

Draft  
Village of Old Bennington  
Trustees' Meeting Minutes  
Feb. 4, 2024

**[Clerk's note: The February meeting included extensive discussion of whether to amend or repeal the Village's current ban on short-term rentals, such as Airbnbs. Reasons for doing this, Trustees' concerns, and a timeframe for deciding are summarized below, at "Reports of Commissioners: e. Other." The entire discussion can be heard on the Zoom recording. The Trustees are eager to know what residents think about such a change. There will be further discussion at the March and April meetings, and they urge residents to attend in person or on Zoom and make their views known.]**

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

[https://zoom.us/rec/share/9Y9Ku6zi-CCGEVKgBeqmBozCMT1ESbadq4PC7R4zrgV\\_xpGiiuFlcOmmrQHn1Xsg.Ft6klwFHbK8h8mM6?startTime=1738713604000](https://zoom.us/rec/share/9Y9Ku6zi-CCGEVKgBeqmBozCMT1ESbadq4PC7R4zrgV_xpGiiuFlcOmmrQHn1Xsg.Ft6klwFHbK8h8mM6?startTime=1738713604000)

Passcode: #S9.NwBM

Officials present: Presiding Officer Anne Slattery; Trustees Susan Wright, Ed Woods, and Tom Woodward; Planning Commission Chair Brian Scheetz; Treasurer Ron Rabidou; Clerk Mary Walsh; and Zoom operator McKinley Keaffaber. Trustee Than Marcoux took part via Zoom.

Officials absent: Auditor Kathy Wagenknecht.

Village residents in attendance: Renny Ponvert and Megan Schwarzkopf in person; Lucy Baldwin and Thomas Scheetz on Zoom.

1. Call to order: AS called the meeting to order at 7 p.m. Zoom operator MK noted that the proceedings were being recorded on Zoom.
2. Changes or updates to Agenda: None.
3. Approval of minutes from the Jan. 7, 2025, meeting: TW moved to approve the minutes. TM seconded the motion and the minutes were unanimously approved.

4. Citizen comments not related to Agenda: Megan Schwarzkopf said the Bennington Garden Club has been planning the first major tour in decades of the gardens of Old Bennington. It will take place on Saturday, June 21. MS asked the Trustees if it would be possible to locate food trucks in front of the Old First Church cemetery that day, and what the permitting procedure would be. AS told her she should first check with Old First Church. EW said that if the Church agrees to the food trucks, MS should then request permission from the Board of Trustees, and he expected they would grant it. He and other Trustees said they were pleased that the Garden Club was organizing the tour. TW said that historically, Old Bennington has had some extraordinary gardens, designed by notable landscape architects.

Renny Ponvert reported that there had apparently been some looting at Tzaims Luksus's house, which is empty because he is living in Myanmar. Some interior items, including a chandelier, were sitting outside the house, next to Walloomsac Road. EW said that when the Trustees have been told about previous break-ins at 18 Walloomsac Road, they've notified the police, but the police are reluctant to come onto the property because Tzaims Luksus has told them not to.

5. Reports of Commissioners

- a. Roads Commissioner: TM said he had no news to report. SW asked if the snowplowing was being done correctly in front of the Old First Church. The contractor is supposed to be using snowblowers and hand-held shovels on the fragile marble sidewalk, but SW saw someone driving a heavy snowplow there. TM said he had already discussed this with the contractor, but he would check to make sure all the contractor's employees got the message.

TM said he had received a letter pertaining to the yellow center lines on Monument Avenue. There was a discussion of why the yellow lines are still being painted on "Monument Extension" (that is, the stretch of Monument Avenue running south through the Village from the Walloomsac Inn).

[Clerk's note: In a briefing last September by the Bennington County Regional Commission's senior transportation planner, Mark Anders, the Trustees learned among other things that yellow center lines give drivers the feeling they're on country highways, not in residential neighborhoods, so they tend to speed. The BCRC has found in traffic studies that when the yellow lines are removed, it reduces the average speed by 8 miles per hour. Removing the yellow lines is an effective, low-cost traffic calming measure. More information on traffic calming from the BCRC is available here:

[http://www.bcrvt.org/uploads/1/1/1/8/111899771/traffic\\_calming\\_guide\\_2024\\_03\\_19.pdf](http://www.bcrvt.org/uploads/1/1/1/8/111899771/traffic_calming_guide_2024_03_19.pdf) ]

EW asked TM to get in touch with the V-Trans construction department and make them understand that there are not to be yellow lines painted on Monument Avenue.

