

Village of Old Bennington
Informational Meeting Minutes
June 18, 2024

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

https://us06web.zoom.us/rec/share/mWMQuA3eYTIieLmFbdfUtX97F8juHfBnQZtA_aimejGWJRdcJQ0wJbz82oMYVOhh.xHTt7GbBCx8AacJd

Passcode: k#8IP!3g

Officials present: Presiding Officer Anne Slattery; Trustees Than Marcoux, Ed Woods, and Susan Wright; Planning Commission Chair Galen Jones; Treasurer Ron Rabidou; Auditor Kathy Wagenknecht; and Clerk Mary Walsh.

Trustee absent: Tom Woodward.

Guests present: Stuart Hurd, Town Manager, Town of Bennington; Merrill Bent, legal counsel, Town of Bennington and Village of Old Bennington.

A number of residents participated on Zoom and in person and their questions were asked and answered.

1. Call to order: The meeting was called to order at 7:02 by AS, who said the meeting was being recorded. The meeting's purpose is to review the work the Trustees have been doing at their monthly meetings, starting last January, as they have sought a better way to repair and maintain the roads. They will also answer residents' questions about their findings so far.
2. Information sharing: AS said that in January RR did a detailed analysis of the cost of maintaining the Village roads, with help from Andy Buchsbaum. When RR reported his findings to the Trustees, they realized that the Village has a serious problem and couldn't continue to do things the same way anymore.

RR discussed his earlier analysis. He did it at the time when the work on Fairview Street was completed, and the work on Bank Street was planned but not yet scheduled to begin. The Village's reserves were inadequate to pay the entire cost of the Bank Street repairs, and before starting the work the Trustees wanted to know which of three options would be best:

--To issue bonds to fund the road work;

--To increase taxes to fund the road work;

--To develop a working relationship with the Town of Bennington, so that the road maintenance and repairs could be done more economically than by the Village alone.

(Note: The Village has been advised that some work should also be done on Elm Street, Catamount Lane, Walloomsac Road, and other streets in the future, but this is less urgent than the work on Bank Street.)

After reviewing his analysis, the Trustees rejected the idea of incurring long-term debt to repair Village roads, feeling that this simply pushed the cost of long-deferred maintenance to future taxpayers.

At the request of the Trustees, RR updated his earlier analysis to consider the tax impact of three options: 1) Financing road maintenance solely through increased taxes, 2) turning our roads over to the Town and retaining all our other functions, and 3) merging with the Town.

In the first option, RR considered two scenarios. In the first scenario, we would repair Bank Street first and then fix the other roads at two-year intervals. He estimated that the Village's road tax rate would have to increase by 76 percent in the first year and remain at that increased level for the full ten years. For a house assessed at \$350,000, this would mean that property taxes would be about \$1,270 higher each year than they would be without paying for the road work.

In the second scenario, RR then projected what would happen if we repaired Bank Street first and the other repairs were staggered at three-year intervals. He found that the road tax rate would have to increase by about 60 percent, which would mean the property taxes on a house assessed at \$350,000 would be about \$1,000 higher than they are now, for each of the ten years of the projection.

RR noted that to make each ten-year projection, he had to make assumptions about future conditions like inflation, and his assumption could turn out to be different from actual experience. But no matter what assumptions RR used, he found that funding the Village road repairs with property tax revenue would mean significant tax increases.

Next, RR analyzed the option of entering a relationship with the Town of Bennington, in which the Town would take on the responsibility of maintaining the roads, as well as the sidewalks and streetlights, and paying for electricity for the streetlights.

AS said the Trustees had considered three sub-options for what the relationship between the Village and the Town might look like:

--One sub-option was for the Village to retain its current status as fully independent from the Town, and to hire the Town as its contractor for its street repairs.

But this had been tried in the past and was not optimal, so this type of relationship was taken off the table.

--A second sub-option was for the Village to give ownership and control of the roads to the Town, while retaining its own status as a municipality. Initially, the Village attorney, Merrill Bent, didn't think this would work from a legal perspective. But then she found a way she believes it could work, which will be explained more fully below. The Trustees have proceeded in the expectation that this will be the basic structure that will define the Village's relationship with the Town for road maintenance and repairs in the future. RR's analysis is based on this sub-option.

--A third sub-option that the Trustees considered was for the Village to merge completely into the Town. The Trustees decided this approach wouldn't work well because the Village has many special zoning and design-review requirements that the Town does not, and it would be difficult to preserve them in a merger.

RR said that if the Village gives the Town control of, and responsibility for, the maintenance of the roads in the Village, the "roads" portion of all residents' property tax bills would be paid to the Town instead of the Village.

At the same time, the Village would retain all of the other functions it now carries out: It would still operate its planning commission and its zoning board, and it would still maintain the historic Village greens. It would continue to pay for essentials like liability insurance and legal advice. It would still be a member of the Bennington County Regional Commission and the Vermont League of Cities and Towns. Currently, all such costs are partially funded by the "roads" portion of Village residents' property taxes. But the costs are high and rising, and the Village will lose the budgetary flexibility it now has if it no longer receives the "roads" portion of the property tax revenue.

RR projected that if the Town collected the "roads" portion of the property tax revenue and took over the maintenance of the roads in the Village, the remaining, "general" portion of the Village property tax would increase. On the hypothetical \$350,000 that he has been using as an example, the taxes would rise by about \$300 per year. Village residents now pay the "general" portion of their property taxes at the rate of 4 cents per \$100 assessed value of their homes. If we gave responsibility for our roads (and that portion of our taxes) to the Town, and kept everything else, the tax rate on the "general" portion of our property taxes would rise to 14 cents per \$100 assessed value.

