

TOWN OF HINESBURG SELECTBOARD MEETING  
MAIN HALL, HINESBURG TOWN HALL  
JULY 28, 2016  
MINUTES

DRAFT

Members present: Michael Bissonette; Phil Pouech; Andrea Morgante; Tom Ayer; Aaron Kimball.  
Others present: Town Administrator Trevor Lashua, Town Attorney Bud Allen, and the attached list.

Michael called the meeting to order at 6:31 p.m.

**Executive Session – 1 V.S.A. § 313 (a) (1) (E) and (F)**

The Selectboard briefly discussed whether or not executive session was necessary to discuss with the Town Attorney whether or not to appeal the recent Rule 59 decisions of the Environmental Court in the Hannaford supermarket matter.

*Phil moved, and Tom seconded, a motion to find that premature general public disclosure would place the municipality at a substantial disadvantage with regards to potential or probable litigation to which the municipality is a party. The motion passed 5-0.*

*Phil moved, and Tom seconded, a motion to enter Executive Session pursuant to 1 V.S.A. § 313 (a) (1) (E) and (F), to include the Town Administrator and the Town Attorney, for the purpose of discussing the Environmental Court's Rule 59 decisions regarding Hannaford and possible appeals to the Vermont Supreme Court. The motion passed 5-0.*

The Selectboard entered executive session at 6:34 p.m.

*Tom moved, and Phil seconded, a motion to exit executive session at 6:59 p.m. The motion passed 5-0.*

*Phil moved, and Tom seconded, a motion to authorize the Town Attorney to file appeals with the Vermont Supreme Court in association with the Environmental Court's decisions on Hannaford. The motion passed 5-0.*

Areas of specific concern are the traffic light at Mechanicsville Road and VT Route 116 and the removal of a requirement concerning a post-construction traffic study to be conducted by Hannaford.

**Public Comment**

There was no public comment on matters not on the agenda.

**Additions/Deletions/Changes to the Agenda**

There were no additions, deletions, or changes to the agenda.

**Consider Action on the Proposed Deed of Easement and Stipulated Agreement**

Michael opened the discussion by reading the rules of conduct to the Selectboard and crowd.

*Tom moved, and Aaron seconded, a motion to approved v.06.04 of the Deed of Easement, Stipulated Agreement, and attachments with the following amendments:*

- *Compensation to be \$250,000*
- *Vermont Gas shall be required to employ horizontal directional drilling to cross Geprags Park*
- *Require a performance bond by Vermont Gas for the horizontal directional drilling.*

Andrea asked questions related to the placement of the amendments and jurisdiction and enforcement for any questions or disputes. Trevor gave examples and pointed out the places for amendments.

Andrea said she wanted to strike the \$470,000 in construction cost from the Richmond Road distribution extension in the stipulated agreement.

*Andrea moved, and Phil seconded, a motion to amend the original motion by including removal of the \$470,000 reference ("at an estimate of \$470,000") from the stipulated agreement. The motion passed 5-0.*

Trevor read the amended motion:

*Tom moved, and Aaron seconded, a motion to approved v.06.04 of the Deed of Easement, Stipulated Agreement, and attachments with the following amendments:*

- *Compensation to be \$250,000*
- *Vermont Gas shall be required to employ horizontal directional drilling to cross Geprags Park*
- *Require a performance bond by Vermont Gas for the horizontal directional drilling.*
- *Remove the reference to \$470,000.*

*Phil moved, and Andrea seconded, a motion to amend the amended motion to increase the compensation from \$250,000 to \$500,000.*

The Selectboard discussed the motion, weighing the pros and cons. Tom Murray of Vermont Gas indicated the company was not likely to engage in with the \$500,000 idea. *The motion failed 2-3 (Andrea and Phil in favor; Michael, Tom, and Aaron opposed).*

Andrea raised concerns about road conditions and crossings. The Board discussed the impacts on Baldwin Road, the offer from Vermont Gas to assist in repair and replacement, and the crossings of other roads.

Michael opened the floor to public comment. For the next hour and a half, various members of the public spoke against and for the agreement and deed of easement.<sup>1</sup>

Michael closed the public comment portion. The members each gave brief remarks on the proposed deed and agreement, the process, and natural gas pipelines generally. The Selectboard members expressed appreciation for the individuals in attendance, and for the contributions of those involved throughout the process.

