

**TOWN OF RUTLAND  
SELECT BOARD**

MINUTES: March 10, 2015

Board members present: Mary Ashcroft, Joe Diction, John Paul Faignant, Don Chioffi and Paul Clifford

The meeting opened at 6:35 P.M. with the Pledge of Allegiance.

Mr. Chioffi and other Board members welcomed Mr. Paul Clifford to the Board.

Mr. Chioffi opened the meeting for the election of officers for the Board. Mr. Faignant nominated Mr. Joe Diction as Board Chairman. Ms. Ashcroft made a second to the motion. The motion passed by a vote of 4 to 0. Mr. Diction abstained from the vote.

Mr. Diction called for nominations for Select Board Secretary. Mr. Diction nominated Mr. Chioffi as Board Secretary. Mr. Clifford made a second to the motion. The motion passed by a vote of 3 to 1. Mr. Faignant voted in the negative and Mr. Chioffi abstained from the vote.

The Board reviewed the 1-26-15 Board minutes. Mr. Faignant moved to approve the minutes with changes. Ms. Ashcroft made a second to the motion. The motion passed by a vote of 4 to 0. Mr. Clifford abstained from the vote.

The Board reviewed the 2-10-15 minutes. Ms. Ashcroft moved to approve as printed and corrected. Mr. Chioffi made a second to the motion. The motion passed by a vote of 3 – 0. Mr. Faignant and Mr. Clifford abstained from the vote.

The Board reviewed the 2-24-15 minutes. Ms. Ashcroft moved to approve as printed and corrected. Mr. Clifford made a second to the motion. The motion passed by a vote of 4 to 1. Mr. Faignant abstained from the vote.

Mr. Fred Nicholson told the Board that the planned tree cutting on Town owned land in the Town of West will not be a clear cut rather he said it would be strictly maintenance. Mr. Nicholson said he check and see what kind of value is in the trees to be cut. He said he would report back to the Board.

Town Clerk & Treasurer Ms. Donna Zeller reported:

1. The Town meeting went well and all of the items passed.
2. Ms. Zeller presented the tally of votes to Mr. Diction.
3. She told the Board that Mr. Leigh Adams was elected Town Moderator, Mr. Joe Diction Jr. was elected to a 2 year term, Mr. Paul Clifford was elected to a 3 year term, Mr. Howard Burgess was elected as Lister, she was elected as Town Clerk & Treasurer, Byron J. Hathaway was elected to the Cemetery Commission for a 3 year term, Mr. Leigh Adams was elected Town Grand Juror, Ed Dumas was

elected as 1<sup>st</sup> Constable, Mr. John Paul Faignant was elected 2<sup>nd</sup> Constable and Mr. Chris Howland was elected collector of delinquent taxes. Ms. Zeller told the Board that Ms. Nicole McPhee was elected to the School Board for a 2 year term and that Ms. Stacy Fisk was elected to a 3 year term on the School Board.

4. She told the Board that all 25 Town Articles as well as one School article on the ballot, had passed.
5. She announced that dog licenses are due April 1<sup>st</sup>. She said the price is **\$15.00** if the dog is spade or neutered.
6. Ms. Zeller also announced that applications are available for the Town College Scholarships application on the web or at the Town office.
7. Ms. Zeller told the Board she is working with Mr. Zingale to move the Town's email from the present server to a Google server. Ms. Zeller said there will be no charge to host up to 10 email accounts on the Google server. She said the final email switch will take place when she returns from vacation.
8. Ms. Zeller announced dates for upcoming VLCT training sessions.

Ms. Ashcroft suggested Ms. Zeller consider selling dog licenses at the polls in the future. Mr. Chioffi questioned if Ms. Zeller is working to sell dog licenses online. Ms. Zeller said the Town has to switch to the NEMRC software before she can sell licenses online.

Mr. Dicton asked Mr. Zingale to give the Board the status of Grover Drive. Mr. Zingale said:

- The Board has a memo from Mr. Pete Andrews regarding potential road drainage issues.
- Mr. Andrews said the areas need to be viewed in the spring.
- Mr. Andrews said the drainage could be addressed through easements with the developer or landowners.

