

**BRATTLEBORO SELECTBOARD  
TUESDAY, JANUARY 20, 2015  
REGULAR MEETING – 6:15PM  
MINUTES**

Selectboard members present: David Gartenstein, Kate O'Connor, David Schoales, Donna Macomber, and John Allen.

Staff present: Town Manager Peter B. Elwell, Assistant Town Manager Patrick Moreland, Finance Director John O'Connor, Town Clerk Annette Cappy, Recreation & Parks Director Carol Lolatte, Police Chief Mike Fitzgerald, Public Works Director Steve Barrett, Highway/Utilities Superintendent Hannah O'Connell, Fire Chief Mike Bucossi, Assistant Fire Chief Peter Lynch, Police Captain Mark Carignan, Executive Secretary Jan Anderson, and others who did not sign the attendance sheet.

Media present: Tim Johnson representing WTSA and Howard Weiss-Tisman representing the Brattleboro Reformer.

Others present: Dick DeGray, James Banslaben, Mike Schramm, Jesse de la Rosa, Gordon Bristol, Melissa Clark, Jeffrey Clark, Bert Picard, Avery Schwenk, Kurt Daims, Patty Fitzgerald, Marty Fitzgerald, Tom Robertson, Simrin Socci, Les Montgomery, Brenda Carr, Terry A. Carter, Lorie Cartwright, Beverly Behrmann, Spoon Agave, Stacey Conn, Dale Joy, Wendy Creager, Dora Bouboulis, Kathryn Turnas II, Molly Alderman-Person, ASL Interpreters Janet Dickinson and Elizabeth Bjerk, BCTV staff and volunteers, and others who did not sign the attendance sheet.

Chair Gartenstein called the meeting to order at 6:15pm in the Selectboard meeting room. He confirmed that the meeting was officially warned.

***APPROVE MINUTES***

**MOTION BY DONNA MACOMBER TO APPROVE THE MINUTES FROM DECEMBER 30, 2014 AND JANUARY 6, 2015 AS PRESENTED. MOTION CARRIED 5-0.**

***CHAIR'S REMARKS***

Chair Gartenstein announced that effective as of 7:00am today Peter Elwell became the new Town Manager. He welcomed Elwell back to Brattleboro and to the roll of Town Manager, and said that he looked forward to working with new management team and working through upcoming challenges. He thanked Assistant Town Manager Moreland for his hard work over the past 18 months. He then said that tonight the Board would discuss a series of issues that have come back before the Board on a recurring basis and that those matters would be decided tonight or at the special meeting on January 29 where the Board would meet to approve the Warnings for Town Meeting and Representative Town Meeting. He also announced that the deadline to submit petitions to run for Town offices was January 26 at 5:00pm and he encouraged citizens to participate in their local government.

***MANAGER'S COMMENTS***

Town Manager Elwell said he was grateful to be back in Brattleboro and was mindful of the difficulties over the past 18 months while the Town searched for a new Town Manager. He thanked the Selectboard for their faith in him, the Town staff and management team, and Assistant Town Manager Moreland and Executive Secretary Anderson for their work while the search for a new Town Manager took place. He commended all of the staff for their quality of work and commitment to the Town. He invited the public to call him to set up an appointment to meet and discuss their concerns and other matters of the Town, and said that he looked forward to getting started in his new position.

***SELECTBOARD COMMENTS AND COMMITTEE REPORTS***

Schoales announced that another community conversation with the Town School Board was scheduled for tomorrow evening at 6:00pm at Green Street School to discuss the differences in elementary schools and how to deal with behavior, discipline, effects of poverty, and differences and similarities between the schools. He encouraged the public to attend. He also said that he would be attending a conference

scheduled the 2nd week of February to address leveraging climate change to promote economic development and he invited other members of the Board and public to join him. He then said that the Windham Solid Waste Management District (WSWMD) budget passed with the population-apportioned representatives' vote being 13-9 in favor and the town vote being 12 to 4. He asked to put an initiative on the ballot for voters at Town Meeting to indicate whether they wanted to keep the 24/7 recycling roll-off containers on Fairground Road. The Board asked Administration to draft language to be considered by the Board at its January 29 meeting and the Board could vote at that time whether to include it on the Town Meeting ballot.

