

**BRATTLEBORO SELECTBOARD
TUESDAY, MAY 17, 2016
EXECUTIVE SESSION – 5:30PM
REGULAR MEETING - 6:15PM
MINUTES**

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

Staff Present: Town Manager Peter Elwell, Assistant Town Manager Patrick Moreland, Town Attorney Robert Fisher, Finance Director John O'Connor, Town Clerk Annette Cappy, Planning Director Rod Francis, Public Works Director Steve Barrett, Police Chief Mike Fitzgerald, Fire Chief Mike Bucossi, Assistant Fire Chief Peter Lynch, Police Captain Mark Carignan, Library Director Starr LaTronica, and Executive Secretary Jan Anderson.

Media present: Chris Mays representing the Brattleboro Reformer and BCTV staff and volunteers.

Others present: James Banslaben, Erin Fagley, Krista Belson, Christian Stromberg, Avery Schwenk, Neil Senior, Orly Munzing, ASL interpreters Janet Dickinson and Elizabeth Fox, and others who did not sign the attendance sheet.

Gartenstein called the meeting to order at 5:30 pm. He confirmed that the meeting was officially warned.

MOTION BY DAVID GARTENSTEIN TO ENTER INTO EXECUTIVE SESSION TO DISCUSS LABOR RELATIONS AGREEMENTS WITH EMPLOYEES, CONTRACTS, AND PENDING OR PROBABLE CIVIL LITIGATION, WHERE THE SELECTBOARD HAS DETERMINED THAT PREMATURE GENERAL PUBLIC KNOWLEDGE WOULD CLEARLY PLACE THE MUNICIPALITY, PEOPLE INVOLVED, AND SELECTBOARD AT A SUBSTANTIAL DISADVANTAGE. THE TOWN MANAGER, ASSISTANT TOWN MANAGER, AND TOWN ATTORNEY WERE INVITED TO ATTEND. MOTION CARRIED 4-0 (SCHOALES WAS NOT PRESENT AT THE TIME OF THE VOTE).

Gartenstein reconvened the meeting at 6:15pm.

APPROVE MINUTES

MOTION BY JOHN ALLEN TO APPROVE THE MINUTES FROM MAY 3, 2016 AS PRESENTED. MOTION CARRIED 5-0.

CHAIR'S REMARKS

Chair Gartenstein noted that the spring line striping was in progress and he thanked members of the Public Works Department for their work. He also spoke about the Board meeting in executive session frequently and said that transparency in Town government was extremely important; however, the law allowed for the Board to meet in executive session for a range of matters, including discussions about collective bargaining contracts. He said that negotiations with the four unions were currently underway and expected that the union contracts would be completed by the June 21 Selectboard meeting;

MANAGER'S COMMENTS

Town Manager Elwell noted that May 15 through May 21 was National Public Works Week and he thanked members of the Public Works Department. He also announced that Sunday was National Police Memorial Day in recognition of officers who had fallen in the line of duty, and noted that the upcoming week was Police Week. He thanked members of the Police Department for their law enforcement and community building work. Elwell spoke about the schedule for curbside garbage pickups and said that it would be transitioning to an every-other week schedule and that informational sessions were scheduled at the ice rink on Saturday, May 21 from 9am to 3pm, Wednesday, May 25 from 5pm to 8pm, and Saturday, May 28 from 9am to 3pm. He invited the public to attend and learn about the new schedule.

SELECTBOARD COMMENTS AND COMMITTEE REPORTS

DeGray thanked Dennis Hamilton and the forestry class at the Career Center for their assistance recently in clearing shrubbery near the Creamery Bridge and improving the site visibility in that area.

