

**TOWN OF RUTLAND
SELECT BOARD**

MINUTES: July 14, 2015

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

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

Mr. Faignant moved to approve the 6-30-15 minutes. Ms. Ashcroft made a second to the motion. Mr. Chioffi cited a correction on page 7 regarding what he said regarding putting the election on the August ballot. He said the word "regrets" should be added to Ms. Ashcroft's motion accepting Mr. Clifford's resignation.

The motion passed by a vote of 3-0. Mr. Dicton abstained from the vote.

Mr. Red Grover and his lawyer Mr. Karl Anderson and his Engineer Mr. Brownson Spencer met with the Board regarding Board acceptance of the unapproved section of Grover Drive.

After discussing the matter of the seven road waiver requests and whether the applicant has received Town Attorney approval for the requested waivers Mr. Anderson requested that the Board conditionally approve the road acceptance, pending approval from the Town's lawyer.

Mr. Faignant said the Board cannot conditionally approve the road acceptance and he directed Mr. Anderson to meet with the Town attorney and get approval for all requested waivers before returning back to the Board.

Board members discussed whether the Board candidate interviews should be in open or executive session. Mr. Chioffi said he would prefer to interview the applicants in open session. He cited the fact that the public notice for Board applications did not state the interviews would be in executive session.

Mr. Chioffi said the matter was not properly noticed. Messrs. Dicton and Faignant and Ms. Ashcroft disagreed regarding whether the open Board seat was advertised properly.

Ms. Ashcroft said the interviews do not have to be in executive Session.

Ms. Ashcroft asked the applicants if they would prefer to be interviewed in executive session or in the open meeting. Mr. Terenzini and Mr. Hall said open session would be okay. Board member decided to interview the two candidates in open session.

Mr. Chioffi sought clarification regarding the number of candidates seeking appointment to the open position on the Board. Mr. Dicton told Mr. Chioffi that Mr. Stephen A. Dardeck had withdrawn his name for consideration.

Mr. Dicton read a letter submitted by Mr. Dardeck regarding his decision not to be considered for the opening on the Board. Mr. Dicton read the letters submitted by Mr. Joshua Terenzini and Mr. Jim Hall.

Mr. Faignant asked Mr. Hall if it is his intention not to run for the Board position in the upcoming election. Mr. Hall said he will not be a candidate in August. Mr. Terenzini said he intends to run for the opening on the Board in the August election.

Ms. Ashcroft asked the candidates if they can both make the next three meetings should one be appointed. Messrs. Terenzini and Hall said they planned to attend all three meeting.

Ms. Ashcroft asked Mr. Terenzini what he would do regarding his School Board position should he be appointed by the Select Board to fill the opening. Mr. Terenzini said he would serve out his term on the school Board and would not seek reelection to the School Board. He said his term is up in 2016.

Mr. Terenzini said his experience can be better used on the Select Board verses the School Board. He cited his previous 4 years on the Select Board.

Mr. Chioffi informed those in attendance that he has been contacted by two individuals considering running for the open seat on the Board at the August election. Mr. Chioffi said his view is to appoint Mr. Hall for the interim period and have Mr. Terenzini run for the position in the election.

Mr. Chioffi made a motion to appoint Mr. Jim Hall for the interim position on the Select Board until the election. Ms. Ashcroft made a second to the motion. The motion failed by a vote of 2 to 2. Mr. Faignant and Mr. Dicton voted in the negative.

Mr. Faignant moved to appoint Mr. Josh Terenzini to fill the position. Mr. Dicton made a second to the motion. The motion failed by a vote of 2 to 2. Mr. Chioffi and Ms. Ashcroft voted in the negative.

Board members cited reasons why those who voted in the negative should change their vote. Mr. Faignant suggested the Board schedule a meeting for the following week to vote on an appointment. Mr. Chioffi said he does not want the Board to predetermine what the vote will be by putting in an incumbent, when there could be an election.

Town Clerk & Treasurer Ms. Donna Zeller gave the dates and times for candidate petition filings. Ms. Ashcroft made a motion to hold a special meeting on Thursday July 23, 2015 at 5:00 PM to; vote to fill open Select Board position, to vote to set the tax rate and to sign the August election warning. Mr. Chioffi made a second to the motion. The motion passed unanimously.

