

MINUTES OF THE SHAFTSBURY SELECT BOARD
August 17, 2009
COLE HALL
SHAFTSBURY, VERMONT

Board Present: Lon McClintock (Chairman), Wynn Metcalfe, Bill Pennebaker, Karen Mellinger, Cinda Morse

Others Present: Bob Holmes (Town Auditor), Larry Johnson (Town Lister), William Jakubowski (DRB), Phylis Porio (DRB), Craig Bruder (Planning Commission), Joe Vadakin (Fire Chief), Jim White (Tree Warden), Alice Miller (VT. Rep.), Margaret Becker (Town Administrator), Susan Swasta (Recording Secretary)

1. Call Meeting to Order:

Chairman Lon McClintock called the meeting to order at 7:00 PM.

2. Announcements:

Chairman McClintock stated that the water project will get under way tomorrow.

3. Conflict of Interest Statement:

Chairman McClintock asked if any Board member has a conflict of interest with any topic on tonight's agenda. None did.

4. Public Comments:

There were no public comments.

5. Tree Warden Jim White (Inventory of Trees - Town Highways)

Tree Warden Jim White came to the table. He distributed a hazardous tree assessment spreadsheet and a document on tree risk management. Mr. White stated that he and Road Foreman Ron Daniels had spent about 20 hours in March and April driving the Town's 65 miles of road to compile the inventory of 562 trees. He explained that a higher priority was assigned to trees with targets; these trees would fall into a roadway or wires. Hazardous trees on paved roads (White Creek and Airport Roads) are also considered high priority. Most of the trees will need to be cut, but a few can be pruned.

Ms. Mellinger asked about negotiating with CVPS on trees that would target wires. Mr. White replied that he would like to meet with them, and that it would be good to know in advance of scheduled work by CVPS and the telephone company. He said that some trees could be cut by the road crew, who would need training. He recommended a course called "the game of logging." Mr. Metcalfe said that he and a colleague at Fish and Wildlife are planning a workshop. He will talk to Mr. Daniels about it.

There was discussion of the budget for tree removal, which is included in the highway budget. Ms. Mellinger asked if the trees have any value to loggers. Mr. White replied that they do not, but might be suitable for firewood for needy people. The Department of Corrections runs a program in Bennington for this.

Mr. White said that highest priority would be trees on White Creek Road, then Airport Road, The three most hazardous trees are also a priority. Mr. Jakubowski asked about involving students from the forestry program. Chairman McClintock said this had been mentioned in the past, but nothing came of it. It could be revisited. There was a brief discussion of cleanup of fallen trees. Mr. White said that if the Town takes down a tree that goes onto a resident's property there will probably need to be more attention to cleanup than in the case of a fallen tree.

6. Fire Department Request for Equipment Purchases:

Fire Chief Joe Vadakin came to the table. Chief Vadakin noted that Board members had been sent a letter on the requested purchases. He handed out last year's equipment purchase list and stated that the current list is pared down from last year's. Chief Vadakin went over the anticipated purchases, which include extrication gear for \$7,000, a gas meter for \$600-\$700, foam for \$1,000, air chisels for \$800, communications equipment for \$8,539.40, and a computer and scanner for \$1,200 or less. Helmets, at a cost of \$500, were removed from the list. The total will be \$18,000-\$19,000. Chief Vadakin said he will wait and evaluate purchase of hose. Board members went over Fire Department budget figures. All supported the purchases. Chief Vadakin will get quotes on the items before purchase.

7. Approval of Curb Cuts:

Planning Commission chairman Craig Bruder, Development Review Board (DRB) chairwoman Phylis Porio, and DRB member William Jakubowski came to the table for discussion. Chairman McClintock said that he had talked with Zoning Administrator Tony Zazzaro, who said that he is comfortable signing off on standard curb cuts, with input from Road Foreman Daniels. Curb cuts would be considered by the DRB as part of permit approval. Mr. Zazzaro suggested that non-standard curb cuts be checked for compliance by Mr. Daniels after permit approval. Mr. Daniels, rather than Mr. Zazzaro, would sign off on nonstandard curb cuts.

Mr. Jakubowski stated that the Select Board had decided it did not have the time or background to approve curb cuts, and assigned them to the DRB. The DRB looked over the policy, solicited comments, and concluded that curb cuts can involve lots of technicalities with water runoff. Because of these complications they cannot be considered "standard," so Mr. Daniels should approve all curb cuts and sign off on all completed work. Mr. Jakubowski said that the new ordinance addresses issues like runoff, steepness of driveways, culverts, and the Town's liability.

