

**BRATTLEBORO SELECTBOARD  
TUESDAY, JUNE 28, 2016  
SPECIAL MEETING – 5:15PM  
WITH 3 SITE VISITS FOLLOWED BY 3 PUBLIC HEARINGS  
MINUTES**

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

Staff present: Town Manager Peter Elwell, Assistant Town Manager Patrick Moreland, Town Attorney Robert Fisher, Public Works Director Steve Barrett, and Executive Secretary Jan Anderson

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

Others present: Laurie Klenkel, Tim Callahan, Stewart McDermet, Kris McDermet, Greg Moschetti, Cecil Maxfield, Stephen Lloyd, Bill Jewell, Connie Baxter, Daniel W. Oles, Ann Knapp, Phoebe Chamberlin, Glen Herzig, ASL interpreters Janet Dickinson and Karen Todd, and others who did not sign the attendance sheet.

Chair Gartenstein called the meeting to order at 5:15pm. He confirmed that the meeting was officially warned. He announced that the Board would be conducting site visits at Minshall Street, Bittersweet Lane, and Wickopee Hill Road/Gulf Road in consideration of reclassifying those roads, which would be followed by a special meeting and public hearings. Members of the public in attendance - Laurie Klenkel (75 Southern Avenue), Glen Herzig (69 Southern Avenue), Ann Knapp (Wickopee Hill Road), and Phoebe Chamberlin (Kelly Road, Dummerston) - spoke briefly about their concerns. Gartenstein invited them to attend the site visits and return to the Municipal Center for the public hearings.

***RECESS***

Gartenstein called a recess of the meeting at 5:25pm and announced that the Board would move to Minshall Street and reconvene at that location.

***SITE VISIT – Minshall Street***

Gartenstein reconvened the meeting at 5:38pm on Minshall Street near the Kresge's Alignment Service building. Members of the public, Glen Herzig, Laurie Klenkel, Dan Oles, and others who did not identify themselves, were present. Board members viewed and asked questions about Minshall Street, the intersections with Organ Street, Canal Street and Birge Street, and abutting properties. There was no formal discussion.

***RECESS***

Gartenstein called a recess of the meeting and announced that the Board would move to Bittersweet Lane and reconvene at that location.

***SITE VISIT – Bittersweet Lane***

Gartenstein reconvened the meeting at 6:10pm at the end of Bittersweet Lane. No members of the public were present. Board members viewed Bittersweet Lane from the intersection of East Orchard Street to the house located at 60 Bittersweet Lane. There was no formal discussion.

***RECESS***

Gartenstein called a recess of the meeting and announced that the Board would move to the intersection of Wickopee Hill Road and Gulf Road and reconvene at that location.

***SITE VISIT – Wickopee Hill Road/Gulf Road***

Gartenstein reconvened the meeting at 6:25pm at the intersection of Wickopee Hill Road and Gulf Road. Members of the public, Peter Filion, Ann Knapp, and others who did not identify themselves, were present. Board members viewed and asked questions about Wickopee Hill Road, Gulf Road, Pleasant Valley Road, and the former "Wickopee Hill Trail" located on the Filion property at the end of Wickopee Hill Road. There was no formal discussion.

## **RECESS**

Gartenstein called a recess of the meeting and announced that the Board would move to the Selectboard meeting room at the Municipal Center and reconvene at that location to hold a special meeting and conduct public hearings.

## **RECONVENE AT MUNICIPAL CENTER FOR PUBLIC HEARINGS**

Gartenstein reconvened the meeting at 7:15pm in the Selectboard meeting room at the Municipal Center. He summarized the site visits and reviewed the procedure for the balance of the meeting, the public hearings, and use of deliberative session. Town Attorney Fisher noted that the Board was required to issue a written decision within sixty days.

Minshall Street Public Hearing. Gartenstein opened the public hearing. He said that a request had been made to “discontinue Minshall Street from its intersection with Canal Street to a point marking the intersection with Organ Street; and to reclassify Minshall Street to a Class 4 town highway from its intersection with Organ Street to the intersection of Minshall Street with Birge Street.” Members of the public were present and spoke of their concerns.

Laurie Klenkel (75 Southern Avenue) stated she was an abutting property owner. She asked about access over the road for emergency vehicles, whether a new survey would be performed, and for her deed to reflect any changes made. She also requested a right-of-way access to her property over Minshall Street in order for her to perform maintenance on her property.

Glen Herzig (69 Southern Avenue) requested a right-of-way access to his property from Minshall Street.

Stewart McDermet discussed his understanding that the meeting would start at 6:15pm and said that Bill Jewell was present earlier and would return in order to be heard. He asked that the public meeting remain open so Mr. Jewell could speak.

