



Select Board

Town of Hinesburg
10632 Route 116 Hinesburg VT 05461
802.482.2281 | hinesburg.org

Meeting Minutes - December 5, 2016

- Draft -

Attending the Meeting: Mike Bissonette, Phil Pouech, Tom Ayer, Aaron Kimball, Andrea Morgante, Trevor Lashua, Renae Marshall and attached list.

Meeting called to order at 6:31 p.m.

Executive Session – 1 V.S.A. § 313 (a) (1) (B) and (E), and (a) (3)

Executive session is required for two reasons:

- To discuss the latest developments related to the excessive force allegation and the status of the employees involved.
- To discuss upcoming collective bargaining negotiations with AFSCME, the union of which five full-time employees (highway and water/wastewater) are members.

Two motions are advised – one finding that executive session is lawful and necessary and one to enter executive session. Any action to be taken must occur in public once the Select Board has adjourned its executive session.

Tom moved the Board consider a motion to find that premature general public disclosure would place the municipality at a substantial disadvantage with collective bargaining, pending or probable civil or criminal litigation, and to discuss an employee evaluation. Second by Aaron and approved with 5 yes votes.

Tom moved the Board consider a motion to enter executive session, to include the Town Administrator, Renae Marshall and Police Chief, under the provisions of 1 V.S.A. § 313 (a) (1) (B) and (E), and (a) (3). for discussion on the excessive force allegation, collective bargaining and Observatory Rd. Second by Aaron and approved with 5 yes votes.

Andrea moved the Board come out of executive session, second by Tom and approved with 5 yes votes.

Phil moved the Board consider a motion to extend paid administrative leave to a Police Department employee for a period not to exceed December 20, 2016. Second by Aaron and approved with 5 yes votes.

There were no changes to the agenda.

Public Comment

Nathan Miner, of Burritt Road, was present to bring his concerns with the Baldwin Rd / Charlotte Rd intersection to the Board. He said the marker posts installed have been hit by vehicles and he feels they are a safety hazard. He said the petition regarding paving the road was not looking to change that intersection and he feels it works well the way it was before the change.

Bruce Johnson protests the change made and also said he does not understand the process that allowed the change by the Town.

Sue Johnson asked Board members if they drove down Charlotte Road in the dark as she suggested so they could see the problem with the reflectors. Mike B said he had and did not have a problem. Phil drove it but not in the dark. Sue wanted to know why the Town is insisting on this change.

Mike B explained there are safety concerns and this is a trial to narrow a very wide intersection.

Andrea said the Board has not discussed this in regards to the decision making process, she referred to Mike B's comment regarding the width of the road but said the Board had no discussion on how to respond to public comments on the issue.

Mike then said he would add item 9A to the agenda for further discussion and invited those interested to stay to participate in that.

Renaë said Mike Anthony, who was watching the meeting at home sent her two comments regarding this – the new width is 35 feet which is the same as Lincoln Hill Road intersection was narrowed to and the stop sign is set back from the fog line 3 feet.

John K said it would be good to have a sign on the Charlotte Road warning of a curve ahead.

Board, Committee, and Commission Annual Visits

Lenore Budd, Chair, Trails Committee, told how the trails committee mission and goals fit in with the Town Plan as well as presenting a list of year 2016 projects completed and 2017 priorities.

The committee will be requesting \$750.00 for 2017 budget.

The Board thanked Lenore and the committee for their hard work. Andrea added her thanks to the landowners for their generosity with trail easements.

Tom asked if the committee has contacted landowners regarding possible connecting trails leading to the Bissonette fields.

John K stated regarding trails that the Hinesburg Land Trust supports the Gillespie Trail Easement.

Consider Accepting Gillespie Easement for a Trail

Andrea recused herself as she is on the Land Trust Board.

The Trails Committee has been working with the Hinesburg Land Trust (HLT) to reach agreement for a 20' wide, 0.85 mile long trail easement on a 35-acre parcel owned by HLT adjacent to Lewis Creek Road. The easement includes a portion of the trail and a parking/access area. Though HLT owns the land on which the easement would sit, it has not been formally conserved. Attorney Joe Fallon has reviewed and amended the document.

Phil moved the Board consider a motion to accept the easement as presented and authorize the Town Administrator to sign on behalf of the Town (the “grantee”). Second by Aaron and approved with 4 yes votes.

Consider Rejecting Alfalfa Lane Irrevocable Offer of Dedication

Mike B recused himself from this topic.

Gail Henderson-King, of White and Burke, reviewed with the board the request, decisions of the DRB and current status of the proposal.

Town Attorney Bud Allen has reviewed the materials and sees no issues as presented.