### ***PUBLIC PARTICIPATION***

Gordon Bristol thanked the present and past Boards for continuing the Small Business Assistance Program (SBAP) loan fund. He said that five years ago he and his wife purchased a commercial building with assistance from a SBAP loan and renovated the building which now housed the Office of Veterans Affairs. He said that the Veterans Affairs Office had eleven fulltime employees and provided needed assistance to veterans. He was present to make the final payment on the SBAP loan and he encouraged continuance of the program.

Dick DeGray welcomed Elwell and thanked Moreland. He said that the Christmas Stocking was still short of its goal of \$90,000. He announced that an anonymous donor recently offered to match donations up to \$5,000 and he appealed to the local communities to continue to donate to the very worthwhile organization.

### ***LIQUOR COMMISSIONERS***

**MOTION BY JOHN ALLEN TO CONVENE AS LIQUOR COMMISSIONERS. MOTION CARRIED 5-0.**

Special Event Permit – *Vermont Hard Cider Company, LLC*

Special Event Permit – *14<sup>th</sup> Star Brewing Company, LLC*

Special Event Permit – *Citizen Cider*

Special Event Permit – *McNeill's Brewery*

Special Event Permit – *Hermit Thrush Brewery, LLC*

Gartenstein said that five applications had been submitted requesting to serve liquor at a Strolling of the Heifers event on Friday, February 13 from 5:00pm to 8:00pm in conjunction with the Harris Hill Ski Jump. Stacey Conn and Molly Alderman-Person, from Strolling of the Heifers, were present and discussed the Beer, Cider and Cheese Festival at the Robert H. Gibson River Garden on February 13. They said that the admission fee would be \$20 and eight drink sampling tickets would be provided. They said that three additional applications from liquor vendors were anticipated, and that several food vendors would also be present. There was discussion by the Board about the number of alcohol vendors that would be present and concerns about Hermit Thrush Brewery's application to fill growlers at the event. A representative from Hermit Thrush Brewery suggested removing "two ounce tasting pours and growler fills" from the application. The Board agreed to the amended the application.

**MOTION BY DAVID SCHOALES TO APPROVE A SPECIAL EVENT PERMIT FROM VERMONT HARD CIDER COMPANY, LLC, 14TH STAR BREWING COMPANY, LLC, CITIZEN CIDER, MCNEILL'S BREWERY, AND HERMIT THRUSH BREWERY, LLC [AS AMENDED], FOR A BEER, CIDER AND CHEESE FESTIVAL SPONSORED BY STROLLING OF THE HEIFERS AT THE RIVER GARDEN, 157 MAIN STREET, ON FRIDAY, FEBRUARY 13, FROM 5:00PM TO 8:00 PM. MOTION CARRIED 5-0.**

Liquor License Renewal Process - Town Clerk's Office. Gartenstein said that the Board was asked to consider a proposal from Town Clerk Annette Cappy to streamline the liquor license renewal process. Town Clerk Cappy reviewed the current liquor license renewal process and spoke about her suggestions to revise the process as set forth in her memo that was provided to the Board in their packets. She

suggested that rather than providing the Board with renewal requests by establishments at different times, she requested that the Board review and approve up-front a list of all anticipated liquor license renewals on the condition that the establishments provide the necessary documentation requested by the Town Clerk and the Vermont Department of Liquor Control. There was discussion by the Board about the current renewal process and the suggested process, including providing an opportunity for Brattleboro Area Prevention Coalition (BAPC) and other people to speak to the Board about concerns, if any, regarding a particular establishment. The Board asked Town Clerk Cappy to include BAPC in the renewal process.

