

Minutes
Special Meeting of the Village of Old Bennington
Old First Church Barn, Monument Circle
April 22, 7 p.m.

[Draft for Trustee approval at the May meeting.]

A video-recording of the meeting is available at this link:

<https://zoom.us/rec/share/3u1gM-8FJAxQ4NrtQ69yassdnL4zWNV11X36sBOxqwZpyj7wY2kPI25i7AlZ-nS8.tZFXbi3IoCzX3bzY>

Passcode: \$F1pPxos

Call to order: The meeting was called to order at 7 p.m. by Pat Winburn. He explained that this was not a regular meeting of the Board of Trustees, but a special meeting in which the residents of the Village were asked give their thoughts on a topic the Trustees wanted their opinions on, road upkeep and how to pay for it.

PW said that he would serve as a referee, and would permit non-residents of Old Bennington to speak only if a majority of the residents approved. He said the evening's vote would be advisory and non-binding, and it would drive the Trustees' work at their next monthly meeting.

PW said he would first call on Anne Slattery and Ron Rabidou to brief the residents on the roads-transfer initiative. After that, he would call on Renny Ponvert to provide a dissenting view.

Anne Slattery said she would review the background of the roads-transfer question, but first she wanted to share some new information on the legislative process and timetable. The Village is trying to repeal a 1959 Act of the State Legislature that gives the Village responsibility for its own roads, which is not the usual approach in Vermont. She said the goal of the repeal was simple, but the execution was difficult. Normally, when the Legislature repeals an Act, the effect is immediate, but in our case, that would cause problems. For one thing, the Town and the Village operate under different fiscal years, and they need more time to align their

calendars. Also, the roads-transfer initiative includes a number of steps that must be done in the proper sequence, and that sequence has not been fully worked out. And various other agreements between the Village and the Town still needed to be sorted out. AS said she had asked Town Manager Stuart Hurd to discuss the problems of immediate repeal with members of the Government Operations Committee, and when he did, he learned that both the chair and the vice chair thought the Legislature could vote on the repeal in May 2025 but have it take effect in July 2026. That would allow enough time to work out the many complexities.

AS then recounted how the Village had arrived at its current situation. In 2019, RR [then the Presiding Officer] and Andy Buchsbaum [then a Trustee and the Road Commissioner] looked carefully at the condition of all the Village roads and considered the tax implications of the needed repairs. It became apparent that, while the Town of Bennington had been increasing its road-tax rate each year to keep pace with rising costs, the Village hadn't been doing that. This had allowed a serious financial problem to develop.

[Clerk's note: A copy of the 2019 roads report is available [here](#). Even though it's five years old, it's well worth reviewing, because the Village's road-repair discussions are going to continue irrespective of the evening's vote. Among other things, the report explains that delays themselves are an important factor in rising costs.]

Village officials then made plans to bring the roads-tax rate up to date, but the pandemic slowed that effort. Consequently, in 2023, when repairs of Bank Street and Fairview Street were urgently needed, there wasn't enough money to pay for them. The financing options (issuing bonds or raising taxes) were unattractive. Therefore, in January 2024, Village officials met with Town officials to see if there was a way to combine forces to get the necessary repairs done. The idea of merging the Village into the Town was a nonstarter, and the idea of the Village contracting with the Town for road work was rejected. (Long ago the Village and Town had such a contract and it was not considered successful.) The approach that seemed mutually attractive was to keep the Village intact as a municipality but to transfer its road duties to the Town.

Since then, AS said, there has been discussion of this initiative at every meeting of the Trustees. The discussions are recorded in the minutes, which are publicly available on the Village website.

The Trustees had hoped to advance the roads transfer last year, but the legislative timing didn't work. In June 2024, the Village held a special informational meeting on the possible roads transfer, and residents gave the Trustees the nod to keep working on it.

The Legislative Counsel has now gone through the relevant issues and drafted a bill that would repeal 60-year-old Act that would make the Village of Old Bennington responsible for its roads. In other words, Old Bennington would revert to the "default" situation in most of Vermont: When a smaller municipality is seated inside a larger one, the default practice is to give the larger municipality responsibility for the smaller one's roads.

Village Treasurer Ron Rabidou then made a presentation of the financial side of the proposed roads transfer. He said that the 2019 roads assessment, by MSK Engineering and Milone & MacBroom, estimated total cost of all repairs at \$1.55 million, if they were all done that year. Since the Village intended to spread the work over a number of years, the engineering report also said the cost could be projected forward with an assumed inflation rate of 3% to 5% per year.

The State had grants available for the repair of Class 2 roads. The Village succeeded in getting Bank Street reclassified as Class 2, and eventually got a \$200,000 grant to repair it. The Vermont Agency of Transportation has told the Village that there will not be any other grant for its roads besides that one.

RR also put a price tag on the Village's failure to match its road-tax rate to the Town's road-tax rate over the preceding 20 years: It had left Old Bennington \$800,000 short of the road-repair reserves it now needs.

