

Village of Old Bennington  
Trustees' Meeting Minutes  
April 2, 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/UoVj281TX-wChhzD0MOu7wIRbMvka\\_y6yPqP0e3w3quwzdF8xZTK3e84d4-V4QFB.WKrAMle0F12qmulp](https://us06web.zoom.us/rec/share/UoVj281TX-wChhzD0MOu7wIRbMvka_y6yPqP0e3w3quwzdF8xZTK3e84d4-V4QFB.WKrAMle0F12qmulp)

Passcode: Nk2A&9!a

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.

Citizens present with comments: Galen Jones, Renny Ponvert, Brian Scheetz.

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 the agenda: None.

3. Approval of the minutes from March 5, 2024: SA moved to approve the minutes. EW seconded the motion. The minutes were unanimously approved.

4. Citizen comments not related to the agenda: MW said the Walshes had removed a half-dead tree from their stretch of the Monument Avenue right-of-way, and they requested funds from the Village tree-replacement fund, in keeping with the established procedure (replacement cost up to \$1,500). SA moved to provide such funds. EW seconded the motion. The motion passed unanimously.

5. Reports of Commissioners and Officers:

- a. NC said there were three items to report from the Planning Commission. First, she has written a memo on the possible registration of rental units in the Village, and has begun circulating it. The goal is to get a conversation started, not to make a decision yet. First the Trustees must get public input and find out what other Villages are doing about rentals.

EW asked about the downsides of a rental registry, and NC said she wasn't aware of any yet. EW pointed out that the Village ordinances and bylaws currently prohibit short-term rentals, with some grandfathering. He wondered if the Planning Commission would address any possible conflicts in the rules.

NC said the Bennington County Regional Commission and the Vermont League of Towns and Cities both say that under current state law, municipalities cannot stop people from renting out their properties. The BCRC verified this in a webinar last fall, shortly after the Vermont Home Act went into effect. Maybe this will be subjected to a court challenge at some

point, but for now they believe this is the correct interpretation of the law.

Brian Scheetz, of the Planning Commission, added that it means the Village's current prohibition of short-term rentals is not enforceable. The recommendation is that the Village not to try to prevent these rentals, but to permit them and impose a registration fee. That's what other municipalities have been doing all over Vermont.

JW said a rental registry appeared to be another intrusion by government, which some residents would object to.

Renny Ponvert, of the Planning Commission, said he thought there were valid reasons for a registry: It could improve public safety, it could be a tool for enforcing building codes, and it could curb traffic and noise.

JW said that might be true of a registry for short-term rentals, but he'd had a tenant for 12 years and didn't see what was to be gained by registering such a tenancy.

EW said it was useful to have data.

RR said the registry was aimed at raising revenue.

AS said it could be helpful for emergencies. She said the Planning Commission should start collecting feedback, and from that the pros and cons would be clear. There was discussion of effective ways for the Planning Commission to solicit feedback.

NC said her second item was an update on the revisions of the Village Bylaws. The Planning Commission has seen many potential downstream effects of the new Home Act, including changes in density. In some cases, revising the Bylaws to accommodate the Home Act raises questions about what the Town is willing to do. For example, if the Home Act requires the Village to allow more residences per acre, can the Planning Commission assume the Town will be willing to bring its water and sewer services to all the new residences?

Brian Scheetz added that the Home Act says that our Village Bylaws should allow ten residences per acre, but only the Town can determine if it can supply that much more water and sewer service. There are already problems with water pressure, with far fewer residences per acre.

EW said the Planning Commission would have to talk with Town officials to learn how the Town would partner with the Village on an issue like this.

NC said the third item was the search for a new planning commissioner. There is one candidate and the search/selection process is continuing.

- b. Roads Commissioner: JW said there were papers to be signed by the trustees: a form from the Agency of Transportation, and a Certificate of Highway Mileage, which is used to determine the amount of funding the Village gets from the State. A State official has informed JW that the Village's "Highway 904" is not up to Class 3 Highway standards and needs to be delisted and relisted as a Class 4 Highway. There is no point in fighting this because there is no road where "Highway 904" is supposed to be.

- c. Tree Commissioner: SA said there was no activity except the two new trees have been planted on the Marcouxes' property, as discussed at the March meeting.
  
- d. Parks and Sidewalks Commissioner: SW said that Concrete Impressions said the sidewalk repairs the Village needs will cost \$3,850. That needs to be approved before they start, but they can't start right away. SW has also seen another piece of sidewalk that that should also be repaired, but it's much longer, and Concrete Impressions said that would cost \$28,000. SW has told them the Village will wait on that. There was also a discussion of damage done to lawns by snowblowers clearing the Village sidewalks. SW said she would discuss this with the vendor.
  
- e. Police Commissioner: EW said there wasn't a report yet for the previous month, which will be the end of the Village's contract for a dedicated patrol. He said a resident asked whether patrols could be performed by the county sheriff. He said that in the past when the Village asked, the sheriff's price was very high, but we could ask again. Public safety staffing is still an issue in every jurisdiction in the state of Vermont. There aren't enough officers, and the officers who do exist are constantly being poached. EW will have a conversation with the county sheriff.