**MOTION BY DAVID SCHOALES THAT ALL CURRENT LICENSEES BE PRESENTED TO THE LIQUOR COMMISSIONERS AT ONE MEETING FOR RENEWAL REGARDLESS OF WHETHER THEY HAVE RETURNED THEIR RENEWAL DOCUMENTS YET ON THE CONDITION THAT RENEWAL DOCUMENTS ARE RECEIVED BY THE TOWN CLERK'S OFFICE AND ARE COMPLETE.**

Gartenstein offered a friendly amendment to clarify the language of the motion and Schoales accepted it. There was further discussion by the Board. Gartenstein and O'Connor spoke of concerns about approving a list only on the assumption that establishments would apply for the license renewal. O'Connor also spoke of concerns about not having an opportunity to review the renewal applications, elimination of the step in the process where the Board saw the list of establishments with any violations, and not having an opportunity to discuss concerns about an establishment before renewal of the license. Cappy said that renewal requests were also reviewed by other departments to ensure that the establishments were current on taxes and loan payments and had the approval of the Police and Fire Departments. Lorie Cartwright spoke of concerns that the motion would remove the Board's authority to reject a renewal. Elwell noted there were three ways for not renewing an establishment's license, being (1) the establishment did not follow-up with proper documentation, (2) the Board had reason for concerns and could then remove the establishment from the renewal list and follow another procedure to reject or further vet the application, and (3) that if staff had sufficient concerns or complaints they could bring the list of concerns to the Board for further discussion. There was further discussion by the Board.

**AMENDED MOTION BY DAVID SCHOALES THAT ALL CURRENT LICENSEES BE PRESENTED TO THE LIQUOR COMMISSIONERS AT ONE MEETING FOR RENEWAL REGARDLESS OF WHETHER THEY HAVE RETURNED THEIR RENEWAL DOCUMENTS YET AND THAT THE MOTION MADE BY THE LIQUOR COMMISSIONERS TO APPROVE WILL BE ON THE CONDITION THAT RENEWAL DOCUMENTS ARE RECEIVED BY THE TOWN CLERK'S OFFICE AND ARE COMPLETE. MOTION CARRIED 3-2 (GARTENSTEIN AND O'CONNOR OPPOSED).**

**MOTION BY DONNA MACOMBER TO ADJOURN AS LIQUOR COMMISSIONERS. MOTION CARRIED 5-0.**

***WATER AND SEWER COMMISSIONERS***

**MOTION BY JOHN ALLEN TO CONVENE AS WATER AND SEWER COMMISSIONERS. MOTION CARRIED 5-0.**

Approve Loan Application – *State Revolving Loan Fund Application, Black Mountain Gravity Sewer Line, Finance Department, Department of Public Works.* Gartenstein said that the Board was asked to approve a loan application to the State Revolving Loan Fund to support the construction of the Black Mountain Gravity Sewer Line. Mike Schramm, from Hoyle, Tanner & Associates, and Public Works Director Barrett were present and discussed the Black Mountain gravity sewer project. Barrett said that loan funds in the amount of \$960,000 would be used to install a gravity fed sewer line using trenchless technology under the Interstate and connecting to the wastewater treatment plant, which would replace the current pump station and line. He said that the Vermont Dept of Environmental Conversation reviewed the design plans and specifications and authorized the project to proceed. He said that the project was out for bid and construction was expected to take place in the spring with a finish date in late-June. He discussed two easements that were required, said that the project was still under budget, and he discussed the long term savings by switching to the gravity fed system. Schramm discussed the trenchless technology and said that a 24" casing would be installed to provide for an 8" sewer pipe. He also spoke briefly about

contingency factors in the engineering contract. Finance Director O'Connor said that the loan application was in addition to an existing loan and would increase the loan value with a 20 year repayment period. He added that the Board was also asked to approve an amendment to the engineer agreement by \$111,700 for additional engineering services associated with the project and that the amendment was part of the loan documentation. Dick DeGray spoke about past borrowing for the project and inquired about current loan funding. Kurt Daims inquired about the trenchless technology. There was discussion by the Board about the project, the trenchless technology, the loan and bond, and amendment to the engineering agreement. Gartenstein asked that page 3 of the contract be revised to add the new Town Manager as the alternate representative.