Michael read the motion again:

*Tom moved, and Aaron seconded, a motion to approved v.06.04 of the Deed of Easement, Stipulated Agreement, and attachments with the following amendments:*

- *Compensation to be \$250,000*
- *Vermont Gas shall be required to employ horizontal directional drilling to cross Geprags Park*
- *Require a performance bond by Vermont Gas for the horizontal directional drilling.*

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<sup>1</sup> *The draft minutes, and indeed any final set, are not intended to be a transcription of all that was said. To hear or view the entire commentary, please visit VCAM's website and view the meeting. A subsequent draft may be made available that will add more of the dialogue; this draft is to ensure compliance with Vermont's open meeting law.*

- *Remove the reference to \$470,000.*

*The motion passed 3-2 (Michael, Tom, and Aaron in favor; Andrea and Phil opposed).*

*Phil moved, and Tom seconded, a motion to adjourn at 9:14 p.m. The motion passed 5-0*

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2 MAIN HALL, HINESBURG TOWN HALL  
3 JULY 28, 2016  
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14 Hannaford supermarket matter.  
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17 the municipality at a substantial disadvantage with regards to potential or probable litigation to which  
18 the municipality is a party. The motion passed 5-0.*  
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33 Areas of specific concern are the traffic light at Mechanicsville Road and VT Route 116 and the removal  
34 of a requirement concerning a post-construction traffic study to be conducted by Hannaford.  
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37 There was no public comment on matters not on the agenda.  
38

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49 Park*
- 50 • *Require a performance bond by Vermont Gas for the horizontal directional drilling.*

51  
52 Andrea asked questions related to the placement of the amendments and jurisdiction and enforcement for  
53 any questions or disputes. Trevor gave examples and pointed out the places for amendments.

54  
55 Andrea said she wanted to strike the \$470,000 in construction cost from the Richmond Road distribution  
56 extension in the stipulated agreement. Aaron asked if the concern was technical or philosophical; Andrea  
57 said it was philosophical.

58  
59 *Andrea moved, and Phil seconded, a motion to amend the original motion by including removal of the*  
60 *\$470,000 reference (“at an estimate of \$470,000”) from the stipulated agreement. The motion passed 5-*  
61 *0.*

62 Trevor read the amended motion:

63 *Tom moved, and Aaron seconded, a motion to approve v.06.04 of the Deed of Easement, Stipulated*  
64 *Agreement, and attachments with the following amendments:*

- 65 • *Compensation to be \$250,000*
- 66 • *Vermont Gas shall be required to employ horizontal directional drilling to cross Geprags*  
67 *Park*
- 68 • *Require a performance bond by Vermont Gas for the horizontal directional drilling.*
- 69 • *Remove the reference to \$470,000.*

70  
71 *Phil moved, and Andrea seconded, a motion to amend the amended motion to increase the compensation*  
72 *from \$250,000 to \$500,000.*

73  
74 Aaron said he was concerned that the motion represented a gamble. Andrea said that Vermont Gas put the  
75 amount on the table in a prior offer. Aaron said the prior offer represented a different point in the process  
76 and was not an offer to be considered or used for comparison. Tom Murray of Vermont Gas indicated the  
77 company was not likely to engage in with the \$500,000 idea, that it was a settlement offer that did not  
78 include directional drilling which is meant to address a number of the environmental concerns and was a  
79 significant investment.

80  
81 *The motion failed 2-3 (Andrea and Phil in favor; Michael, Tom, and Aaron opposed).*

82  
83 Andrea raised concerns about road conditions and crossings. The Board discussed the impacts on Baldwin  
84 Road, the offer from Vermont Gas to assist in repair and replacement, and the crossings of other roads.  
85 Trevor offered a reminder that the language discussed was inserted at the request of the Town at an earlier  
86 point in the process.

87  
88 Michael opened the floor to public comment. For the next hour and a half, various members of the public  
89 spoke against and for the agreement and deed of easement.<sup>1</sup>

90  
91 Amy Ross asked what the pipeline was made of, whether or not it was double-walled, and if directional  
92 drilling impacted the pipe itself. John St. Hilaire of Vermont Gas said the pipe is single-walled steel,  
93 repeatedly tested, pressure tested at higher than operating pressures, and inspected for anomalies and  
94 assurances of integrity. The pipe itself is coated to mitigate abrasion during directional drilling, as the  
95 pipe is technically pulled through the drilled pathway.