Town resident Ms. Norma Levy met with the Board regarding the new requirement that dogs must be leashed when in Northwood Park. Ms. Levy informed the Board that she

circulated a petition objecting to the Board's recent action. Ms. Levy said Town residents need a safe place to exercise with their dogs. Ms. Levy said she and fellow dog walkers walk a 2.6 mile loop every day in Northwood Park. She said losing access to the loop would seriously damage their lifestyles.

Ms. Levy told Board members that leashed dogs can also poop on the fields and a leashed dog can be unfriendly. Ms. Levy said it is up to the owner to be responsible. Ms. Levy said there should be an area in Northwood Park where dogs can go off leash.

Ms. Levy said dog owners need trails so they can take long walks in all kinds of weather. Ms. Levy suggested designated trails for use by individuals who have dogs under control. Ms. Levy said requiring dogs to be leashed in Northwood park is taking away her and others lifestyle.

Ms. Levy told Board members that some individuals were frightened to sign the petition. She told Board members that she did not collect the required number of signatures to place the item on a ballot. Ms. Levy said she mistakenly thought she needed 27 signatures. Ms. Levy said she collected 36 names.

Ms. Levy appealed to the Board to do something to allow her and her fellow dog owners to continue allowing their dogs to be off leash in Northwood Park. Ms. Levy suggested that dogs receiving a good citizen certificate from a trainer be allowed to be off leash when in the Park.

Mr. Diction asked for clarification as to the location of the walking loop in Northwood Park. Ms. Levy described the route location. Mr. Faignant asked Ms. Levy how using a leash interferes with walking a dog. Ms. Levy said when on a leash dogs walk from side to side and that is it difficult to walk.

Mr. Faignant explained why there has to be a standard and why it must apply to everyone. He cited a recent incident in which several dogs chased a family of young Mallard ducklings. He said a leash is a way of insuring a certain level of predictability for people who want to use the park.

Ms. Levy said her friend told the person, who owns the dogs that chased the ducklings, not to return to the park. Ms. Levy said her dog will return when called. Ms. Levy cited dog agility and obedience training, that she said is available to dog owners.

Ms. Levy told Board members that her group of dog walkers, pick up in the spring, for the people who do not pick up during the winter months. She said the people not picking up after their dogs should be fined.

Mr. Chioffi asked Mr. Rowe if the dog walker's path is the same as the planned bike/pedestrian path. Mr. Rowe said they are in the same area but not the same.

Mr. Chioffi said dogs off leash in the Park are at risk, he cited an incident in which a dog was caught in an illegally set trap in the Park. Mr. Chioffi said the Board has a responsibility to make sure the Park is safe.

Mr. Chioffi said it would not be enforceable to allow some dogs to be off leash and requiring others to be on a leash. He said the solution is a dedicated dog park.

Mr. Dicton suggested dog walkers abide by the Town ordinance when on Town land and free their dogs when on City land or along the waterline. Mr. Dicton said the Town could help define the area.

Mr. Dicton said the Recreation Committee will look into the matter and see if there could be a park. Ms. Levy said if the park is large enough there could be some agility obstacles in the park.

Town Planning Commission Chairman Andrew McKane reported:

Not present.

Ms. Ashcroft moved at 7:43 P.M. to go into executive session to discuss pending litigation concerning a tax matter. Mr. Fagnant made a second to the motion. The motion passed unanimously.

Mr. Chioffi moved to close the executive session at 7:55 P.M. Ms. Ashcroft made a second to the motion. The motion passed unanimously.

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

1. Board members discussed the public notice for the compactor replacement.
2. Mr. Chioffi addressed a letter from the Overhead Door Company. Mr. Chioffi said the Overhead Door bid was not the lowest bid. He said both bidders were asked to bid on the main door and to bid on the additional doors. He said Mr. Zingale made a transcription error when he did the minutes. Mr. Zingale said he typed what Mr. Lloyd said. Mr. Chioffi said there was a \$250.00 to \$300.00 difference in the bids.

