

**BRATTLEBORO SELECTBOARD  
TUESDAY, DECEMBER 4, 2018  
EXECUTIVE SESSION – 5:45PM  
REGULAR MEETING – 6:15PM  
SELECTBOARD MEETING ROOM, MUNICIPAL CENTER  
MINUTES**

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

Staff Present: Town Manager Peter Elwell, Assistant Town Manager Patrick Moreland, Town Attorney Robert Fisher, Public Works Director Steve Barrett, Police Chief Mike Fitzgerald, Police Captain Mark Carignan, Town Assessor Jenepher Burnell, Planning Director Sue Fillion, Recreation & Parks Director Carol Lolatte, and Executive Secretary Jan Anderson.

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

Others present: Nick Nickerson, Samantha Duda, Meg York, Nina Kunimoto, Mark Shuart, Melissa Clark, Jeff Clark, Adam Grinold, Christy Betit, Kristin Brooks, Sarah Lang, John Prichard, Franz Reichsman, 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 5:45pm. She confirmed that it was properly warned.

**MOTION BY KATE O'CONNOR TO ENTER INTO EXECUTIVE SESSION TO DISCUSS CONTRACTS, LABOR RELATIONS AGREEMENTS WITH EMPLOYEES, 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 6:15pm.

***APPROVE MINUTES***

O'Connor asked the Board to approve the minutes from the November 20 and November 27, 2018 meetings. There was no discussion.

**MOTION BY BRANDIE STARR TO APPROVE MINUTES FROM NOVEMBER 20 AND NOVEMBER 27. MOTION CARRIED 4-0 (GANDER WAS NOT PRESENT AT THE TIME OF THE VOTE).**

***CHAIR'S REMARKS***

Chair O'Connor announced that the Brattleboro Museum and Art Center (BMAC) recently approached the Town about purchasing the Union Station Building, the building in which BMAC is located. She said that the Board had discussed the matter in executive session and would bring it for public discussion if and when the matter moved forward. She said that such a purchase would require approval of the Selectboard and Representative Town Meeting.

***MANAGER'S COMMENTS***

Town Manager Elwell announced that the Department of Public Works would be trimming overgrowth in the route of the sidewalk plow over the next few days.

***SELECTBOARD COMMENTS AND COMMITTEE REPORTS***

Starr reported that she and Wessel recently attended the Celebrating Recovery exhibit at the Brattleboro Museum and Art Center. She said that the exhibit was "moving and frank" and it included resources for people who were looking for help. Wessel commented that the exhibit was "both sobering and inspiring."

Wessel announced that federal funding for Brattleboro Community Television (BCTV) may be threatened by a FCC proposal. He said if the FCC proposal passed that BCTV may not be able to operate. He said that he previously served on the BCTV Board and he discussed the important and valuable service BCTV provided to the community. He asked members of the public to submit its support of BCTV to the FCC. O'Connor noted that the matter would be on the next agenda for Selectboard action.

***PUBLIC PARTICIPATION***

None.

***WATER AND SEWER COMMISSIONERS***

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

Award Bid – *Public Works Facility Feasibility Study and Project.* Public Works Director Steve Barrett said that the Commissioners were asked to award a contract for Architectural and Engineering Services to Banwell Architects and SVE Engineering in the total amount of \$20,200, with the sum of \$10,100 to be paid from the Utilities fund. He said that the Public Works facilities were built in 1951 and in need of repairs and updating, as set forth in his memo dated November 27, 2018. He said that funding for a feasibility report and site engineering was approved in the 2018-2019 Highway and Utilities capital budgets. He said that a Request for Proposals (RFP) was recently issued for Architectural and Engineering Services for a Facility Feasibility Study and Report and three bids were received that met the requirements of the RFP, as set forth in the memo dated November 23, 2018, from Owner's Representative Steve Horton,. He said that the bid from Banwell Architects, from Lebanon, New Hampshire, and SVE Engineering, from Brattleboro, Vermont, in the amount of \$20,200 was the low bid. Elwell said that funding was proposed in the long-term project plan. There was much discussion by the Board.