RR also pointed out that the Village needs to repaint the sidewalk curve yellow at the Village/Town line near the Elm/Monument intersection, where the road narrows considerably. The yellow paint there is supposed to serve as a warning to drivers, but it's faded and worn off.

- b. Trees Commissioner: TW said he had no news to report.
- c. Parks and Sidewalks Commissioner: SW had nothing, aside from her concerns about snow plowing.
- d. Police Commissioner: EW had no news to report.
- e. Other: AS said the Trustees would next discuss a possible Short-term Rental Registry ordinance that has been drafted by the Planning Commission. She asked BS to provide some background.

BS said the Planning Commission had begun discussions of a possible Short-Term Rental Registry at the behest of the Trustees, who had decided to pursue the concept at a previous meeting, a number of months ago. He made clear that he wasn't advocating either for or against the resulting draft ordinance – he was just presenting it to the Trustees. The Village now has an ordinance barring short-term rentals, but the State's Home Act says municipalities cannot stop people from renting out their properties, so there's a conflict of the laws. The Village hadn't been enforcing its ban anyway, but now it appears to be unenforceable.

Renny Ponvert said the matter had come to a head in a Planning Commission meeting, when a resident complained that she was complying with the Village ban on short-term rentals, but her neighbors were violating it with impunity. The Planning Commission saw the need to revise the current ordinance, to make it enforceable, fair, and consistent. Among other things, the new draft ordinance would give rise to a Rental Registry for homeowners with rental properties. BS said the Planning Commission based its draft ordinance on model legislation that's already in force in other places around the state. The draft has not yet been reviewed by the Bennington County Regional Commission. It would be a civil ordinance, not a Zoning Board ordinance, and that might simplify the approval process.

EW said the BCRC's lawyer, Merrill Bent, was good at evaluating the enforceability of proposed ordinances, so it would be worth asking her to review this one. He wondered which body of government would enforce this ordinance if it were approved. The Village doesn't now allow short-term rentals, although there's one that's been "grandfathered." He said the draft ordinance was an effort to make short-term rentals legal, and this was a bigger deal than it might at first seem. For that reason, EW thought the change should be approved by a vote of all the citizens. He also said the Town of Bennington has a short-term rental

ordinance awaiting approval, and it might be helpful for the Village to review the Town's approach and follow its lead.

TW asked if there was a legal requirement that the Village have this type of ordinance. BS said there wasn't any such legal requirement, but the Planning Commission had become aware that the Village's current ban on short-term rentals had never been enforced, and that if enforcement were attempted now, the Village would learn that the ban was unenforceable. The new draft ordinance was an attempt to remedy that situation. He added that the proposed new ordinance was seen as a possible revenue source, since there would be fees for listing rental units on the Village registry.

EW added that the new ordinance would clarify who's doing short-term rentals. BS said this information would help the Village stay compliant with the State's rules for fire safety, which cap the number of people that can be in a residence. There was a discussion of the difficulty of getting permits, since the State doesn't send out fire inspectors every year.

BS said the Trustees would be expected to enforce the new ordinance. TW said he thought that would be a difficult job for the Trustees, given the Village's size. He didn't think the new ordinance would be a significant revenue generator, either. He said he had tried to find the Village's current short-term rental ordinance but was unable to.

RR said the current rules could be found in Section 50 of the Village Zoning Ordinances.

[Clerk's note: Here's a link to the Ordinances that RR referred to:

[https://img1.wsimg.com/blobby/go/2bb07981-6db0-4f22-adf0-09e315e1afda/downloads/Zoning%20Bylaws%20\(2020\).pdf?ver=1738679960278](https://img1.wsimg.com/blobby/go/2bb07981-6db0-4f22-adf0-09e315e1afda/downloads/Zoning%20Bylaws%20(2020).pdf?ver=1738679960278)

"Section 50 – Permitted Uses" says Old Bennington has a "unique character as a small, quiet, peaceful, historic village" that it needs to protect. Short-term rentals, by contrast, "may be associated with increased noise disturbances in the neighborhood, significantly increased vehicular traffic, excessive parking of vehicles on residential lots in the historic district, and other land-use impacts not typically associated with longer term rentals of entire residential units."

Therefore, only long-term rentals are permitted, and all lessors are required to present "documentary evidence of a rental term of three months or longer." In addition, "any property rental must include one or more entire dwelling units," as opposed to just a room or part of a house. The ordinance also says that applications for rentals with terms of less than three months "may be made, by letter, to the Old Bennington Planning Commission. Such applications will be considered on their respective merits."]