Mr. Zingale informed the Board that the individual from Overhead Door had called and said he was the lowest bid because he proposed to replace two doors and to rehab the other two doors, for a total price less than Ski Door's bid to replace all four doors.

3. Mr. Lloyd thanked Mr. Brad Lafaso and Mr. Chioffi for putting up the Flory dedication letters at the Transfer Station. He also thanked the Highway department for pressure washing the containers.

4. Mr. Lloyd suggested some tree limbs be removed in order to make the wording on the building more visible. Mr. Chioffi said some of the trees should be removed. Mr. Dicton said the limbs are a liability. Town Tree Warden Mr. Fred Nicholson will take a look and decided if trees should be cut.

Mr. Chioffi thanked Mr. Lafaso for his work placing the lettering on the building. He said Mr. Lafaso was happy to do the work for the Town and that he is not looking for anything in return. Mr. Zingale will write a thank you letter to Mr. Lafaso.

Town Alternate Transportation Council representative, Mr. Jim Hall reported:

1. Mr. Hall informed the Board that he attended a meeting on June 25, 2015 at which bicycle/pedestrian grant applications were reviewed as well as a talk regarding the accelerated bridge replacement program. He said Town that have used the program have had good results.

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

Present and no report

Town Clerk & Treasurer Ms. Donna Zeller reported:

1. She told the Board that the NEMRC Accounts and General Ledger software has been installed. Ms. Zeller said she has done a set of orders using the new software. She said she will continue using the old system in order to have a good check. She said the Payroll software will be installed later this week.
2. Ms. Zeller reviewed the propane and fuel bids with the Board. She said the Town received four propane bids. She said some of the providers gave a fixed price and a variable price.

Proctor Gas- \$1.36.38 per gallon propane fixed price

Irving Oil- \$1.36.00 per gallon plus a 4/10 of a cent additional fee propane.

Irving's- variable price is .04 over that quote that it is right now, according to Ms. Zeller.

Suburban Propane- \$1.04.52 per gallon with a 35 cent per gallon additional fee for a total of \$1.39.52 per gallon fixed margin over the Rutland Terminal price.

Amari Gas- \$1.79 per gallon fixed price

Mr. Dicton asked Ms. Zeller if the bid specified a fixed or variable price. Ms. Zeller said the bid did not specify a fixed or variable price. Ms. Zeller said she informed

the bidders how many gallons the Town wants and that the provider then gives the Town a price. Ms. Zeller said the Board can choose whether to accept the Fixed or variable price bid. Ms. Zeller told the Board that fuel prices are down a lot this year.

Mr. Chioffi made a motion to accept the Proctor Gas fuel propane bid. Mr. Faignant made a second to the motion. The motion passed unanimously.

Ms. Zeller said the Town also requested fuel oil bids, which are both fixed and marked-up over the Albany Rack price. She said some bidders gave the Rutland/Middlebury rack price.

Champlain Plumbing & Heating **\$2.16** per gallon fixed price

Johnson Energy **\$2.29.9** per gallon fixed

Max Flame Right **\$2.39** fixed up to 7,500 gallons, and then it would be **10** cents over the Rutland Terminal price.

Irving Oil **\$2.44.4** per gallon

Rutland Fuel Company **\$2.48.5** fixed

Ms. Zeller said Gecha Fuels has the lowest variable price. Ms. Zeller said the Gecha variable price is two cents less per gallon less than the fixed Champlain Plumbing & Heating price.

Ms. Ashcroft moved to accept the Champlain Plumbing & Heating fixed price of **\$2.16** per gallon. Mr. Dicton made a second to the motion. Mr. Zeller said last year the Town had a contract with Johnson Energy for fixed price of **\$3.29** per gallon.

Mr. Chioffi said the fuel oil trend is downward and that there are no current indication in the marketplace that the trend is going to be anywhere else than downward. He said he does not see the price of fuel oil going up.

Mr. Faignant said the Gecha bid cannot be considered because they quote the Rutland/Middlebury rack price and not the Albany as specified in the notice to bid. Ms. Zeller said the Town bid notice did not specify a rack price.

