

**BRATTLEBORO SELECTBOARD  
TUESDAY, AUGUST 7, 2018  
EXECUTIVE SESSION – 5:15PM  
REGULAR MEETING – 6:15PM  
SELECTBOARD MEETING ROOM, MUNICIPAL CENTER  
MINUTES**

Selectboard members present: Kate O'Connor, Brandie Starr, and Tim Wessel.

Staff Present: Town Manager Peter Elwell, Assistant Town Manager Patrick Moreland, Town Attorney Robert Fisher, Town Assessor Jenepher Burnell, Assistant Fire Chief Len Howard, and Executive Secretary Jan Anderson.

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

Others present: Dick DeGray, Diana Bander, Nick Nickerson, Rolf Parker, Stephanie Bonin, Robin Scudder, Cassandra Holloway, Marilyn Chiarello, Linda Bailey, ASL interpreters Janet Dickinson and Christine Bricault, and others who did not sign the attendance sheet.

Chair Kate O'Connor called the meeting to order at 5:35pm. She confirmed that the meeting was properly warned.

**MOTION BY KATE O'CONNOR TO ENTER INTO EXECUTIVE SESSION TO DISCUSS PENDING OR PROBABLE CIVIL LITIGATION OR PROSECUTION TO WHICH THE PUBLIC BODY IS OR MAY BE A PARTY, THE NEGOTIATING OR SECURING OF REAL ESTATE PURCHASE OR LEASE OPTIONS, AND THE APPOINTMENT, EMPLOYMENT OR EVALUATION OF A PUBLIC OFFICER OR EMPLOYEE, WHERE THE BOARD HAS DETERMINED THAT PREMATURE GENERAL PUBLIC KNOWLEDGE WOULD CLEARLY PLACE THE SELECTBOARD OR PEOPLE INVOLVED AT A SUBSTANTIAL DISADVANTAGE. THE TOWN MANAGER, ASSISTANT TOWN MANAGER, TOWN ATTORNEY, AND TOWN ASSESSOR WERE INVITED TO ATTEND. MOTION CARRIED 3-0.**

Chair O'Connor reconvened the meeting at 6:20pm.

***APPROVE MINUTES***

**MOTION BY BRANDIE STARR TO APPROVE MINUTES FROM THE JULY 17, 2018 MEETING. MOTION CARRIED 3-0.**

***CHAIR'S REMARKS***

Chair O'Connor noted that the weather had been particularly wet and hot this summer.

***MANAGER'S COMMENTS***

Town Manager Elwell announced that the Town Offices would be closed on Friday between 11:30am and 1:00pm to allow for the annual employees' picnic, with the exception of emergency services and the Town Clerk's Office. He said that the Town Clerk's Office would be open all day on Friday and also on Saturday from 9:00am to 12:00noon for early voting on the upcoming primary elections.

***SELECTBOARD COMMENTS AND COMMITTEE REPORTS***

None.

***PUBLIC PARTICIPATION***

Dick DeGray stated that the greenery around the historic Creamery Bridge in West Brattleboro had become overgrown and asked that the scrub brush be removed immediately and that it be trimmed on a regular schedule. He also spoke of his disappointment of the early closing of the swimming pool at Living Memorial Park and suggested that it remain open every year until Labor Day. Finally, DeGray noted that the panhandling downtown had become an increasingly difficult problem and was negatively affecting

downtown businesses. He asked that the matter be added to a future agenda for further discussion, including his suggestion that an ordinance be considered defining acceptable panhandling areas.

Nick Nickerson spoke about his worries around the increasing power of drug cartels. He said he read an article about elections in Mexico where several candidates were killed by the drug cartels and he worried that the cartels would spread into America. He suggested that drugs be legalized and regulated by the government.

### **LIQUOR COMMISSIONERS**

O'Connor asked that this matter be moved to later in the agenda to allow time for Cassandra Holloway's arrival. She said that Holloway would be late due to a scheduling conflict. The Board agreed to move the matter to a later time in the meeting.