**MOTION BY TIM WESSEL TO AWARD THE BID FOR ARCHITECTURAL AND ENGINEERING SERVICES TO BANWELL ARCHITECTS AND SVE ENGINEERING, IN THE TOTAL AMOUNT OF \$20,200, WITH THE SUM OF \$10,100 TO BE PAID FROM THE UTILITIES FUND. MOTION CARRIED 5-0.**

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

***NEW BUSINESS***

Award Bid – *Public Works Facility Feasibility Study and Project.* O'Connor said that this matter had been discussed in depth under Water and Sewer Commissioners and was under New Business to authorize use of funds from the General Fund. There was no further discussion.

**MOTION BY SHANTA LEE GANDER TO AWARD THE BID FOR ARCHITECTURAL AND ENGINEERING SERVICES TO BANWELL ARCHITECTS AND S.V.E. ENGINEERING, IN THE TOTAL AMOUNT OF \$20,200, WITH THE SUM OF \$10,100 TO BE PAID FROM THE GENERAL FUND.  
MOTION CARRIED 5-0.**

Contract with Artists – *“Ask the River” Project (formerly “River Wall”).* Elwell said that the Board was asked to approve a contract between the Town and the 3 artists collaborating on the public art project now entitled “Ask the River” to be installed on the side of the Brattleboro Transportation Center. He said that the project had previously been approved by the Board as set forth in his memo dated November 29, 2018. He said the contract was in furtherance of the Selectboard's approval. There was some discussion by the Board about future maintenance of the project and liabilities.

**MOTION BY DAVE SCHOALES TO AUTHORIZE TOWN MANAGER PETER ELWELL TO EXECUTE A CONTRACT WITH EVIE LOVETT, ANDY WASSERMAN, AND ELIZABETH BILLINGS FOR THE “ASK THE RIVER” PUBLIC ART PROJECT. MOTION CARRIED 5-0.**

Dangerous Dog Appeal – Police Chief Mike Fitzgerald stated that he sent a letter on October 15, 2018 to Nina Kunimoto declaring her dog “Dozer” to be a dangerous animal. He reviewed the definition of dangerous dog as set forth in Chapter 3 of the Town Ordinances. He then reviewed the incident where the dog attacked a neighbor’s cat on Valgar Street, who later died of its injuries. He also discussed previous complaints and citations against the dog, including a medical report from Clear Choice Urgent Care where a ‘black and white” Pitbull bit its owner. He said that to insure the safety of the public, he issued a Declaration that Dozer be considered a dangerous animal as demonstrated by past instances where it acted in an aggressive manner that would cause reasonable fear of injury when not on the owner’s property. He said that upholding the Declaration would require the owner to take appropriate steps to insure the public’s safety by keeping the animal in a secure enclosure to prevent escape when outside and not under the owner’s complete control, that the dog be muzzled when walked on any public street or property, the owner be required to maintain constant and complete control, and to purchase and maintain insurance on the animal for no less than \$50,000. Attorney Margaret York, appellant/owner Nina Kunimoto, and dog trainer Mark Shuart were present. York provided handouts with pictures of two dogs and information about a canine training program. She stated that Kunimoto owned both dogs, Buddy (brown in color) and Dozer (white and black), and that Buddy was the dog – not Dozer - that bit Kunimoto and attacked the cat. She reviewed the rehabilitative training that Buddy had since received and asked that the Declaration on Dozer be dropped because it was issued to the wrong dog. Kunimoto confirmed that she owned two dogs and she provided some history of her ownership and the trainings that the dogs had received. She discussed the August 4 incident regarding the cat and said that the cat ran up to Buddy’s face and he then bit the cat. She said there were no other witnesses to the event. She said that after the incident she took the dogs home and then went to work. She said she was certain that Buddy bit the cat and not Dozer. She claimed that she had since purchased different collars and leashes with more control and contacted a dog trainer in Newfane for Buddy. There was a substantial amount of discussion by the Board, including the confusion about the two dogs, which dog would be considered dangerous, the concern for safety of the children and domestic pets in the area, and whether to declare Buddy as a dangerous animal. Town Attorney Bob Fisher confirmed that this hearing was to determine whether Dozer was a dangerous dog, and he stated that no citation had been issued for Buddy. He said that the Board was being asked whether to uphold or overturn the Chief’s declaration on Dozer. Chief Fitzgerald said that he was aware that Kunimoto owned two dogs but this was the first time that he heard about Buddy. He noted that in the Police “Supplemental Narrative” (dated October 3) in the Board’s packets, the Animal Control Officer (ACO) stated that she interviewed the owner and the owner explained during the interview that “Dozer grabbed the cat.” He also noted that the report from Clear Choice Urgent Care stated that the dog that bit its owner was black and white. Kunimoto denied that she told the ACO that Dozer bit the cat and that she described the dog to the doctor who treated her for the dog bite. York suggested that an agreement may be considered where the owner would provide safe dogs and that no declaration be issued. The Board continued its discussion and agreed to continue the matter to a later date in order to provide time to acquire additional information.

