

**TOWN OF RUTLAND
SELECT BOARD**

MINUTES: December 1, 2015

Board members present: Don Chioffi, Joe Diction, John Paul Faignant and Joshua Terenzini

The meeting opened at 6:38 P.M. with the Pledge of Allegiance.

Mr. Chioffi cited several corrections and an omission to the 11-17-15 Board minutes. Mr. Terenzini moved to approve the 11-17-15 with corrections. Mr. Chioffi made a second to the motion. The motion passed by a vote of 3-0. Mr. Faignant abstained from the vote.

The Board took questions from the floor.

Town resident Mr. Ted Earl told the Board that the school zone speed limit should be 35 M.P.H. He told the Board that he and many of his neighbors disagree with the Board decision to leave the speed zone at 25 M.P.H. 24/7. He said nobody sees any sense in the change that was made.

Mr. Faignant made a motion that major Sly write an article for the Circle explains the recommendation he made to the Board. Mr. Terenzini made a second to the motion. The motion passed unanimously.

Town Planning Commission Chairman Barbara Pulling reported:

1. She informed the Board that she will alternate attending the Board's meetings with Mr. Dana Peterson.
2. She told the Board that the Commission is real close to finalizing the Land Use map.
3. Ms. Pulling informed the Board that the Agricultural District has been incorporated into a new Working Lands District. She said the Commission is presently working on the final language for the district. She said the Agricultural District will be broadened to include; commercial, recreation and tourism related enterprises for both agricultural and forestry.
4. She told the Board the Commission continues to work on adding a Viewshed to the Town Plan.
5. Ms. Pulling informed the Board that the Commission had voted to request that the Board seek a legal opinion regarding the Town Glebe lands. Ms. Pulling said there is approximately 10 parcels totaling 110 acres of land.

Mr. Faignant said it appears the Town has been taxing the lease holders instead of receiving a nominal payment in lieu of taxes. Mr. Faignant moved to ask the Town attorney to look into how the Town can convey the properties to the current owners in exchange for their claim to any past taxes.

Mr. Faignant said he believes the current owners will give the Town a release for all the

taxes they have paid over the years in exchange for clean title. Mr. Terenzini made a second to the motion. The motion passed unanimously.

Town Delinquent Tax Collector Mr. Chris Howland met with the Board and gave a delinquent tax status report.

- He told the Board he has solved his problem with the NEMRC program.
- He said all of the NEMRC reports and money turn-overs have been corrected.
- He said that from now on when a taxpayer makes a payment, the entire amount will be applied to the first year owed.
- He said to date there is between **\$143,000.00** and **\$144,500.00** outstanding.
- He said there are a total of 99 delinquent accounts.
- He told the Board he will be paying small tax bills in order to get them off the books.
- He told the Board he would like to hire attorney Gene Rakow to commence tax sales. Mr. Howland said he thinks he needs the Board permission to move forward and hire Mr. Rakow. Mr. Fagnant said he would like to see a list of the delinquent properties and the amounts.

Mr. Howland said he has not been successful collecting from the larger parcels. Mr. Howland said the amount of delinquent taxes is larger than it has been in the last two annual reports. He said it's about **\$80,000.00** in additional delinquent taxes.

- Mr. Howland told the Board that he returns all calls he receives.

Mr. Diction and Mr. Terenzini said they also would like to see list of the delinquent properties and the amounts. Mr. Chioffi said he is not sure if the Board has the authority to put a property up for tax sale. He said he always thought it was up to the Tax collector.

Mr. Howland said according to a VLCT handbook it is recommended that he approach the Board regarding a tax sale and not required. Mr. Howland said he would have a list for the Board for the next meeting.

Mr. Fagnant withdrew his motion and Mr. Terenzini withdrew his second.

Town SWAC & Transfer Station representative Mr. Richard Lloyd reported:

1. Mr. Lloyd told Board members that he would like to begin collecting batteries at the Transfer Station and he presented a contract from Call2recycle for signatures. Mr. Lloyd said there would be no charge to the Town.

He said Call2recycle will provide the containers and take the batteries away at no charge. He said the Town will be paid 35 cents per pound after the Town collects 500 pounds of batteries. Mr. Fagnant made a motion to sign the proposal. Mr. Chioffi made a second to the motion. The motion passed unanimously. The document will be placed on the Board's next agenda for signature.