### **UNFINISHED BUSINESS**

#### **Downtown Parking Matters**

- (i) Smart Parking: Meters, Kiosks, and Apps*
- (ii) Parking Rates*
- (iii) Transportation Center Stair Repairs*
- (iv) Bicycle Parking on Main Street*

O'Connor said this discussion was the first of two discussions to address a downtown parking plan. Assistant Town Manager Moreland spoke about the Downtown Parking Study, performed by Desman Design Management in April, 2018, and the parking plan recommendations contained in it. He spoke in detail about replacement of parking meters and kiosks, adding smartphone apps, and phasing out the current Smart Cards, all as set forth in his memo dated August 1, 2018. He said that the upfront costs for the wholesale improvements would be approximately \$275,000 and staff suggested borrowing the needed funds from the Utilities Fund. He spoke about the anticipated increase in operating costs of such an improved parking system and suggested increasing parking rates. He provided and discussed four possible rate increase scenarios which were also included in his memo.

Dick DeGray suggested adding pay-and-display kiosks and eliminating meters on Main Street, increasing the rates even higher than suggested to keep the Parking Fund solvent, equalizing parking rates in all metered and lot spaces, and creating an ordinance to review parking rates every five years. He also noted that he was disappointed about eliminating the Smart Card.

Robin Scudder, speaking partly on her own behalf and partly for the ADA Committee [of which she was not a member], discussed the accessibility and amount of handicap parking spaces and suggested implementing cooperative and innovative ways to provide parking on Main Street, such as working with merchants to sponsor certain meters for the day or utilizing spaces at the Brattleboro Food Co-Op. She also suggested adding parking spaces in the north end of town and spoke of the lack of sitting benches on Main Street. She suggested that the ADA Committee should have been included in the Desman Parking Survey.

Stephanie Bonin, from Downtown Brattleboro Alliance, asked about the reasoning for choosing the company offering the proposed smartphone app. Elwell offered that other communities that had implemented this system from this vendor reported successful outcomes.

There was much discussion by the Board, including other Vermont municipalities' parking systems, an increase in rates, the convenience fee, cost of equipment, additional impact on Parking Enforcement personnel, EMB compliance (chip credit cards), additional maintenance of meters and kiosks, warranties of equipment, types of coins accepted, design and intent for differentiated rates for parking spaces, periodic review of parking rates, paying for parking on Sunday, and the estimated timeframe to implement a rate increase and install the new equipment. The Board asked staff to bring additional information and a proposed rate structure to the next meeting for further discussion.

### **MOTION BY TIM WESSEL TO AUTHORIZE STAFF TO OBTAIN NEW SMART PARKING METERS AND KIOSKS USING THE PROCUREMENT PERFORMED BY THE REGION 14 EDUCATION**

**SERVICE CENTER OF ABILENE, TEXAS, IN COORDINATION WITH THE NATIONAL COOPERATIVE PURCHASING ALLIANCE. MOTION CARRIED 3-0.**

**MOTION BY BRANDIE STARR TO INCORPORATE THE COST OF CREDIT AND DEBIT CARD TRANSACTIONS INTO THE PRICE OF PARKING. MOTION CARRIED 3-0.**

Dick DeGray inquired as to the amount of surplus funds in the Utility Fund and whether it would be an interest-free loan. He spoke of his concerns about the possibility of increasing water and sewer rates when the current ordinance expired, especially if the fund contained such a surplus. Elwell responded that the fund balance exceeded \$4 million, the loan would include interest, and that the Board previously agreed to discuss whether a rate increase would be required in the spring of 2019.

**MOTION BY TIM WESSEL TO DIRECT TOWN STAFF TO PROPOSE A PLAN FOR AN INTER-FUND LOAN OF \$275,000 FROM THE UTILITY FUND TO THE PARKING FUND TO COVER THE UP-FRONT COSTS OF A TRANSITION TO A SMART PARKING SYSTEM. MOTION CARRIED 3-0.**

**MOTION BY BRANDIE STARR TO DIRECT STAFF TO PREPARE A PARKING ORDINANCE TO REVISE RATES IN THE MINIMUM MANNER APPROVED BY THE SELECTBOARD AT THIS MEETING. MOTION CARRIED 3-0.**

Elwell noted that two other projects were contained in Moreland's memo for the Board's information and asked the Board to inform staff if those project plans were not acceptable. He said the first action was to obtain bids at this time for proposed improvements to the upper portion of the western stairway at the Transportation Center, with an additional plan to replace the entire western stairway over the next three years. He said the second action was to work with the Downtown Brattleboro Alliance to install the bike parklet at the intersection of Elliot Street and Main Street.

