

Village of Old Bennington
Trustees' Meeting Minutes
March 5, 2024

The meeting was held at The Barn and on Zoom. A link to the Zoom recording is here:

https://us06web.zoom.us/rec/share/pyHbwHYxLR4O7URR-cefipsOVofvgiq5fcYpWjce83s_DiFObs8_H9qDgFBwDqbF.vGgJLRIEV6bo62AZ

Passcode: 955186&

Officials present: Presiding officer Anne Slattery; Trustees Steven Anisman, Jim Warren, Ed Woods, and Susan Wright; Planning commissioner Nancy Coseo; Treasurer Ron Rabidou; Auditor Kathy Wagenknecht; and Clerk Mary Walsh.

1. Call to order: The meeting was called to order at 7 p.m. by AS, who noted that the proceedings were being recorded.
2. Changes or updates to agenda: None.
3. Approval of minutes from Feb. 6, 2024: SA moved to accept the minutes. EW seconded the motion. The minutes were unanimously approved.
4. Citizen comments not related to the agenda: Nathaniel and Colleen Marcous, of 38 Monument Ave., said that in the storm last year they lost trees near the street and wanted to request funds from the Village tree-replacement fund. They would like to plant two maples, but Greater Heights said two wouldn't fit, because the fallen trees' roots are still there. But Greater Heights may have been assuming the Marcouses wanted the biggest trees possible. JW suggested they price trees from more than one nursery, because smaller trees might fit, and they are much more economical. SA said the Marcouses had already gotten his permission, as Tree Commissioner, to remove the fallen trees, so the question for the board was about drawing money from the fund for replacement(s). RR said the fund is for replacing trees in the Monument Avenue right-of-way; it was confirmed that that's where the Marcouses intend to plant their replacement(s). SA said the board could approve the cost of tree replacement up to \$1,500. AS so moved, JW seconded the motion, and the motion passed unanimously.

NC said the public record should reflect that the Village now has precedent and a protocol for drawing money from the tree-replacement fund. In the future, people will know that they can research replacement trees for the Village right-of-way; get approval

to remove dead or fallen trees, and to plant replacements, from the Tree Commissioner; then bring their requests for tapping the replacement-tree fund to the board, which will make a decision in a meeting.

5. Reports of Commissioners and Officers:

- a. Planning Commission: NC said that most of the temporary fence around the Inn has been removed and she expects they will meet the March 31 deadline to remove the rest of it. She said there have been some questions about the small barrier on Monument Avenue next to the Jennings Brook. People want to know if it went through the proper design-review process. MW said the barricade is on the Walshes' property, but it isn't the Walshes' barricade. It was installed by the Town without design review because the Town has an easement there. The easement is noted on the Walshes' deed. The purpose is to give Town maintenance crews access to two sewer manholes that are farther down Jennings Brook, in the woods. Last year the Town had to do sewer repairs and it was almost impossible to drive heavy equipment to the manholes because a previous road had collapsed. So, for the past few months, the Town has brought many dumptruck loads of rock and earth, and has built a very solid, permanent roadbed on the Walshes' property, along Jennings Brook. The Town told the Walshes that the road was not intended to be a public thoroughfare, and the Town would put barriers at both ends, so that people would know it was private property. NC said the Town had told the a member of the Planning Commission that the barriers were temporary. JW said the posts were sunk in concrete, which looked permanent. He also said the heavy road-building equipment had damaged some pavers in the swales. MW said that from their conversations with Town officials, the Walshes also had the impression that the barriers were permanent. She said the Walshes intend to put a fence around that part of their property, to discourage people from using the new access road as a shortcut. They will attend the next Village Planning Commission meeting to discuss the fence and signage, and make sure they're compliant.
- b. Roads Commissioner: JW had nothing to report.
- c. Tree Commissioner: SA had nothing to report.
- d. Parks and Sidewalks Commissioner: SW said she had signed a contract with Pembroke to do the same work they have done in the past to keep weeds from growing in the swales. In response to SW's questions, Pembroke said the treatment is likely to be more effective in some places than others. SW also researched sidewalk repairs and learned that having sidewalk squares jackhammered out and replaced will cost \$1,200 to \$1,300 per square. SW also said she would like to permit a metal-detector operator to go over the Village greens, including the one in front of Old First Church, near the marker, and see if they can find interesting artefacts for the coming anniversary of the Battle of Bennington. This would involve drilling some

small holes and then filling them back up. It would not happen on the lawn of the Monument. SA moved to let SW to give such permission. EW seconded the motion and it was unanimously approved.