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96  
97 Nancy Baker said there was not enough time to review the proposed changes, and that the wetlands  
98 permit had not been obtained.  
99

100 Tom Murray of Vermont Gas explained the changes in corridor maintenance, stating that the drilling  
101 would result in a 5' wide path mowed every two to three years as opposed to the 20' wide path with open  
102 trench construction. Tom said that the wetlands permit was never invalidated by the State and that the use  
103 of directional drilling would not require an amendment to that existing permit.  
104

105 Bob Hyams stated he was unhappy with the process and wanted an alternate route considered. Michael  
106 Bissonette asked him to read the Conservation Commission's motion regarding directional drilling, as the  
107 commission considers the conditions under which it would like to see it occur. Bob read the motion.  
108

109 Lynn Furno asked about overweight vehicle enforcement and said she read a study that stated that animals  
110 did not return to areas where a pipeline was installed. Trevor said that the State Department of Motor  
111 Vehicles is responsible for and qualified to perform overweight vehicle enforcement; the Town is  
112 working towards that goal but does not have the equipment.  
113

114 Richard Watts commended the Selectboard for the lengthy discussion, and suggested the Town table  
115 action while section additional outside assistance.  
116

117 Bobbi Carmalot from Cornwall spoke about her experience and concern about precedent.  
118

119 Bob Davis said the directional drilling is better but will still impact the wetlands and asked what happens  
120 if the pipeline leaks due to settling or earth movement. John St. Hilaire of Vermont Gas said drilling  
121 results in a pipeline depth between 30' and 50', so earth movement is not a leak concern. John talked  
122 about the company's State and Federal safety, testing, and monitoring requirements.  
123

124 Bill Marks was recognized, but passed the microphone to Bob Hyams. Bob presented what he said was  
125 the Conservation Commission's counter-proposal, which included a change in route, \$1 million in  
126 compensation, and all legal and technical expenses paid. Michael Bissonette asked Bob and Bill at which  
127 meeting did the Conservation Commission discuss and vote on this counter-proposal. Bob said it fits the  
128 intent of a motion made on July 12<sup>th</sup>, but did not answer the question otherwise. Bob spoke about the  
129 various functions and values of different wetlands.  
130

131 Theora Ward said she worried the documents have too many vague phrases or other statements and that  
132 the Town needs an attorney well-versed in such matters.  
133

134 Rachel Smolker asked if the Selectboard had requested all records related to directional drilling, why ECI  
135 no longer worked for Vermont Gas, and whether or not the Selectboard would postpone action. She also  
136 asked about any issues due to the proximity to the electric lines.  
137

138 John St. Hilaire answered the ECI question by saying that the company moved to a new contractor. He  
139 then described the system used to mitigate electric co-location issues, such as corrosion. John said that  
140 everything is reviewed by the gas engineer working for the Public Service Department and a gas engineer  
141 hired by the company.  
142

143 Laura Wisniewski asked if Vermont Gas could sell the pipeline and easement. Trevor said yes, and  
144 pointed to language the referenced successors and assigns, as well describing how the documents tie to

145 the Public Service Board's project approval, which establishes the pipeline's construction and operation  
146 conditions.  
147

148 Laura Wisniewski asked why eminent domain was necessary. Phil described why, starting with the deed  
149 and its covenants and the legal opinions regarding eminent domain and voluntary conveyance of  
150 municipal property. Andrea said eminent domain was necessary to avoid violating restrictions on use of  
151 the park in the covenant.  
152

153 Ed Matthews said that the pipeline, as proposed and with the use of directional drilling, will have minimal  
154 to no impact on use of the park. He said that the funds can be used to enhance the original donation of the  
155 Geprags sisters through the support of recreation and conservation activities.  
156

157 Lee Bast said that protection of the park is paramount, and that the documents attempt to ensure that the  
158 pipeline is installed and maintained in a safe and responsible manner. He said that natural gas is a better  
159 option than many alternatives.  
160

161 Rick Palieri said he was a park user and encouraged the Selectboard and crowd to consider whether or not  
162 either feels the worst-case scenario is a risk worth taking.  
163

164 John St. Hilaire of Vermont Gas said that the worst-case scenario may be a need to excavate a section of  
165 pipeline at its maximum depth, though that was unlikely.  
166