O'Connor asked Elwell what additional parking matters would be brought before the Board for further discussion. Elwell said that the Board would be asked at the next meeting to discuss concerns raised by community and Board members about other aspects in the parking regulations and ordinances, other matters in the parking plan, and whether to inquire if private entities would consider sharing their parking during non-work hours. Stephanie Bonin asked the Board to address public safety around lots and the parking garage, making the Transportation Center an access point of which the Town could be proud, and earmarking funds for future parking improvements.

### ***LIQUOR COMMISSIONERS***

O'Connor noted that Cassandra Holloway was now present and the Board would hear the Liquor Commissioners' matter at this time.

**MOTION BY BRANDIE STARR TO CONVENE AS LIQUOR COMMISSIONERS. MOTION CARRIED 3-0.**

#### Brattleboro Area Prevention Coalition

- (i) Windham County Planning Primer for Prevention*
- (ii) Update on Liquor License Compliances*

Cassandra Holloway and Rolf Parker, from the Brattleboro Area Prevention Coalition (BAPC), distributed and discussed a Compliance Status Report for Brattleboro businesses and "A Primer on Planning for Prevention" of substance use and abuse. They discussed some possible actions that could be taken to prevent substance abuse and offered the services of BAPC to businesses in order to encourage healthy communities. There was a brief discussion by the Board.

**NO ACTION TAKEN.**

**MOTION BY BRANDIE STARR TO ADJOURN AS LIQUOR COMMISSIONERS. MOTION CARRIED 3-0.**

**NEW BUSINESS**

Capital Equipment Bid Awards

- (i) Excavator
- (ii) Equipment Trailer
- (iii) Sidewalk Tractor Plow
- (iv) Public Works Pick-up Truck
- (v) Maintenance Pick-up Truck

Elwell said that the Board was asked to approve five bid awards for the purchase of equipment that was previously approved by the Selectboard and by Representative Town Meeting in the FY19 Budget. He discussed the bidding process for each piece of equipment and noted that all five items were being acquired at a cost below the budgeted amount, as set forth in the memo dated July 30, 2018 from Public Works Director Steve Barrett.

**MOTION BY TIM WESSEL TO APPROVE THE AWARD OF A BID FOR A ONE-TON CREW CAB PICKUP TRUCK IN THE NET AMOUNT OF \$27,758 TO SHEARER CHEVROLET OF BURLINGTON, VERMONT; AND**

**TO APPROVE THE AWARD OF A BID FOR A ONE-HALF TON PICKUP TRUCK WITH PLOW IN THE NET AMOUNT OF \$32,697 TO SHEARER CHEVROLET OF BURLINGTON, VERMONT; AND**

**TO APPROVE THE AWARD OF A BID FOR AN EXCAVATOR WITH WARRANTY AND AN 18-INCH BUCKET IN THE TOTAL AMOUNT OF \$100,683 TO SALEM FARM SUPPLY OF SALEM, NEW YORK; AND**

**TO APPROVE THE AWARD OF A BID FOR A 15-TON TRAILER IN THE TOTAL AMOUNT OF \$20,200 TO VASSAR COMPLETE AUTO SERVICE OF GREENFIELD, MASSACHUSETTS; AND**

**TO APPROVE THE AWARD OF A BID FOR A SIDEWALK TRACTOR PLOW IN THE TOTAL AMOUNT OF \$139,752 TO H.P. FAIRFIELD OF MORRISVILLE, VERMONT. MOTION CARRIED 3-0.**

Uber/Lyft Licensing. O'Connor noted that taxi cabs and taxi drivers in the Town of Brattleboro were required to be licensed but Uber and Lyft operations were not required to obtain licenses. Town Attorney Bob Fisher was present and provided information regarding the licensing of "transportation network companies" (TNC), such as Uber and Lyft, as set forth in his memo dated July 31, 2018. He spoke about the new State law on this matter and offered a modified taxi ordinance that could apply traditional taxi regulations to the new internet-based ride services. He said that the State law was specifically defined (prearranged rides through internet based companies) and that taxis were excluded from the State's definition. He said that the new State legislation required TNC companies to carry insurance, run background checks on drivers, and provide proof of inspection. He said that it contained zero tolerance regarding alcohol and drugs and included enforcement provisions. He noted that the State law preempts town regulations to the extent that they were inconsistent with State regulations. Fisher said that a study committee would be created to study and report to the legislature in January, 2019, whether the broader category of "vehicles for hire" (limos, taxis, shuttlebuses, etc.) should be legislated on licensing and regulations. He said that Brattleboro had a taxi ordinance that did not cover TNCs. He provided a chart comparing the new TNC law with the Town's taxi ordinance and with the provisions in the proposed "vehicles for hire" ordinance (which would include TNC vehicles). He asked whether the Board was interested in adopting a proposed ordinance for hire or waiting and see how the State legislature proceeded. It was decided that the matter be added to the next agenda as a first reading on a proposed ordinance amendment.