Tom moved the Board consider a motion to reject the irrevocable offer of dedication for Alfalfa Lane & Water Lines and Sewer Lines Thereunder, second by Aaron and approved with 4 yes votes.

Aaron moved the Board consider a motion to accept the Second Amendment to Declaration for Haystack Crossing Community and authorize the vice chair to sign, and for all applicable documents to be held in escrow by legal counsel till the Medical center purchase of the property is complete. Second by Phil and approved with 4 yes votes.

Tom asked if the sale does not go through will the right-of-way still exist and Gail replied it will, if no sale all goes back to the original agreement.

Baldwin Road

Trevor reviewed the process to this point including discussions with the Road Foreman regarding paving.

Tom said he feels the purpose is sound but is not convinced exactly how it should be laid out.

Sue J. said the metal reflectors are dangerous as they are not seen at night in a way to delineate the turn.

Ken Brown said the reflectors can only show an estimate of what it might look like, he agrees with Tom that something needs to be done with the intersection.

Sue asked what can be done to influence the Board to change this.

Mike B asked what can be done to make her feel it is safer.

Aaron asked if there is anything that can be done with the reflector markers to improve visibility of the turn.

Phil suggested getting sketches of several options to take comment on.

Mike B said this will be scheduled for the January 2nd meeting at which time the Board will have costs to have the intersection changes engineered.

Discuss Legal Services

The impending “retirement” of Bud Allen as Town Agent presents an opportunity to discuss more broadly how the Town will seek its legal services provider.

The Town Attorney and the Town Agent are not automatically the same, though that has largely been Hinesburg’s functional reality. The following is from VLCT’s *Select Board Handbook* and explains the difference well: “Most Select Boards in Vermont employ an attorney to advise them on matters involving the governance of the town. However, no specific statute authorizes the Select Board to hire

a town attorney; the power to do so is implied from the Select Board's general duty to run the business of the town. 24 V.S.A. § 872. The town agent plays a limited role in town government. Although statute provides that an agent to prosecute and defend suits must be elected, no statute provides the agent with any independent authority to act. In fact, case law makes it clear that the town agent has no authority to originate suits in favor of the town or to settle or compromise suits in which the town has an interest, but that the agent's duty consists merely of assisting when litigation is in progress. *Cabot v. Britt*, 36 Vt. 349 (1863); *Clay v. Wright*, 44 Vt. 538 (1872). In addition, the fact that a town agent is elected does not remove the authority of the Select Board to hire an attorney to represent the town, to conduct litigation and to settle suits on behalf of the town. Accordingly, many towns do not have active town agents, and those that do often limit the agent's activities to picking an attorney for the town or acting as a liaison between the Select Board and the town attorney in particular matters."

Staff has been collecting requests for proposals for legal services from municipalities throughout the State to use as models for its own request for proposals. The request for proposals process would eliminate the need for a Town Agent to assist in picking an attorney, and having a full-time staff (unlike smaller, more rural communities) obviates the need for a Town Agent to act as liaison between the Board and its lawyers. The Town's legal needs are increasingly varied – land use, personnel, real estate, road and bridge-related, public health, utility negotiation, contract review, and so on. The Town has sought and received advice and/or representation from six attorneys/firms, including the Town Attorney, in FY17 alone. The lawyer count does not include the two attorneys hired by our property and casualty insurer as part of the excessive force allegation. The Town of Hinesburg is at the point where it would benefit from the services of a firm or individual attorney practicing regularly or almost exclusively municipal law in all of its forms. Such a move also brings the Town's legal needs under a single "roof."

The budget in development includes additional legal funds (+\$9,500 – raising the spending level from \$15,500 to \$25,000, if approved) sufficient to present both a realistic approximation of the Town's "true" legal services costs (the Town is already overspent on its legal services line with 60% of the fiscal year remaining) and to switch to what will likely be a more expensive option regardless (the current hourly rate paid for most of the Town's legal services is not likely to be replicated).

Tom moved the Board consider a motion authorizing the Town Administrator to create and distribute a request for proposals for legal services. Second by Phil and approved with 5 yes votes.

Trevor will develop the proposal and bring back to the Board for consideration.

Discuss Model Conflict of Interest Policy

Board members reviewed a model policy. Trevor will work on the document to personalize it to Hinesburg and distribute back to Board members and other committees and boards for further review. Ken Brown said he is in favor of having such a policy and feels it is long overdue.

