

**TOWN OF RUTLAND**  
**DRAFT**  
**SELECT BOARD**

MINUTES: June 2, 2015

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

The meeting opened at 6:30 P.M. with the Pledge of Allegiance.

Board members signed the May 5, 2015, which were previously approved but not signed. The Board reviewed the May 19, 2015 minutes. Mr. Faignant moved to approve the May 19, 2015 minutes. Mr. Clifford made a second to the motion. The motion passed by a vote of 3 to 0. Ms. Ashcroft and Mr. Diction abstained from the vote.

Town Planning Commission Chairman Andrew McKane reported:

Not present. Mr. Zingale reported that the Planning Commission conducted a town-wide site visit the previous week. He said Commissioners are working on updating the Town Land Use Map. Mr. Diction asked if the Commissioners had elected a new Chairman. Mr. Zingale said the Commission has not yet elected a new Chairman.

Town SWAC Representative Mr. Richard Lloyd reported:

1. He told the Board the Town is in compliance with SWAC.
2. Mr. Lloyd said the Board did not vote on the Solid Waste pricing ordinance or the Solid Waste Plan at the last meeting. Mr. Lloyd said the Town is in compliance with the Solid Waste Plan.
3. Mr. Lloyd told the Board that he received an e-mail from Ms. Pam Clapp, the SWAC Administrator, stating the Town is in compliance with the requirement to collect; yard waste, clean wood and brush.

Mr. Zingale informed the Board that it had previously adopted the SWAC Solid Waste Implementation Plan but has not yet adopted the Solid Waste Variable Pricing ordinance.

Mr. Chioffi moved to adopt the Solid Waste Variable pricing ordinance as written. Mr. Faignant made a second to the motion. The motion passed unanimously.

Mr. Lloyd reviewed the proposed solid waste rate changes. He said Town rates have not increased for the past 10 years. Mr. Lloyd proposed the following:

Mr. Lloyd questioned whether the Board would like to stop charging residents to deposit metal in the metal container. Mr. Lloyd told the Board that the Hubbard Brothers do not

charge the Town to pull the container. Mr. Zingale said the Town gets 60% of the revenue from the metal and that the Hubbards get 40% of the revenue.

Mr. Lloyd suggested the following rates:

- \$2.50 large trash bag
- \$50.00 punch card
- \$2.50 small household appliances
- \$10.00 medium household appliances
- \$10.00 large household appliances
- \$20.00 small pick-up
- \$30.00 large pick-up
- \$30.00 town Contractors pick-up no racks
- \$10.00 small utility trailer

Mr. Faignant moved to adopt the rates set forth. Mr. Chioffi made a second to the motion. The motion passed unanimously. Mr. Chioffi said the new rates will take effect on July 1, 2015.

Mr. Lloyd told the Board he would take care of lowering the railing at the Transfer Station. He said the rail in front of the hopper can be lowered to 42" from the ground. He said it is presently about a foot higher because it was measured a foot above the ground. Mr. Lloyd will contact Mr. Jim Earl to lower the rail.

Mr. Chioffi read aloud a bid received from Overhead Door. He said the cost for option #1 would be \$1,543.00 and that the cost for option #2 would be \$1,782.00. Mr. Chioffi said Mr. Lloyd will also seek another bid for the door work. Mr. Dicton said the door work will be put out to bid.

Mr. Lloyd said he would get the new rates printed and then make copies available at the Transfer Station, the Town office and also in the Circle.

Mr. Red Grover and his attorney Karl Anderson met with the Board regarding the Board taking ownership of the unapproved section of Grover Drive. Due to the lack of correspondence from the Town attorney no action was taken. Mr. Grover and his attorney will attend the next Board meeting.

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

Not present

Town Road Commissioner Mr. Byron Hathaway reported:

1. Mr. Hathaway presented a second sub-recipient agreement for Mr. Dicton's signature. Mr. Hathaway said because the project was divided into two segments

there has to be two sub-recipient agreements with FEMA for storm damage clean up. Mr. Faignant made a motion for the Chairman to sign the second sub-recipient FEMA agreement and for the Road Commission to sign the other item needing a signature. Ms. Ashcroft made a second to the motion. The motion passed unanimously.

Ms. Ashcroft reported to the Board regarding the most recent Highway Committee meeting. Ms. Ashcroft said the Committee recently discussed the Highway Garage proposal and reviewed the three bids which were submitted.

Ms. Ashcroft said the bids were as follows:

Josselyn Brothers	\$593,678.00
Giancola Construction	\$599,900.00
Wright Construction	\$604,728.00

Ms. Ashcroft said the Committee recommends that the Board approve the bid submitted by the Josselyn Brothers with the following addition, \$2,000.00 Bollards to protect the building, \$2,200.00 for a concrete apron at the entrances to the building, \$800.00 for a second waste oil tank.

