

**BRATTLEBORO SELECTBOARD
TUESDAY, OCTOBER 2, 2018
COMMITTEE INTERVIEWS – 5:15PM
EXECUTIVE SESSION – 5:30PM
REGULAR MEETING – 6:15PM
SELECTBOARD MEETING ROOM, MUNICIPAL CENTER
MINUTES**

Selectboard members present: Kate O'Connor, Brandie, Starr, Tim Wessel, Shanta Lee Gander, and David Schoales.

Staff Present: Town Manager Peter Elwell, Assistant Town Manager Patrick Moreland, Town Attorney Robert Fisher, Planning Director Sue Fillion, Police Chief Mike Fitzgerald, 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: Dale Joy, John Kuschman, Nick Nickerson, Nancy Livingston Clements, Diana Bander, John Clements, Dan Unwin, Elizabeth Clauson, Alva-Jean Unwin, Daniel Quipp, Wilma Stratton, Robert Oeser, Rio Daims, Kurt Daims, Dick DeGray, Greg Worden, Brinn A. Robertson, Peter Seares, Darah Kehnemuyi, Erin Skaggs, Nunya, Kit Barry, Mikaela Simms, Gershon Moore, James Stronte Shelter, Scott Cooper, Josh Davis, Rachael, ASL interpreters Janet Dickinson and Karen Todd, and others who did not sign the attendance sheet.

Chair O'Connor called the meeting to order at 5:15pm. She confirmed that it was properly warned. She said that the first order of business was to conduct interviews for the Citizen Police Communications Committee (CPCC). She announced that three candidates had applied for one vacant seat and two candidates were present for the interview. She said that the other candidate, Gary Stroud, was ill and could not attend the interview. The Board interviewed Peter Seares and Darah Kehnemuyi, and agreed to hold the interview of Gary Stroud at the next meeting. After the interviews were complete, O'Connor said that appointments would take place at the next meeting.

MOTION BY KATE O'CONNOR TO ENTER INTO EXECUTIVE SESSION TO DISCUSS PENDING OR PROBABLE CIVIL LITIGATION OR A PROSECUTION TO WHICH THE PUBLIC BODY IS OR MAY BE A PARTY, CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATIONS MADE FOR THE PURPOSE OF PROVIDING PROFESSIONAL LEGAL SERVICES TO THE BODY, THE NEGOTIATING OR SECURING OF REAL ESTATE PURCHASE OR LEASE OPTIONS, AND THE APPOINTMENT OR 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, AND TOWN ATTORNEY WERE INVITED INTO THE SESSION. MOTION CARRIED 5-0.

Chair O'Connor reconvened the meeting at 6:17pm.

APPROVE MINUTES

O'Connor asked the Board to approve the minutes from the September 18, 2018 meeting. There was no discussion.

MOTION BY BRANDIE STARR TO APPROVE MINUTES FROM THE SEPTEMBER 18 MEETING. MOTION CARRIED 4-0 (SCHOALES WAS NOT PRESENT AT THE TIME OF THE VOTE).

CHAIR'S REMARKS

Chair O'Connor announced that the Board received a request to move Item A under New Business (Petition for Charter Amendment on the Youth Vote) to an earlier time in the meeting. The Board agreed to move the matter to follow "public participation."

MANAGER'S COMMENTS

Town Manager Elwell announced that early voting was taking place at the Town Clerk's Office until election day. He said that the general elections would take place on Tuesday, November 6 at the American Legion Hall and that the polls would be open on that day from 7:00am to 7:00pm. He also announced that the fall leaf collection dates were scheduled on Friday, October 26 and November 9.

SELECTBOARD COMMENTS AND COMMITTEE REPORTS

Shanta Lee Gander thanked Dick DeGray, of the Aesthetics Committee at the Downtown Brattleboro Alliance, for his contributions in maintaining the flowers downtown, and she commented on how the flowers added to the beauty of this town.

PUBLIC PARTICIPATION

Robert Oeser provided a handout entitled "Begging?" and spoke about the inadequacies of patient discharge plans by certain medical and mental health institutions. He spoke of the need to develop and implement common sense discharge plans to provide housing with supportive services. He spoke of some personal experiences that had with people on the street that had recently been discharged from a mental health institution. He said that inadequate discharge planning impacted the Town's emergency services and asked anyone who was interested in joining in that conversation or effort to contact him.