Town Administrator's Report

- a. **Meeting with CSSU Officials** – The plan for the past month or so was to spend some time talking with supervisory union officials about the FY18 budget process, the impact of the district merger, and other areas of mutual interest. On Friday afternoon that plan evaporated; the goal is to set up another time (the increasingly loaded 12/19 meeting the likeliest option).
- b. **Vestry** – The Preservation Trust's initial site visit is now scheduled for 12/15 at 10 a.m.
- c. **Highway Garage Bond Vote Marketing Plan** – A plan is in development, and will be available shortly. Andrea asked in anticipation of review of the Highway budget at the next meeting to publicize the budget will be discussed and to note inclusion of discussion on the bond.
- d. **Blighted or Derelict Properties Ordinances** – Staff continues to collect ordinances or sections from zoning ordinances that allow municipalities greater authority to review and order removed blighted, unsafe, or derelict structures. Once there's a "full set" those will be provided for review and discussion. As has been stated before, implementing an ordinance of this nature would need to be done with a full and complete commitment to fair, consistent, and sustained enforcement.
- e. **Baldwin Road Intersection** – Feedback continues to come in, some new and some updates of what was previously supplied.
- f. **Aldrich and Elliott Wastewater Capacity Study** – The draft report is being finalized; presentation likely to occur in January. Key questions the report will answer include identification of necessary capital upgrades for water quality and permit compliance (and the costs associated) and the ultimate carrying capacity of the LaPlatte (and whether or not that limits the Town's wastewater capacity for the foreseeable future).
- g. **Allocation Ordinance** – Discussing the next phase of the allocation ordinances (wherein the Town attempts to answer the question of: how is water and wastewater capacity allocated?) is also in January/February. Water capacity – or the lack thereof – is and continues to be the effective limiting agent for both components. This policy discussion should be prioritized following the budget process; last calendar year the hope was to do the same but the project was slowed due to the focus on the pipeline/Gepnags matter. The Town was able to institute a first phase of ordinance changes, which included allocation fees and process changes, but not the second phase as envisioned.
- h. **Stormwater Utility Article** – An article in the most recent edition of the *VLCT News* on stormwater utilities, fees, and inter-municipal agreements is included. This article is intended to help inform to the 12/19 discussion.
- i. **Retreat Plan** – After a lengthy conversation with our facilitator, a retreat plan is coming into shape. This process will be different than in years past, where the focus has been on "one-off" discussions rather than viewing the retreat as an organizational development initiative. The "rough" plan is begins with January planning and introductions, moves to the retreat itself in

February, includes one “check-in” prior to close of the fiscal year, and includes quarterly check-ins throughout FY18 (funds would need to be included in the FY18 budget).

<i>“Two-and-Two”</i>	
<i>12/12/16</i>	<i>12/19/16</i>
<ul style="list-style-type: none"> ▪ FY18 Budget and FY18-FY22 Capital Improvement Program and Budget Presentation. Department budget presentations likely as well. 	<ul style="list-style-type: none"> ▪ FY18 Budget (Department Presentations and Discussions). ▪ Board/committee/commission annual visits (Affordable Housing, Recreation, Conservation Commission, and either/both Village Steering and Energy Committees). ▪ Stormwater discussion (Town-wide needs and improvements). ▪ Action related to financing of solar tracker purchased authorized by voters (either on bond itself and/or interim financing). ▪ Vermont Astronomical Society agreement amendment/update ▪ Meeting with CSSU officials (tentative)

Select Board Items

Tom asked for an update on the new water facility. Trevor said it is up and running well, they are working on adjusting the flows between the two wells.

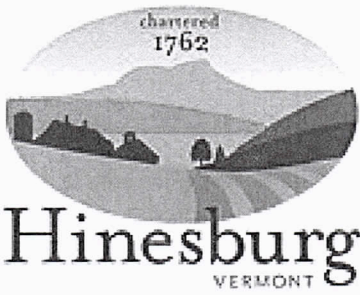
Andrea asked about sidewalk maintenance for winter. Trevor said we are all set with coverage for this.

Minutes and Warrants

Aaron moved the Board consider a motion to approve the minutes of 11/21/16; and the warrants, including payroll, as submitted by the Town Treasurer. Second by Phil and approved with 5 yes votes.

Tom moved to adjourn at 9:30 p.m., second by Aaron and unanimously approved.

Respectfully submitted,
Valerie Spadaccini, clerk of the Board



Selectboard Meeting Sign-in Sheet December 5th, 2016

1. Lenore Buld

14. _____

2. John Kiedzisch

15. _____

3. Ken Brown

16. _____

4. Pat Mamer

17. _____

5. Gail Henderson-King

18. _____

6. _____

19. _____

7. _____

20. _____

8. _____

21. _____

9. _____

22. _____

10. _____

23. _____

11. _____

24. _____

12. _____

25. _____

13. _____

26. _____