Ms. Ashcroft said the Committee recommends that the Board accept the bid subject to approval by the voters. She said the total amount after the adjustments is \$596,538.00.

Mr. Faignant moved to accept the Josselyn Brothers bid subject to approval by the voters. Mr. Clifford made a second to the motion. Mr. Hathaway introduced the Josselyn Brothers to the Board.

Ms. Ashcroft cited the fact that the \$596,538.00 construction price does not include; site improvements and appearances', paying Stantec to finalize the wastewater permit once the site is developed, paying the City of Rutland to connect to the City water line, construction of a detention pond, landscaping and future paving.

Ms. Ashcroft said the Board needs to make the voters aware that it needs to spend up to the \$700,000.00 even though the construction cost for the building will be \$596,538.00.

Mr. Faignant said he would like to present a number that accounts for everything so that it doesn't appear the Board is nickel and dimming the project. Mr. Dicton said he agrees with Mr. Faignant.

Mr. Faignant moved to approve the recommendation and to award the contract as requested by Mr. Hathaway, subject to voter approval. Mr. Clifford made a second to the motion. The motion passed unanimously.

Mr. Hathaway will get prices for the expenses not covered by the building construction bid of **\$596,538.00** and will report back to the Board.

Ms. Ashcroft moved to appoint Tom Horrocks to the bicycle-pedestrian steering committee. Mr. Clifford made a second to the motion. The motion passed unanimously. Ms. Ashcroft moved to authorize Mr. Diction to sign the storm water permit application when it is ready. Mr. Clifford made a second to the motion. The motion passed unanimously.

Mr. Hathaway cited the drainage improvements which he made earlier in the day regarding the Johnson Energy drainage problem. Mr. Hathaway said the job took 8 hours and cost about **\$2,000.00**. Mr. Diction said Mr. Hathaway saved the Town a considerable amount of money. Mr. Diction said Mr. Hathaway had estimated the job would cost as much as **\$6,500.00**.

Town Clerk & Treasurer Ms. Donna Zeller reported:

1. She informed the Board that her assistant, Ms. Susan McGee, is attending mandatory election training. Ms. Zeller said she will attend the training beginning on August 10 through August 13.
2. Ms. Zeller told the Board that Circle articles are due by June 5<sup>th</sup>.
3. She told the Board that over **\$330, 00.00** in delinquent taxes have been handed over to the delinquent tax collector. Ms. Zeller said Mr. Chris Howland is learning how to use the NEMRC Tax program.
4. Ms. Zeller told the Board that June 30, 2015 is the end of the fiscal year and she requested that all department heads submit their invoices to her prior to July 1<sup>st</sup>. Ashe said all time sheets must also be submitted to her prior to June 26<sup>th</sup>.
5. Ms. Zeller addressed the Police Budget. Ms. Zeller said the problem happened when taxes were set by the Board in 2014. Ms. Zeller passed out spreadsheets to Board members.

Ms. Zeller cited the fact that property taxes and traffic fines are revenue in the Police Budget. She said a little over **\$11,000.00** in traffic fines were put into the Police Budget.

She said the Police were budgeted **\$249,724.00** and only has **\$29,500.43** remaining, with one month left in the year. She said only **\$214,722.00** in property tax money was allocated to the Police Budget. She said with expenses at **\$220,000.00** the property tax and traffic fine money shows the Police Department would only have **\$5,800.00** to spend.

Ms. Zeller said the problem is with the anticipated income of \$35,000.00, which would leave \$214,722.00 to be raised by taxes. She said when the Police Budget was separated out of the Town General Budget the anticipated income was subtracted from the General Budget and not the Police Budget.

Ms. Zeller said in 2012 & 2013 the Police brought in almost \$39,000.00 in traffic fines and that it was anticipated \$35,000.00 would be brought into the 2013/2014 Police Budget.

She said because the tax rate for the Police was set to only raise \$214,724.00. She said that number is the \$249,000.00 budget less the anticipated revenue of \$35,000.00.

Ms. Zeller said the \$35,000.00 in anticipated revenue should have never have been put into the Police Budget. She said fine money should go into the General Budget. Ms. Zeller said from now on the traffic fine money will go into the General Budget and that the General Budget would transfer \$35,000.00 to cover the shortfall.

Mr. Chioffi asked Ms. Zeller what happened to the balance of the 1% money that was supposed to be allocated to the Police Budget. Ms. Zeller said the best she can tell there is \$478,000.00 left over from the local options money, minus the General Budget.