AS said the Town of Bennington still includes the Village in its regular police service. There was a discussion of other options, like street cameras and roadside speed-measurement signs, and of the State's previous practice of blocking license extensions for people with unpaid fines. EW said the Village isn't the only place that's been harmed since State stopped

doing this --- the Town's revenue is down by about \$90,000. AS said it would be useful to speak with the State about this.

- f. Treasurer/Tax Collector: RR provided an analysis of how revenue and spending compared to what had been budgeted. Some examples: Police patrols brought in less than half the anticipated revenue. Legal costs were greater than expected, primarily due to the solar dispute. Less salt was used this winter than expected, and when the Village transfers its roads to the Town, the salt will go to the Town too. RR said tax delinquencies were unchanged, and he had no updated on a possible grant for the Bylaw update.

There was a discussion of the need to make the Village's tax rate match the Town's tax rate. Currently, RR said the Village's rate has been bumped up enough to make the Village's rate for FY 2025 equal the Town's rate for FY 2024. This will go a long way toward closing the gap between what the Village should be collecting and what it is collecting, and residents will be paying an increase that the Trustees should be prepared to explain. But we still can't match our FY 2025 rate to the Town's FY 2025 rate, because we still don't know what the Town's FY 2025 rate will be.

There was a discussion of whether the Village should raise its FY 2025 rate a little higher to approximate the Town's FY 2025 tax rate. KW said we wouldn't want there to be a big enough discrepancy to discourage the Town from assuming the Village's roads, should that agreement be formalized. Renny Ponvert said this might be justification for adding a rental-registry fee. RR said the Trustees could vote on a motion to approve the proposed budget, with the proviso that they would adjust the tax rate to agree with the Town's tax rate, if

they got the information in time. SA made that motion. EW seconded it. The motion passed unanimously.

RR also provided a list of the past month's warrants to the Trustees. EW made a motion to accept the warrants. SA second the motion. The warrants were approved unanimously.

- g. Auditor: KW said there was nothing to report except that she and RR need to meet with the outside audit firm this month, so that they can complete their field work. This will be a single meeting, probably six hours long. There was a discussion of possible venues, which KW said she would pursue.

6. Board of Abatement Meeting: AS said it had to be postponed to fulfill a procedural requirement for timely warning and notification. The petitioner, Tzaims Luksus, needs to be notified of the meeting date and given procedural information.

7. Village/Town Roads Update: AS said Village attorney Merrill Bent has researched the legal framework for ceding the Village roads to the Town. She has learned that Vermont's default position is that the roads of an incorporated village are under the supervision of the respective town, unless there's an instrument providing to the contrary. In Old Bennington's case there is a 1959 Act that constitutes this "instrument providing to the contrary." It refers to the collection of road taxes by the Village of Old Bennington. To make the collection and taxation by the Town legally possible, this Act must be repealed. The process requires a meeting with our state senators, Brian Campion and Richard Sears, to explain to them what the Village seeks to accomplish. The senators must then go to the Senate Legislative Counsel, who must draft an act to repeal the 1959 Act. Then a vote of approval will be required, but we'll learn that later from the Legislative Counsel.

Merrill Bent is now drafting a letter to the two senators. Even though the legislature will adjourn in mid-May, the Senate Legislative Counsel is expected to stay on and can work on this project. The Act of Repeal must also go through the full Legislature, but no controversy is expected there.

SA said that in the past, everyone in the Village believed that the Village was legally required to take care of its own roads. Now that Merrill Bent's legal research has shown otherwise, everybody should familiarize themselves with her findings, and be prepared to explain that there is, in fact, a lawful process for transferring road maintenance and repairs to the Town.

There then was discussion of the practicalities of finishing the work on Bank Street while the transfer of the roads is still going through the legal process. There was also a discussion of why the Town would be interested in assuming the Village's roads responsibilities when these roads constitute only about 0.5% of the Town's roads. AS said the Town is eager to promote tourism, and historic Bennington is the most visited site in Vermont. It is in the Town's interest to keep the Village's infrastructure in good shape.

EW said that currently the Town's roads are in much better shape than the Village's roads. With this transaction, the Village's assessed property value becomes the Town's assessed property value, and the Town becomes responsible for all of the roads. The road-maintenance tasks for the Town will increase only slightly, but the overall cost will be spread over a significantly larger base.

RR said the Village's Grand List value (the assessed value of taxable properties) is about \$28 million.

8. Upcoming Trustee and Planning Commission Openings: There are two openings on the Planning Commission, one of which is the chair. There are two open Trustee positions, and an opening for the Village auditor. Candidates are still being finalized.

9. Annual Meeting Timeline: AS said Officers' and Commissioners' summaries for the Annual Report will follow last year's format. The initial Warning of the annual meeting must be issued no more than 40 days in advance. State law also calls for postcards to be sent to all registered voters and property owners, telling them that they can receive a copy of the Annual Report by email. This year's Moderator will be the same as last year.

10. Warrants: Done at Item 5f, above.

11. Old Business: None.

12. New Business: None.

13. EW moved to adjourn. SA seconded the motion. The meeting was adjourned at 9:09 p.m.