**NO MOTION WAS OFFERED.**

Ordinance Amendment – First Reading, Chapter 8: Health, Sanitation and Fire Safety Inspections. Elwell said that the Board was asked to hold a first reading on the proposed amendment to Chapter 8, Article Three of the Town's Code of Ordinances. He said that the proposed ordinance would adopt the State's Rental Housing Code (as may be amended from time to time) in its entirety as part of the Town's Code

and would enable more efficient and effective local investigation and enforcement of rental housing violations, consistent with new requirements imposed by the State on all municipal Health Officers. He said that the State Health Codes contained unfunded State mandates imposing additional requirements on local Health Officers when they get called to a site. Town Attorney Bob Fisher spoke about enforcement provisions included in the new Health Code and the issuance of civil tickets. There was a brief discussion by the Board. It was agreed that the Board would hold a second reading and public hearing at its next meeting.

**NO MOTION WAS OFFERED.**

Heating Oil Bid Award. Elwell said that the Board was asked to award the annual heating oil bid to Discount Oil of Keene, New Hampshire, in the amount of \$2.289 per gallon. He said that five bids were received and Discount Oil was the low bidder. Wessel said that he received a communication from Daniel Quipp who asked the Board to move away from fossil fuels when possible in a financially responsible manner. Starr added that Quipp also suggested a goal of eliminating fossil fuel usage by 2024. Linda Bailey inquired why the amount of oil being ordered was the same as last year considering the energy efficiency work that has been performed. She also asked if the impact of the energy efficiency measures was documented and she encouraged moving as quickly as possible away from fossil fuels. Elwell responded that the amount of oil in the RFP was an averaged multi-year amount and that energy efficiency projects continued to be implemented. There was some discussion by the Board.

**MOTION BY BRANDIE STARR TO AWARD THE 2018-2019 HEATING OIL BID TO DISCOUNT OIL OF KEENE, NEW HAMPSHIRE, IN THE AMOUNT OF \$2.289 PER GALLON. MOTION CARRIED 3-0.**

Committee Appointments and Organizational Matters

- (i) *Replace Rod Francis on Windham Regional Commission*
- (ii) *Replace Rod Francis as Acting Zoning Administrator*
- (iii) *Replace Rod Francis on Hinsdale-Brattleboro Bridge Project Advisory Committee*
- (iv) *Announce Committee Vacancies*

Elwell said that the Board was asked to appoint Planning Director Sue Fillion to several positions that were vacated by the departure of her predecessor, Rod Francis, as set forth in his memo dated August 2, 2018. There was a brief discussion by the Board.

**MOTION BY TIM WESSEL TO APPOINT PLANNING DIRECTOR SUE FILLION TO REPRESENT THE TOWN OF BRATTLEBORO ON THE WINDHAM REGIONAL COMMISSION; AND**

**TO APPOINT PLANNING DIRECTOR SUE FILLION TO BE THE TOWN'S ACTING ZONING ADMINISTRATOR AT ALL TIMES WHEN ZONING ADMINISTRATOR BRIAN BANNON IS NOT AVAILABLE; AND**

**TO APPOINT PLANNING DIRECTOR SUE FILLION TO REPRESENT THE TOWN OF BRATTLEBORO ON THE HINSDALE-BRATTLEBORO BRIDGE PROJECT ADVISORY COMMITTEE. MOTION CARRIED 3-0.**

Elwell said that the Board was asked to announce several committee and board vacancies. O'Connor read the list of vacancies. She said that applications could be found on the Town's website. There was a brief discussion.

There was no further business.

**MOTION BY BRANDIE STARR TO ADJOURN AT 9:18PM. MOTION CARRIED 3-0.**

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Tim Wessel, Clerk