

91 TOWN OF HINESBURG SELECTBOARD MEETING
92 MAIN HALL, HINESBURG TOWN HALL
3 JULY 28, 2016
4 MINUTES
5

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

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

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

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

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

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

24
25 The Selectboard entered executive session at 6:34 p.m.

26
27 *Tom moved, and Phil seconded, a motion to exit executive session at 6:59 p.m. The motion passed 5-0.*

28
59 *Phil moved, and Tom seconded, a motion to authorize the Town Attorney to file appeals with the Vermont
60 Supreme Court in association with the Environmental Court's decisions on Hannaford. The motion
61 passed 5-0.*

32
55 Areas of specific concern are the traffic light at Mechanicsville Road and VT Route 116 and the removal
56 of a requirement concerning a post-construction traffic study to be conducted by Hannaford.

35
52 **Public Comment**

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

38
45 **Additions/Deletions/Changes to the Agenda**

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

41
42 **Consider Action on the Proposed Deed of Easement and Stipulated Agreement**

43 Michael opened the discussion by reading the rules of conduct to the Selectboard and crowd. Michael read a
44 motion that included amendments to the agreement

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

- 41 *Compensation to be \$250,000*
42 *Vermont Gas shall be required to employ horizontal directional drilling to cross Geprags
43 Park*

- *Require a performance bond by Vermont Gas for the horizontal directional drilling.*

51
36 Andrea questioned the appropriateness of discussing these substantial amendments without having a written hard copy or electronic copy for the board and audience to review.
36 Andrea asked for clarification as to jurisdiction and enforcement of the items in the agreement as referenced in section 21 to understand where the town has any authority because it appears that the town doesn't have any. Bud answered that the PSB would be the enforcer of the stipulation or if VGAS violated a town ordinance such as placement of signs these would be enforceable by the town.~~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.
37
54
33 Andrea said she wanted asked to strike the \$470,000 in construction cost from the Richmond Road distribution.
34 extension in the stipulated agreement since the amount that it costs VGAS is irrelevant and its cost to VGAS should nor be considered as compensation to the town.—Aaron asked if the concern was technical or philosophical the principle; Andrea
35 said she objected on principle to the idea that this amount of money was somehow of benefit to the town would it was philosophical.
58
29 *Andrea moved, and Phil seconded, a motion to amend the original motion by including removal of the*
30 *\$470,000 reference (“at an estimate of \$470,000”) from the stipulated agreement. The motion passed 5-*
61 *0.*
20 Trevor read the amended motion:
21 *Tom moved, and Aaron seconded, a motion to approve v.06.04 of the Deed of Easement, Stipulated*
22 *Agreement, and attachments with the following amendments:*
23 *Compensation to be \$250,000*
24 *Vermont Gas shall be required to employ horizontal directional drilling to cross Geprags*
25 *Park*
26 *Require a performance bond by Vermont Gas for the horizontal directional drilling.*
27 *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
16 Aaron said he was concerned that the motion represented a gamble. Andrea said that Vermont Gas put the
17 amount on the table in a prior offer and that it is the Selectboard's responsibility to insure that the town receives just compensation and that we are still in the negotiation process and it may take more time.—Aaron said the prior offer represented a different point in the process
18 and was not an offer to be considered or used for comparison.
19 Tom Murray of Vermont Gas indicated the
20 company was not likely to engage in with the \$500,000 idea, that it was a settlement offer that did not
21 include directional drilling which is meant to address a number of the environmental concerns and was a
22 significant investment.
23 Phil stated that the HDD is the environmentally responsible way to to cross the wetland and should be used regardless of the cost and not considered as part of the compensation.
24 Phil asked if the amendments had been vetted by the subcommittee including members of the conservation committee. Michael stated that he believed HDD was the preferred method of the subcommittee.
80
81 *The motion failed 2-3 (Andrea and Phil in favor; Michael, Tom, and Aaron opposed).*
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12 Andrea raised concerns about road conditions and crossings.and section 15 of the agreement since it is
already covered by the CPG. and wondered what good it was to included since the contratdos had already
violted our town road regulations and that if it is to be part of the compensation it should be above and
beyond what they are already obligated to do in the CPG. The Board discussed the impacts on Baldwin
13 Road, the offer from Vermont Gas to assist in repair and replacement, and the crossings of other roads.
14 Trevor offered a reminder that the language discussed was inserted at the request of the Town at an earlier
15 point in the process.

87
6 Michael opened the floor to public comment. For the next hour and a half, various members of the public
7 spoke against and for the agreement and deed of easement.¹

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

¹ *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.*

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 ~~wanted to know how this document reflected what was discussed in the subcommittee~~
106 ~~meeting and how it was different from what had been reviewed the night before since there was not copy~~
107 ~~that he could review to know what was changed. stated he was unhappy with the process and wanted He~~
108 ~~also wanted to clarify that that the conservation committee had consistently requested that~~ -an alternate
109 route ~~be~~ considered. Michael Bissonette asked him to read the Conservation Commission's motion
110 regarding directional drilling, as the commission considers the conditions under which it would like to
111 see it occur. Bob read the motion.
112

113 Lynn Furno ~~asked about~~ ~~was concerned about the~~ overweight vehicles ~~and how the town would be able to~~
114 ~~enforce~~ ~~men the rules t and said she~~ She then read a study that stated that animals did not return to areas
115 where a pipeline was installed. Trevor said that the State Department of Motor Vehicles is responsible for
116 and qualified to perform overweight vehicle enforcement; the Town is working towards that goal but
117 does not have the equipment.
118