RR said the new draft ordinance would put the Village Treasurer in charge of collecting proof that each new rental had passed all State fire safety inspections before the first tenant moved in. It would also make the Treasurer responsible for keeping copies of the Vermont Division of Fire Safety's Short-Term Rental Safety, Health and Financial Obligations forms, completed by each lessor and posted at the rental sites. He said he didn't think these duties should be added to the Treasurer's job.

AS took issue with certain aspects of the draft ordinance. She said it would make the Trustees responsible for notifying citizens when they are in violation, but that responsibility should really be given to the Zoning Administrator. She also said the draft ordinance seemed burdensome, and that before enacting it the Trustees must be sure that the benefits would really outweigh the costs. EW said the Town of Bennington had considered a similar ordinance, but decided "the juice wasn't worth the squeeze." He also said that the Town had held two public hearings on its planned ordinance, prior to putting it on the ballot. AS said Village residents ought to have a say on this too.

Renny Ponvert said that the Trustees were mistaken in thinking there was only one short-term rental property in the Village, because in fact there were ten or eleven of them. Lucy Baldwin said via Zoom that she sometimes shared her house with visiting friends and family, and she had put up some people whose house had burned down. Could those be construed as short-term rentals? She also wondered about the Sonatina music camp.

AS said the issue should really be put before the Villagers. EW said that could happen at the Annual Meeting, but for that to work, there would have to be a ready-to-go document on Meeting Day, vetted in advance by the Village's lawyer. It would also be essential to put the draft ordinance on the agenda for public discussion at the March and April Trustees' meetings.

There was further discussion of how many short-term rentals were now in force in Old Bennington, who was operating them, and whether they really caused public nuisances like the ones cited in Section 50 of the Village Ordinances. SW said it would be premature for the Trustees to enact an ordinance permitting short-term rentals without first identifying the problem they were trying to solve and finding out how severe it was. BS said it was hard to get an accurate count of short-term rentals because the Village does not now have a Rental Registry. Some Trustees said they found the language of the draft ordinance "unwelcoming," and said they were unlikely to vote for it in its current form. AS said the draft ordinance's proposed fees and fines (\$350 and \$800 respectively) were too high. She was also concerned about whether having a Rental Registry just meant people were supposed to start signing up, or whether signing up would trigger other consequences.

BS recommended the Trustees look at some of the other rental ordinances that are out there. Some of them put people at substantial risk if they don't follow the rules. For example, in some places, if you sign up as a short-term rental provider, you expose yourself to substantial legal liability if your smoke detector doesn't work. He said drafting the ordinance under discussion had become a much more complex task than the Planning Commission thought it would be when they started working on it.

The Trustees agreed that they needed to clarify what the new ordinance was meant to achieve and get input from Village residents. AS said she would give the draft ordinance to Merrill Bent for legal review and possible revisions, and then it could be posted with the agenda for the March meeting, so that residents could read it and provide feedback at the meeting. The Trustees could then work on a final version in the April meeting, also with resident input, and finally ask the residents of the Village to vote on the finished document at the Annual Meeting in May.

- f. Other business: BS said Liz Warner was now a candidate for the vacancy on the Planning Commission. RP said the Commission had spoken with her and she was willing to take the position. AS moved to approve Liz Warner as a member of the Planning Commission. EW seconded the motion, and Liz Warner was unanimously approved.
- g. Plan of Development, municipal grant application update: AS recalled that the Trustees had recently agreed to go forward with the Bennington County Regional Commission's application for a State grant to help pay for an updated Village Plan of Development. The State recently changed its software, and the new software reduced the available space on the application form. Some of the wording that the Trustees reviewed at the last meeting had to be trimmed to fit, but the cuts did not change the substance of the Village's application. The only thing the application still needs are letters of recommendation from the Church, Museum and Cemetery boards. AS said she expected to have those by the end of the week and then the application would be filed. The Village expects to get a response by the end of April.
- h. Treasurer: RR said this month's income included a \$16,000 Payment in Lieu of Taxes from the State. He has not received any of the other tax payments due and will soon send out another round of delinquency notices. This month's expenses included road salt, a membership fee for the Vermont League of Cities and Towns, three payroll items for the Zoning Administrator's services, a street lighting bill, and the cost of cleaning up overgrown vegetation on the street and sidewalk at 18 Walloomsac Road. RR asked SW to provide a copy of the notification she sent to Tzaims Luksus about his responsibility for those costs, so they can be recovered as the result of the pending foreclosure process on the property. The details of the Treasurer's report are available under "Board of Trustees" on the Village website.

TW moved to approve the Warrants. AS seconded the motion and the Warrants were unanimously approved.