Schoales, the Town's representative on the Windham Solid Waste Management District (WSWMD) Board, provided a fairly thorough report on recent activities by the WSWMD Board and Finance Committee. He discussed the cost control and revenue improvement procedures that the WSWMD Board recently implemented. He said that the WSWMD recently received a grant to support 80 food scrap generators which would largely be used for compost from Brattleboro restaurants. He said that at the next meeting, the WSWMD Board would examine the estimated total fees and costs for current services that would address fee-for-service models for each town in the district. He reported that at the last meeting, the WSWMD made a motion to bill Brattleboro for allowing plastics numbered 3-7 in the recycling boxes, but then tabled the motion while staff monitored compliance of the boxes from all district towns. He said that the WSWMD Board asked for more cooperation from the Town and extended an invitation for Selectboard members to visit the facilities.

PUBLIC PARTICIPATION

Dr. Neil Senior discussed the pedestrian crossings in front of the Municipal Center and asked that they be addressed in order to improve pedestrian safety in the area. He suggested installing lighted signs or rumble strips. Gartenstein said that the matter would be referred to the Traffic Safety Committee and invited him to attend the next meeting on June 16.

LIQUOR COMMISSIONERS

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

Special Event Permits – Strolling of the Heifers Friday Street Festival

- (i) Vermont Distillers, Inc.
- (ii) Appalachian Gap Distillery, Inc.
- (iii) Saxtons River Distillery
- (iv) Go America Go Beverages, d/b/a Whistle Pig Whiskey
- (v) 14th Star Brewing Co.
- (vi) Caledonia Spirits
- (vii) Stonecutter Spirits.

Gartenstein said that the Board was asked to approve special event permits for seven establishments participating in the Strolling of the Heifers ("Strolling") Friday Night Street Festival, taking place at the River Garden located at 157 Main Street, on Friday, June 3, from 5:30pm to 8:30pm. He read the names of the participating vendors. Members from Strolling – Orly Munzing, Executive Director; Krista Belson, Intern, and Erin Fagley, Assistant to the Executive Director – were present and discussed the Friday night street festival, as well as the parade on Saturday, June 4, and tour de heifer on Sunday, June 5. Elwell said that the Fire and Police Departments had reviewed the applications, and staff recommended approval of the permits. DeGray voiced concern about bagging the parking meters at 2:00pm on Friday, and instead suggested placing notices on the meters notifying drivers that cars must be removed by 4:00pm. There was some discussion by the Board.

MOTION BY JOHN ALLEN TO APPROVE SPECIAL EVENT PERMITS FOR SEVEN ESTABLISHMENTS PARTICIPATING IN THE STROLLING OF THE HEIFERS FRIDAY NIGHT STREET FESTIVAL AT THE RIVER GARDEN, LOCATED AT 157 MAIN STREET, ON FRIDAY, JUNE 3, FROM 5:30PM TO 8:30PM. MOTION CARRIED 5-0.

Liquor Permit Fees – Elwell said that at the May 3rd meeting, the Selectboard approved a new administrative policy (Permit Application Best Practices) authorizing the Town Clerk to approve certain special liquor applications without the need for Selectboard approval (unless an event included liquor applications from five or more vendors). He said that at the meeting, the Board discussed adding local fees to the State's permit fees to partially cover the Town's administrative costs associated with processing the applications, and the Board tabled the matter to this meeting in order to provide additional

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time for affected businesses and the public to review the revised permit fee schedule and provide input. Christian Stromberg from Saxtons River Distillery, and Avery Schwenk from Hermit Thrush Brewery, were present and spoke in opposition to the local permit fee. Kate O'Connor spoke about concerns that imposition of the fee may attract less fine craft beer and spirits events. Schoales spoke of concerns that the fee may discourage special event activities. There was further discussion by the Board.

MOTION BY DAVID GARTENSTEIN TO APPROVE THE LOCAL ADMINISTRATIVE FEE SCHEDULE FOR SPECIAL LIQUOR APPLICATIONS, AS FOLLOWS: \$15 EACH FOR REQUEST TO CATER PERMITS, SPECIAL EVENT PERMITS, AND ART GALLERY PERMITS; AND \$50 EACH FOR FESTIVAL AND EDUCATIONAL SAMPLING PERMITS. MOTION CARRIED 3-2 (O'CONNOR AND SCHOALES OPPOSED).

