

**BRATTLEBORO SELECTBOARD
TUESDAY, SEPTEMBER 18, 2018
REGULAR MEETING – 6:15PM
SELECTBOARD MEETING ROOM, MUNICIPAL CENTER
MINUTES**

Selectboard members present: Tim Wessel, David Schoales, and Shanta Lee Gander.

Staff Present: Town Manager Peter Elwell, Assistant Town Manager Patrick Moreland, Town Attorney Robert Fisher, Finance Director John O'Connor, Public Works Director Steve Barrett, Planning Director Sue Fillion, and Executive Secretary Jan Anderson.

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

Others present: Howard Fairman, Madan Rathore, Joann Erenhouse, Peter Allen, Peggy Allen, representatives from Adventure Limousine and Transportation, Samantha Dude, Kit Barry, Terri Hendricks, Tom Hendricks, Bill Knowles, ASL interpreters Janet Dickinson and Karen Todd, and others who did not sign the attendance sheet.

Tim Wessel called the meeting to order at 6:15pm. He confirmed that the meeting was properly warned. Town Manager Peter Elwell noted that the Chair and Vice Chair were not present and, according to the Board's Rules for Conduct of Meetings and Hearings, a Chair pro tempore was to be selected by the Board as its first order of business.

DAVE SCHOALES NOMINATED TIM WESSEL TO CHAIR THE MEETING (SECONDED BY SHANTA LEE GANDER). MOTION CARRIED 3-0.

APPROVE MINUTES

Acting Chair Wessel said that the first order of business was to approve the minutes from the September 4, 2018 meeting. There was no discussion.

MOTION BY DAVE SCHOALES TO APPROVE MINUTES FROM SEPTEMBER 4. MOTION CARRIED 4-0.

CHAIR'S REMARKS

None.

MANAGER'S COMMENTS

Town Manager Elwell advised the community that early voting for the November election would open on Friday, September 21, in the Town Clerk's Office. He also noted that two Selectboard members were absent from this meeting and any motions passed would require an affirmative vote from all three attending members. He suggested that items could be tabled to a later meeting when the full membership was present.

SELECTBOARD COMMENTS AND COMMITTEE REPORTS

None.

PUBLIC PARTICIPATION

Howard Fairman asked what had been done at the Senior Center since last winter to improve the heat. Town Manager Elwell responded that the Recreation & Parks Director had arranged for the installation of a MARS air-heat curtain to be installed which would blast a curtain of warm air at the entry of the room when the door was opened.

Joann Erenhouse, from Senior Solutions, announced that \$1.00 would be donated to Senior Solutions for each reusable bag sold at Hannaford's Store during the month of September. She also said that the

agency was holding a fundraising dance at the Stone Church on September 29 from 7-11pm and the funds would be donated to Meals on Wheels. She spoke about the events at the fundraiser and invited the public to attend.

LIQUOR COMMISSIONERS

MOTION BY SHANTA LEE GANDER TO CONVENE AS LIQUOR COMMISSIONERS. MOTION CARRIED 3-0.

First Class Liquor License and Outside Consumption Permit – MKR LLC, d/b/a India Masala House. Elwell said that the Board was asked to approve a first class liquor license and outside consumption permit for MKR LLC, d/b/a India Masala House. He said that the Board previously approved the license for a different location but the business was moving to 889 Putney Road in the Colonial Inn building and the license was requested for that location. Madan Rathore, owner of the business, spoke about the business and said that the former location was out of the way. There was a brief discussion by the Board.

MOTION BY SHANTA LEE GANDER TO APPROVE A FIRST CLASS LIQUOR LICENSE FOR MKR LLC, D/B/A INDIA MASALA HOUSE AT 889 PUTNEY ROAD. MOTION CARRIED 3-0.

MOTION BY DAVE SCHOALES TO ADJOURN AS LIQUOR COMMISSIONERS. MOTION CARRIED 3-0.

WATER AND SEWER COMMISSIONERS

MOTION BY DAVE SCHOALES TO CONVENE AS WATER AND SEWER COMMISSIONERS. MOTION CARRIED 3-0.