She said the amount is then put against the articles voted by the Town as well as, scholarships, the Boys & Girls Club, the Center Rutland Fire Station bond and the north end sewer bond. She said after making all of the payments there is \$119,000.00 that then flows to the Police.

Ms. Zeller said when she adds in a \$17,820.00 shortfall and subtracts out the \$119,000.00 she gets \$112,852.00. She said the Board raised about \$113,000.00 in taxes for the Police Budget.

Ms. Ashcroft asked how much money was actually raised in anticipated traffic fines. Ms. Zeller said a total of \$11,302.29 has been raised. Ms. Zeller said the voters approved a Police Budget of \$249,000.00 budget to be raised by taxes.

Mr. Chioffi said it is the Board's prerogative as to how the 1% money is allocated. He said the Police Budget has always been in the General Budget and that the Board allocated the 1% option money to the General Budget, which would have covered all Police activity in the Town.

Mr. Chioffi said any money left over after fully funding the General Budget should be directed to the Police Budget. Mr. Chioffi said he does not think the 1% money should be spent on ballot items. He said the Board is putting the Police department at risk by not allocating the 1% the way it was done previously.

Mr. Fainant moved to allocate **\$35,000.00** from the General Budget to be moved to the Police Budget to cover the anticipated income that was applied to the tax rate. Ms. Ashcroft made a second to the motion. The motion passed unanimously.

Town Fire Chief Mr. Frank Cioffi reported:

1. Chief Cioffi requested the Board approve Mr. Christopher Henderson as a member of the Town Fire Department. Mr. Cioffi said Mr. Henderson is a Town resident and has already been approved by the Fire department. Mr. Dicton said the Board normally signs the paperwork submitted by the Fire Department. Mr. Cioffi said he did not have any paperwork. Mr. Cioffi will get back to the Board with the application for signature.

Mr. Cioffi moved to approve the Chief's recommendation for the new firefighter Mr. Christopher Henderson. Mr. Fainant made a second to the motion. The motion passed unanimously.

2. Chief Cioffi informed the Board that former Fire Chief Joe Denardo recently informed him that the solar farm constructed on the former Metro mail property does not comply with the deal he worked out with a representative for the solar company.

Mr. Cioffi said the Fire Department would not be able to get a truck to the back of the building due to the solar panels blocking access. Mr. Cioffi said he will do more research and report back to the Board.

3. Mr. Cioffi requested a meeting with the Fire Committee to discuss removing the underground storage tank at the McKinley Station.

4. The Chief informed the Board that he plans to travel to Maine over the weekend to look at a fire truck that is for sale.

Mr. Fainant informed the Board that the Fire Department recently voted to adopt the Firefighter Code of Ethics as developed by the national Society of Executive Officers. Mr. Fainant read the code aloud. Mr. Fainant said it was remarkable that the membership did not hesitate to adopt the Firefighters Code. Mr. Fainant said the Town should be proud of the men and women who serve in the Fire Department. He said they are exceptional people.

5. Chief Cioffi congratulated Firefighters Alisa Robideau and Abigail Lancour for being recognized nationally for their community service.

The Board and the Chief discussed holding an open house for the new Joseph J. Denardo Fire Station. The Chief will get back to the Board with possible open house dates.

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

Not present.

Town Police Chief Mr. Ed Dumas Reported:

Rutland Town Police Department		181 Business Route 4 Center Rutland, Vermont 05736			
Monthly Activity Report		For the Month of:	May 2015	Date Prepared:	June 1, 2015
<b>Activity Data</b>	Assigned Calls:	88		 	
	Assigned Assists:	10			
	Criminal Arrests / Lodging	0			
	Criminal Arrests / Citation:	3			
	Number of Traffic Stops:	42			
	Number of VCVCs Issued:	23			
	Total Waiver Fines:	\$3,482.00			
	Number of Warnings:	25			
<b>Time Data</b>	Total Hours Spent on Call Assignments:	111.00		Total Duty Hours:	441.00
	Total Hours Spent on Assigned Assists:	12.75		Total Patrol Miles:	2419.0
	Total Hours Spent on Directed Patrol: (Speed Enforcement / General Traffic Offenses)	13.00		Total Gasoline Consumed: In US Gallons	156.737
	Total Hours Spent on Case Reports: (Report Preparation / Not Investigation)	72.50		Average Miles Per Gallon:	15.43 MPG
	Total Hours Spent in Court: (Traffic Court / Criminal Trial / Deposition)	4.50			
	Total Hours Spent on Administrative Duties:	46.00			
	Total Hours Spent in Training:	42.50			
	Total Hours Spent on Vehicle Maintenance: (Routine Service / Repair / Maintenance / Cleaning)	8.75			
	Total Hours Spent on General Patrol / Other:	128.00			
					<i>Major John R. Sly #140</i> John R. Sly, Deputy Chief of Police Rutland Town Police Department

Mr. Diction requested that an officer and a vehicle attend the Town School graduation for traffic control. Mr. Dumas said he would have an officer present.