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

WATER AND SEWER COMMISSIONERS

MOTION BY DAVID GARTENSTEIN TO CONVENE AS WATER AND SEWER COMMISSIONERS. MOTION CARRIED 5-0.

FY17 Utility Fund Budget – Gartenstein said that the Board held its first discussion on the FY17 Utility Fund Budget at a special meeting on May 10 and at that time the Board requested additional information. He referred to the memo from John O'Connor dated May 11 providing the requested information. There was some discussion by the Board.

MOTION BY JOHN ALLEN TO APPROVE THE FY17 UTILITY FUND BUDGET, AS PRESENTED. MOTION CARRIED 5-0.

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

Police-Fire Facilities Project

- (i) *Update*
- (ii) *Financing*
- (iii) *Review of Plans for West Brattleboro Fire Station*

Town Manager Elwell provided copies of draft site plans for the West Brattleboro Fire Station. Elwell and Planning Director Francis discussed the draft plans and the process by which to proceed. Elwell said that the Police-Fire Facilities Building Committee (PFFBC) met on May 11 and approved the draft plans. He said that the Committee recommended "To approve the site plan and construction documents presented as a progress set, with consideration given to such other refinements as are code required, recommended by the architect and the Project Manager." He said that the PFFBC also discussed energy efficiencies to be included in the building design, many of which were already part of the design due to updated building codes. He said that the Committee agreed that the several items not already included would be bid as alternates so that an informed decision could be made regarding the cost and payback expectancy for each of them. He said that the Committee recommended "To approve the input Efficiency Vermont presented and suggest that the project team work with them in order to evaluate the energy efficiency ideas presented, so as to maximize rebates that make economic sense." There was much discussion by the Board about the proposed site plans.

MOTION BY DAVID GARTENSTEIN TO APPROVE THE SITE PLAN AND DESIGN FOR THE WEST BRATTLEBORO FIRE STATION, AS PRESENTED, AND THAT THE SELECTBOARD CONCUR WITH THE TWO MOTIONS ADOPTED BY THE POLICE-FIRE FACILITIES BUILDING COMMITTEE AT THE COMMITTEE'S MAY 11, 2016 MEETING. MOTION CARRIED 5-0.

Elwell provided and discussed a memo, dated May 12, 2016, describing the reasons why he and Finance Director O'Connor believed that bank financing was not in the Town's best interests and why they

recommend that the Selectboard commit to participating in the Vermont Bond Bank's 2016 Series Bonds to obtain the additional financing needed for the project. There was a brief discussion.

MOTION BY DAVID SCHOALES TO AUTHORIZE TOWN PARTICIPATION IN THE VERMONT BOND BANK'S 2016 BOND OFFERING TO OBTAIN \$7.8 MILLION OF ADDITIONAL FINANCING FOR THE POLICE-FIRE FACILITIES PROJECT. MOTION CARRIED 5-0.

Selectboard Goals – Discussion and Approval. Gartenstein read the proposed goals as drafted by the Town Manager. The Board discussed the proposed goals and other suggestions were offered. DeGray suggested that (1) the Board and/or Administration be more proactive in meeting with the media to discuss and promote matters of the Town, and (2) to review fees charged by every department and discuss whether they were appropriate. Schoales suggested (1) under "Financial Planning and Decision Making," add: develop a system to track the cost of services provided to non-profits, (2) under "Regional Economic Hub;" add: develop a work plan with goals, specifics and dates, and invite organizations such as Brattleboro Area Techies and SEON (Sustainable Energy Outreach Network) Building Green Group to meet with the Board to discuss what the Town could do to improve the economic development climate. O'Connor suggested developing a plan and timeline to present to the legislature and inquired about upcoming solid waste decisions that had to be made. Allen suggested meeting with delegates and authorities at the State level and possibly joining with other towns to advocate for local needs. Gartenstein summarized the comments and suggested amending the proposed goals as follows:

"Financial Planning and Decision Making" – add: (5) Review departmental fees; and (6) Monitor and quantify services provided to non-profits.