Hinsdale Bridge Project - Agreement to Relocate Water Main on Vernon Road. Public Works Director Steve Barrett said that the Selectboard was asked to authorize the Town Manager to execute an agreement with the Vermont Agency of Transportation (VTTrans) to reimburse the Town for the cost of relocating a water main on Vernon Road. He said that the relocation was necessary to accommodate the new Hinsdale Bridge and the State would pay for most of the project (\$700,000) with the exception of the “betterment” which would increase the size of the water main from 8” to 12” to accommodate potential future growth on Vernon Road. He said that the cost to the Town would be \$50,000. There was a brief discussion by the Board.

MOTION BY DAVE SCHOALES TO AUTHORIZE THE TOWN MANAGER TO EXECUTE A UTILITY RELOCATION AGREEMENT WITH THE STATE OF VERMONT’S AGENCY OF TRANSPORTATION, AS PRESENTED, AND TO APPROVE AN EXPENDITURE OF \$50,000 FROM THE UTILITY FUND TO INCREASE THE SIZE OF THE VERNON ROAD WATER MAIN FROM 8” TO 12”. MOTION CARRIED 3-0.

Capital Equipment Bid Awards -

- (i) ½ Ton Pickup Truck*
- (ii) ¾ Ton Pickup Truck with Plow*
- (iii) Engineer’s Vehicle (Chevrolet Volt Hybrid)*

Public Works Director Barrett said that the Selectboard was asked to authorize the purchase of three vehicles within the Utility Division as set forth in his memo dated September 7, 2018. He said that each vehicle would be purchased using the State bid process and in each case the low bid was provided by Shearer Chevrolet of Burlington, Vermont. He noted that one of the vehicles would be the first hybrid vehicle in the Town’s fleet. There was some discussion by the Board, particularly about use of the electric hybrid vehicle.

MOTION BY SHANTA LEE GANDER TO AUTHORIZE THE PURCHASE OF THREE VEHICLES FROM SHEARER CHEVROLET OF BURLINGTON, VERMONT, INCLUDING: A ½-TON EXTENDED

CAB PICKUP TRUCK IN THE AMOUNT OF \$29,904, WITH A DEDUCTION OF \$10,000 FOR A VEHICLE TRADE-IN, RESULTING IN A FINAL PRICE OF \$19,904; A ¾-TON EXTENDED CAB WITH PLOW IN THE AMOUNT OF \$36,936; AND A CHEVROLET VOLT HYBRID IN THE AMOUNT OF \$32,520, WITH A DEDUCTION OF \$4,000 FOR A VEHICLE TRADE-IN, RESULTING IN A FINAL PRICE OF \$28,453. MOTION CARRIED 3-0.

MOTION BY DAVE SCHOALES TO ADJOURN AS WATER AND SEWER COMMISSIONERS. MOTION CARRIED 3-0.

UNFINISHED BUSINESS

Ordinance Amendments – Public Hearing, Second Reading, and Final Adoption
(i) *Chapter 11 (Licenses and Permits), Article IV (Taxicabs/Vehicles for Hire)*

MOTION BY SHANTA LEE GANDER TO RE-OPEN THE PUBLIC HEARING ON A SECOND READING FOR THIS ORDINANCE AMENDMENT. MOTION CARRIED 3-0.

Elwell said that staff and Attorney Fisher recommended the adoption of the proposed taxi amendment, as had been discussed at two previous meetings. He noted that the Board previously asked staff to investigate whether adoption of this amendment would contain duplicative requirements on the Vernon business whose owners spoke at the last meeting. He reported that the Town of Vernon did not have a taxi or vehicle for hire ordinance and that the State required only a registration for businesses in Vermont but was not specific to vehicles for hire. He said that the State's regulations pertaining to Uber and Lyft and such businesses had requirements that operators had to meet and must be prepared to prove if requested, but no such registration process existed at the State level. He urged adoption of the ordinance in order to provide necessary protection for the public and to level the playing field between taxis and other vehicles for hire.

