

MEMORANDUM



To: Selectboard
From: Peter B. Elwell, Town Manager
Re: Administrative Report
Date: November 15, 2019

The following will summarize the proposed motions for the Selectboard meeting on Tuesday, November 19, 2019. The Board will meet in executive session at 5:30pm to discuss pending or probable civil litigation and the appointment of a public officer or employee. The Board will reconvene the business meeting at 6:15pm in the Selectboard Meeting Room.

7. **LIQUOR COMMISSIONERS** – *None.*

8. **WATER AND SEWER COMMISSIONERS** – *None.*

9. **UNFINISHED BUSINESS**

- A. Ordinance Amendments – *Appendix C (Regulations Governing the Control of Traffic), Green Street, Second Reading and Public Hearing*
(a) *Article II (Parking), Sections 16-100 (No Parking Areas) and 16-101 (Limited Parking Areas)*
(b) *Article XI (One-Way Street), Section 16-71 (One-Way Streets)*

The Board is asked to hold a second reading and public hearing on the proposed Amendments to Appendix C of the Brattleboro Code of Ordinances. Several traffic safety issues were raised earlier this year concerning speeding traffic, illegal parking, and traffic congestion near Green Street School. Fire Chief Mike Bucossi, Police Chief Mike Fitzgerald, and Public Works Director Steve Barrett reviewed the situation on the street and spoke with Principal Mark Speno. Town staff proposed Ordinance amendments to the Traffic Safety Committee for review and the Committee unanimously approved the amendments.

POTENTIAL MOTION: TO APPROVE AMENDMENTS TO APPENDIX C OF THE BRATTLEBORO CODE OF ORDINANCES (REGULATIONS GOVERNING THE CONTROL OF TRAFFIC), AS PRESENTED.

- B. Authorization for Town to Join in Multi-Jurisdictional Opioids Litigation and Ratification of Attorneys' Retainer Agreement

At the October 15 and November 12 Selectboard meetings, the Board discussed a lawsuit filed by the Town of Bennington against a number of defendants who are believed to have been involved in creating and fostering the opioid epidemic, as set forth in the memoranda dated October 10 and October 29, 2019, from Town Attorney Robert Fisher. The Board is asked whether to have a suit similar to the Bennington suit filed on behalf of the Town of Brattleboro and to determine whom to name as defendants (e.g. pharmacies, distributors, and pharmacy benefit managers). The Board also is

asked to ratify the Town Attorney's execution of a Retainer Agreement with the litigation attorneys of Sanford Heisler Sharp, LLP, and The Cicala Law Firm, PLLC, related to that potential lawsuit. The litigation attorneys had to meet a Court-imposed deadline of October 18 defining whom the litigation attorneys were representing, so the Retainer Agreement had to be executed by that date to preserve the Town's right to proceed with that lawsuit. With the approval of Town Manager Elwell, Town Attorney Fisher signed that Retainer Agreement on behalf of the Town.

During the discussion on November 12, the Board also considered a nationwide class action lawsuit described in a letter dated November 1, 2019, from Vermont Attorney General T.J. Donovan. By November 22, the Selectboard needs to decide whether or not to opt out of that lawsuit. If the Town doesn't opt out of that nationwide class action lawsuit, then we will automatically be a part of the class and will be a party to any settlement or judgement for damages that results from that suit.

POTENTIAL MOTION: TO AUTHORIZE THE TOWN ATTORNEY AND TOWN STAFF TO TAKE ANY ACTIONS NECESSARY FOR THE TOWN OF BRATTLEBORO TO JOIN IN THE OPIOIDS RELATED LITIGATION FILED ON BEHALF OF THE TOWN OF BENNINGTON, STYLED AS "MDL 2804 Case No. 1:17-md-2804-DAP," AND TO INCLUDE _____ AS DEFENDANTS.