**MOTION BY JOHN ALLEN TO APPROVE A LOAN APPLICATION IN THE AMOUNT OF \$960,700 TO THE STATE OF VERMONT REVOLVING LOAN FUND TO COMPLETE THE BLACK MOUNTAIN GRAVITY SEWER LINE. MOTION CARRIED 5-0.**

Approve Contract Amendment – Hoyle, Tanner & Associates Department of Public Works. Gartenstein said that the Board was asked to approve an amendment to the existing contract with Hoyle, Tanner & Associates for services associated with the construction of the Black Mountain Gravity Sewer Line project. Discussion about the matter was included in the previous agenda item.

**MOTION BY JOHN ALLEN TO APPROVE A CONTRACT AMENDMENT WITH HOYLE, TANNER & ASSOCIATES FOR COMPLETION OF THE BLACK MOUNTAIN GRAVITY SEWER LINE AS PRESENTED. MOTION CARRIED 5-0.**

**MOTION BY DONNA MACOMBER TO ADJOURN AS WATER AND SEWER COMMISSIONERS. MOTION CARRIED 5-0.**

#### ***UNFINISHED BUSINESS***

Representative Town Meeting Article – Representative Town Meeting Ad Hoc Futures Committee (tabled from 1/6 meeting).

**MOTION ON THE FLOOR FROM THE JANUARY 6, 2015 SELECTBOARD MEETING: “MOTION BY JOHN ALLEN TO ADD THE FOLLOWING ARTICLE TO THE 2015 REPRESENTATIVE TOWN MEETING WARNING, ‘TO SEE IF THE TOWN WILL VOTE TO ESTABLISH A COMMITTEE OF REPRESENTATIVE TOWN MEETING TO BE KNOWN AS THE COMMITTEE OF THE FUTURE’ ”.**

Spoon Agave, member of Representative Town Meeting and the Ad Hoc Futures Committee, said that he previously requested that the Board add an article to the Warning for the 2015 Representative Town Meeting about formation of the Futures Committee. He subsequently provided the Board with a copy of the minutes from the special Representative Town Meeting in June, 2014 where the Futures Committee was authorized (under Other Business). Rod Francis, Planning Director, provided the Board with a memo outlining potential conflicts between the proposed Futures Committee and statutory obligations of the Planning Commission, and he said that the functions of the two bodies would be duplicative. Agave discussed the purpose of the Futures Committee said that he had not been provided a copy of the Planning Department’s memo and requested time to review it with the Moderator and Town Attorney. He also discussed process and what he perceived to be a power struggle between the Selectboard and Town Meeting. Kurt Daims stated that the authority of the Selectboard was not to debate merits of the request but whether to add the matter to the Town Meeting warning. Dick DeGray stated there was a profound difference between Town Meeting requesting a report and adding an article to the Warning where the body would be required to take action. There was discussion by the Board about Agave’s request, confusion around the request, the resolution passed at Representative Town Meeting, and whether to table the matter in order to provide Agave with additional time to review and research the memo from Planning Department.

**MOTION BY JOHN ALLEN TO TABLE THE PROPOSED TOWN MEETING ARTICLE TO THE JANUARY 29 MEETING. MOTION CARRIED 4-1 (SCHOALES OPPOSED).**

## **NEW BUSINESS**

Financial Report – Monthly Report, December, Finance Department. Finance Director John O'Connor presented and discussed the December monthly financial report. There was a brief discussion by the Board.

### **NO ACTION TAKEN.**

Town Meeting Article – 1st of 2 Public Hearings, Petitions for Charter Amendments, (1) “Youth Vote Amendment,” (2) “Overspending Veto, Restoration of Free Speech,” and (3) “Term Limits, Election Reform and Free Speech.” Gartenstein said that the Board was asked to hold the first of two public hearings on three petitions for Charter amendments that had been received for inclusion on the Town Meeting ballot on March 3.