Peter Allen, from Adventure Limousine, asked about the differences between taxis and vehicles for hire and about other regulations included in the proposed ordinance. Attorney Fisher read the State's definition of vehicles for hire as contained in the proposed ordinance and he addressed Allen's other concerns and questions. He said that the overriding intent of the amendment was to insure a public safety aspect (qualified drivers with safe vehicles that were properly insured) and provide a level playing field with the various types of vehicles that could be hired for transport. Allen spoke at length about his other vehicles, such as limousines, school/student vehicles and "black cars" (airport transport cars), that were governed separately, and more comprehensively, by federal regulations and about the additional cost and regulations that would be imposed on his other vehicles and drivers. Allen agreed that all taxi services operating in Brattleboro should be regulated equally. Gander agreed that public safety was important and stated that she was not in favor of duplicating costs and regulations or placing undue burdens on legitimate businesses that were already licensed. Schoales also spoke of the need to protect the public safety but wanted to insure that regulations were equitable and did not create other problems for existing businesses that were currently regulated. He suggested refining the definitions or waiting for the State to complete its study before the Town implemented new regulations. Fisher suggested that he could research DOT requirements and regulations to see if vehicles operating under those laws met the requirements in the proposed ordinance. He said that it may be difficult to make distinctions between shuttles, vans, limousines and "black cars." Elwell confirmed that the Board was asking staff to narrow or better define the affected vehicles in any proposed amendment.

Tom Hendricks (from Vernon Transportation Service) spoke about his opinion that safety issues were not being addressed properly in the ordinance amendment, that the proposed regulations were out of compliance with ADA regulations, and suggested that money was the primary intent of the amendments. He said that costs, such as registrations, would be duplicative and that the playing field could not be leveled unless it was with State regulations.

Terri Hendricks (from Vernon Transportation Service) said that VTS vehicles were maintained safely by Tom Hendricks and their vehicles were safe and clean. She said VTS was registered with the State as a transportation service because they provided taxi services as well as other services, such as picking up

prescriptions and groceries, providing veterinary transport, offering rides to work for people who did not have or could not afford their own vehicle such as the lower income, elderly, and handicapped. She said that VTS was registered with the State and that the federal government had higher restrictions. She spoke of her concerns about the broad definition in the ordinance and setting precedence that could empower every other town to install their own regulations which would become a financial burden on transportation services operating in those other towns. She said VTS was a “mom-and-pop” company and the new ordinance may abolish mom-and-pop companies and fair trade. Gander thanked Hendricks for the services provided to the residents

Bill Knowles spoke about other unrelated public safety concerns, such as problems with safe drinking water and changing the population at “The Wall.” Acting Chair Wessel asked Knowles to bring his concerns to another meeting under Public Participation or when the matters were publicly warned. Gander told Knowles that she would respond to his previous request about safe drinking water at a later time.

Elwell summarized that staff would conduct additional research and bring the matter to the Board for another discussion. Gander encouraged taking the proper amount of time for the research and suggested looking into regulations in neighboring towns. Fisher agreed to research the DOT regulations. Elwell said that taxi companies would normally renew their licenses on September 1, and suggested that while the ordinance amendment was pending that taxi companies operating in Brattleboro come into compliance under the existing ordinance. Peter Allen stated that it would be unfair for his business to be required to renew its taxi licenses when other companies did not. Elwell said that other companies providing comparable services in Brattleboro would also be contacted and expected to comply with the current ordinance.

MOTION BY SHANTA LEE GANDER TO CLOSE THE PUBLIC HEARING AND MOVE ONTO NEW BUSINESS. MOTION CARRIED 3-0.

NO ACTION TAKEN.

NEW BUSINESS

Hinsdale Bridge Project - Finance and Maintenance Agreement with VTrans. Elwell said that the Board was asked to authorize the Town Manager to execute a Finance and Maintenance Agreement with VTrans that specified State responsibilities and Town responsibilities related to the new Hinsdale Bridge. He spoke about the expectations of the Town’s maintenance of the bridge and connecting road, as set forth in his memo dated September 12. There was no discussion by the Board.