"Regional Economic Hub" – add at the end of #1: ". . .and establish timelines, goals, work plan and benchmarks for this work;" add: (2) Continue Selectboard outreach and dialog about supporting economic development and building a positive business climate.

Create a new "Public Outreach" section and add: Develop and implement a press publicity outreach package and continue lobbying efforts at the State level.

There was further discussion about the list of goals being very ambitious and whether they could be achieved within the year. It was agreed that the goals be considered as a broad list of items the Board wanted to pursue, rather than being a realistic work plan for the year.

MOTION BY DAVID GARTENSTEIN TO ADOPT THE ANNUAL SELECTBOARD GOALS, AS AMENDED. MOTION CARRIED 5-0.

FY17 Parking Fund Budget – Gartenstein said that the Board discussed the proposed FY17 Parking Fund Budget at a special meeting on May 10, and asked Administration for additional information about funds to pave the Harmony Lot. Elwell explained the anticipated paving work at the Harmony Lot and referred to the memo from Assistant Town Manager Moreland, dated May 12. Moreland spoke about the \$75,000 line item for paving funds and the overall capital budget as set forth in his memo dated May 5. DeGray asked when the Harmony Lot was improved that bark mulch around the trees be removed and that pea stone be substituted. There was much discussion by the Board about improving the Harmony Lot, funds in the capital plan for energy efficiencies, and the operating budget.

MOTION BY DAVID SCHOALES TO APPROVE THE FY17 PARKING FUND OPERATING BUDGET, AS PRESENTED. MOTION CARRIED 5-0.

MOTION BY DAVID SCHOALES TO APPROVE THE FY17 PARKING FUND CAPITAL BUDGET, AS PRESENTED. MOTION CARRIED 5-0.

FY17 Solid Waste Fund Budget – Gartenstein said that the Board discussed the proposed FY17 Solid Waste Fund budget at a special meeting on May 10, and was now asked to approve the budget. There was no discussion.

MOTION BY DAVID SCHOALES TO APPROVE THE FY17 SOLID WASTE FUND BUDGET, AS PRESENTED. MOTION CARRIED 5-0.

Gartenstein called a 5 minute recess at 8:25pm.

Gartenstein reconvened the meeting at 8:30pm.

NEW BUSINESS

Financial Report – *Monthly Report for April, Finance Department.* Finance Director John O'Connor discussed the financial report for April, 2016. There was a brief discussion.

NO ACTION TAKEN.

FY17 Heating Oil – *Award Bid.* Elwell said that the Board was asked to award the fiscal year 2017 heating fuel contract to Discount Oil of Keene, New Hampshire, for 82,000 gallons of No. 2 heating fuel oil at a prepaid price of \$1.579 per gallon, as set forth in the memorandum dated April 28, 2016, from Finance Director O'Connor. There was no discussion by the Board.

MOTION BY JOHN ALLEN TO AWARD THE FISCAL YEAR 2017 HEATING FUEL CONTRACT TO DISCOUNT OIL OF KEENE, NEW HAMPSHIRE, FOR 82,000 GALLONS OF NO. 2 HEATING FUEL OIL AT A PREPAID PRICE OF \$1.579 PER GALLON. MOTION CARRIED 5-0.

