

**SHAFTSBURY SELECTBOARD
SPECIAL MEETING DRAFT MNUTES
Cole Hall, 61 Buck Hill Rd
July 23, 2012**

Board Members present: Lon T. McClintock (Chair), Karen Mellinger (Vice Chair),
Craig Bruder Carl Korman, Billy Obenauer

Board Members absent: None

Others present: Margy Becker (Town Administrator), Sandra Mangsen (Interim
Recording Clerk), William Brownell, Paul Miller, Bill Fisk, Cinda Morse, Brent
Peacock, Michael Bidy, Fran Kinney, Jay Palmer, Deena Ruege

1. Call to Order

Lon McClintock called the meeting to order at 7:01 p.m.

2. Announcements

Lon McClintock described site visit to Brownell's Salvage Yard which took place
prior to this meeting.

Access permits for the transfer station are being sold.

He stated the White Creek Road drainage improvement project is still in progress.
The crew has to wait for the new base to settle until the section is paved.

3. Public Comments

There were none.

4. Conflict of Interest Statement

No conflicts were declared.

5. Approval of Contract for Appraisal Services

Larry Johnson, representing the Listers, spoke to the contract proposed for appraisal
services.

**MOTION: To approve contract for assessment services proposed by the
Listers. Moved by Carl Korman; seconded by Karen Mellinger.
Carried, 5-0-0.**

6. Public Hearing Pursuant to 24 V.S.A §§2252-55

Lon McClintock convened the public hearing at 7:10PM concerning Renewal of Location

Approval for Brownell's Salvage Yard located at 1818 White Creek Road. He then explained the new state regulations concerning salvage yards and the procedure for this public hearing.

The public will be invited to address two issues:

- a) approval of location of the salvage yard, and
- b) whether or not any performance standards should be placed on its operation.

Questions from the Board:

Lon McClintock asked Mr. Brownell to describe the business. William Brownell (the owner of the property, along with his wife Loretta) described the operation of the yard and recent improvements (drainage ditch, run-off surveys, location of monitoring units which monitor possible ground water contaminants), and landscaping to screen the salvage operation from the view of neighbors or the roadway. He noted, and Lon McClintock confirmed, that the commercial operation was in place on the property before any zoning regulations existed. It appears the property is located in the rural residential 40 zone.

Paul Miller, a consulting hydrologist who has worked at the site, supplemented Mr. Brownell's comments, in particular with respect to the control of run-off and drainage. Ditches have been constructed to prevent water shedding onto the site. The runoff is directed around the salvage yard site to a culvert on White Creek Road approximately 300 feet from the site. 3 monitoring wells on the site are sampled for, at minimum, VOC's (volatile organics, including chlorinated solvents), semi-VOC's, total petroleum hydrocarbons (TPH), glycols, and metals. 1 drinking water well is on site, which is 500 ft bedrock well.

Mr. Miller reported freon is drained from vehicle air conditioners and sent to a reclaimer. Mercury switches are collected and managed per state regulations. TCE is used for parts cleaning.

Mr. Brownell stated the garage had been rebuilt 4 years ago (and permitted by the DRB in 2008).

Lon McClintock inquired about the fencing, which was put in place two years ago as directed by the state.

Mr. Brownell responded to Carl Korman's question about trees that were planted and were to be maintained after a previous judgment (2009), some of which have since died. He stated that he tried to save the trees that were dying by putting peat moss around the bases. Carl Korman stated, and Mr. Brownell agreed, that the trees were meant to screen the fence from the highway.

According to Mr. Brownell, the Select Board permitted him to store cars in the area just behind the fence after the last hearing he attended (decision June 25, 2007).

Lon McClintock asked William Brownell to provide a copy of a directive from the state

re the planting of trees.

In response to Lon McClintock's question about traffic volume, Mr. Brownell stated that the average was thirty-five to forty-five vehicles per week, over the year. Business is slower than it was ten years ago (response to question from Craig Bruder), and is heavier in the summer than in the winter.