Gartenstein opened the public hearing on the proposed Charter amendments.

Kurt Daims spoke in detail about the three articles included in the petitions that will go before the voters at Town Meeting on March 3. He said that the articles were drafted to increase voter participation in government and voter turn-out at elections. He reviewed and discussed Article 1 that would allow 16 year olds to vote. He then reviewed and discussed Article 2 and said that it would promote a budget veto, give voters a chance for a referendum on expenditures of \$2,000,000 or more, and would restore how people could vote for ordinances any time of the year. He reviewed and discussed Article 3 which would provide term limits for Representative Town Meeting members to allow and promote more participation in Town government, promote unified elections, encourage 2 hours of paid leave to vote, restore free speech, and restore the Town Grand Juror. Spoon Agave offered his opinions about the articles and said that the purpose of the proposed amendments was to strengthen democracy. Dick DeGray discussed his opinions about the articles and discussed general lack of participation in Town government and opportunities for early voting. He suggested that voters do their homework before voting on the proposed Charter amendments. Dora Bouboulis spoke in favor of adding the articles to the ballot and cautioned the Selectboard to stay neutral and not take a stand on the articles. Kathryn Turnas voiced her concerns about voting on the amendments in blocks. There was discussion by the Board about the process to amend the Charter, requirement to vote on the articles in blocks, statutory requirements for periodic review of the Charter, voters being fully educated about the articles before voting, and effects on the Town's form of government.

Gartenstein closed the public hearing.

### **NO ACTION TAKEN.**

Skatepark Site Selection – Follow-Up Discussion. Planning Director Rod Francis and Recreation & Parks Director Carol Lolatte were present and discussed a recent meeting with the Agency of Natural Resources (ANR) regarding development of the Theresa S. Brundgardt Senior Area at Living Memorial Park for a skatepark location. Lolatte said they met with ANR for preliminary discussions before expending substantial funds on a feasibility study. Francis discussed the memo he provided to the Board summarizing the discussions and the unlikelihood of ANR to permit development in that area for a skatepark. Gartenstein spoke about the history of a skatepark site selection, including the top four sites recently recommended by the Skatepark Site Selection Committee. There was discussion about using the upper location at Living Memorial Park for the skatepark. Lolatte discussed pros and cons of using the upper level, and said that the park was a four-season facility with skiing and snowboarding taking place in that vicinity. Jeff Clark, Brenda Carr, Les Montgomery spoke in favor of locating the skatepark at the upper level. Lorie Cartwright inquired about liability concerns regarding skiers and snowboarders. Wendy Creager inquired about the proposal for a dog park at Living Memorial Park and the possibility of installing temporary structures at the Elm Street lot location. Dora Bouboulis offered opinions regarding the Living Memorial Park and Elm Street lot locations. There was discussion by the Board about possible site locations.

**MOTION BY DAVID GARTENSTEIN TO AUTHORIZE BASIC [BRATTLEBORO AREA SKATEPARK IS COMING] TO INVESTIGATE THE FEASIBILITY OF THE UPPER LIVING MEMORIAL PARK SITE.**

Gartenstein asked Administration if the Board's previous decision specifically addressed feasibility and/or construction of a skatepark at the Brundgardt location. Patty Fitzgerald provided a copy of the Board's previous decision. Moreland read the motion and decision: "Motion by John Allen to authorize the development of a skatepark at Theresa S. Brundgardt Senior Area in the northeast corner of Living Memorial Park. Motion carried 5-0."