- e. Police Commissioner: EW said that for the past month, we had police patrols for 44 hours. There were 22 tickets and 14 warnings. This cost \$2,288.

--EW said he wanted to discuss the Village's agreement with the Town for dedicated police patrols. The agreement calls for 20 hours of patrolling per week, for a little more than \$56 an hour. We're getting as much patrolling as the Town is capable of providing at any given time. They can't provide more. But our revenue is about \$14,000 a year less than it was under the previous system, and the cost isn't justifiable. EW said he discussed the situation with the police chief. The police chief understands the Village's frustration, but cannot make any commitment that the situation will get better. AS said the Police Department just doesn't have the manpower.

RR said the Town of Bennington has the same problem that we have. The ticket revenue that municipalities get is down everywhere because of a change made by the state. It used to require drivers to pay their tickets or risk having their license taken away. Now the state has made it easier to keep your license, even if you don't pay your tickets. JW said it sounds like our problem isn't just police officers writing fewer tickets. EW said it's correct that the officers have been writing fewer tickets, but also, on the occasions when they've written more tickets, the Village didn't get a corresponding increase in revenue, because of the change the state has made.

EW said that if we were feeling safe, and we thought it was worth the \$56 an hour, we could keep up the contract, but that isn't the case. EW moved to end the agreement, effective immediately. SA seconded the motion. Renny Ponvert said he was worried that road safety would decline further without the patrols. EW said the Village would still be patrolled as a part of the Town --- we just wouldn't have the dedicated patrol car that we've had recently. People who wanted more policing could go to Town meetings and say so. MW asked what had become of the speed cart that was introduced a while back. Answer: It is being shared by many municipalities.

The motion to end the police patrolling agreement with the Town was passed unanimously.

- f. Treasurer: RR said that one of the delinquent taxpayers has paid their taxes, so now there are just two delinquencies, Tzaims Luksus and the owners of 57 Monument Avenue. So far, the owner of 57 Monument hasn't answered correspondence, but last year they did pay after a long delay, so maybe that will happen this year, too.

RR also noted that the Village was recently the victim of a check fraud: An unauthorized person cashed the check he had sent to pay the Village insurance premium. The police are investigating, but in the meantime, the Bank of Bennington has given the Village a credit for the insurance premium, so we're made whole.

RR also said in providing information to the auditors he noticed a case from Fiscal 2023 where the amount on the check didn't match the amount on the invoice. He reminded the trustees of the procedures they should follow when signing check, including agreeing details to the warrant as well as the underlying invoices.

EW moved to accept the warrants, SA seconded the motion, and the warrants were unanimously approved.

RR went over the line items of a preliminary budget for the coming year. He reiterated that the Village has collected about \$800,000 less than it should have over a number of years, because Village taxpayers consistently paid less in road taxes than Town taxpayers. RR proposed that the Village increase its road tax rate to equal the Town's road tax rate. He noted that the Village voted to do this in 2019, but it has failed to make adjustments for subsequent increases in the Town tax rate. Last year the Town's road tax rate was 0.47, and ours was just 0.36. KW said the problem is that the Town's roads tax rate is never finalized until July, so the best the Village can do is to match the Town's rate from the prior fiscal year.

There was a discussion of other budget line items, and RR said he would have more up-to-date numbers so that the budget could be finalized at next month's meeting.