Town Emergency Management Director and Transportation Council representative Mr. Martin Wasserman reported:

1. He informed the Board of the Vermont Alerts notification process. He said individuals on the list would receive e-mail notification from various State agencies during emergency events. He said there is no charge to participate.

Town Clerk & Treasurer Ms. Donna Zeller reported:

1. She thanked the Highway crew for putting up the holiday lights on the Town Hall.
2. She told Board members that all time sheets must be turned into the Treasurer's office by Monday December 28, 2015.
3. Ms. Zeller said the Board should schedule the Pre-Town Meeting for January 25, 2016 at the Town School. She said the School Board is first followed by the Town. Mr. Terenzini made a motion to schedule the Pre-Town Meeting for Monday January 25, 2016 at 6:30 P.M. at the Town School. Mr. Faignant made a second to the motion. The motion passed unanimously.

Town Road Commissioner Mr. Byron Hathaway reported:

1. Mr. Hathaway informed the Board that groSolar has requested that he act on their Cold River Road curb cut requests. The Board discussed the matter and instructed Mr. Zingale to inform groSolar that the Board would take up the request at the next meeting. Mr. Zingale is to discuss the request with the Town attorney and report back to the Board.
2. He gave the Board a Highway Garage construction update.
3. He reported that the two detention ponds are constructed and are functional. He said a total of **\$13,882.00** has been spent to date. He said the pond construction is well under budget.
4. Mr. Hathaway said the Board needs to replace the power cord that provides electricity to the holiday lights on the Town Hall. He said the cord is old and is not safe. Mr. Faignant made a motion to get an electrician to look at the situation. Mr. Terenzini made a second to the motion. The motion passed unanimously.
5. Mr. Hathaway and the Board discussed hiring a winter snowplow driver. He informed the Board that he advertised the position and that he only received one response from Mr. BJ Hathaway. Mr. Hathaway recommended that the Board approve the application so he can move on with winter maintenance.

Mr. Faignant made a motion to approve Commissioner Hathaway's recommendation. Mr. Terenzini made a second to the motion. Mr. Chioffi read aloud the letter submitted by Mr. BJ Hathaway.

Mr. Faignant said the hiring of Mr. BJ Hathaway by the Town would not violate any nepotism policy because snowplow drivers are independent contractors. He said Mr. Hathaway would not be an employee.

He said being a contractor means there is no direct supervision and that Mr. Hathaway is an elected official. He said Mr. Hathaway as an elected official can hire who he thinks is best for the job, subject to the Board's approval. He said Mr. BJ Hathaway has an outstanding work ethic.

Mr. Faignant said contractors sign a document stating they are an independent contractor. He said you can't be an independent contractor subject to the immediate supervision of Mr. Byron Hathaway and not be an employee.

Mr. Terenzini said he does not like the relationship status and added that the Town is up against it. He cited freezing roads earlier in the day. He said he knows Mr. BJ Hathaway will do a good job.

Citing the fact the Board received no other applicants Mr. Terenzini said he would support Mr. BJ Hathaway taking a route as a sub-contractor.

Mr. Chioffi said he is not in favor of violating the personnel policy. He said he is not willing to make an acceptance to the personnel policy promulgated by Mr. Faignant. Mr. Chioffi said the Board has been advised by the Town attorney in the past that the Road Commissioner has direct supervisory authority over those people in that position.

Mr. Chioffi said he respects Mr. Faignant's legal opinion, however he said the Board has a legal opinion from the Town attorney that says otherwise. Mr. Chioffi cited monitoring drivers' salt use as an example of how Mr. Hathaway supervises winter snow plow drivers.

Board members and Mr. Hathaway discussed the matter further. Mr. Faignant asked to move the question. The motion passed by a vote of 3 to 1. Mr. Chioffi voted in the negative.

Town Fire Chief Mr. Frank Cioffi reported:

1. The Chief informed the Board that installation of the generator at the McKinley Station is underway. He said the work should be complete in a couple of days.
2. He requested an executive session at the end of the meeting to review the engineer's report regarding the Center Rutland Station.

Town Representative to the Rutland Regional Planning Commission Mr. Frederick Nicholson reported:

1. He told the Board that the Regional Commission discussed a couple of proposed solar arrays at their last meeting. He said a rather large solar array is proposed for Syndicate Road in Brandon. He said the site is only visible from a helicopter.