**MOTION BY KATE O’CONNOR TO CONTINUE THIS APPEAL UNTIL JANUARY 8, 2019. MOTION CARRIED 5-0.**

Southeastern Vermont Economic Development Strategies (SeVEDS) – Update and Request for FY20 Funding. Several representatives from the Brattleboro Development Credit Corporation (BDCC) were present - Adam Grinold (Executive Director), Christy Betit (Regional Community Based Education and Flexible Pathways Specialist), Kristin Brooks (Talent Specialist), Sarah Lang (Southern Vermont Economy Project Manager and Young Professionals Coordinator), and John Pritchard (local attorney). Grinold provided an update on SeVEDS programs and spoke about several activities. He explained that BDCC primarily builds programs and projects and SeVEDS leads with strategies, initiatives, and insight. He spoke about SeVEDS’ grass roots origin and continued efforts with 18 different community members sitting on the Board. He said that SeVEDS was asking the Board to place an article on the Representative Town Meeting Warning with a FY20 budget request for \$3 per person (for a total of \$36,147 for Brattleboro’s population of 12,049). Betit spoke about her work with middle and high schools to gather information in order to provide exposures to careers and career preparedness. Brooks spoke about the BDCC Internship Program and the new Targeted Expertise Recruitment and Retention Program. Lang spoke about the two BDCC programs that she runs, including the Southern Vermont Economy Project and Southern Vermont Young Professionals. John Pritchard spoke about some work

he adds to subcommittees and steering committees. Chair O'Connor commented that the funds requested for SeVEDS would come out of the Revolving Loan Fund and not paid by taxpayers, and that the town contributed \$25,000 last year. There were many comments and questions provided by the Board members, followed by much discussion. The Board generally agreed to discuss the SeVEDS funding request at a later date when it discussed other funding considerations.

**NO MOTION WAS OFFERED.**

FY20 Proposed Budget

- (i) *Assessor's Office*
- (ii) *Planning Services Department*

(i) Town Assessor Jenepher Burnell provided a brief overview about the minor changes in her proposed budget as compared to the current budget. There was a brief discussion by the Board.

(ii) Planning Director Sue Fillion discussed her proposed budget and noted that the overall budget represented an approximate decrease of 9% which was primarily due to the departure of the former Director and restructuring of the department. There was a brief discussion by the Board.