Dan Oles said that he requested the change to Minshall Street and indicated that the Minister at the church on the abutting property was in agreement with his request. He said that he was interested in limiting access through Minshall Street for business purposes and because it was dangerous when icy. He said that he would take over plowing and maintenance of the street if it was reclassified. He also stated that he would provide the abutting landowners with an easement or right-of-way.

Bill Jewell spoke of drivers’ use of Minshall Street to avoid the congestion at the Birge Street intersection with Canal Street. He said he was in favor of the Town keeping a right-of-way and turning the street into a trail so businesses could access it when necessary. He suggested that if the street was closed to traffic, that a 4-way traffic stop be installed at Canal/Birge/Washington Streets.

There was discussion by the Board about the public having access to the street, erecting a gate near the Minshall Street/Organ Street intersection, and police patrols in the area. Town Attorney Fisher spoke about how title to the property “thrown up” would revert to the previous owner (if determinable) or to the center line. He stated that any changes to the road would be recorded in the land records and that rights-of-way were permissible .

The public hearing remained opened.

Bittersweet Lane Public Hearing. Gartenstein opened the public hearing. He said that a request had been made to “lay out and establish the roadway currently known as ‘Bittersweet Lane’ as a Town Class 3 public highway, and to maintain said road as a public road.” No members of the public spoke about the matter. There was no discussion by the Board. The public hearing remained opened.

Wickopee Hill Road / Gulf Road Public Hearing. Gartenstein opened the public hearing. He said that a request had been made to “discontinue Wickopee Hill Road from its intersection with Gulf Road northwesterly a distance of approximately 0.10 miles to its terminus; and to reclassify Wickopee Hill Road to a Class 4 town highway from its intersection with Pleasant Valley Road a distance of approximately 0.17 miles to its intersection with Gulf Road.” He noted that the Board received 7 pages of petitions and a letter from Moschetti and Baxter pertaining to this matter.

Greg Moschetti and Connie Baxter (623 Kelly Road, Dummerston) were present. Moschetti publicly read the letter that he e-mailed to the Selectboard with their concerns to the proposed changes and suggestions for other changes. He also suggested making an additional designation of Wickopee Hill Road as a public trail. Baxter spoke in support of the Wickopee Hill trail and about the trail's history.

Stewart McDermet (623 Kelly Road, Dummerston) said he supported Moschetti's opinion and he also supported establishment of a public trail at the end of Wickopee Hill Road. He inquired about a prescriptive easement over the trail by use of the public for more than 15 years.

Phoebe Chamberlin (Kelly Road, Dummerston) spoke in support of keeping Wickopee Hill Trail. She also inquired about the legal procedure to "throw up" the road.

Stephen Lloyd (362 Sunset Lake Road) suggested that changing the classification of the road would be a "self-imposed hardship by a single landowner" and suggested that any decision made should be based on the community's best interest.

Ann Knapp spoke in support of the Wickopee Hill trail and about the history of the trail's use.

Gartenstein explained that the "Wickopee Hill trail" being discussed by residents was not under consideration by the Board. He said that although there was physical evidence that the trail had been used in the past, there was no evidence found in the land records or highway books that confirmed the trail was ever a designated Town road. He spoke about the inability of the Town to claim rights over the trail due to "ancient roads" legislation in 2015. He said that Brattleboro did not pursue laying out any ancient roads as Town property prior to the July 1, 2015 deadline. He said it was the Town Attorney's opinion that the Wickopee Hill trail was now private property, and that the only matters under consideration were those in the public notice and warning.

Attorney Fisher answered many legal questions posed by the public in attendance and spoke about legal considerations on the matters before the Board.

Highway Director Steve Barrett noted that roads were identified by the Town and maps developed starting in the 1920s and were now approved and submitted annually by the State to identify official Town Roads.

There was no discussion by the Board.

Gartenstein closed the public hearing on (1) Minshall Street reclassification or abandonment, (2) Bittersweet Lane reclassification or abandonment, and (3) Wickopee Hill Road / Gulf Road reclassification or abandonment. He thanked the public for attending and providing their opinion.

**MOTION BY DAVID GARTENSTEIN TO ENTER DELIBERATIVE SESSION WITH THE INTENT TO PROVIDE A WRITTEN DECISION ON WHETHER TO RECLASSIFY, DISCONTINUE OR LAY OUT THE PROPERTIES THAT HAVE BEEN SUBJECT TO PUBLIC HEARINGS ON MINSHALL STREET, BITTERSWEET LANE AND WICKOPEE HILL ROAD / GULF ROAD WITH ANY CONDITIONS THE BOARD MAY CONSIDER. MOTION CARRIED 5-0.**

Gartenstein stated that the deliberative session would be held at a later date. There was no further business.

**MOTION BY JOHN ALLEN AT 8:20PM TO ADJOURN. MOTION CARRIED 5-0.**

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David Schoales, Clerk