Dale Joy spoke about the professionalism of the Police Department but spoke about past improprieties by previous police officers to her cousin who had been a police officer several years ago. She suggested that some police officers should be held accountable so as not to repeat patterns, and added that checks and balances were necessary because people make mistakes. Chair O'Connor noted that Ms. Joy was likely referring to a current lawsuit and asked people to hold judgments or assumptions until all of the facts were released.

Diana Bander spoke about safety of the public. She said that some recent newspaper articles differentiated between the feeling of safety and actual safety. She said that safety was not a perceptual issue, but that "safety is safety." She said that residents need to feel safe. Finally she said that the police department reported that the amount of burglaries and other crimes had not increased, but she said that "absence of evidence is not evidence of absence." She stated that many crimes were not reported but that did not mean that they were not happening.

Nunya spoke about recognizing the genocides against indigenous people and suggested that the town "decolonize" by recognizing indigenous people and flying their flags, and to honor them by shutting down businesses with investors that built pipelines and broke sovereign treaties. They complained that the front door was locked and that entrance was not handicapped accessible or inclusive. They also reiterated their request to remove parking lanes on Main Street and install bike lanes.

Nick Nickerson noted that the Lamplighter Lodge seemed to have many vacancies. He then stated that he did not see problems at the parking garage. He inquired why some people suggest that daughters are believed but sons cannot be believed. He quoted Ronald Reagan as saying "trust a little but verify a lot."

Mikaela Simms asked if the Board would discuss the need for public bathrooms since it was considering spending \$35,000 for lights (at the Transportation Center). O'Connor said that the matter would be discussed under "Parking Actions" later in the meeting.

Agenda Adjustment - O'Connor noted that the Board previously agreed to adjust the agenda in order to move up the discussion and public hearing on the Youth Vote petition.

NEW BUSINESS (Part 1)

Petition for Charter Amendment – First Public Hearing re: Youth Vote Proposal. O'Connor said that the Town Clerk received a petition on August 20, 2018, to amend the Town Charter to include youth voting at age 16. She said that amendments to the Charter required two public hearings prior to going before the voters, and then, if passed, to the legislature. She said that the first public hearing would be held tonight and the second public hearing was scheduled on October 9 at 6:15pm in the Selectboard Meeting Room.

O'Connor opened the public hearing.

Nunya spoke in support of the matter and said that youth should have the right to vote, represent themselves, and participate. They said that the legislature was not progressive enough and were not cooperative with community leaders and issues, so the youth should be heard and respected. Kit Barry stated that the human brain was not mature until 24 to 26 years old and was wary of the cultural movement of "over empowerment." He said putting voting decisions into the hands of children was "out of balance." Rio Daims, Coordinator of Youth Vote, spoke several times in support of the matter. She said that most 16 year olds were as intelligent as 18 year olds. She said that her peers indicated they would educate themselves on politics and that the habit of voting early would carry with them through the years. She said that youth were more involved now. She said that two towns in Maryland allowed 16 year olds to vote and that in Oakland, California 16 year olds were allowed on the school board. She said other towns were advocating for the youth vote. Gershom Moore spoke in support of the matter and said it was important to hear what the youth had to say. Dale Joy spoke of her history around elders with drug and alcohol addiction and said that her brain at age 14 was healthier than surrounding adults. Nick Nickerson said that youth were "not self-sustaining individuals" who did not pay taxes and did not have fully developed judgment until age 24 or 26. James Stronte Shelter, Assistant Youth Coordinator, stated that studies indicated that youth voting would likely increase voter turnout and the chance of their parents voting. He said 16 year olds were in a more stable place than 18 year olds who were moving out and moving on. He said that teenagers pay taxes and contribute to the economy. He said that 16 year olds were allowed to vote in Austria, Brazil, Cuba, and Nicaragua. Board Member Shanta Lee Gander said she was troubled by the lack of civic education in classes and encouraged the participating youth to push for increased civic education in local and state government. Mikaela Simms spoke in support of the matter and said that young people were inspiring and saw things that adults did not, and they dealt with dire circumstances so should have the right to vote. She said there was "wisdom in youth." Dick DeGray asked about the process to amend the Charter and whether the Selectboard was bound to accept the outcome of the election. Attorney Fisher explained that in order to amend the Charter, two public hearings were required within a 10 day period, then the matter would be added to the March ballot, and, if passed, would go to the legislature and legislative counsel. John Clements inquired whether other communities allow youth vote. Attorney Fisher said he did not know the answer. Scott Cooper spoke of the "graduated understanding of what constitutes adult" and gave instances where 16 year olds could work and pay taxes, said that children could decide about education or emancipation from their parents, noted that voting was acceptable at age 18, said that alcohol was legal at age 21, and stated that car rentals were not allowed until age 24. He said that society was conflicted about what constituted an adult and that youth should have a voice on how money was spent because they paid taxes.