**GARTENSTEIN WITHDREW HIS MOTION.**

**MOTION BY DAVID GARTENSTEIN THAT THE SELECTBOARD AUTHORIZE BASIC [BRATTLEBORO AREA SKATEPARK IS COMING] TO INVESTIGATE THE FEASIBILITY AND TO DEVELOP A SKATEPARK IN THE UPPER LIVING MEMORIAL PARK SITE. MOTION CARRIED 5-0.**

FY16 Budget – Discussion. Gartenstein said that the Board was asked to discuss the proposed FY16 budget. He inquired whether Brattleboro Museum and Art Center (BMAC) responded to the inquiry about its request for \$7,000 for ongoing maintenance and repairs. Moreland said that attempts were made by himself and the Museum Director to speak by phone but were unsuccessful so an e-mail exchange took place, and to-date he had not received a request by BMAC. The Board asked that the sum of \$7,000 previously allocated for BMAC be removed from the proposed FY16 budget. Finance Director O'Connor confirmed that after removing that \$7,000 line item, the proposed budget stood at \$15,714,497. Gartenstein said if that figure was ultimately approved, property taxes would increase approximately 2%. He also re-stated that households would incur an additional cost to purchase trash bags for removal of their trash. Kate O'Connor confirmed that a previous \$20,000 allocation to develop the skatepark was not included in the proposed budget and that it would need approval by Representative Town Meeting. Dick DeGray suggested removing money to purchase airpucks from the general fund budget and pay for the airpucks out of the surplus revenue so as not to incur debt. There was a brief discussion by the Board. The Board agreed to finalize the proposed budget at the January 29 special meeting.

**NO ACTION TAKEN.**

Unassigned Fund Balance – Discussion. Gartenstein said that the Board had discussed the use of a portion of the unassigned fund balance, approximately \$1,900,000, on a number of occasions. He asked Town Manager Elwell to speak to the matter. Elwell said that he strongly advised the Board to establish a general policy for using the unassigned fund balance only for nonrecurring expenses and not operating expenses. He noted the difference between nonrecurring and recurring expenses and discussed at length the strengths and reasoning of the practice of not being overly reliant on the unassigned fund balance for operating expenses. He said that the Town should operate on a budget it could afford so as not to be doubly impacted if it had to fund major unanticipated expenses. Dick DeGray spoke in support of using surplus funds to pay for capital expenses rather than incurring additional debt. Dale Joy suggested not removing emergency equipment from the budget and reducing expenses in other areas. Howard Weiss-Tisman inquired about the pending Police-Fire facilities project. There was discussion by the Board about recurring and non-recurring expenses, the use of the fund balance, and capital projects currently anticipated. The Board agreed to defer a decision about whether to add the matter to the Representative Town Meeting Warning until the January 29 special meeting.

**NO ACTION TAKEN.**

Local Option Sales Tax – Discussion. Gartenstein said that Board would decide at the January 29 special meeting whether the local option sales tax would be added to the Town Meeting Warning and/or the Representative Town Meeting Warning. There was a brief discussion.

**NO ACTION TAKEN.**

Approve Contract – Town Attorney. Gartenstein said that the Board was asked to approve a one-year contract with Fisher & Fisher for legal representation. There was no discussion by the Board.

**MOTION BY DAVID GARTENSTEIN TO APPROVE A ONE YEAR CONTRACT WITH FISHER & FISHER FOR LEGAL REPRESENTATION AS PRESENTED. MOTION CARRIED 5-0.**

*Annual Appointments – Town Attorney, Treasurer, and Town Clerk.* Gartenstein said that the Board was asked to appoint Fisher and Fisher Law Firm as Town Attorney, Annette Cappy as Town Clerk, and John O'Connor as Treasurer for presentation to Representative Town Meeting for ratification. There was no discussion.

**MOTION BY JOHN ALLEN TO APPOINT FISHER AND FISHER LAW FIRM AS TOWN ATTORNEY, ANNETTE CAPPY AS TOWN CLERK, AND JOHN O'CONNOR AS TREASURER FOR A TERM BEGINNING MARCH 22, 2015 AND ENDING MARCH 19, 2016. MOTION CARRIED 5-0.**

***CORRESPONDENCE AND MEETINGS***

Macomber read the dates and times of Town committee meetings and other upcoming events.

There was no further business.

**MOTION BY DONNA MACOMBER TO ADJOURN AT 9:32PM. MOTION CARRIED 5-0.**

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David Schoales, Clerk