**NO ACTION TAKEN.**

Update re: Previously Proposed Vehicles for Hire Ordinance – Town Attorney. Town Attorney Bob Fisher provided a brief history of past Selectboard discussions regarding amending the Taxi Ordinance so as to include a broader definition of vehicles for hire and include services such as Uber, Lyft, limousines, and rides to the airport. He spoke about the State's study committee that was currently looking into the matter, as set forth in his memo dated November 26, 2018. He said that the State's findings were due on January 15 so the legislature may take up this matter during the upcoming legislative session. He asked the Board whether to proceed with proposed revisions to the Taxi Ordinance at this time or wait to see the direction that the State may proceed with its new regulations. He said that revisions to the ordinance may contain references to DOT requirements so as to avoid duplicities. There was some discussion by the Board. It was generally agreed to move forward to revise the ordinance and application process with a timeframe to report back to the Board after Town Meeting in March.

**NO MOTION WAS OFFERED.**

Approve Grant Application – Thomas Thompson Trust, Brattleboro Community Justice Center. Elwell said that the Board was asked to approve an application of the Brattleboro Community Justice Center for a \$5,000 grant from the Thomas Thompson Trust to support a collaborative project to incorporate restorative justice practices into the ongoing work of local social service agencies, as set forth in the memo from Mel Motel, the Brattleboro Community Justice Center (BCJC) Director, dated November 21, 2018. There was a very brief discussion.

**MOTION BY SHANTA LEE GANDER TO APPROVE THE BRATTLEBORO COMMUNITY JUSTICE CENTER'S APPLICATION FOR A \$5,000 GRANT FROM THE THOMAS THOMPSON TRUST TO PAY FOR STAFF TIME, MATERIALS, FOOD, AND STIPENDS FOR CLIENTS IN A COLLABORATION WITH THE GREATER FALLS COMMUNITY JUSTICE CENTER, GROUNDWORKS COLLABORATIVE, AND YOUTH SERVICES TO ENGAGE, TRAIN, AND MOTIVATE AREA NON-PROFIT STAFF AND CLIENTS TO INCORPORATE RESTORATIVE JUSTICE PRACTICES INTO THE ONGOING WORK OF THEIR ORGANIZATIONS. MOTION CARRIED 5-0.**

Approve Grant Application - Vermont Outdoor Recreation Economic Collaborative Community Grant Program, Recreation & Parks Department for the Skatepark. Recreation & Parks Director Carol Lolatte and Chair of the BASIC (Brattleboro Area Skatepark is Coming) Committee were present. Clark said that BASIC recently conducted two public meetings to discuss a design for the skatepark. He said that Stantec, designer of the skatepark, provided a preliminary design with a construction cost estimate of \$50 - \$70 per square foot, which would cause a shortfall in the available funds by about \$85,000, as set forth in his letter to the Board dated November 28, 2018. He asked the Board to approve a grant application in

the amount of up to \$85,000 from the Vermont Outdoor Recreation Economic Collaborative Community Grant from the Vermont Department of Forests, Parks & Recreation. Lolatte said that she had a conversation with Stantec earlier in the day asking that it review its design in order to reduce the construction costs. She noted that the bid for construction had not yet been issued. Franz Reichsman, from the Finance Committee, asked about the amount of funds that had been collected and the possibility of receiving all or a portion of the grant. There was some discussion by the Board.

**MOTION BY DAVE SCHOALES TO APPROVE THE RECREATION AND PARKS DEPARTMENT'S APPLICATION ON BEHALF OF BASIC FOR AN \$85,000 VERMONT OUTDOOR RECREATION ECONOMIC COLLABORATIVE COMMUNITY GRANT FROM THE VERMONT DEPARTMENT OF FORESTS, PARKS, AND RECREATION TO HELP PAY FOR CONSTRUCTION OF A SKATEPARK AT LIVING MEMORIAL PARK. MOTION CARRIED 5-0.**

There was no further business.

**MOTION BY BRANDIE STARR TO ADJOURN AT 9:15PM. MOTION CARRIED 5-0.**

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Tim Wessel, Clerk