167 Lawrence Shelton read from the covenant and referenced an explosion in Pennsylvania. He also asked  
168 about an alternative route through the mowed area.  
169

170 Tom Murray of Vermont Gas said the alternative route creates a zig-zag in the line, which delays the  
171 schedule and process and has its own wetlands impacts.  
172

173 Janice Nadworny said there should be a Townwide vote. Tom Ayer said that the a vote was not necessary  
174 and the Selectboard, as elected officials representing the people, had a responsibility to make decisions of  
175 this nature.  
176

177 Andrea said that statute related to conveyance of municipal and park lands required a vote. Trevor said  
178 that, based upon the opinion of two attorneys, eminent domain was considered a taking and not a  
179 conveyance, thus a vote was not required.  
180

181 George LeClair said that Michael's, the pipeline contractor, had done a great job. George said he knew  
182 the Geprags sisters, and think they would support the Town after consideration of their concerns. He said  
183 the funds could be used to assist in milfoil mitigation efforts at Lake Iroquois.  
184

185 Michael Bissonette said that the Selectboard would be taking approximately 10 more minutes of public  
186 comment at 8:37 p.m.  
187

188 Bob Thiefels said he still has concerns about whether or not the Richmond Road extension will occur.  
189 Tom Murray of Vermont Gas said that the company, if an agreement is reached with the Town, will put  
190 the distribution lines in along the Richmond Road corridor to North Road.  
191

192 Bob Thiefels and Melanie Peyser of Monkton both said that Middlebury residents would be receiving  
193 200' of free service line installation. Tom Murray said that was not correct, the company is limited by its  
194 tariff to the 100' of service line in the agreement with the Town.

195  
196 Frank Koss said that the agreement attempted to be fair and to benefit the Town in a proceeding that is  
197 otherwise a taking. He said that cost overruns on the project impact ratepayers. Frank said that continue to  
198 try to squeeze more out of Vermont Gas, after negotiating \$250,000 and directional drilling, would make  
199 the Town look greedy.  
200  
201 Peter Erb said he did not want the park taken and that he is concerned about unseen damage to the roads.  
202  
203 Don Rendall of Vermont Gas said he wanted to thank the Selectboard and community for the hard work,  
204 thinking, and dialogue. He said the Hinesburg is the last piece of the puzzle and that the pipeline is a  
205 chance to provide choice and opportunity to residents in Addison County.  
206  
207 Chuck Reiss said he disputed the prior statement regarding choice, and added that the State needs to look  
208 at alternatives to meet the goals listed in statewide energy policy. He said that 20-year rates for solar and  
209 heat pumps are comparable to or better than oil and gas.  
210  
211 Shaina Casper of Richmond said she works for the Toxics Action Center and that natural gas can be a  
212 more potent toxin than carbon.  
213  
214 Michael closed the public comment portion.  
215  
216 The members each gave brief remarks on the proposed deed and agreement, the process, and natural gas  
217 pipelines generally.  
218  
219 Tom Ayer thanked participants in the process. He read a statement that listed the three main options –  
220 allow eminent domain proceedings to continue without contest or participation, contest the eminent  
221 domain proceedings, or reach an agreement that includes protections for the park and Town and  
222 compensation. Tom said that the first two options are likely to result in approval for the pipeline and little  
223 else for the Town other than minimal easement compensation. Tom said that heating bills for residents  
224 may be lower. Tom said that, at the end of the day, there will still be disagreement about any agreement.  
225  
226 Phil Pouech said he is personally opposed to the pipeline project. He said that, as a practical matter, the  
227 Town faces a conundrum with the Public Service Board’s approval of the project – the pipeline is moving  
228 forward. Phil said the responsibility he and members of the Selectboard have is to find the best path  
229 forward for the Town as a whole. Phil said that directional drilling should be done as a matter of course  
230 and not as a negotiated item. Phil said he is concerned that the compensation proposed is not what the  
231 park is worth.  
232  
233 Aaron Kimball said that the March vote was among his first on the Selectboard, and that process and  
234 language concerns informed that vote. Aaron thanked those that participated and said he appreciated it as  
235 a sign of a health community. He said that the Selectboard needs to be mindful of its job, which is specific  
236 to the good of the Town and a duty to broadly represent that. Aaron said no solution will solve everyone’s  
237 problem, and the meeting was the night to make a decision. Aaron said that the discussion has taken a  
238 great deal of time, energy and resources and the Town needs to return its focus to the work yet to do.  
239  
240 Andrea Morgante said that it is good the process has been open, and that a tremendous amount of research  
241 and passion has given the Selectboard a good foundation. Andrea said timelines were not ideal, and said  
242 she is not sure what ideas came from the subcommittee process that were incorporated into the version to  
243 be voted on. She said that issues remain, and that the Town is ceding too much authority to the Public  
244 Service Board with regards to caring for the park. Andrea said the agreement could be further refined,