Mr. Chioffi questioned the Chief regarding the departments outside work proposal. Mr. Dumas said he is waiting to hear back from the Town Attorney.

Town Recreation Director Mr. Mike Rowe reported:

1. The pool is up and running.
2. The pool will open on Saturday June 6<sup>th</sup>.
3. The school pool party is scheduled for June 12<sup>th</sup>
4. The pool will open officially on the 19<sup>th</sup> at noon.

5. Mr. Rowe submitted the names of three individuals he would like to hire for the summer. Mr. Fagnant moved to approve the list submitted by Mr. Rowe. Ms. Ashcroft made a second to the motion. The motion passed unanimously.

6. Mr. Rowe said baseball will wrap up in June.

Mr. Chioffi made a motion to bring the Dog Ordinance tabled issue off the table and up for Board discussion. Mr. Clifford made a second to the motion. The motion passed unanimously.

Mr. Fagnant made a motion that dogs must be on a leash when in Northwood Park & Dewey Field, there will be a warning for the first infraction, a **\$100.00** fine for the second infraction and expulsion from the Park for a third violation. The words “under the owners’ verbal control” to be deleted from the Ordinance”. Mr. Clifford made a second to the Ordinance. The motion passed unanimously.

7. Mr. Rowe informed the Board that he has ordered two new portable lifeguards chair stands for the pool.

Town Administrator Mr. Joseph Zingale Jr. reported:

1. Mr. Zingale reported to the Board regarding upgrades to the proposed Town Server, per the Board’s direction. Mr. Zingale said he consulted with Ms. Zeller before requesting pricing on the various upgrades. The Board directed Mr. Zingale to get prices for upgrading to RAM to either 64GB or 128 GB.

2. He reported that the trail map from the RRPC was not promoting the use of the power lines as walking and riding trails. He said the power lines were on the base map that was used to show existing trails in Rutland Town.

3. Mr. Zingale informed the Board that the Town of Underhill has adopted the Town’s solar resolution.

4. He informed the Board that he recently did a drive thru with a Fabian representative regarding the planned manhole to be done this summer.

5. Mr. Zingale informed the Board that the water service curb-box for the Denny’s restaurant had been damaged as a result of the reclaim of Seward Road. He told the Board that he hired the City of Rutland to replace the curb-box.

6. Mr. Zingale informed the Board that he has scheduled test pits for the Cunningham property and that Mr. Hathaway would be providing the backhoe.

7. He informed the Board that he and Town Health Officer John Sly had recently attended a Health Officer training session. Mr. Zingale said the session was informative.

8. Mr. Zingale cited correspondence he had placed on Board members' desk. He said the items were in regard too; the waterline break, Grover Drive and whether to appeal the groSolar Act 248 permit.

Mr. Faignant moved to authorize the appeal of the groSolar permit. Mr. Chioffi made a second to the motion. Mr. Chioffi questioned if the Town would be joining the appeal filed by the neighbors. Mr. Faignant said the Board would be initiating their own appeal.

Town resident, Mr. David Fucci, told the Board that attorney Allen George has filled the neighbors appeal regarding the Act 248 permit and that a joint law suit seeking compensation for a 40% reduction in property values will be filled by attorney Peter Langrock on behalf of 12 property owners.

Mr. Fucci said his neighbor has had zero offers on her home, which he said is for sale, because the home would be right next to the solar farm. The motion passed unanimously.

Board members discussed why the wording of an agenda item was changed as well as a letter by Mr. Chioffi.

Mr. Faignant said he took exception to the agenda item being changed. Ms. Ashcroft said she requested the change because the Eagle Scout's name was mentioned. Ms. Ashcroft said the matter was not about the Eagle Scout. Ms. Ashcroft said it was about the process that resulted in the letter.

Ms. Ashcroft said to avoid embarrassment to the scout she asked the agenda item be called something else. Mr. Faignant said he does not think Ms. Ashcroft has the authority to change another member's request.

Mr. Faignant said the problem arose when Mr. Chioffi wrote a letter which contained false information. He said Mr. Chioffi's letter designated May 18, 2015 as Matthew Burd. Mr. Faignant said the statement is a misrepresentation that did not occur.