As time has passed, the cost estimates have risen. MSK's 2019 report estimated it would cost \$281,000 just to reconstruct Bank Street, but by 2023, the estimate had risen to \$501,000, a 78% increase. That's much more than MSK's assumed inflation rate of 3% to 5%. And since then, the cost estimate has increased by another \$57,000. RR said he recently saw a news story in which the Vermont Transportation Secretary reported seeing 40% increases in some road-construction costs.

RR said he knew the Village residents wanted to know how their property taxes would be affected by a transfer of road duties to the Town. He said the Town was able to do road work more cost-effectively than the Village, because the Town has

its own engineers and road crews, and even its own snowplow drivers on the payroll. By contrast, Old Bennington must engage MSK every time it puts road work out to bid. That adds a layer of cost. And in the most recent instance, only one contractor submitted a bid for the work being planned, so the Village isn't getting the benefit of a competitive market.

In the Village, road costs have accounted for about 70% of expenditures in recent years. That leaves very little flexibility to cover rising road costs by trimming other expenditures. So, as road-repair costs keep rising, Village residents are going to see their tax bills rise. If responsibility for the roads stays with Old Bennington, those property-tax increases will be spread over just 86 tax-paying parcels.

The situation is different for the Town of Bennington, where road spending is between 20% and 30% of municipal expenditures (which exclude school spending). Not only does this give the Town more budget flexibility as road-repair costs rise, but it's able to do the repairs more cheaply.

In summary, RR said road-repair costs are rising so much that Village taxes are going to increase no matter who does the repairs – but they will increase more slowly if the road duties are transferred to the Town.

The Moderator then called on Renny Ponvert to offer “another viewpoint.”

RP summarized the points he had made in the leaflet he distributed to Village residents in the days before the special meeting. They included:

--RP's belief that if the Town takes over the duty to repair Village roads, the quality of the Town's work could affect property values.

--RP's belief that the Village was racing to meet an “artificial deadline,” and was not allowing enough time to study “viable alternatives.”

--RP's misgivings about whether the Town could really maintain the Village's roads more cost-effectively than the Village itself.

--RP's concern that if the Town gained control over the Village's roads, it might push through undesirable changes, such as widening the roads and encouraging greater speeds.

When RP finished his presentation, the Moderator opened the meeting to comments by members of the public. The following is an abbreviated selection of the views that were aired. The entire discussion, word by word, can be viewed on the Zoom recording of the meeting, available at the link at the top of these minutes.

Charles Kozlowski, a resident of the Village for about 30 years, said that in the 1990s and early 2000s he had worked on the roads together with Arnold Riggs, then the Road Commissioner. “Back then, the State was always on our side,” he said, recalling that Riggs worked extensively with the State and was able to get grants that aren’t forthcoming today. “If you want to blame anybody for our position, blame Montpelier,” he said. “Not us. Not the Town.”

Brian Scheetz, currently the chair of the Planning Commission, said he opposed the roads transfer, despite his confidence in AS and EW. “Once they get our tax money, we are never going to hear from them again,” he said of the Town.

Galen Jones, BS’s predecessor on the Planning Commission, said the Village was basing its thinking on MSK Engineering’s recommendations for repairs, he didn’t think the Town would necessarily do all the work MSK called for. He said the Town was on a 25-year paving cycle, “which isn’t very encouraging.” He said he didn’t think the Village was ready to make a decision about the roads transfer and needed more information first.

Susan Wright, currently a Trustee, said she had been living in Old Bennington for 30 years and had been through this process “year after year.” Over time, she said, the Village’s financial position had become unsustainable. “We’re a community and we’ve got to have closure on this thing,” she said, adding that good roads are essential and she favored the transfer to the Town.

Will Greer, a recently elected State Representative for Bennington and Old Bennington, spoke after PW found that no Village residents objected. He said he wanted the people of the Village to understand what the repeal would actually do. “It is not saying that the Village is going to automatically revert its responsibility to the Town,” he said. “It gives the Village more responsibility.” He offered copies of [H.404](#), the bill, so that people could see for themselves. [Click the link and read the sentence starting at Line 17. That sentence is in the law now, and the repeal would remove it and make no other changes.]

Nancy Coseo, a former chair of the Planning Commission, said she hadn't known until this evening that the Village had contracted with the Town for road work at one point in the past, and she wanted to know more about that.

Stuart Hurd, the Town Manager, responded. He said the Village's contract with the Town was a long time ago, and the Town had, in fact, done a lot of work on the Village's roads, but the Village eventually called for ending the arrangement. The main problem was that the Town didn't spend all the Village's money on Village infrastructure, because the contract didn't say the Town was required to do so. He said that a short-term contract didn't necessarily work well with long-range planning, but the differences that had come up before could be prevented with a Memorandum of Understanding, which could give the Trustees of the Village a say over road design and maintenance. It could also specify that the Village would be treated fairly. "I don't see why it can't work," he said.