245 such as more information on directional drilling and its potential impacts. Andrea said she has lost  
246 confidence in the abilities of State authorities through this regulatory process. Andrea said she will not  
247 support the agreement and does not feel long-term interests are being served.

248  
249 Michael Bissonette thanked everyone for participating. He said he was proud of the quality of the debate.  
250 Michael said he believes directional drill is the best choice to protect the park.

251  
252 Michael read the motion again:

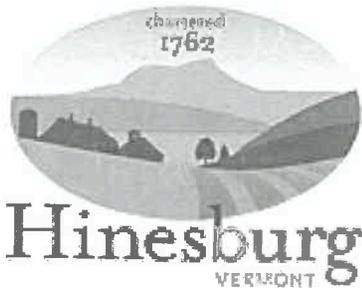
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- 258 • *Require a performance bond by Vermont Gas for the horizontal directional drilling.*
- 259 • *Remove the reference to \$470,000.*

260 *The motion passed 3-2 (Michael, Tom, and Aaron in favor; Andrea and Phil opposed).*

261  
262 *Phil moved, and Tom seconded, a motion to adjourn at 9:14 p.m. The motion passed 5-0*

DRAFT



# Selectboard Meeting Sign-in Sheet July 28<sup>th</sup>, 2016

1. John St. Hillaine
2. Tom Murray
3. Will Dodge
4. J. B. Walker
5. Ashley Shaw
6. FRANC KASS
7. Don Reudall
8. Bob Davis
9. John Lyman
10. George B LeClair Hinesburg
11. Dennise Casey, So Bvt.
12. Jennifer McQuin
13. Dennis Casey
14. Nelson W. Shingler
15. Virginia Slingerland
16. Bill Sayre
17. ED MATTHEWS
18. Miriam Cravat
19. JONATHAN WAINER
20. Laura Wisniewski
21. Shannon Kelly
22. BOBBE CARNWATH
23. Rachel Smolker
24. Shaine Kusper
25. Georgiy KLOCHK
26. Loth Oyer

27. Suzie McCoy

28. JAM CARON

29. Torsha Novak

30. Karl Novak

31. Marie Ayer

32. DH Miller

33. LE<sup>(ROBERT)</sup> BAST

34. Laurence Shelton

35. Chris Hendel

36. Cynthia Hendel

37. Barbara Foraver

38. Theora Ward

39. Lynn Furno

40. JEFFREY DEBORAH

41. Janice Nadworny

42. Dairdre Eib

43. SPENCER WALLACE

44. Bill Nasha

45. Kevin Cteney

46. Renée Wunderlich WPTZ

47. Ann M Ross

48. Elissa Rose

49. Diane Dean

50. Josh Sky

51. Pik Palien

52. PETER ERB

53. BILL LIPPERT

54. Ginny Roberts

55. NANCY BAXER

56. Jane Palmer

57. Natha Palmer

58. Jennie Palmer

- 59. Bob Hycus
- 60. LINDA GABE
- 61. Terence Cuneo
- 62. Kari Cuneo
- 63. Ms. Ah
- 64. Ronald Wuttz
- 65. Carrie Fern
- 66. Dad Fern
- 67. Lisa Bennett

- 68. Merrily Lovell  
Hinesburgs land owner
- 69. ~~Ray~~ Tony Stahl
- 70. M. Lynn Mutschina  
M. Lynn Mutschina
- 71. Stephen Van Dusen Stephen Van Dusen
- 72. Arthur Hynes Arthur Hynes
- 73. Bob Thieftz
- 74. Wayne MACEYKA
- 75. Bonnie Morrissey
- 76. Oliver Corriand
- 77. DIANE DERRICE
- 78. TIMOTHY HOOPES
- 79. Chuck Ross
- 80. \_\_\_\_\_