Carl Korman asked about the process of handling arriving vehicles. Mr. Brownell indicated that once the vehicle is classified as useful salvage or a unit to be crushed, it is inspected for leaks and drained if necessary. If vehicles are deemed usable, Mr. Brownell stated that it would be inappropriate to drain them, since the systems would then deteriorate.

Billy Obenauer asked about evidence of smoking on the lot, despite "no smoking" signs. That topic was addressed several more times during the hearing.

According to Paul Miller, the soil would need to be tested yearly. It was last cleaned in 2009.

Carl Korman asked about previous violations (2009) with respect to fencing and oil and antifreeze found on the ground. Mr. Miller and Mr. Brownell asserted that all of the violations have been addressed.

Karen Mellinger asked about number of wells. Paul Miller replied that he received permission from the state to continue with the three existing wells rather than increasing their number to four. Mr. Miller went on to describe the monitoring procedures. He is a state-approved hydrologist, who lives the closest to the Brownell operation, among those whose names were provided to the Brownell's. He reported that there is no formal licensing for hydrologists, but the state maintains an approved list and provides feedback on his reports. He is obliged to report any violations he sees, but asserted that he has seen none since 2009 (when he began working at the site) at the Brownell property. He inspects every month, following state guidelines with respect to Universal Waste Management." Paul Miller will send the board copies of his report(s) re Brownell.

Carl Korman asked Paul Miller if he is confident that the processes in place at Brownell are not likely to lead to problems of contamination of the groundwater. Carl asked if Paul thinks there are any other questions the Selectboard should be asking with respect to the main issues of groundwater contamination and the appearance of the site. Paul Miller is confident that the processes in place are appropriate and effective and suggested no other questions to be posed by the Board.

Billy Obenauer asked about broken glass that he noticed across the road during the site visit. Bill Brownell responded that he did not know the origin of the glass.

Billy Obenauer asked about the size of trucks delivering cars to the lot. Mr. Brownell responded that there may be large ones (forty feet) arriving every two or three days. There being no turn-around space, the trucks normally back in to the property, a process that is supervised.

The “trap” was discussed at some length; Paul and Bill Brownell responded to the questions posed. Its function is to collect any debris that may accumulate, and it is cleared of that material every few weeks. If the sand should lose its ability to filter, it would be replaced and disposed of according to state requirements.

Mr. Brownell reported that he does not deal with propane tanks or air conditioners; Freon from car air conditioners is removed by a machine that extracts it safely.

Questions from the public:

Lon McClintock explained that he would transmit the questions from the public to appropriate individuals.

Cinda Morse inquired about the need to report evidence of smoking near flammable material. Paul Miller responded that he has not noticed that evidence, but doesn't believe he would be required to report any such evidence.

Bill Fisk inquired about water flowing along the road in the front yard drainage ditch. He noted that there is a sheen on the surface and asked what it might be. It is noticeable after heavy rain from time to time. Paul Miller responded that it could be from natural sources.

Cinda Morse commented that after a heavy rain, especially during a wet spring, both ends of the drainage ditch run orange and carry a sheen near both culverts

Bill Fisk inquired about training he believes is required for operators of salvage yards. Bill Brownell responded that he has not taken any special new training, but believes that the relevant law is new. He is waiting to see what is required. Lon McClintock clarified that the regulations are not yet quite in place, but are referred to in the letter the Selectboard received from the state. Paul Miller has in fact gone through the Universal Waste Management Plan with Mr. Brownell and his employees.

Public Comments

Brent Peacock reported that he has worked on projects for the Brownell's and believes the operation to be well controlled.

