

**BRATTLEBORO SELECTBOARD  
TUESDAY, NOVEMBER 26, 2019  
SPECIAL MEETING – 6:15PM  
SELECTBOARD MEETING ROOM, MUNICIPAL CENTER  
MINUTES**

Selectboard members present: Brandie Starr, Tim Wessel, Elizabeth McLoughlin, Daniel Quipp, and David Schoales.

Staff Present: Town Manager Peter Elwell, Assistant Town Manager Patrick Moreland, Town Attorney Robert Fisher, Fire Chief Mike Bucossi, Assistant Fire Chief/Health Officer Leonard Howard, Zoning Administrator/Deputy Health Officer Brian Bannon, Police Chief Mike Fitzgerald, and Executive Secretary Jan Anderson.

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

Others present: Anne E. Howes, Oscar Heller, Will Hunter, Rhianna Kendrick, ASL interpreters Elizabeth Fox and Janet Dickinson, and others who did not sign the attendance sheet.

Chair Brandie Starr called the meeting to order at 6:15pm. She confirmed that the meeting was properly warned.

***SELECTBOARD COMMENTS AND COMMITTEE REPORTS***

Schoales reported that the Diverse Workforce Committee would soon host a group of students from Franklin Pierce College who would be visiting Brattleboro schools, Town Departments, and employers.

***PUBLIC PARTICIPATION***

Derrick Jordan, from EMF (Electro Magnetic Field) Safety for Vermont, reported that a small cell antenna may be installed in the steeple at the First Congregational Church in West Brattleboro. He spoke of his concerns about the safety of such an antenna and 5G technology. He asked about the process to approve such an installation. Town Manager Elwell said that he would look into the process and contact him later. Jordan also invited the Town to submit its concerns for such an antenna to the Public Utilities Commission. Selectboard member Wessel responded that his research did not disclose any reliable science that 5G technology was harmful and, in his opinion, the anti-5G movement was based on fear rather than science.

Elizabeth “Libby” Howes reported that she attended the groundbreaking ceremony for Groundworks Collaborative yesterday on South Main Street. She suggested that the Town consider an alternative to that project by providing a single room occupancy option by renovating the old Home Depot building to accommodate and house the homeless population.

***LOCAL BOARD OF HEALTH***

**MOTION BY ELIZABETH McLOUGHLIN TO CONVENE AS THE BOARD OF HEALTH. MOTION CARRIED 5-0.**

Hearing on Emergency Health Order – 48 & 50 Central Street and 6 Reynolds Drive. Town Attorney Robert Fisher, Assistant Fire Chief/Health Officer Leonard Howard, and Zoning Administrator/Deputy Health Officer Brian Bannon were present. Fisher provided a procedural history of why this matter was before the Board. He said that an Emergency Health Order had been served last week on William Hunter, owner of 48 and 50 Central Street and 6 Reynolds Drive, and that the order contained a “no occupancy” provision. He said that state statutes provided an appeal period and required the Board to hold a hearing within five days of service before tenants were relocated. He said that Hunter appealed to

the Superior Court for a “stay” of the Emergency Health Order and the Court granted an ex-parte stay, subject to a hearing in court tomorrow afternoon. Fisher said that the Local Health Officers and State Division of Fire Safety re-inspected the properties yesterday and numerous public health violations still existed, including a finding of excessive fuel load combined with the lack of smoke detectors. He stated that the Town would remove its previous “no occupancy” request at the hearing tomorrow because some improvements had been made to the properties over the past weekend; however, the proposed order being presented to the Court tomorrow (if the Board approved it tonight) would require Hunter to make further specified health safety improvements within 7 days. He spoke of several health safety violations that existed at the properties.

Health Officer Howard spoke of the history of violations to the properties in 2019, including 23 visits by Health Officers and various citations. He said that life safety was the primary issue and violations included missing smoke and carbon monoxide detectors, excessive combustibles in the building, State electrical violations, and a bedbug infestation at the Reynolds Drive property, all as set forth in the Emergency Health Order. Additionally he said that a leak in the oil burner was discovered yesterday and that several tickets had been issued over time for violations to the trash and recycling ordinance. He said that the Local Health Commissioners were asked to approve the proposed Order, which would replace the temporary Emergency Order.

Will Hunter noted that he did not request this appeal hearing and said that he had not received copies of the State’s health reports or the proposed order. He claimed that tenants removed the smoke detectors, and he requested more time to remedy the alleged violations. He said that some of the tenants had a history of homelessness and a “no occupancy” order could make them homeless again. He asked for a reasonable amount of time to fix the items.

Rhianna Kendrick, from Groundworks Collaborative, inquired about the process pertaining to tenants’ occupancy during the Health Order procedure. She spoke of her concerns about the impact on the tenants and the need to provide safe occupancy for them. McLoughlin added that the health and safety of the tenants and the neighborhood were important. Elwell noted that it was a rare occurrence to convene the Local Board of Health Commissioners. He confirmed that much communication had taken place between the parties over an extended period of time, but such communications had not led to a collaborative solution. There was much discussion by the Health Commissioners.

**MOTION BY DAVID SCHOALES TO APPROVE THE EMERGENCY HEALTH ORDER, AS PRESENTED.**

Elwell suggested amending the motion to remove the word “emergency.” He clarified that the temporary emergency order would be replaced by the new order. Schoales accepted the amendment.