119 Richard Watts commended the Selectboard ~~as dedicated volunteers and asked the board to consider taking~~
120 ~~time to seek additional legal advice for the lengthy discussion, and suggested the Town table action while~~
121 ~~section additional outside assistance.~~
122

123 Bobbi Carmalot from Cornwall spoke about her experience and concern about precedent.
124

125 Bob Davis said the directional drilling is better but will still impact the wetlands and asked what happens
126 if the pipeline leaks due to settling or earth movement. John St. Hilaire of Vermont Gas said drilling
127 results in a pipeline depth between 30' and 50', so earth movement is not a leak concern. John talked
128 about the company's State and Federal safety, testing, and monitoring requirements.
129

130 Bill Marks was recognized, but passed the microphone to Bob Hyams. Bob presented what he said was
131 the Conservation Commission's counter-proposal, which included a change in route, \$1 million in
132 compensation, and all legal and technical expenses paid. Michael Bissonette asked Bob and Bill at which
133 meeting did the Conservation Commission discuss and vote on this counter-proposal. Bob said it fits the
134 intent of a motion made on July 12th, but did not answer the question otherwise. Bob spoke about the
135 various functions and values of different wetlands.
136

137 Theora Ward said she worried the documents have too many vague phrases or other statements and that
138 the Town needs an attorney well-versed in such matters.
139

140 Rachel Smolker asked if the Selectboard had requested all records related to directional drilling, why ECI
141 no longer worked for Vermont Gas, and whether or not the Selectboard would postpone action. She also
142 asked about any issues due to the proximity to the electric lines.
143

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

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as could sell the pipeline and easement. Trevor said yes, and 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 explained that the PSB gave VGAS
149 through the CPG the right to use ED to take land for the project but VGAS still has to have a PSB hearing
150 to make the case described why, starting with the deed and its covenants and the legal opinions regarding
151 eminent domain and voluntary conveyance of municipal property. Andrea further explained that it was
152 the covenant put on the land when the Geprags gave it to the town that restricted the use of the land for
153 recreation or educational purposes and that the town was obligated to uphold this covenant and therefore
154 town could not just sell or grant the rights to VGAS. To resolve the legal situation requires that =VGAS
155 use the ED process to take the land and the agreement says that the town won't object to this process. said
156 eminent domain process was necessary to avoid violating restrictions on use of the park in the covenant.
157

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

161
162 Lee Bast said that protection of the park is paramount, and that the documents attempt to ensure that the
163 pipeline is installed and maintained in a safe and responsible manner. He said that natural gas is a better
164 option than many alternatives.

165
166 Rick Palieri said he was a park user and encouraged the Selectboard and crowd to consider whether or not
167 either feels the worst-case scenario is a risk worth taking.

168
169 John St. Hilaire of Vermont Gas said that the worst-case scenario may be a need to excavate a section of
170 pipeline at its maximum depth, though that was unlikely.

171
172 Lawrence Shelton read from the covenant and referenced an explosion in Pennsylvania. He also asked
173 about an alternative route through the mowed area.

174
175 Tom Murray of Vermont Gas said the alternative route creates a zig-zag in the line, which delays the
176 schedule and process and has its own wetlands impacts.

177
178 Janice Nadworny said there should be a Townwide vote. Tom Ayer said that the a vote was not necessary
179 and the Selectboard, as elected officials representing the people, had a responsibility to make decisions of
180 this nature.

181
182 Andrea said that statute related to conveyance of municipal and park lands required a vote. Trevor said
183 that, based upon the opinion of two attorneys, eminent domain was considered a taking and not a
184 conveyance, thus a vote was not required.

185
186 George LeClair said that Michael's, the pipeline contractor, had done a great job. George said he knew
187 the Geprags sisters, and think they would support the Town after consideration of their concerns. He said
188 the funds could be used to assist in milfoil mitigation efforts at Lake Iroquois.

189
190 Michael Bissonette said that the Selectboard would be taking approximately 10 more minutes of public
191 comment at 8:37 p.m.

192
193 Bob Thiefels said he still has concerns about whether or not the Richmond Road extension will occur.
194 Tom Murray of Vermont Gas said that the company, if an agreement is reached with the Town, will put
the distribution lines in along the Richmond Road corridor to North Road.

that Middlebury residents would be receiving 200' of free service line installation. Tom Murray said that was not correct, the company is limited by its tariff to the 100' of service line in the agreement with the Town.

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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 EKasper 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 a
235 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- and information was provided to the has-given~~ the Selectboard ~~from engaged citizens a good~~
242 ~~foundation-~~ Andrea said the timeframe and manner in which these current amendments were brought
243 forward without the opportunity for review by the subcommittee is a questionable process.
244 ~~latenc~~ ~~timelines~~ were not ideal, ~~and said she is not sure what ideas came from the subcommittee process~~
~~that were incorporated into the version to be voted on.~~ She said that issues remain, and that the Town is

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s 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 to protect its citizens and the land through th^{is}e regulatory
247 process. Andrea said she will not support the agreement and does not feel long-term interests are being
248 served.

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

252
253 Michael read the motion again:

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

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

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

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

DRAFT