Public/Private Roads

- (i) *Minshall Street*
- (ii) *Gulf Road / Wickopee Hill Road*
- (iii) *Bittersweet Lane.*

Gartenstein said that the Board was asked to consider three distinct requests for action on the public/private status of three roads. He said that the question of public benefits vs. private benefits in the three situations presented some similarities and contrasts, and he asked Town Attorney Fisher to provide an overview of each road, the request made to reclassify each, and the process to do so. Attorney Fisher referred to his memorandum dated March 21, 2016, with several attachments that provided extensive background regarding the particular requests and the broader legal and procedural context in which the decisions could be made. He said that although the requests were different, the process to reclassify the roads was essentially the same for each. He said that the Board would make a motion to schedule a site visit and public hearing for each road and indicate the Town's intended action. He said that the standard to meet was whether the action was in the public good, public convenience, and public necessity. He said that notices would then be mailed to all of the abutting landowners, a legal notice would be published in the paper of record, and notices would be displayed at the Town Clerk's office and Town Manager's office. The Board asked him to provide an overview on each of the three roads and reclassification requests.

Wickopee Hill Road – Attorney Fisher explained that a current landowner on Wickopee Hill Road (Fillion) requested to discontinue the 1/10 of a mile from the intersection of Gulf Road to his home, to reclassify the rest of Wickopee Hill Road to the intersection of Gulf Road as a Class 4 road, to move the gate from its current location at the intersection of Gulf Road and Wickopee Hill to the Fillion/Town property line on the south end, and gate the intersection of Pleasant Valley Road and Wickopee Hill Road. He discussed the request and his research into the history of the road. He said that the Board was asked to determine whether to reclassify and/or discontinue part or all of the road and whether to move the gates.

Minshall Street – Attorney Fisher said that a property owner at the corner of Canal and Minshall Streets asked the Town to discontinue or "throw up" Minshall Street from Canal Street to the intersection of Minshall and Organ Street. He said that Minshall Street was a small narrow street curving from Birge Street behind some buildings onto Canal Street. He said that if that portion of the street was discontinued, traffic would be able to come in from Birge Street and turn right onto Organ Street (which was only a foot trail (Class 4 road)). He said that the request would be to discontinue part of Minshall Street and then reclassify the part of the street coming in from Birge Street to Organ Street as a Class 4 road.

Bittersweet Lane – Attorney Fisher said that a subdivision established by Cersosimo several years ago created 7 lots. He said that according to the Development Agreement when three houses were built on the lots and the road was built to Town specifications, the developer could petition the Town to take over (or “lay out”) the street as a Class 3 road and the Town would then maintain it for pleasure cars at all times of year.

Elwell spoke about the amount of public interest, including access and maintenance, and policy concerns that the Board may consider to reclassify each of the three roads. The Board had extensive discussions about each of the three roads and the legal process to reclassify them. Attorney Fisher clarified that the Board would not make a decision at this meeting, but was asked to schedule the site visits and public hearings. He said that the Board would have to issue a written decision within 60 days after the public hearing. Planning Director Francis said that his office was prepared to send the notices to the abutters within a couple of days. The Board agreed to schedule a special meeting on June 28 for the site visits and public hearings.

MOTION BY DAVID GARTENSTEIN TO LAY OUT BITTERSWEET LANE FROM THE INTERSECTION OF EAST ORCHARD STREET TO ITS TERMINUS AND TO CONDUCT A SITE VISIT AND PUBLIC HEARING ON THAT MATTER ON JUNE 28, 2016 BEGINNING AT 5:15PM TO CONVENE AT THE SELECTBOARD MEETING ROOM, WITH A HEARING TO BE CONDUCTED AFTER THE SITE VISIT AT THE SELECTBOARD ROOM. MOTION CARRIED 5-0.

There was discussion on how to phrase the motion for the next road.

MOTION BY DAVID GARTENSTEIN TO DISCONTINUE MINSHALL STREET FROM CANAL STREET TO ORGAN STREET AND TO RECLASSIFY MINSHALL STREET FROM ORGAN STREET TO BIRGE STREET FROM CLASS 3 TO CLASS 4, TO CONDUCT A SITE VISIT ON JUNE 28, 2016 TO BE CONVENED AT 5:15PM AT THE SELECTBOARD MEETING ROOM WITH A PUBLIC HEARING TO FOLLOW THEREAFTER AFTER CONCLUSION OF THE SITE VISIT AT THE SELECTBOARD MEETING ROOM. MOTION CARRIED 5-0.