O'Connor closed the public hearing. She reminded the viewers about the second public hearing on this matter that would take place on October 9 at 6:15pm.

NO ACTION TAKEN.

LIQUOR COMMISSIONERS

MOTION BY BRANDIE STARR TO CONVENE AS LIQUOR COMMISSIONERS. MOTION CARRIED 5-0.

Second Class Liquor License – Max, LLC, d/b/a One Stop. O'Connor said that the Board was asked to approve a second class liquor license for Max, LLC, d/b/a One Stop, located at 414 Canal Street. John Kuschman, co-owner of the business, spoke about plans for the business. There was a brief discussion by the Board.

MOTION BY DAVID SCHOALES TO APPROVE A SECOND CLASS LIQUOR LICENSE FOR MAX, LLC, D/B/A ONE STOP, LOCATED AT 414 CANAL STREET. MOTION CARRIED 5-0

MOTION BY TIM WESSEL TO ADJOURN AS LIQUOR COMMISSIONERS. MOTION CARRIED 5-0.

WATER AND SEWER COMMISSIONERS

MOTION BY BRANDIE STARR TO CONVENE AS WATER AND SEWER COMMISSIONERS. MOTION CARRIED 5-0.

Interfund Loan – Formal Approval to Lend Utility Funds to the Parking Fund. O'Connor said that the Board was asked to approve a loan of \$260,000 from the Utility Fund to the Parking Fund to expedite certain improvements to the parking system. Assistant Town Manager Moreland said that the Board was asked to take three actions as set forth in his two memos dated September 27 and September 28. He said that the Water & Sewer Commissioners were asked to approve lending the funds to the Parking Fund, and later in the meeting the Board was being asked to approve borrowing the funds and approve the purchase of the new equipment. Diana Bander inquired about the hours and seasonal needs of the public bathrooms at the Transportation Center (BTC). Stephanie Bonin, from Downtown Brattleboro Alliance, said that she would prefer to discuss an overall strategy at the BTC rather than addressing one item at a time. Dick DeGray clarified the purpose and use of the funds. Nunya stated that the money could be better used on human needs. Elwell clarified that the actions before the Board at this meeting were items that had already been approved conceptually. There was much discussion by the Board.

MOTION BY TIM WESSEL THAT THE UTILITY FUND LEND TO THE PARKING FUND THE SUM OF \$260,000 AT AN INTEREST RATE OF 2.5% FOR A PERIOD OF FIVE YEARS IN ACCORDANCE WITH THE PAYMENT SCHEDULE AS PRESENTED. MOTION CARRIED 5-0.

MOTION BY DAVE SCHOALES TO ADJOURN AS WATER AND SEWER COMMISSIONERS. MOTION CARRIED 5-0.

UNFINISHED BUSINESS

Parking Actions

- (i) *Update on Procurement and Installation of Smart Meters and Kiosks*
- (ii) *Interfund Loan – Formal Approval to Borrow Parking Funds from the Utility Fund*
- (iii) *Increase Parking Rates (See “Amend Parking Rate Ordinance” below)*
- (iv) *Review of Boot Procedures*

(i and ii) Assistant Town Manager Moreland provided an update on the purchase and installation of the smart parking equipment to improve the parking equipment downtown as set forth in his memo dated September 28, 2018. He said that the Board was asked to take formal action on matters previously approved conceptually. He said that the actions included: (1) purchase and installation of smart meters and kiosks at a cost of \$200,016.50, (2) approve an interfund loan of \$260,000 from the Utility Fund to the Parking Fund, and (3) hold a first reading on an ordinance amendment to increase parking rates for on-street meters and parking lot kiosks. Alva-Jean Unwin, Diana Bander, and Dick DeGray asked about the new equipment and the proposed public education campaign. There was much discussion by the Board.