The motion failed for lack of majority. Mr. Dicton said the Board could address the issue at the planned Thursday July 23rd meeting.

Mr. Chioffi made a motion to accept the Gecha Fuels price of **\$2.14** current delivery and mark up over the Rutland/Middlebury rack price. Mr. Dicton made a second to the motion. The motion failed due to lack of majority. Mr. Faignant indicated an abstention.

Town Road Commissioner Mr. Byron Hathaway reported:

Ms. Ashcroft reported to the Board regarding a Highway Committee meeting held prior to the Select Board meeting. Ms. Ashcroft said the proposed AIA contract for the highway garage was discussed and it was decided to send the contract to the Town Attorney for review.

Ms. Ashcroft said the committee recommends that Mr. Hathaway be the Town's project manager for the garage project. Ms. Ashcroft said the committee also discussed winter operations contracts. Ms. Ashcroft said the Board is looking for more uniformity in winter maintenance work.

She said Mr. Hathaway will develop a payment schedule which will pay contractors based upon the call-out rate. She said Mr. Hathaway will determine the average cost per mile for winter road work.

Ms. Ashcroft said the plan is to guarantee a certain minimum payment for the number of times they are likely to be called out as well as an average cost per mile. Ms. Ashcroft said the Town currently pays by the hour. Mr. Faignant and Ms. Ashcroft said the Town is trying to move toward a more predictable system for budgeting.

Mr. Hathaway informed the Board that summer paving is complete. Mr. Hathaway said there is some follow up work to be done on the Gleason Road and Travis Terrace.

Mr. Hathaway told the Board that he may have to make arrangements to get the Stratton Road line striped in the event the State does not do the striping for the Town.

Town Fire Chief Mr. Frank Cioffi reported:

Mr. Diction told Chief Cioffi that in the event of a fire in a solar field he must call Green Mountain Power, who will respond to the site and shut off the power, prior to Firefighters entering the solar field.

1. The Chief requested that a fire vehicle be allowed to attend a parade in Rupert / Pawlet in August and a vehicle to attend the Bennington Battle Day parade on August 15th & 16th.
2. Mr. Cioffi informed the Board that he recently attended a Dispatch Committee meeting at the town Fire Station. Mr. Cioffi told the Board that the meeting was well attended by the local Fire Departments.

He said all departments plan to make the switch and stay with the State until such time the group has more information regarding an alternate dispatch center. He said more information would be available in six weeks.

3. Chief Cioffi told the Board he has done additional information regarding the solar field on Seward Road. Mr. Cioffi said he has made arrangement to meet with a representative for the owners of the solar field. He will report back to the Board

after his meeting.

Ms. Ashcroft made a motion to send one fire truck to both parades and wit two people per truck. Mr. Chioffi made a second to the motion. The motion passed unanimously.

Mr. Chioffi questioned Chief Cioffi regarding addressing roof water runoff from the Fire Station. Chief Cioffi said the plan is to tie the roof drains into the underground drain, which is in front of the building.

Mr. Cioffi told the Board that the Fire Station open house has been scheduled for Saturday October 3, 2015 at the Joseph J. Denardo Fire Station.

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 Report

181 Business Route 4
Center Rutland, Vermont 05736
Date Prepared: 7-1-15

Major John R. Sly # 140
Deputy Chief of Police
Rutland Town Police Department

Monthly Activity Report
For the Month of: **June 2015**

Activity Data

Assigned Calls:	86
Assisted Calls:	5
Criminal Arrests / Lodging	0
Criminal Arrests / Citations	0
Number of Traffic Stops:	57
Number of VCVCs Issued:	46
Total Waivers Fines:	\$7,122.00
Number of Warnings:	23

Time Data

Total Hours Spent on Call Assignments:	80.25
Total Hours Spent on Assigned Assists:	2.00

Total Hours Spent on Directed Patrol:	29.75
Total Hours Spent on Case Reports:	55.00
Total Hours Spent in Court:	1.50
Total Hours Spent on Administrative Duties:	69.25
Total Hours Spent in Training:	39.50
Total Hours Spent on Vehicle Maintenance:	10.75
Total Hours Spent on General Patrol / Other:	146.75

Totals

Total Duty Hours:	431.00
Total Patrol Miles:	2773.00
Total Gasoline Consumed (gallons)	127.471
Average Miles per Gallon:	21.75 MPG

Mr. Dicton told Chief Dumas that the Committee would like to meet to discuss the outside work proposal. Mr. Dicton said he would set up a meeting.