EW asked how long the Village's supply of road salt would last. TM said that would depend on how many more snowstorms there are. The Village had estimated it would use 90 tons of salt this winter, and so far it has bought 60 tons.

RR said the Trustees would discuss key budget items for Fiscal 2026, working off the budget worksheets they recently received. He said that for property taxes, he had already adjusted the tax rate to 4.962 in Fiscal 2026 (from 4.761 in Fiscal 2025), to keep the Village's tax rate pegged to the Town's. He said he might need to adjust it further, but he won't know that until we've completed the budget process. (The Town's fiscal year starts three months later than the Village's.)

EW said he planned to price some of the traffic calming measures discussed in recent meetings, and would include those expenditures in his portion of the budget, with the expectation that revenue sources could be found to cover them. RR said he thought highway funding from the State would be about the same as last year. And, while he was expecting lower interest rates payable on the Village's bank balances, the balances themselves would be larger, at least until the Bank Street repairs are paid for.

BS said the Planning Commission had been discussing what fees the Village would collect from property owners with building projects in Fiscal 2026. He said the biggest potential fee would be from the Museum, which will be doing extensive remodeling and construction. The standard fee schedule in the Bylaws gives rise to fees of about \$7,500, but BS said the Trustees may not want to apply the standard fees to the Museum, since it's a nonprofit organization. AS said the Trustees would have to wait until the next meeting to decide which fee, if any, the Museum should pay, because the public didn't get a warning about it for the current meeting.

RR said the Village would have to come up with a new estimate of what the work on Bank Street will cost, because they've been using an estimate from 2023, and road construction costs have been increasing at about 7 percent per year since then. That suggests the estimate now in use is about \$50,000 too low. RR added that the estimate may be lower if the Town does the work. AS pointed out that the State's grant for work on Bank Street will expire at the end of 2025, so all the work must be done by then.

RR said he had not received any invoices for the current winter's snow plowing, and suggested that TM contact Jerome to ask that it send invoices monthly, on a timely basis. TM agreed.

In addition, there were discussions of: the cost of maintaining all the other streets besides Bank Street; the fact that some Village sidewalks are one foot too narrow and may need to be widened at some point; the fact that the streetlights now last longer because they're all L.E.D. lights (saving the Village money); and the anticipated costs of software, insurance, memberships, and hours to be worked by the Zoning Administrator.

RR said he would budget \$5,000 for tree replacement in Fiscal 2026. There was discussion of creating a dedicated tree-replacement fund, so that unspent money from one year could be carried over to the next year.

RR said the budget should be finalized at the March meeting, so it will be ready by April 1, when the Village's new fiscal year begins. This year, as in the past, the Village will be operating on an assumed budget for a few weeks because the new fiscal year starts about a month before the Annual Meeting, when the budget will be approved by the citizens.

- i. Auditor: KW was absent.
- 6. Village/Town roads update: AS recalled that last year the Village's effort to transfer its roads to the Town was not completed. This year, Rep. Will Greer will shepherd the roads initiative forward. He has already notified the Office of Legislative Counsel. AS has sent that Office a message explaining what the Village is attempting to do with the Town, and that it requires the repeal of the "acts and resolves" that currently give the Village responsibility for road maintenance. EW added that road maintenance in Vermont normally defaults to Towns, but in Bennington's case an act was passed in 1959 that gave the Village this responsibility. The Village will ask the State lawmakers to repeal this 1959 law, so that the responsibility for road maintenance goes back to the Town, where it was in the first place.

Will Greer has now informed the Village that before the Office of Legislative Counsel will draft the necessary bill, it wants to see two things: 1) a nonbinding vote of the Villagers of Old Bennington in favor of transferring the road-maintenance duties back to the Town of Bennington, and 2) a similar sense of approval from the Town's Select Board. (The Select Board doesn't have to actually vote.)

Once the Office of Legislative Counsel has those two things, it will draft the needed bill, which will then go immediately to the legislature.

It's important to keep in mind that the Town will have an election at the beginning of March, and there may be as many as three new Select Board members. The new Select Board will have its first meeting on April 15. The Village plans to conduct its nonbinding vote just before the April 1 Trustees' meeting, which will give the Town Manager, Stu Hurd, two weeks to brief the new Select Board members on the issues. If the new Select Board gives its approval, the matter will then go back to the Office of Legislative



Counsel. AS said the Village would inform residents by postcard of the need to vote on the roads transfer on April 1.

7. Old business: None.
8. New business: None.
9. Adjourn: EW moved to adjourn the meeting. TW seconded the motion, and the meeting was unanimously adjourned at 9:19.