Mr. Faignant said Mr. Chioffi's original letter also included a provision awarding Mr. Burd a lifetime pass to the Rutland Town Pool facility at Northwood Park. Mr. Faignant said it was removed because a select Board member objected because it could have financial implications.

Mr. Faignant said the Board authorized a congratulatory letter but at no time did the Board vote to designate any day as Matthew Burd day. Mr. Faignant said the representations in the letter(s) are serious issues and that is why he is speaking out on the matter. He said the Board needs to address the matter.

Mr. Dicton told Mr. Faignant that he was the one who changed the wording on the agenda. Mr. Faignant said Mr. Dicton should have called and informed him (Mr. Faignant) of the change. Mr. Dicton apologized for his action.

Mr. Faignant said he accepted Mr. Diction's apology. Mr. Faignant said the Board lied to Mr. Burd in writing, making a representation that was not true. Mr. Faignant apologized to Mr. Matthew Burd for the misrepresentation.

Mr. Chioffi said the letter was available for all Board members to sign prior to being sent. He said he did not receive a call from any members saying he should change the letter. Mr. Chioffi said the discussion is inappropriate for a public meeting.

Mr. Chioffi said he is embarrassed that Mr. Faignant brought the matter up at a public meeting. Mr. Faignant said Mr. Chioffi should be embarrassed for writing the letter.

Mr. Chioffi said that Mr. Faignant and another Board member authorized the Town lawyer to change deed language, when the Board never voted to change the language. Mr. Chioffi said it is hypocritical for Mr. Faignant to charge Mr. Chioffi for doing the same thing.

Mr. Chioffi said neither Mr. Faignant nor Ms. Ashcroft had the authority to change the deed language. He Chioffi said he does not like the double standard on the Board.

Ms. Ashcroft said the deed in question was altered and brought back to the full Board for consideration. She said she resents being charged with changing the deed after it came back from the attorney.

Ms. Ashcroft said she brought new language into the Board for consideration and that it was voted on at a public meeting. She said Mr. Chioffi's letter did not come back to the Board. She said it was you deciding along with Mr. Rowe that a lifetime pass should be awarded and that the Board was asked to sign the letter. She said it was not a discussion before the full Board.

Mr. Chioffi said he did what he did to try to give some recognition to a young man. He said the wording giving him recognition was at no cost to the Town and every Board member had the opportunity to sign his letter.

Board members discussed the matter further. Mr. Faignant made a motion that from this point forward any member who misrepresents actions of the Board to citizens be subject to sanctions by the Board. Mr. Chioffi said Mr. Faignant does not have the authority to sanction anyone on the Board.

Mr. Chioffi told Mr. Faignant that Ms. Ashcroft did not break the open meeting law when she requested the wording on the agenda be changed. Mr. Chioffi read the State Statute regarding the open meeting law.

Mr. Chioffi made a second to the motion. Mr. Faignant amended his motion to read "from this point forward any members who misrepresent actions of the Board in writing to citizens be subject to sanctions by the Board. The vote failed by a vote of 1 to 4. Mr. Chioffi, Mr. Diction, Mr. Clifford and Ms. Ashcroft voted in the negative.

Mr. Dicton said the Board needs to start working as a team. He said the disagreement was address and that it is now time to move on.

Mr. Dicton said Board members were elected to carry out their duties and that they should do so. Mr. Chioffi made a motion to designate May 18<sup>th</sup> as Matthew Burd Day in the Town of Rutland. Ms. Ashcroft made a second to the motion.

Mr. Faignant said the Board should have criteria or a policy rather than making designations on an ad hoc basis because many people in Town have obtained the Eagle Scout designation. He said traditionally contribution to the community has been the basis for designating a day for an individual.

Mr. Faignant said a committee should develop a policy and criteria upon which to consider such request. Ms. Ashcroft said she would support the current motion with also forming a committed to develop a policy. Mr. Chioffi cited the fact that Mr. Burd did a project for the Town, which he said will be benefit the Town and will be enjoyed by thousands of residents in Town for a long time.

Mr. Clifford asked if the motion contained the provision that the Board would develop a policy. Mr. Dicton and Ms. Ashcroft said it does. The motion passed by a vote of 4 to 1. Mr. Faignant voted in the negative.

Mr. Chioffi made a motion to go into executive session to discuss a recreation personnel matter and to discuss the enforcement of a contract the Town has with the Diamond Run mall. Ms. Ashcroft made a second to the motion. The motion passed unanimously.

The Board came out of executive session at 9:25 P.M. The Board took no action. Mr. Faignant moved to adjourn the meeting. Mr. Clifford made a second to the motion. The motion passed unanimously.