Mr. Zingale said Mr. Andrews has not done a complete report because his employer will not allow him to do the work until the Board signs an agreement for the work. Mr. Zingale said the proposed agreement is presently before the Board.

Mr. Zingale told Board members that Mr. Andrews is on vacation for a week and that does not have cell phone coverage where he is staying. Mr. Zingale said Mr. Andrews has email access. Mr. Zingale said Mr. Andrews plans to review Grover Drive to determine whether Grover Drive meets the Town's Road Acceptance Ordinance.

Mr. Faignant said there is a list of items the applicant needs to address. Mr. Faignant inquired if Mr. Grover has a copy of the Town's acceptance policy. Mr. Brownson

Spencer, P.E., said his client has a copy and he cited the need to do a title search and to provide a certification for the road.

Mr. Faignant cited several items which will need to be addressed before the Board can approve accepting the road. Mr. Spencer informed the Board that he had revised the road plan to include all driveway culverts.

Mr. Faignant moved to table the matter until the Town attorney says the Board has all of the information in hand and to authorize Stantec to go forward with the work. Mr. Chioffi made a second to the motion. The motion passed by a vote of 4 to 0. Mr. Clifford abstained from the vote.

Mr. Spencer asked the Board with whom he should be dealing regarding the road acceptance. Mr. Dicton said Mr. Spencer should address the items on the punch list and then send the information to the Town Attorney. Mr. Faignant said some engineering review also needs to be done.

Mr. Zingale informed Board members that a proposed purchase & sale agreement between the Town of Rutland and Mr. Gregg Nutting was on their desks for consideration. Mr. Zingale said in the revised deed Mr. Nutting will own the road and the Town will have an easement, which would allow for the placement of public utilities in the road right-of-way (R-O-W). Mr. Zingale said Mr. Nutting would be responsible for all road maintenance.

Mr. Dicton read from the proposed purchase & sale agreement. Cheney Hill Cemetery Committee members, Messrs. Byron R. Hathaway & Byron J. Hathaway told Board members they adamantly prefer that the Town of Rutland keep ownership of the existing road and give Mr. Nutting the right to use the road. Both Mr. Chioffi and Ms. Ashcroft questioned why the Town should own the road verses an easement to use the road.

Mr. Byron R. Hathaway told Board members that there needs to be more language to better describe road access to the property. Mr. Byron J. Hathaway said the road R-O-W may have future potential for the Town. He said the Cemetery Commission is not trying to stop anyone from using their property.

He said in the future if there are new Select Board members and new Cemetery Commissioners and a new homeowner then the use of the R-O-W may not go so smoothly. He said since the Town already owns the road it ought to maintain ownership. Mr. Faignant said the Town should retain ownership and grant a R-O-W.

Ms. Ashcroft and Mr. Chioffi said by the Town retaining ownership it would require a subdivision in order to sell the remaining land to Mr. Nutting. Mr. Zingale said the State would most likely require the Town to show the location of the Nutting well and septic system.

Mr. Gregg Nutting told the Board that he would build a small garage on the land in front of his home near the utility pole, which is presently owned by the Town. He said the Town should have a R-O-W to use the driveway and to place utilities within the driveway R-O-W.

Mr. Nutting said he should own the road since he will be doing all of the maintenance such as gravel in the spring, plowing and storm damage clean up. Ms. Ashcroft said as long as there is a decent easement the ownership of the road is not necessary. Mr. Nutting said he has no problem with utilities in the road R-O-W.

Mr. Byron J. Hathaway said the easement should state that nothing can be constructed within the road 50 foot R-O-W. Mr. Matteson questioned why the Town wants to sell the land in question. Mr. Zingale told Mr. Matteson that Mr. Nutting asked to purchase the land and that the Board advertised the proposed sale in the newspaper and gave 30 days for any Town resident to raise a petition and put a stop to the proposed sale. Mr. Zingale said there were no inquiries and that no petition was submitted.

Ms. Ashcroft cited the fact that many of the Town's roads are by easement. She said for the Town to retain ownership of the road and sell the rest of the land to Mr. Nutting would require a subdivision. Mr. Chioffi said that with proper easements there is no reason for the Town to own the road.

The matter was discussed further and it was decided the Cemetery Commission will submit proposed easement language for inclusion in the deed.