For the third option, RR noted that merging with the Town would likely not require additional taxes, other than the typical annual increases in Town taxes.

There was a discussion of whether the "roads" portion of Village property taxes would increase when paid to the Town instead of the Village. Stuart Hurd said that the Town has been trying to build up its Highway Fund so they have the money on hand to do road work as needed. Because of this approach, the Town hasn't had to issue bonds to finance

street repairs in a very long time, so it doesn't have debt service as a major fixed cost of road maintenance.

There were questions about how the Town prioritizes which streets it will repair first. Stuart Hurd said the Town looks at its entire infrastructure maintenance requirements when planning for maintenance and repairs; the streets are just one part of that. It keeps an updated list of priorities and generally builds its schedule on that, except in cases when there's a sudden, unexpected failure, and then those repairs must be moved up to the top of the list. The clay sewer pipe that collapsed recently on Benmont Avenue would be an example of that: a big, unexpected, urgent expense. But most of the time the Town keeps reviewing road-repair needs and setting priorities.

SH said that overall, the Town currently has more than 120 miles of roads to take care of. The State of Vermont pays for some of the maintenance and the rest of the money is generated through the Town's Highway Fund Tax. If the Village joins with the Town for road maintenance, the Village's "Grand List" would be added to the Town's "Grand List," but the number of miles of Village roads that the Town would be responsible for would not increase proportionately as much. (In other words, a small increase in the miles of road to be maintained would be spread over a more substantially increased tax base.) In practice, the Town can maintain its streets more efficiently than the Village can because it's able to perform most road maintenance with its own equipment and crews --- only the laying down of pavement is currently contracted out. In the Village, you don't have any trucks, heavy equipment, or road repair crews on the payroll. You have to contract out for every single thing, and that's why you have greater road maintenance expense.

There was a discussion of the legal process the Village Trustees now think is the most workable way to give the Town control of the roads while retaining all other Village responsibilities. At first Merrill didn't think this could be done, but then she found a 1959 State Statute that was used to give the Village of Old Bennington the legal responsibility for road maintenance. If this act were repealed, the roads running through the Village would automatically revert back to being the Town's responsibility, which is the "default" legal arrangement in most parts of Vermont. Merrill Bent also checked with the Vermont League of Cities and Towns, and they confirmed her understanding of the role of the 1959 law, and the effect of repealing it.

AS said that the process of repealing this 1959 statute seems pretty simple in principle, but it's hard as a practical matter because the Village of Old Bennington doesn't have a charter, and state legislators aren't used to dealing with municipalities that don't have charters. It's a situation they don't see very often and they find it perplexing.

SH said that it isn't immediately obvious to the members of the House Government Operations Committee why the Town would want responsibility for the Village's roads, or why the Village would want to give up that responsibility. In general, they don't see separate municipalities trying to work together very often.

AS said our own legislative delegation was very supportive of this project, but Senator Dick Sears recently died and Senator Brian Campion has decided not to run for another term, so we have lost the support of those two key lawmakers. We still have the job of explaining our intentions to lawmakers who don't have the local delegation's understanding. They would need to hear RR's whole presentation to get clarity, and there wasn't time to present it to them before the end of the last legislative session.

While waiting for the next legislative session to begin, the Village has begun looking into what it will have to do to make sure our concerns receive the attention necessary from the Town if the transfer of the roads goes forward. One example of this is the issue of who manages the "right-of-way," or the space between the sidewalks and the roads. If a tree falls on the right-of-way, it needs to be spelled out whose responsibility it will be. In the Town, the rights-of-way are the Town's responsibility, but the Village has embarked on a tree-management plan this year, and that would call for the Village to stay in charge of such trees.

SH said the Town and Village will be writing a Memorandum of Understanding that will put into words how the two entities plan to cooperate. The Town wants to be very cooperative on this because the Town knows the Village has a lot of road work to do.

In response to a question, SH said the Town was not interested in trying to expand roads where the Village was opposed to such expansion.

In response to a question, MB said that as far as she has been able to learn, the 1959 Statute is what currently gives the Village sovereignty over its roads. She said this is a unique situation that no one has run into before. The Village does not have a charter, but rather just a group of laws that are referred to as "Acts and Resolves." This is why, if the State repeals the 1959 Statute, we would still want to have a Memorandum of Understanding, so that the intentions of the Village and Town are clear, as to who will be doing what.

MB was also asked whether the Village was compromised or put at a disadvantage in any way because it doesn't have a charter. MB said that charters do allow municipalities to do certain things that are helpful, but drafting and implementing a charter is a big undertaking. And once you have a charter, it's a difficult document to change.

There was additional discussion of what a Memorandum of Understanding does and does not do.

--MB said that a Memorandum of Understanding is subject to change. There has to be some level of trust that in the future, the parties will be able to have constructive conversations about what is working well and what should be changed. Nothing can be fixed "in perpetuity."

--EW said that the Town of Bennington reviews its Charter every five years. Proposed changes must be put before the voters.

--SH said a Charter is a legislative act, but a Memorandum of Understanding is a contract between two parties that agree on the terms.

There was further discussion of traffic calming devices, putting stripes onto the roads, and the need for enforcement of the 25 mph speed limit in the Village.

AS said that with the legislature now out of session, the Village needs to be working on what the Memorandum of Understanding should say. There's a lot of work to be done on this. She said that she wants to hear from people. Residents should be emailing her their concerns and suggestions about the Memorandum of Understanding. She encouraged people to look on the Village website for recordings and minutes of the monthly meetings since last January, because these issues have been discussed at every one of them, and people can find out more about what's been done so far.

EW moved to adjourn the meeting at 8:16. SW seconded the motion and the meeting was unanimously adjourned.