MOTION BY DAVE SCHOALES TO AUTHORIZE THE TOWN MANAGER TO EXECUTE A FINANCE AND MAINTENANCE AGREEMENT WITH VTRANS, AS PROPOSED. MOTION CARRIED 3-0.

FY18 Year-End Financial Report – Final But Unaudited. Elwell discussed the unaudited year-end financial results for FY18. He said that overall, the General Fund finished the year \$450,322 “to the good” and was approximately 2.6% of the \$17,493,841 budget and was within the normal range of 2% to 3%. He discussed the financial report and items in his memo dated September 12. Wessel noted that the Rooms and Meals Tax exceeded projected amounts and said that the trend was a good indicator that the Town continued to be an inviting place to visit. Finance Director John O’Connor commented on the Utilities Fund, Solid Waste Fund, and Parking Fund. There was some discussion by the Board.

NO ACTION TAKEN.

Monthly Financial Report – August 2018. Finance Director John O’ Connor discussed the monthly financial report for August. There was a brief discussion by the Board.

NO ACTION TAKEN.

Retreat Farm – Settlement of Litigation Re: Property Value and Tax Exempt Status. Elwell said that the Board was asked to authorize the Town Manager to execute a stipulation to settle a dispute and dismiss a pending court action between the Town and Retreat Farm Ltd. He said that the stipulation was the result of extensive negotiations between the Town and Retreat Farm Ltd. It specified which parcels owned by Retreat Farm Ltd would be exempt from property tax and also provided for the Retreat Farm Ltd to pay the Town a voluntary annual fee of \$6,000, as set forth in the memo from Town Attorney Fisher dated August 30. There was a brief discussion by the Board.

MOTION BY SHANTA LEE GANDER TO AUTHORIZE THE TOWN MANAGER TO EXECUTE THE STIPULATION WITH RETREAT FARM LTD, AS PRESENTED. MOTION CARRIED 3-0.

Municipal Planning Grant For Downtown Design Plan – Authorize Application. Planning Director Sue Fillion said that the Selectboard was asked to adopt a Resolution and to authorize the submission of an application for a Municipal Planning Grant in the amount \$22,000 from the Vermont Municipal Planning Grant Program. She said that the grant funds, together with local resources, would be used to engage professional technical assistance for the preparation of a Downtown Design Plan. She said that “design plan” was a particular model of master plan that was selected by the Planning Department and the Planning Commission for this project and focused on community building and placemaking activities. There was some discussion by the Board.

MOTION BY DAVE SCHOALES TO ADOPT THE FY19 RESOLUTION FOR A MUNICIPAL PLANNING GRANT AND TO AUTHORIZE THE SUBMISSION OF A GRANT APPLICATION IN THE AMOUNT OF \$22,000 TO THE VERMONT MUNICIPAL PLANNING GRANT PROGRAM. MOTION CARRIED 3-0.

250 Birge Street Property – Letter of Support for River Corridor Easement. Planning Director Sue Fillion said that the Town and the Vermont River Conservancy (VRC) were collaborating on a floodplain restoration project near the Whetstone Brook and located at 250 Birge Street. She said that VRC planned to convey the property to the Town after completing a significant cleanup project, which was expected to begin in the spring of 2019. She said that several of the funding partners, Vermont Agency of Natural Resources, Department of Environmental Conservation, the VRC, and the Vermont Housing and Conservation Board, were seeking a river corridor easement on the property. She said that since she wrote her September 7 memo, she learned that the easement now being requested by the funding partners may be a broader easement, with the river corridor being a component of it, so the letter in the Board’s packets would have to be amended before it was signed by a Board member. There was some discussion by the Board. Elwell clarified that the proposed motion and letter were written before learning of the change in the easement request and with the expectation that the letter would be executed at this meeting by Vice Chair Brandie Starr (because Chair O’Connor would not be present at this meeting). He said that consequently the letter would have to be edited at a later time and then would likely be signed by the Chair.