Town representative to SWAC Mr. William Matteson reported:

1. The next Household Hazardous Waste Collection will take place in April.
2. Mr. Matteson told the Board that Ms. Pam Clapp the SWAC Administrator needs to know if the Town has an ordinance to charge for solid waste disposal and provides recycling at no charge.

Mr. Matteson told the Board that he would retire from the Planning Commission if there is anyone interested in taking his place. Mr. Diction and Ms. Ashcroft said there are aware of individuals interested in serving on the Planning Commission.

Mr. Matteson told the Board he would like to remain as the SWAC representative. Mr. Diction and Ms. Ashcroft said there are aware of individuals that would like to serve as the Town's SWAC representative.

Town Transportation Council representative Mr. Martin Wasserman reported:

1. He informed the Board that upcoming road studies were discussed at the recent Transportation Council meeting.

Mr. Wasserman told the Board that he has not yet completed his research into whether he will accept the Town Emergency Manager position. He said he would be happy to take the position if the Board so desires.

Mr. Wasserman told the Board that he recently attended an Emergency Management meeting and that he planned on attending an upcoming meeting regarding flooding.

Mr. Wasserman said he needs to have a good working relationship with Messrs. Dumas, Cioffi and Hathaway, in order to do his job. He outlined the command structure that would be in place in the event of an emergency. Mr. Wasserman said he would perform his job on a consensus basis involving various Town officials.

Mr. Faignant moved to appoint Mr. Wasserman as Town Emergency Management Director. Mr. Chioffi made a second to the motion. The motion passed unanimously.

Town Road Commissioner Mr. Byron Hathaway reported:

1. He cited the highway garage timeline he prepared for Board consideration.
2. Mr. Hathaway requested that the Board authorize the submission of the highway garage Act 250 permit to the State. Mr. Chioffi made a motion to authorize the Board Chairman to sign the Act 250 permit application on behalf of the Board. Mr. Faignant made a second to the motion.

Ms. Ashcroft said the storm water, waste water and water supply permits have all been issued. She said the Board needs to receive Act 250 approval. The motion passed unanimously.

3. Mr. Hathaway requested permission to seek bids for a new truck. He said the new truck would be bigger than the current 550. He said the Town would not see the cab & chassis until May or June. He said the construction of the new truck probably would not start until August.

He said the Town would see the truck in September or October if the process begins now. Mr. Hathaway said he prepared two bid requests. He said one is for the body and plow and the other is for cab & chassis.

Mr. Chioffi asked Mr. Hathaway how he planned to use the new truck. Mr. Hathaway said the truck will take over the route now being plowed by the Town's 550. He said the truck would also be used for summer time construction projects.

Mr. Hathaway said the warranty on the existing expires in 2016 or at 75,000 miles which ever come first. He said there is presently 68,000 miles on the truck. Mr. Hathaway said the Town will lease a one ton pick-up truck beginning in July with the new budget.

Mr. Hathaway said either Mr. Tripp or himself would drive the new truck. Ms. Ashcroft moved to authorize the Road Commissioner to seek bids for a 7 yard truck. Mr. Fagnant made a second to the motion. The motion passed unanimously.

Mr. Hathaway cited the proposed 7,500 ton summer paving bid request he will soon put out for prospective pavers. Ms. Ashcroft moved to approve Mr. Hathaway sending out his proposal for bids. Mr. Fagnant made a second to the motion, the motion passed unanimously.

Mr. Hathaway informed the Board that Phelps Engineer has finished the proposed Cold River Road sidewalk Scope of Work. Mr. Hathaway said there is also an application to VTrans seeking permission to work with in the VTrans road R-O-W.

Mr. Hathaway suggested that he meet with the new Highway Committee and review the information and then return to the Board before making any decisions.

Mr. Dicton announced that the Town Attorney would like to talk to the Board at 8:00 P.M. in executive session regarding a tax appeal case.

Town Fire Chief Mr. Frank Cioffi reported:

1. The Chief gave the Board an update regarding Emergency Dispatch. Chief Cioffi said it looks like the change will go forward. He informed the Board that he submitted the Board resolution to State officials. Mr. Cioffi said no date has been set for the dispatch switch from Rutland to Rockingham.