Kate Musso, a lawyer in the Village, said that a Memorandum of Understanding was a shared vision, not a binding contract.

Tamara Von Ouhl-Kremer asked why the Village and Town couldn't both lay out their expectations in a binding way before entering into any relationship. She also asked why Bennington would even want the responsibility for Old Bennington's roads. A brief discussion followed over whether Bennington was seeking to lay claim to Old Bennington's road-tax dollars without making an adequate commitment to doing the road work.

RR said that the Village had \$31.7 million in assessed property value, and just three miles of road, which worked out to \$10.6 million per mile of road. He said that wasn't terribly different from the Town's situation, since it has \$1.267 billion of assessed property value and 128 miles of roads, or \$9.9 million per mile of road. "They're not getting more money," he said. "They're getting our tax dollars, but they're also assuming our three miles of roads." He added that the Town was taking on a heavier burden than it would be if the Village hadn't under-taxed its homeowners for many years and allowed its roads to fall into disrepair. "Can anyone say they haven't noticed that our roads are worse when they enter the Village?" he asked.

Michel Kimmel recalled that the Village had attempted an arrangement that paid the Town to provide specific policing duties in the Village. "That wasn't very successful, and I don't trust that the same thing won't happen with the roads," she said.

Christine Costello said that the Village residents needed to know what the Town's process was for setting priorities and making sure maintenance and repairs were scheduled in good time.

Town Manager SH said the Town has a capital plan that maps out road work in descending order of priority. The Town has been trying to repave the roads every ten years, but lately it has been falling behind that goal because of the skyrocketing cost of asphalt. "You are all voters and citizens of Bennington," he said. "We don't treat you differently."

AS said the Village had been using a local contractor, which had been performing inadequately in Old Bennington, but it had no other options. "There are no other contractors who wish to do this work," she said. She said that RP, in his dissenting presentation, had not provided a single number to back up his statements. "He didn't mention the cost of anything," she said. "There were no facts involved." Meanwhile, she said, Village Trustees and officials have been grappling with this problem year after year, and regularly providing the residents with detailed information.

RP said, "We should never allow ourselves to be motivated by fear."

Ed Woods thanked Charles Kozlowski for taking the Villagers back more than 20 years to the time when the State of Vermont funded road upkeep. He said the State had stopped doing that about ten years ago. Since then, he said, the Village had explored every option for funding road work, to no avail. "The State isn't interested in funding roads like the ones we have," he said. Last year the Village had a substantial tax increase, and if people thought that was enough to solve the problem for good, they were wrong. "We are going to completely wipe out our resources to redo Bank Street," he said. "We are not replenishing that reserve." The only way to restore the reserve for future road work would be more large tax increases. "I'm very scared of not being able to afford my taxes in retirement," he said.

Jan Buonnano said she was hearing some people say they didn't trust the Town, but the Village had been trusting the Town to provide other services, like clean drinking water, so "Those arguments seem shallow to me."

Kathy Wagenknecht said that she served as either Village Treasurer or Auditor for nine years, and during that time she had been told again and again that the Village

was paying more taxes than the Town, because it had an additional assessment for the roads. But that turned out to be wrong. The Village's road assessment was significantly lower than the Town's, and had been for a long time. The Village can't go back in time and redo the assessments properly, so now it has to cope with a big amount in arrears. The only way out is to trust the Town. She said that the Village trusted the Town to provide adequate fire service, so it was silly to refuse to trust the Town for road work.

Marta Kozlowski said she wanted to know what would happen to the Village's existing reserves if it decided to give the road duties to the Town.

RR said that the Trustees hadn't voted on that yet, but the Village had collected those funds to deal with the roads, so it would make sense to transfer a commensurate portion of the reserves to the Town if the Town was going to do the necessary work.

Tom Woodward, a Trustee, said he would not be in favor of engaging with the Town on road work until more was known about what was driving the current wave of inflation in the construction industry.

There was more discussion in the same vein, but PW pointed out that some voters were already leaving the meeting, which could affect the outcome of the impending vote, so it was essential to wrap things up.

AS moved for a non-binding vote of the Village in favor of authorizing the Trustees to transfer the duty and authority of Village Roads over to the Town of Bennington. EW seconded the motion.

PW said there was no time to be check whether everyone at the meeting was, in fact, a registered voter, as required, and he asked that anybody who wasn't registered to vote refrain from voting. RP said that various residents had been unable to attend the Special Meeting and had sent their written proxies to various Trustees to have them reflected in the vote. He requested that the proxies be voted. PW ruled out any proxy votes. The Warning for this meeting had clearly stated that voting would be possible in person only.

The vote was held by a show of hands. PW and MW counted the hands and found 22 favored the roads transfer initiative and 30 opposed it. Therefore the motion failed. The meeting was then adjourned.