POTENTIAL MOTION: TO RATIFY TOWN MANAGER ELWELL'S DECISION FOR TOWN ATTORNEY FISHER TO EXECUTE A RETAINER AGREEMENT WITH SANFORD HEISLER SHARP, LLP, AND THE CICALA LAW FIRM, PLLC.

POTENTIAL MOTION: TO OPT-OUT OF THE NATIONWIDE CLASS ACTION LAWSUIT DESCRIBED IN THE LETTER DATED NOVEMBER 1, 2019, FROM VERMONT ATTORNEY GENERAL T.J. DONOVAN.

10. NEW BUSINESS

A. Financial Report – Monthly Report, October

Town Manager Peter Elwell or Finance Director John O'Connor will present the monthly financial report for October 2019.

NO ACTION IS REQUIRED ON THIS ITEM.

B. Potential Settlement of Penny Witherbee v. town of Brattleboro

The Board will consider a potential settlement of this lawsuit. Details and relevant documents will be provided during the public portion of the meeting.

POTENTIAL MOTION: TO APPROVE AS PRESENTED THE RESOLUTION AUTHORIZING SETTLEMENT OF PENNY WITHERBEE V. TOWN OF BRATTLEBORO.

C. Application for FY21 VTrans Better Roads Grant – Department of Public Works

The Board is asked to approve an application in the amount of \$128,000 for an FY21 Better Roads Grant from the Vermont Agency of Transportation to promote Better Management Practices for erosion control and other maintenance techniques along municipal roads.

POTENTIAL MOTION: TO APPROVE AN APPLICATION IN THE AMOUNT OF \$128,000 FOR AN FY21 BETTER ROADS GRANT FROM THE VERMONT AGENCY OF TRANSPORTATION.

D. Southeastern Vermont Economic Development Strategies (SeVEDS) – Update and Request for FY21 Funding

Adam Grinold, Executive Director of the Brattleboro Development Credit Corporation (BDCC), will provide an update regarding the Southeastern Vermont Economic Development Strategies (SeVEDS), including (as requested at the 2019 Representative Town Meeting) a “Brattleboro Economic Update” report. It is expected that he will ask the Board to place on the Representative Town Meeting warning a request for \$36,147 (\$3 per person for Brattleboro’s population of 12,049) contribution to SeVEDS for FY21.

POTENTIAL MOTION: TBD

E. FY21 Proposed Budget

(i) *Capital Projects*

(ii) *Capital Equipment*

Town Manager Elwell will provide an overview of the FY21 Capital Requests for Projects and Equipment, the 5-year plan for capital projects, and the 25-year plan for replacement of vehicles and other major equipment. Applicable department heads will be present to discuss the details of requests made for their departments. Included in the Selectboard’s notebooks are requests for 2 hybrid police cruisers, as set forth in a memorandum from Police Chief Fitzgerald, and a fire truck (to replace a 25-year-old fire truck), as set forth in a memorandum from Fire Chief Bucossi and Assistant Fire Chief Howard.

NO ACTION IS REQUIRED ON THIS ITEM.

F. Brownfields Grant

The Board is asked to approve an application in the amount of \$200,000 for a Brownfields Assessment Grant from the U.S. Environmental Protection Agency to inventory, characterize, assess and conduct planning and community involvement related to brownfield sites.

POTENTIAL MOTION: TO APPROVE AN APPLICATION IN THE AMOUNT OF \$200,000 FOR A BROWNFIELDS ASSESSMENT GRANT FROM THE U.S. ENVIRONMENTAL PROTECTION AGENCY.

G. Committee Appointments

The Board is asked to appoint volunteers to the Cemetery Committee, Energy Committee, and Fence Viewer position.

**POTENTIAL NOMINATIONS:
RAYMOND DOYLE TO THE CEMETERY COMMITTEE
MILLICENT COOLEY TO THE ENERGY COMMITTEE
NICHOLAS BIDDLE AS A FENCE VIEWER.**

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