Mr. Dicton said there will be a Board meeting with the Police & Fire Chiefs to discuss a potential back-up plan and to deal with any problem on an interim basis.

2. The Chief informed the Board that the Fire department will soon begin work on purchasing a new fire vehicle. He said they would begin work after the new Select Board committees are formed.

Mr. Chioffi questioned the Chief regarding the status of the Johnson Energy drainage problem. The Chief said the lawyers will decide what happens. Mr. Hathaway said the existing manhole near Simons Ave., needs to be lowered. He said there is plenty of pitch to do the job.

Ms. Ashcroft made a motion to go into executive session in order to talk with the Town Attorney regarding a tax appeal in litigation. Mr. Clifford made a second to the motion, the motion passed unanimously.

Mr. Chioffi said the Board entered executive session at 8:05 P.M. to have a discussion with Town Attorney Mr. Ren Barlow and had discussion on a number of matters. He said the Board exited executive session at 8:20 P.M.

Town representative to the Rutland Regional Planning Commission Mr. Sherman Hunter reported:

1. He said he has not had a meeting since the Board's last meeting.
2. He reported to the Board regarding the Emergency Relief Accounting Fund. He told Board members that the fund would assist the Town if a Federal Emergency were declared.

He said there are different levels of funding beginning at 7.5 % up to 19%. He told the Board that the RRPC will be getting a grant to assist 17 towns in developing their regulations.

These are the stats of the Rutland Town Police Department within the past two week period.

**-Calls for service within the two week period: 38**

- Total calls for the 2014 year: 128
- **Total calls for the 2015 year: 208**
- Types of calls assigned

911 Hang ups, Fire Complaint, Vicious Animal, Accident Property Damage, Thefts, Suspicious, Public Speaking, Frauds, Directed Patrol, Threatening Complaint, Phone Problem, Alarms, Animal Problem, Agency Assist and Bad Check complaint.

**Closed Cases: 33**

- Number of Arrests: **0**
- What Types of Arrest: 0
- **Motor Vehicle Stops:22**
- Vermont Civil Violation Complaints (Tickets) Issued:
- Total Fine Amount : **\$2121.00** dollars
- Warnings: 5
- **Total number of Patrol Hours: 182.5**
  1. Chief Dumas: 32.5
  2. Captain Washburn: 72
  3. Officer Gamble: 48
  4. Officer Sly : 30

**Total number of Admin hours: 39.5**

1. Chief Dumas: 17.5
2. Captain Washburn: 8

3. Officer Gamble: 4

4. Officer Sly : 10

Officer Gamble worked on Fraud Complaint and finished same, picked up another fraud complaint working with the City Police in an joint effort as fraud occurred in both City and Town, also stolen gun complaint; both Officer Gamble and Captain Washburn with great effort were able to recovered weapon, and also assisted VSP in getting a lead on several stolen weapons. Lastly a packet was put forward to the alcohol tobacco and firearms agency so that subject could be prosecuted federally.

Chief Dumas told the Board he will be submitting the police Report once a month verses the present bi-weekly report. The Board has no problem with the bi-weekly reports.

Chief Dumas cited the following outside-office work information compiled by officer Sly;

- Vehicle reimbursement **\$15.00.**
- Total reimbursement **\$62.50** per hour includes officer and vehicle.
- Hours worked outside of Town service will not be used to get medical insurance.

Mr. Faignant questioned if the proposed **\$7.50** charge would be enough to cover; social security, Medicare and VEMERS. Mr. Chioffi said **\$7.50** would be enough to cover the expenses.

Mr. Diction question if Town Police officers should be required to sign a document stating that they will not use their out-side work hours as a means of receiving medical coverage or other Town benefits. Board members agreed.

POLICE COMMITTEE MEETING Report by Don Chioffi

Present at Police Committee Meeting ----Joe Diction, Don Chioffi, Chief Dumas

The committee met to discuss a number of items with the chief as part of our regular monthly process of assisting the administration of the Rutland Town Police Department. The following items were discussed.

1. Preparation and implementation of a local ordinance for speeding limits on Route 4 E and W and Route 7 N and S. These changes will be given to Mr. Zingale to put in ordinance form to be approved by the board.