MOTION BY SHANTA LEE GANDER - WITH A STIPULATION THAT THE LETTER WOULD BE PROPERLY EDITED TO REFLECT THE REALITIES OF THE CHANGES DISCUSSED - TO AUTHORIZE VICE CHAIR BRANDIE STARR TO SIGN A LETTER TO THE VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION ON BEHALF OF THE BRATTLEBORO SELECTBOARD IN SUPPORT OF THE PROPOSED RIVER CORRIDOR EASEMENT. MOTION CARRIED 3-0.

Subordinate Existing Small Business Assistance Program (SBAP) Loan – Hermit Thrush Brewery. Elwell said that the Hermit Thrush Brewery received a Small Business Assistance Program (SBAP) loan in 2017 in the amount of \$70,000. He said that Hermit Thrush recently received a shipment of defective cans that were purchased from a third party. He said that Hermit Thrush learned of the defective cans after the cans were filled and shipped out, so Hermit Thrush had to recall the shipment. He said that as a result, the business’ cash flow had been negatively affected. He said that Hermit Thrush requested and the SBAP Loan Committee approved a four month period of interest-only payments (August through November). He said that additionally Hermit Thrush requested that the Town subordinate the SBAP loan from 4th position to 5th position, behind a new line of credit from Brattleboro Savings and Loan, in order to improve the cash flow at the business. He said that the SBAP Loan Committee recommended Selectboard approval of the requested subordination action.

MOTION BY SHANTA LEE GANDER TO AUTHORIZE THE TOWN MANAGER TO EXECUTE A LOAN SUBORDINATION AGREEMENT IN CONNECTION WITH THE SMALL BUSINESS ASSISTANCE PROGRAM LOAN FOR HERMIT THRUSH BREWERY. MOTION CARRIED 3-0.

Request For Consideration of Bulky Item Pick Ups and Other Solid Waste Matters. Selectboard Member Shanta Lee Gander said that she previously asked the Board to discuss this matter, but now requested that the matter be moved to the October 16 meeting when the full Board would be present. The Board agreed to postpone the discussion.

NO ACTION TAKEN.

Committee Appointments and Organizational Matters

- (i) *Appoint Patrick Moreland to Small Business Assistance Program Committee*
- (ii) *Appoint Members to Town Boards and Committees*

Elwell said that the Board was asked to appoint Assistant Town Manager Patrick Moreland to fill the "administrative staff" seat on the SBAP Loan Committee that was vacated by the departure of former Planning Director Rod Francis. He said that Moreland was a good candidate for the position because he was very involved in economic development matters within the Town. There was a brief discussion.

MOTION BY DAVE SCHOALES TO APPOINT ASSISTANT TOWN MANAGER PATRICK MORELAND TO THE VACANT ADMINISTRATIVE STAFF SEAT ON THE SMALL BUSINESS ASSISTANCE PROGRAM LOAN COMMITTEE. MOTION CARRIED 3-0.

Elwell said that the Board was also asked to appoint members to various committees. He said that the Citizen Police Communication Committee (CPCC) had more applicants than seats available and that an interview had been previously scheduled but one applicant had a scheduling conflict. He said that the Board could make the appointment based on the applications or could reschedule the interview for the next meeting. There was a brief discussion by the Board who agreed to appoint the uncontested seats at this meeting and hold interviews for the CPCC at the next meeting.

DAVE SCHOALES NOMINATED:

**ERIN RODGERS FOR THE CONSERVATION COMMISSION,
NORA DISSINGER FOR THE DEVELOPMENT REVIEW BOARD [ALTERNATE],
BECKY DAY FOR THE RECREATION & PARKS BOARD, AND
DEB BUNKER FOR THE TRAFFIC SAFETY COMMITTEE [AS A REPRESENTATIVE FOR THE
CHAMBER OF COMMERCE].**

Elwell clarified that Nora Dissinger would be an Alternate for the DRB and Deb Bunker was the Chamber of Commerce's recommendation for the Traffic Safety Committee. There was a brief discussion.

ALL NOMINATIONS WERE APPROVED BY A VOTE OF 3-0.

There was no further business.

MOTION BY SHANTA LEE GANDER TO ADJOURN AT 8:32PM. MOTION CARRIED 3-0.

Tim Wessel, Clerk