MOTION BY SHANTA LEE GANDER THAT A CONTRACT IN THE AMOUNT OF \$200,016.50 BE AWARDED TO IPS GROUP OF SAN DIEGO, CALIFORNIA, USING THE PROCUREMENT PERFORMED BY THE REGION 14 EDUCATION SERVICE CENTER OF ABILENE, TEXAS, FOR THE PURCHASE AND INSTALLATION OF A SMART PARKING SYSTEM; AUTHORIZING THE TOWN MANAGER TO TAKE ALL OTHER ACTIONS NECESSARY TO IMPLEMENT THE APPROVED SMART PARKING SYSTEM; AND AUTHORIZING THE TOWN MANAGER TO CONTRACT WITH IPS GROUP FOR SUPPORT SERVICES RELATED TO THE OPERATION OF THE SMART PARKING SYSTEM AFTER IT IS INSTALLED. MOTION CARRIED 5-0.

MOTION BY BRANDIE STARR THAT THE PARKING FUND BORROW FROM THE UTILITY FUND THE SUM OF \$260,000 AT AN INTEREST RATE OF 2.5% FOR A PERIOD OF FIVE YEARS ACCORDING TO THE PAYMENT SCHEDULE AS PRESENTED. MOTION CARRIED 5-0.

(iii) O'Connor said that parking rates would be discussed under the item “Amend Parking Rate Ordinance.”

(iv) Gander said that she had requested this matter be added to the agenda for discussion. She said that she was concerned about the financial impact on the car owner when a boot was placed on a vehicle. Moreland explained the process for notifying people before booting the vehicle. He said that car owners receive multiple letters about their unpaid parking citations and a letter informing them that they are subject to receiving the boot. He explained the appeal process and payment options offered. Dick DeGray suggested continuing to ticket a vehicle even after it had been booted. There was much discussion by the Board.

NO FURTHER ACTION TAKEN.

NEW BUSINESS (Part 2)

Petition for Charter Amendment – *First Public Hearing re: Youth Vote Proposal*. This matter was moved to an earlier time in the meeting.

Amend Parking Rate Ordinance – *First Reading, Chapter 16, Article VI, Section 16-111*. O'Connor said that the Board was asked to hold a first reading to amend the parking rate ordinance. She said that the Board previously approved increasing parking rates to pay for operation of the new smart parking system and for capital improvements to parking system infrastructure. She read the proposed rate increases. Dick DeGray suggested that overnight parking fines be increased from \$10 to \$20. Nancy Clements said that she witnessed the same cars violating the overnight parking rule on a repeated basis. Nick Nickerson stated his opinion that the discussion was becoming too punitive. Elwell offered that staff could research overnight parking violations and bring historical data to the Board at some point in the future if the Board wanted to hold an informed discussion. There was much discussion by the Board.

NO ACTION TAKEN.

O'Connor called for a brief recess at 8:15pm

O'Connor reconvened the meeting at 8:25pm.

Repeal of Anti-Panhandling Ordinance – *First Reading, Chapter 13, Article I, Section 13-2*. O'Connor said that the Board was asked to hold a first reading on the repeal of the Town's "Begging" Ordinance. She said that the subject matter was only whether to appeal the ordinance. She noted that the Town ordinance was not being enforced and said that the Town received a letter from the ACLU threatening a lawsuit if the ordinance was not repealed because it was a violation of free speech as protected by the First Amendment to the United States Constitution. She read the ordinance that was proposed to be repealed. Town Attorney Robert Fisher spoke at length about the matter, as set forth in his memo dated September 24, 2018, and he recommended that the ordinance be repealed because it was likely unconstitutional. Police Chief Fitzgerald said that the police officers address behavior and that they enforce laws, such as disorderly conduct. He suggested that if someone felt unsafe or if a law was broken to call the police. He said he also supported the repeal of the ordinance because it was unconstitutional. He then talked about Project C.A.R.E., a program that was focused on addressing opiate addiction and recovery. Gander provided a memo, dated October 2, 2018, and she spoke about the research on panhandling that she conducted in other towns. She spoke about being proactive and having community discussions in order to gather information. She suggested forming a task force or committee.