2. We discussed modifications to the "OUTSIDE WORK" proposal. Officer Sly had gotten info from the Rutland PD and presented it to the board. We asked the Chief to make some modifications to these to conform to our requirements and he is to put these in final form for a second presentation to the board at our earliest convenience.



3. There was a discussion of the organization and command structure within the RTPD and the procedures for reporting any changes in that structure to the board through the Police Committee.
4. The committee then discussed freely some security concerns within the common areas of the Town Hall and also within the Select Board meeting room and member's office.
5. The last item discussed was the training schedule for RTPD officers and the chief's plans for implementing such training.

The meeting adjourned at 8:30 PM. There were no other attendees, nor members of the public at the meeting.

Mr. Diction cited the fact that the Town would be able to keep more traffic ticket revenue if the Board were to adopt speed limits for State roads. He said the Town would be placing local speed limits on US RT 7, US RT 4 and RT 3.

Mr. Zingale said the item needs to be placed on a Select Board meeting agenda before adoption. He said he has 5 days in which to notify the public via the newspaper of the Board's amendment adoption. He said any Town resident could raise a petition, get the required number of signature and require a Town vote. The item will be on the Board's next agenda.

Town Recreation Director Mr. Mike Rowe reported:

1. He thanked the voters for supporting the Recreation budget.
2. Baseball registration for grades 3 through 6 will be on March 20, 2015.
3. Spring clean-up will begin when the snow has melted.
4. He congratulated 5<sup>th</sup> grade Boys basketball Coach Butch Goulette on winning the Rutland City Recreation Tournament. He also congratulated 3<sup>rd</sup> and 4 grade Girls coach Colin Green on winning the City Tournament.
5. He told the Board he is working with Mr. Zingale to write a notice for a new tractor for Dewey Field.

Mr. Zingale informed the Board that Mr. Peter Baker has told Mr. Burgess that the least he will take for his land is **\$15,000.00**. Mr. Zingale said Mr. Burgess said that Mr. Baker would accept **\$9,000.00** and then receive **\$1,000.00** a year for the next six years. The Town would get the deed to the property after paying the **\$9,000.00**.

Mr. Zingale told the Board that according to the Town Attorney the Board would only need voter approval to purchase the land if the Board had to borrow the money to make the purchase. Mr. Chioffi said the Board can spend the money out of any budget as long as we don't have to go to the voters.

Mr. Diction gave a brief overview of the Town's actions regarding the Baker property and the Town parcel proposed to be sold to Mr. Gregg Nutting.

Ms. Ashcroft made a motion to have a Purchase & Sale agreement prepared for the Baker property. Mr. Faignant made a second to the motion. Ms. Ashcroft said the purchase price is **\$15,000.00**, payable in installments of **\$9,000.00** and then **\$6,000.00** over time with no penalty for early payment. There will be no interest on the **\$6,000.00**. The motion passed unanimously.

Ms. Ashcroft moved to appoint Ed Dumas as the Town Service Officer. Mr. Clifford made a second to the motion. The motion passed unanimously.

The Board discussed a proposed amendment to the grievance process in the Town Personnel Manual. Mr. Chioffi read the proposed amendment. Ms. Ashcroft questioned why the proposed policy would prohibit a Town employee talking to a Board member if a grievance is filed. Ms. Ashcroft said the grievance might be averted as a result of a conversation with a Board member.

Mr. Chioffi said it is that way because the Board is the only one that can resolve the grievance. He said individual members can't do anything without three votes of a formalized Board.

Mr. Clifford asked what the present protocol is. Mr. Diction said there is none. Ms. Ashcroft said she would be ok with the proposed amendment if the last sentence is removed.

Mr. Faignant said he has an issue with the requirement that the grievance is filed at a regular Board meeting. He said employees have confidentiality rights and should not be required to present the grievance at a public meeting.

Mr. Faignant said it would be fine if "during the regularly scheduled meeting" were taken out. He said he would also delete the second and third sentences. Mr. Chioffi said he would like to see the last sentence included. Mr. Chioffi said only the full Board can solve a grievance. He said no grieving member should be able to lobby individual Board members on a matter that is in front of the whole Board.