Chairman McClintock asked if, under the proposed ordinance, Mr. Zazzaro could sign off on a curb cut if the permit meets all requirements. Mr. Jakubowski replied that he could not, that the DRB must approve a curb cut as part of a site plan. Mr. Zazzaro would help applicants fill out the curb cut form, then pass it along to Mr. Daniels for comment. It would then go to the DRB as part of the site plan. Ms. Morse asked if the ordinance covers maintenance by the homeowner as well as installation. Mr. Jakubowski and Mr. Bruder replied that it does.

Ms. Mellinger noted that Town ordinance requires that a driveway on a paved road have a paved apron, and that many new homes have driveways that don't comply. Ms. Porio said that currently there is no follow up on this. Chairman McClintock said this may be a zoning violation. He thinks it makes sense to have a reference to the curb cut ordinance in the zoning bylaw. It was agreed that the Select Board and Planning Commission will look at the ordinance and take it up at the next meeting. Mr. Jakubowski noted that this new duty is beyond Mr. Daniels' job as Road Foreman, and he should receive fees for it.

8. Judicial Bureau Appointments:

Chairman McClintock stated that towns are required to look at ordinances, decide whether they are civil or criminal, and determine that they are in compliance with state statute. The Board needs to designate a judicial officer. Chairman McClintock said that he is willing to go through the ordinances and decide if they are civil or criminal and propose fines. Board members agreed.

Ms. Becker said that she should probably be the custodial official, and that there will also need to be issuing officials who enforce ordinances. Issuing officials could include the animal control officer, constables, fire warden, health officer, and zoning administrator. Ms. Morse asked if enforcement training will be required. Ms. Becker asked if the burn ordinance should be enforced by constables or by the fire warden. There was a brief discussion.

Ms. Mellinger made motion to authorize Town Administrator Margaret Becker to act as the Town judicial custodial official, and to authorize Animal Control Officer Tracy Mulligan, Zoning Administrator Tony Zazzaro, and Health Officer Barth Vander Els as judicial issuing officials. Ms. Morse seconded.

Ms. Morse amended the motion to stipulate that issuing officials receive training in enforcement. Mr. Metcalfe seconded.

Motion as amended carried 5-0-0.

It was agreed to take up the matter of whether a constable or the fire warden should be named issuing official for the burn ordinance at the August 31 meeting.

Ms. Metcalfe made motion to authorize the Vermont State Police, the Vermont Department of Fish and Wildlife, and the Bennington Sheriff's office to enforce Town ordinances. Ms. Morse seconded. Motion carried 5-0-0.

9. Requests to Cater - Bennington College President's House:

Chairman McClintock stated that Bennington College has requested that the catering license cover all fall, from August 24 to December 18, 2009, between the hours of 5:00 and 9:00 PM.

Ms. Mellinger made motion to grant the Bennington College President's House catering license as described.

Ms. Becker will confirm that the date is 2009, not 2008, as stated on the form.

Motion to approve catering license carried 5-0-0.

10. Scenic Byways Committee Appointment:

Chairman McClintock stated that the Bennington County Regional Commission (BCRC) wants to apply for a Rte. 7A scenic byway grant. They would like a letter of support from the Board.

Ms. Morse made motion to provide a Board letter of support to BCRC for the scenic byway grant application. Ms. Mellinger seconded. Motion carried 5-0-0.

Ms. Mellinger made motion to appoint Cinda Morse to the BCRC scenic byway steering committee. Mr. Pennebaker seconded. Motion carried 5-0-0.

**11. Bid Openings:
a. Tree Work -- Myers Road**

Ms. Becker opened four bids: Quality Tree Care for \$12,640; Greater Heights for \$3,400; Edward Legacy Logging for \$5,040; and Organic Tree Care for \$9,500. She noted that the Organic Tree Care and Quality Tree Care bids are complete, while the other two lack references and insurance certificates. Ms. Becker said it may be possible to contact these two and ask for the missing pieces. Ms. Mellinger said she would like to do that.

Ms. Mellinger made motion to authorize Lon McClintock, Ron Daniels, and Margaret Becker to evaluate bids and award the tree cutting bid. Mr. Pennebaker seconded.

Bob Holmes asked if the companies who supplied complete bids should not have precedence over the two who did not. Chairman McClintock replied that he will check with Town Attorney Rob Woolmington if it is unclear. If it turns out to be an issue he will bring it back to the full Board.

Motion to authorize evaluation and award of bid carried 5-0-0.

Ms. Becker noted that road closure notices have gone out to Myers Road residents.

b. Culvert Installation -- Airport Road

Ms. Becker opened three bids: Petricca for \$34,685; Burgess Bros, for \$32,350; and Weaver Landscaping for \$22,000. The bids will be gone over and the contract will be awarded at the August 31 meeting.