**AMENDED MOTION BY DAVID SCHOALES TO APPROVE THE HEALTH ORDER, AS PRESENTED. MOTION CARRIED 5-0.**

Starr closed the public hearing.

**MOTION BY DANIEL QUIPP TO ADJOURN AS BOARD OF HEALTH COMMISSIONERS. MOTION CARRIED 5-0.**

***NEW BUSINESS***

Possible Reconsideration of Motion to Opt-Out of National Prescription Opiate Litigation Class Action Suit and Rescind Exclusion Request Form. Town Attorney Fisher said that Selectboard previously voted to opt-out of nationwide class action opioid lawsuit; however, since that time, he had communications with Special Counsel Cicala (attorney for the separate Brattleboro opioid lawsuit) who was concerned that opting out of the national class action suit would be detrimental to the Town’s leverage and ability to

obtain discovery in the Brattleboro lawsuit. Fisher said that Cicala strongly suggested that the Town rescind the opt-out notice. He said that the Board was now asked to reconsider its November 19th decision to opt-out of the class action suit. He said that Cicala noted other towns had been able to rescind its previous opt-out notices. He spoke of Attorney Cicala's concerns (a list of which had been provided to the Board), including the timing of the suits. He said if the Town opted-in to the class action suit, it would be able to participate in an early shared discovery process and materials while waiting for the Town's separate to proceed. Elwell confirmed that re-entering into the national class action suit would not negate other decisions made by the Board at the November 19 meeting. There was some discussion by the Board.

**MOTION BY ELIZABETH McLOUGHLIN TO RESCIND THE PREVIOUS ACTION TO OPT-OUT OF THE NATIONAL CLASS ACTION SUIT AND, IN SO DOING, WOULD OPT-IN. MOTION CARRIED 5-0.**

Request to VTrans to Lower Speed Limit on Route 9 (Marlboro Road). Elwell said that a variety of safety concerns had been raised in connection with the traffic on Route 9 in West Brattleboro, which were voiced at a meeting in Marlboro in October involving several municipalities, legislators, and senior members from VTrans (Vermont Agency of Transportation). He said that the West Brattleboro Association had particular concerns about the speed between Paradise Farms and Edwards Heights and asked the Town to ask VTrans to reduce the speed in that location from 40mph to 30mph. He said that the Traffic Safety Committee unanimously approved the request, provided that the request be made in connection with the Route 9 Upgrade Project where bike lanes would be added in both directions and crosswalks added at appropriate locations. He said that highway safety regulations did not allow for crosswalks to be installed in a 40mph zone, but would be allowed in a 30mph zone. He noted the significant increase in bicycle and pedestrian usage for recreational, commuting, and other general activities. He said that the area contained the largest concentration of low- to moderate-income families so bike and pedestrian activities were common. He said that making the three requests at this time would seize an opportunity to incorporate the requests into the design work that was underway at this time. He said that construction was anticipated in 2021. There was much discussion by the Board.

**MOTION BY TIM WESSEL TO AUTHORIZE THE TOWN MANAGER TO WRITE A LETTER TO THE VERMONT AGENCY OF TRANSPORTATION REQUESTING THAT THE SECTION OF ROUTE 9 BETWEEN EDWARD HEIGHTS AND PARADISE FARM IN WEST BRATTLEBORO BE MODIFIED TO REDUCE THE SPEED LIMIT TO 30MPH, TO ADD BIKE LANES IN BOTH DIRECTIONS, AND TO ADD CROSSWALKS AT APPROPRIATE LOCATIONS. MOTION CARRIED 5-0.**

FY21 Proposed Budget –

- (i) *Police Department*
- (ii) *Fire Department*

Elwell noted that the proposed budget was posted on the Town's website so viewers could follow along throughout the budget discussions. Wessel commended two Police Officers for their actions in connection with an event that took place on Putney Road last week.

Police Chief Mike Fitzgerald provided a comprehensive overview of the Police Department, including its mission statement and philosophies, community involvement, Project Care and opioid involvement and outreach, training, staffing, goals, and the hiring process for all police officers. He spoke about certain areas in the department's proposed budget (pages 12-14 of the Operating Budget), including capital equipment, operations, grants, and expenses. There were many questions and much discussion by the Board, including how to fund Project Care.

Chair Starr called for a recess at 8:15pm. She reconvened the meeting at 8:20pm.

Fire Chief Mike Bucossi and Assistant Fire Chief Leonard Howard were present. Bucossi provided an

overview of the department's structure, operation, community involvement, fire prevention, safety education, school crisis response planning, training, staffing, and scheduling. He noted that grant funding for Fire Departments had decreased over the past few years. Assistant Chief Howard then discussed the progress of the Rental Housing Inspection Program. Bucossi discussed several line items in the department's proposed FY21 budget (pages 11-12 of the Operating Budget). Assistant Town Manager Moreland commented on the line item for electricity and the use of solar credits. Bucossi asked members of the public to notify the Fire Department if they needed extra services during an emergency. There were several questions and much discussion by the Board.

**NO ACTION TAKEN.**

There was no further business.

**MOTION BY ELIZABETH McLOUGHLIN TO ADJOURN AT 8:50PM. MOTION CARRIED 5-0.**

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Elizabeth McLoughlin, Clerk