Mr. Faignant said it is up to the individual Board member to cite the inappropriateness of such contact and immediately terminate the contact. Mr. Clifford and Ms. Ashcroft agreed with Mr. Faignant. Mr. Diction said he is good with the consensus.

Mr. Chioffi made a motion to adopt the policy as amended by Mr. Faignant to indicate that the grievance shall be clearly articulated in writing and submitted to the Select

Board. He said that will be the policy. Mr. Clifford made a second to the motion. The motion passed unanimously.

The Board discussed adding alternates to the Town Planning Commission. Mr. Zingale informed the Board that Mr. Matteson has said he does not want to be reappointed to the Planning Commission and that Mr. Dick Lloyd has said he would like to be appointed to the Planning Commission.

Ms. Ashcroft said there are other individuals that may be interested and she said the Board will be discussing posting the positions so individuals will have a chance to apply. Mr. Dicton cited the fact that Mr. Lloyd has submitted a letter to the Board indicating he would like to be appointed to serve on SWAC.

Board members discussed advertising to fill the opening on the Planning Commission and two alternate positions on the Planning Commission.

Mr. Dicton cited the following as positions to be filled; SWAC, RRPC, Transportation Council, Health Officer, Town Newspaper, Weigher of Coal, Fence Viewers, Tree Warden, Pound keeper, Inspector of Wood, Planning Commission and two alternate members.

Mr. Faignant said it has been the Board's practice to inquire if the individuals in the position wants to maintain their position and that the Board only appoint a new individual when the current official indicates they do not what to continue to serve.

Mr. Dicton told Board members that Mr. Lloyd would like to be appointed to both SWAC and the Planning Commission.

Board members discussed appointments and decided to advertise for an alternate to the Transportation Council. Ms. Ashcroft moved to make the Rutland Herald the Town newspaper for the purpose of notices and advertising bids. Mr. Chioffi made a second to the motion. The Board discussed the Town advertising in the legal section verses the obituary page. It was decided the Town will advertise on the legal page. The motion passed unanimously.

The Board decided to reappoint the follow officials; Israel Mac-Weigher of Coal, Fence Viewers, Fred Nicholson, Charlie Hemingway and Marshall "Doc" Fish, Paul Williams-Pound keeper, Byron Hathaway- Inspector of Wood, unless they indicate they do not want to be reappointed.

Two alternates for the Planning Commission and one Commissioner position to be advertised.

Mr. Faignant moved for the Chairman to sign the agreement with Stantec. Ms. Ashcroft made a second to the motion. The motion passed unanimously.

Town Administrator Mr. Joseph Zingale Jr. reported:

1. Informed the Board of a request from Mr. Brian Rogers that he be allowed to sell hot dogs from his food cart at the southern end of Cop John Drive. Mr. Hathaway said he is not in favor of the request due to the short vehicle stacking on Holiday Drive. He said the proposed used might add to problems with the intersection. Chief Dumas agreed. Board members said they are not in favor of the request.
2. He informed the Board that a State official is questioning whether to require the Town to remove the paved area in front of the new Post Road / US RT 7 wet well.
3. Informed the Board that the owners of the Holiday Inn have submitted a check for **\$15,000.00** as partial payment for their **\$45,000.00** over due sewer and water bill.
4. He informed the Board that the State will be taking testimony regarding changes to the law regarding property inspections.
5. He informed the Board regarding several frozen water line in Town.

Mr. Zingale reviewed Packet correspondence.

Mr. Faignant moved to move the Marie Hyjek marble plaque (in front of the building) to inside the building and to inscribe her dates of service on the plaque. Ms. Ashcroft made a second to the motion. The motion passed unanimously.

Ms. Ashcroft moved to have a new marble plaque for Ms. Zeller made and put in front of the Town Office. Mr. Faignant made a second to the motion. The motion passed unanimously.

Board members thanked Mr. Chioffi for painting the Select Board room and for getting the new carpet installed.

Mr. Diction thanked Mr. Faignant, Ms. Ashcroft, Mr. Clifford and Mr. Chioffi for their support for his Chairmanship. Mr. Diction passed out a list of committee for 2015-2016 and he requested that members indicate which committees they would like to serve.

Mr. Faignant moved to close the meeting at 9:30 P.M. Ms. Ashcroft made a second to the motion. The motion passed unanimously.