Town Recreation Director Mr. Mike Rowe reported:

1. Told the Board that the 4th of July went great and that parking was awesome. He thanked those in the police and Fire Departments that participated in the event. He said the event was well attended.
2. Mr. Rowe told the Board he is seeing an increase in Pool usage and that everything is running fine.
3. He told the Board that the next senior lunch is scheduled for July 21 from noon to 1:00 P.M.
4. Mr. Rowe informed the Board that he had replaced the water booster pump, which is used to pump up the pressure for the toilets in the pool building. He said the pump was under warranty. Mr. Rowe told the Board that he has replaced the pump three times.
5. He told the Board that the pool will host its first swim meet on Saturday the 25th. He said the event will be from 8:00 AM to 8:00 PM. He said lifeguards would do parking and directing traffic.
6. Mr. Rowe told the Board that soccer registration forms are available online.

7. Mr. Rowe informed the Board that he will be receiving an estimate from a local company to construct a directional sign to be placed in Northwood Park. He said the Board would review the sign and together figure out how to pay for the sign. He said he is in the process of determining how to pay for the sign work.
8. Mr. Rowe said the Recreation Committee should meet to discuss the dog issue raised earlier in the meeting.

Town Administrator Mr. Joseph Zingale Jr. reported:

1. He cited the Environmental Court notice to parties regarding the BJ's store proposed for the Town. He said the matter has to do with vacations and scheduling.
2. Mr. Zingale cited correspondence regarding the water line break and repair. He said he did not have any new information.

Ms. Ashcroft said that due to attorney unavailability there most likely will not be a hearing before February 2016. Mr. Chioffi said he finds it disconcerting that the owners of the Mall appealed the BJ's permit and hired an attorney to file the appeal. He said the Mall's attorney wants everyone to accommodate their schedule which is months down the road. He said it is an abuse of the legal system to allow it to happen.

3. Mr. Zingale cited the Rutland Regional Medical Center's road race street use request. He said they are requesting to use Stratton Road and the Cold River Road. Mr. Zingale said the Town has received proof of insurance.

Mr. Faignant moved to approve the request. Ms. Ashcroft made a second to the motion. The motion passed unanimously.

4. Mr. Zingale cited the letter of support he wrote for the proposed post Road bike/pedestrian joint use path grant application.

Ms. Ashcroft and Mr. Chioffi discussed the reasons for the various delays in State Environmental Court proceedings. Mr. Chioffi cited the fact that the owners of the Diamond Run Mall have the money to pay lawyers to fight BJ's yet say they do not have enough money to honor their contract obligations with the Town.

He said the maintenance contract with the mall is for the protection and the betterment of the people of the Town of Rutland. He said the contract is not being adhered to nor enforced.

The Board reviewed packet correspondence.

Mr. Faignant made a motion to receive and file the correspondence from the Public Service Board regarding the solar application for Post Road Extension. Ms. Ashcroft made a second to the motion. The motion passed unanimously.

Mr. Chioffi read two Thank You letters from; Ben Smith and Brandon Westburg and who both awarded a Town College Scholarship. Mr. Chioffi also read a letter from the Rutland Free library nominating Ms. Mary Wasserman as a new Town Library Trustee.

Ms. Ashcroft moved to approve Ms. Mary Wasserman as one of the Town Trustees to the Rutland Free Library Association. Mr. Faignant made a second to the motion. The motion passed unanimously.

Mr. Faignant suggested the Town hire an Architect to renovate the restrooms in the Town Hall. The Board agreed.

Mr. Faignant moved to adjourn the meeting at 9:27 PM. Ms. Ashcroft made a second to the motion. The motion passed unanimously.