2. Mr. Nicholson told the Board that the RRPC is in the process of changing their rate structure.

Town Police Chief Mr. Ed Dumas Reported:

1. Mr. Dumas reported to the Board regarding a recent dog bite incident in Town.
2. Chief Dumas cited statistics regarding increased policing activities in Town this year versus the same time last year.
3. He told the Board that Captain Washburn monitored traffic for speed on the Post Road last week.

Town Recreation Director Mr. Mike Rowe reported:

1. Mr. Rowe reminded Board members of the senior luncheon scheduled for December 15, 2025 at 11:30 at Seward's Restaurant.
2. Mr. Rowe said his proposed budget is complete and is an increase of **\$1,500.00** over the current year.

Mr. Chioffi read the Building, Fire & Police Committee's meeting minutes from November 23, 2015. Mr. Fagnant moved to approve Smalley Construction at **\$44,000.00** as the low bidder for the Town Hall renovation project. Mr. Terenzini made a second to the motion. The motion passed unanimously.

Town Administrator Mr. Joseph Zingale Jr. reported:

1. He informed the Board that he ran the notice for the printing of the Town Report and that only one bid has been received. He told the Board he did not mail the notice to selected printers as has been done in the past. Mr. Fagnant moved to re-notice the bid and to send the notice to all Rutland County Printers. Mr. Chioffi made a second to the motion. The motion passed unanimously.
2. Mr. Zingale informed the Board that he does not have any new information as to why the State of Vermont did not include the Town's annual storm water financial contribution in a list that was issued recently.
3. Mr. Zingale cited a VLCT legal opinion regarding the Town's committees. Mr. Fagnant said because the Town's committees do not make any decisions the Town is in compliance with State law. He said he would agree with the VLCT attorney if Town committees made decisions rather than the full Board voting on a committee recommendation.
4. Mr. Zingale informed the Board that he received a call from Mr. Gene Beaudoin, who is with Saxon Partners, the developers trying to bring BJ's into the Town. Mr. Zingale told the Board that Mr. Beaudoin has requested the Board do what it can to get the owners of the Diamond Run Mall to drop their opposition to the proposed BJ's. Mr.

Zingale told the Board that the owners of the Diamond Run Mall have demanded several hundred thousand dollars in payment before they will drop their opposition to BJ's.

Mr. Faignant said it is not appropriate for the Town to get in the middle of a fight between two taxpayers. Mr. Terenzini and Mr. Chioffi said they would like to do something to help BJ's.

Mr. Chioffi said the Board needs to send as strong as message as it can, in a constructive way, to the Diamond Run Mall that we would like to support other businesses exactly the same way we supported them. Mr. Chioffi said the Board should do whatever it can that is legal to help BJ's.

Mr. Diction suggested the Board schedule a special meeting to come up with a unified position that he would present to the Diamond Run Mall. Mr. Zingale is to schedule a Special Board meeting for December 15, 2015 at 5:30 PM.

Mr. Zingale is to warn a Special Select Board Meeting to discuss an appropriation policy for December 8, 2015 at 4:00 PM.

Mr. Chioffi moved to ask the Town Attorney if the Board is within our legal rights to withhold the access until our court litigation is complete. Mr. Faignant made a second to the motion. The motion passed unanimously.

The Board reviewed packet correspondence.

Mr. Nicholson told the Board that a tree on Killington Avenue should be taken down for safety concerns. He said a letter should be sent to the landowner informing them that the Town proposes to take the tree. He said if the property owner requests a hearing the Board must hold a hearing.

He said if no hearing is requested the Town could take the tree down. Mr. Chioffi moved to send a letter to the landowner. The motion died due to the lack of a second. Mr. Zingale will research whether the road right of way is owned fee simple.

Mr. Diction said that Mr. Chioffi, Ms. Ashcroft and Mr. Zingale will be assembling the Town Report.

Mr. Diction said there will be three executive sessions, one with the Fire Chief to discuss ongoing litigation, one with Ms. Zeller and the third to address a personnel matter. Mr. Terenzini at 8:42 PM moved to go into executive session. Mr. Chioffi made a second to the motion. The motion passed unanimously.

Mr. Diction declared the executive session closed at ?? : ?? P.M.

Mr. Faignant made a motion to close the meeting. Mr. Chioffi made a second to the motion. The motion passed unanimously.