RR reminded the trustees that Tzaims Luksus had written to request a tax abatement. We haven't had a board of abatements until now. The Vermont League of Towns and Cities has a document that explains the process. The board, which is a semi-judicial body, is supposed to be made up of the Treasurer, the Clerk and the Trustees. Its meetings have to be warned. The person requesting the abatement doesn't need to be there. AS pointed out that the Town of Bennington has never granted a tax abatement for inability to pay, because a property owner by definition has an asset that they could use to pay their taxes.

Renny Ponvert asked if the Village was planning to file for a lien against the property before deciding whether to grant a tax abatement. RR said that when the Grand List (of taxpayers) is filed, a lien is automatically attached to the delinquent property.

- g. Auditor: KW said there was nothing to report except that the independent auditor is very busy and has asked RR for a lot of materials.
6. Roads, and the Village's relationship with the Town: AS said more work has been done on the plan discussed at the last meeting, to merge the Village into the Town while

retaining control over Historic Preservation. The Village's lawyer, Merrill Bent, said it appeared that approach wouldn't work because it wouldn't fulfill the legal requirement that mergers be done "in perpetuity."

More discussions followed, and it emerged that instead of merging into the Town, the Village could continue to exist as a municipality but would give the Town ownership of its roads. The officials involved in these talks think this is likely to work, because there's language in the Town Charter that would permit it. The Village's attorney is now researching this approach carefully to make sure there are no other obstacles.

KW asked whether, if the Village used this approach, it would still take a year before it could be executed. Could we put this issue before the coming Village meeting but leave the road taxes alone in the next budget? AS said we can't really plan too much until we know if this approach is really possible. But if the Village does decide to go ahead with it, there would still have to be a firm letter of agreement that the Town can and will do the work on Bank Street.

EW said that under this approach, our road taxes would be billed by the Town, and Village homeowners would pay them to the Town. It's important to get the match right, because on the date that this would go live, the Village will want to transfer our road tax money to the Town. The Town would then be the entity responsible for maintaining Bank Street.

JW said he wondered why the Town would want to do this. EW explained that the Grand List would grow by the value of all of the homes in the Village. Since the Town's Grand List and total property value would grow, that would lower the tax burden for each taxpayer. We wouldn't see a savings in dollars on our tax bill, but our rate per \$1,000 of assessed value would go down.

Renny Ponvert asked for more detail on Bank Street's maintenance and repairs. EW said that the Village currently expects to have reserves of about \$150,000 in the coming fiscal year. The \$500,000 estimated cost of repairing Bank Street less the \$200,000 grant from the State means the Village would need to fund the additional \$300,000 cost. It's a better deal for the Village if the Town repairs Bank Street, because it can do the work for less than \$300,000, and it appears our \$150,000 in reserves plus our \$200,000 grant could be sufficient to complete the work. AS said the Town can do the work more efficiently because it would use the same equipment for everything. RR said it's clear that the Village doesn't have enough money to fix Bank Street on its own, and what we're talking about is a mechanism that would make the repairs possible.

RP asked whether the Village would retain any say over what is done on Bank Street, such as the particulars of drainage, or how wide it should be. AS said the obvious answer was that the Village wouldn't have control, because it would be giving the roads to the Town. But the Village would still be a municipality, with a Board of Trustees. EW said

that things like speed limits and widening the roads would be up to the Town Select Board, and the Village Board would go to the Town to sort out any issues. He added that he would recuse himself in such cases, to avoid any conflict of interest.

7. Upcoming open positions: AS said that SA and JW were not going to run for additional terms as Trustees. Also, NC is not seeking another term on the Planning Commission. KW said she didn't intend to run for another term as auditor. SA said the Village didn't really need to have a Tree Commissioner. The State rules for municipalities say Villages just need to have a tree warden. It doesn't have to be a trustee. NC said she agreed and thought maybe the position could be added to the Planning Commission.

AS said the Village will have to try to fill the vacant positions right away. RR said he'd put a note about the vacancies on the Village website.

8. Adjourn: EW moved to adjourn at 8:53. SA seconded the motion and the meeting was unanimously adjourned.