Starr spoke about the town-wide initiative entitled Concentric Circles Program being formed for the purpose of promoting conversations with "core experts" who live in certain environments each day. She said the core experts would speak with facilitators and professionals to address such matters as homelessness, addiction, poverty, generational poverty, and housing shortage. She said the initiative would provide a forum to advance conversations within the community. Dick DeGray asked for a bigger action plan to address the day-to-day [panhandling] behavior, and he suggested having more police presence downtown. Kit Barry spoke about his research into panhandling and his booklet that was intended to educate the public. Gershom Moore, Elizabeth Clausen, Nunya, Rachael, Diana Bander, and Scott Cooper offered their comments and opinions. Josh Davis, from Groundworks, spoke about holding more conversations, organizing discussions, and providing space for people to share the experience.

There was substantial discussion by the Board, including continuing to discuss the difficult and complicated matter around panhandling. O'Connor said that the second reading and public hearing on whether to repeal the ordinance would take place at the October 16 Selectboard meeting.

NO ACTION TAKEN.

Tri-Park Master Plan – Authorize Consultant Contract. Planning Director Sue Fillion said that the Board was asked to award the bid for consultant services to prepare a Tri-Park Housing Cooperative Master Plan to Dubois & King for a cost not to exceed \$71,214, and to authorize the Town Manager to execute the contract, as set forth in her memo dated September 26, 2018. She briefly spoke about the proposed master plan. There was a brief discussion by the Board.

MOTION BY SHANTA LEE GANDER TO AWARD THE BID FOR CONSULTANT SERVICES TO PREPARE A TRI-PARK HOUSING COOPERATIVE MASTER PLAN TO DUBOIS & KING FOR A COST NOT TO EXCEED \$71,214, AND TO AUTHORIZE THE TOWN MANAGER TO EXECUTE THE CONTRACT. MOTION CARRIED 5-0.

Building Communities Grant for Disc Golf at Memorial Park – Accept and Appropriate. Elwell said that the Board was asked to accept and appropriate a grant in the amount of \$6,800 from the Vermont Department of Buildings & General Services to pay for improvements to the Disc Golf facility at Living Memorial Park. Josh Davis spoke in support of the sport. There was a brief discussion by the Board.

MOTION BY DAVE SCHOALES TO ACCEPT AND APPROPRIATE A GRANT IN THE AMOUNT OF \$6,800 FROM THE VERMONT DEPARTMENT OF BUILDINGS & GENERAL SERVICES TO PAY FOR IMPROVEMENTS TO THE DISC GOLF FACILITY AT LIVING MEMORIAL PARK. MOTION CARRIED 5-0.

FY20 Budget Process – Proposed Schedule. Elwell said that the Board was entering into budget discussions for FY20 and he proposed meeting on most or all Tuesday evenings during November, December, and January to review, revise, and approve the proposed FY20 budget, as set forth in his memo dated September 25, 2018. He said that he would provide a more detailed schedule at the November 6 meeting. There was a brief discussion by the Board.

NO ACTION TAKEN.

Committee Matters

- (i) *Appointments*
- (ii) *Announce Vacancies*

O'Connor said that interviews for the Citizen Police Communications Committee (CPCC) were held at the start of this meeting, but the Board agreed at that time to withhold appointments to the CPCC until the next meeting after the interview of the third applicant could be arranged. She said that the seat on the Planning Commission was uncontested and an application had been received from Tom Mosakowski.

TIM WESSEL NOMINATION TOM MOSAKOWSKI FOR THE PLANNING COMMISSION. THE NOMINATION CARRIED 5-0.

O'Connor read the vacancies on other various committees and boards.

There was no further business.

MOTION BY SHANTA LEE GANDER TO ADJOURN AT 9:42PM. MOTION CARRIED 5-0.

Tim Wessel, Clerk