12. Community Appropriations Form:

Town Auditor Bob Holmes came to the table. Chairman McClintock handed out a revised appropriations form to Board members, saying he had just finished it at 4:00 PM today. Mr. Holmes stated that he thinks they should not open a can of worms by mentioning the petition process, so he took that out of the cover letter. Mr. Holmes said that the Select Board chooses what organizations go on the ballot. He revised the first paragraph of the letter to specify that organizations send their reports to him, and that the reports be Shaftsbury-specific.

Mr. Holmes said he would like to approve the letter and form tonight so that they can get it out. Ms. Morse stated that she really wants to take some time and make sure they have a standard application and process. She noted that organizations need to know that they have to submit a petition to guarantee the amount of funding they request be on the ballot, because the Select Board could reduce it. Organizations asking to be funded for the first time also need to do a petition to demonstrate community support.

Mr. Holmes replied that his letter only goes out to current organizations, and that new ones would deal with the Town Administrator or Select Board. He suggested putting information on petitioning to guarantee the full amount back in the letter. Ms. Morse suggested also being more specific in the kind of information required in the report.

It was agreed that Ms. Morse will draft a letter geared for new appropriations requests. Ms. Morse and Mr. Holmes will exchange emails to come up with final versions of the two cover letters.

13. Status Report -- Construction Projects:

Ms. Mellinger reported that the sidewalk project is coming along, and that the water project started today. It is expected to take five weeks.

14. Status of Facilities Improvements Assessments:

Chairman McClintock reported that Keefe and Wesner have a draft of the facilities improvements assessment ready. It will be presented at one of the next two meetings.

15. Minutes:

August 3, 2009 minutes

Ms. Morse made motion to approve August 3 minutes. Mr. Pennebaker seconded.

The following corrections to the August 3 minutes were requested:

On page 1, under item 4 (Public Comments), "Wynn Metcalfe" is changed to "Cinda Morse."

On page 2, under item 7 (ESPC Design Services...), fourth paragraph, a last sentence is added:

The Economic Development Committee will be engaged in that process.

On page 2, under item 8 (Myers Road Project Status), the next-to-last sentence is changed to:

Swales will be visually improved.

On page 2, under item 9 (Curb Cuts - General Discussion), a last sentence is added:

Representatives of the DRB and Planning Commission and Zoning Administrator Tony Zazzaro will be invited.

Motion to approve August 3 minutes as amended carried 3-0-2. (Mr. Metcalfe and Ms. Morse abstained because they had not attended the meeting.)

16. Warrants:

The following warrants were presented for approval:

Retirement Warrant #4R: \$219.95

Ms. Morse made motion to pay Retirement Warrant #1R. Ms. Mellinger seconded. Motion carried 5-0-0.

Check Warrant #W5: \$121,061.67 (reappraisal, Calcium, stone, ESPC, TAM management fee, landfill closure, sidewalks, health insurance, water service)

Ms. Morse made motion to pay Check Warrant #W5. Ms. Mellinger seconded. Motion carried 5-0-0.

Payroll Warrant #7: \$7,297.80

Ms. Morse made motion to pay Payroll Warrant #7. Ms. Mellinger seconded. Motion carried 5-0-0.

Retirement Warrant #5R: \$333.33

Ms. Morse made motion to pay Retirement Warrant #5R. Ms. Mellinger seconded. Motion carried 5-0-0.

17. Other Business:

Chairman McClintock stated that the BCRC had requested Shaftsbury to submit a copy of the Town Plan for approval. This will facilitate grants and BCRC's planning activities.

Ms. Morse made motion to submit a copy of the Town Plan to BCRC for approval. Mr. Pennebaker seconded. Motion carried 5-0-0.

Ms. Mellinger reported a complaint about a burn barrel on Road and Gun Club Road. Mr. Metcalfe said he will take the police up there. Ms. Mellinger also reported that a resident from the Bennett Hill/west Mountain area expressed concern over the quality of gravel used on Town roads.

Ms. Morse thanked Ron Daniels for taking care of driveways.

Mr. Pennebaker stated that the broadband survey needs more responses.

Larry Johnson asked if the Board wants him to bring the Town's tree work to the attention of the Career Development Center, where he is a board member. The Board asked him to do so. Mr. Johnson said that it would help Town listers if certificates of occupancy are issued consistently. At present they are not.

Ms. Morse made motion to go into Executive Session (Personnel). Mr. Pennebaker seconded. Motion carried 5-0-0.

The Board went into Executive Session at 9:48 PM.

The meeting adjourned at 11:40 PM.

Respectfully Submitted,
Susan Swasta