MOTION BY DAVID GARTENSTEIN TO DISCONTINUE WICKOPEE HILL FROM THE INTERSECTION OF GULF ROAD TO ITS TERMINUS AND TO RECLASSIFY WICKOPEE HILL ROAD FROM CLASS 3 TO CLASS 4 FROM THE GULF ROAD INTERSECTION TO THE PLEASANT VALLEY INTERSECTION, TO CONDUCT A SITE VISIT TO BE CONVENED BEGINNING AT 5:15PM AT THE SELECTBOARD MEETING ROOM ON JUNE 28, 2016 WITH A PUBLIC HEARING TO FOLLOW THE SITE VISIT AT THE SELECTBOARD MEETING ROOM. MOTION CARRIED 5-0.

Accept and Appropriate Grant – *VTrans Structures Grant for Bonnyvale Road Retaining Wall Replacement Project, Department of Public Works.* Elwell said that the Board was asked to accept and appropriate the Vermont Agency of Transportation (VTrans) Structures Grant in the amount of \$175,000 as partial funding for replacement of the Bonnyvale Road Retaining Wall. There was no discussion.

MOTION BY JOHN ALLEN TO ACCEPT AND APPROPRIATE THE VERMONT AGENCY OF TRANSPORTATION STRUCTURES GRANT IN THE AMOUNT OF \$175,000 AS PARTIAL FUNDING FOR REPLACEMENT OF THE BONNYVALE ROAD RETAINING WALL. MOTION CARRIED 5-0.

Accept and Appropriate Grant – *PACIF Equipment Grant, Town Manager.* Elwell said that the Board was asked to accept and appropriate the VLCT 2016 PACIF Equipment Grant in the amount of \$730.68 as partial funding for safety equipment for the Police Department and Library Department. There was no discussion by the Board.

MOTION BY JOHN ALLEN TO ACCEPT AND APPROPRIATE THE VLCT 2016 PACIF EQUIPMENT GRANT IN THE AMOUNT OF \$730.68 AS PARTIAL FUNDING FOR SAFETY EQUIPMENT FOR THE POLICE DEPARTMENT AND LIBRARY DEPARTMENT. MOTION CARRIED 5-0.

Whetstone Brook Area Design Study – Presentation. Planning Services Director Rod Francis said that the Town was working with the U.S. EPA on a Smart Growth Implementation Assistance Project to
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improve resilience in the lower Whetstone Brook area and explore appropriate land use planning responses related to climate change, flood resilience, and redevelopment in that area. He provided a presentation summarizing the project and briefly discussed the outline of the anticipated study for the project. He stressed that the project and study were very preliminary and conceptual, and that the Planning Commission recently heard the presentation. There was a brief discussion.

NO ACTION TAKEN.

Rescue Inc. Annual Contract. Elwell said that the Board was asked to approve the contract with Rescue Inc. for FY17 and the schedule for phasing out a "Brattleboro discount" that was no longer appropriate due to changes that evolved over many years in the relationship between Rescue, Inc. and the Town. He discussed the proposed contract and the diminishing discount. There was a brief discussion by the Board.

MOTION BY JOHN ALLEN TO APPROVE THE CONTRACT WITH RESCUE, INC., FOR FY17 AND THE SCHEDULE FOR PHASING OUT THE "BRATTLEBORO DISCOUNT," AS PRESENTED. MOTION CARRIED 5-0.

Town Committees and Boards - Announce Vacancies. Gartenstein said that the Board was asked to announce vacancies on various Town boards and committees and to ask interested persons to submit committee applications to the Town Manager's Office. Allen read the list of vacancies on several committees. There was no discussion by the Board.

NO ACTION TAKEN.

There was no further business.

MOTION BY DAVID SCHOALES TO ADJOURN AT 9:56PM. MOTION CARRIED 5-0.

David Schoales, Clerk