Cinda Morse stated that the area is residential, and that an adjacent property that is now part of Brownell's operation, had had a well with contaminated water, which had not been used for some years. She further remarked that Mr. Brownell has not been proactive in terms of caring for the environment, having taken corrective measures only after neighbors had launched lawsuits. She lives next door to the salvage yard, and hopes that Mr. Brownell will be sensitive to neighbors' concerns. She wants monitoring by the town and stringent performance requirements. Lon McClintock asked her about noise problems; she reported not have been disturbed by noise from the business. Lon asked if there is anything the Selectboard should be requiring, given that the town is permitted to impose performance conditions on the business at that site. For instance, the number of cars on the site at any given time could be limited.

Carl Korman cited VT statute 24 V.S.A. Chapter 61, which was the statute invoked with respect to the 2009 violation. Paul Miller confirmed that the statute cited is the correct one and reported that the Brownell's have addressed all of the items required with respect to the violations that were cited.

Lon McClintock explained that after this required Public Hearing, the Selectboard can approve the business at the location according to a law passed in 2009. If the permit is granted for 5 years, the next renewal may be granted without a public hearing, so that the public is assured of only this opportunity to question and comment.

Bill Fisk recommended approval of the application, conditional on annual environmental testing for possible contaminants, with the subsequent reports to be made available to the public.

Lon McClintock read a written comment from Rob Steuer. His concerns include traffic hazards, fires as environmental hazard, and the appearance of the property, calling it an "absolute eyesore not in keeping with the neighborhood." He noted that the salvage operation may have impact on the environment, and requested that environmental impact studies be conducted. With respect to the letter's assertion that "two or three" fires had occurred, Mr. Brownell reported that there had been only one large fire.

Lon McClintock read a comment from Rolf Sternberg, who noted that the screen in place was "makeshift," and that cars were in fact visible from visible from the road. He also complained that juniper bushes meant to screen the salvage yard from his own property had died. There was some discussion of these trees or bushes, in an attempt to determine exactly where they were located.

A member of the public explained which trees were destroyed in the fire (those near the garage).

Michael Bidy noted that all of the residents of the area had purchased property on what had been farmland, knowing that there was a junkyard nearby. He asserted that it would be a "cruel use of the SB's power," to prevent the business from continuing, noting that the Brownell's are a hard-working family. Lon McClintock asked about the need for performance standards. Michael Bidy responded that Brownell should be required to meet state standards, and saw no need to go any further than that.

Fran Kinney remarked that the SB should approve the application and that Brownell should conform to state requirements.

Craig Bruder asked about the current garage location and footprint, which was replaced after the fire. Brent Peacock responded that the building occupies precisely the same footprint, but the roof is a bit higher and it is constructed on a new foundation.

There being no further comments from the public or the SB members, Lon McClintock closed the public hearing at 9:05 p.m.

7. Application for renewal of Approval of Salvage Yard Location

The Selectboard agreed to discuss the application in Deliberative session later in the meeting.

8. Other Business

Karen Mellinger raised the issue of road maintenance. Lon agreed that the Selectboard should seek information from the road foreman at the subsequent meeting.

9. Warrants

MOTION: To approve Check Warrant (no #) for vacation advance pay in the amount of \$447.39. Moved by Craig Bruder; seconded by Billy Obenauer. Carried, 5-0-0.

MOTION: To approve Payroll Warrant PRW 03 in the amount of \$8025.42 Moved by Karen Mellinger; seconded by Billy Obenauer. Carried, 5-0-0.

MOTION: To approve Check Warrant #PR3 (Retirement) in the amount of \$126.32. Moved by Craig Bruder; seconded by Carl Korman. Carried, 5-0-0.

MOTION: To approve Check Warrant # 03 in the amount of \$13,911.76. Moved by Craig Bruder; seconded by Carl Korman. Carried, 5-0-0.

10. Deliberative Session

MOTION: To move into deliberative session. Moved by Carl Korman; seconded by Karen Mellinger. Carried, 5-0-0.

The Selectboard exited Deliberative Session at 10:12PM.

11. Approval of Minutes - tabled

12. Adjournment: The meeting was adjourned at 10:12PM.

Respectfully submitted,

Sandra Mangsen
Recording Clerk