost of project</i>
24502400	F22-019	AIRGAS USA, LLC Tasco Security Systems & Services 33 TRANSPORT DR Replace Existing Commercial Fire Panel	Fire Alarm C.O. Pending	Granted 11/29/2022	50.00