

**MINUTES OF THE SHAFTSBURY SELECT BOARD  
JANUARY 9, 2006, COLE HALL, SHAFTSBURY, VERMONT**

**Board Present:** Wynne Metcalfe, Chairman, Cinda Morse, Karen Mellinger, Skip Fagerholm, Jim Mead

**Others Present:** Bill Pennebaker, Bill Jakubowski, Mary Beth Maguire, Ed Legacy Sr., John Tiffany, Forrest Snyder, Clover Whitham (Bennington Banner), Alison Church (BCRC), Audrey Rutheiser. Harvey Rutheiser, Scott Bernard, Michael Bidy, Trevor Mance, Terry Aiken, Travis Buttle, Aaron Chrostowsky, Susan Swasta

**1. Call Meeting to Order:**

Chairman Wynne Metcalfe called the meeting to order at 7:05 PM. He asked if any board member needed to recuse himself or herself from discussion of any agenda topic scheduled for tonight. None did.

Chairman Metcalfe announced that the town had been awarded a \$248,000 sidewalk grant by the state. He commended Karen Mellinger and Aaron Chrostowsky for their work on the grant. The audience applauded their appreciation.

**2. Minutes:**

January 2, 2006 Minutes:

**Cinda Morse made motion to approve minutes. Karen Mellinger seconded. The motion to approve minutes carried 5-0-0.**

**3. Warrants:**

The following warrants were presented for approval:

- Transfer Warrant – \$ 65,000.00 (transfer out of reserve fund)
- PR#27 – \$ 5,333.98 Payroll Warrant
- AP#28 – \$ 18,900.00 General Warrant (includes salt and sand))

**Ms. Morse made motion to pay the warrants. Jim Mead seconded.**

**4. Public Comments:**

Ms. Mellinger asked whether TAM was charged by the town for depositing solid waste collected from Shaftsbury customers in the town waste disposal facility. Trevor Mance answered that TAM is not charged because this is Shaftsbury waste. The fee paid by his customers is for hauling, not for disposal. This is a carryover from the old system. TAM is currently the only hauler using the town facility because others chose not to confirm to the town's rules requiring recycling and the use of clear bags.

Ms. Mellinger stated that she had not been aware of this, and that she would be more comfortable with the practice if TAM's weight slips were more official. She would like to see this written into TAM's contract. There was a discussion concerning TAM's difficulties in gaining access to the kind of scales that would generate these weight records.

**5. Town Administrator's Report:**

Town Administrator Aaron Chrostowsky reported that there had been a water main break on Church Street which has been repaired.

He has heard from town attorney Peter Holden on fire department reimbursement, and this will be on next week's agenda. Bids for mowing, a box culvert, and landfill closure went out last week.

John Ray and Sons of Troy, NY have agreed to provide diesel fuel to the town at \$2.17 per gallon and have supplied a 1000 gallon tank at no charge.

The budget is on track at 52% expended thus far. The only possible red flag is a shrinking gravel budget, which may be an issue if the weather stays warm.

Mr. Chrostowsky reminded everyone of the Act 250 pre-conference hearing set for Thursday, January 12 at 9:30AM and of the landfill site visit for prospective landfill closure bidders set for 10:00AM on Tuesday, January 17.

#### **6. School Board Request for Reappraisal:**

Chairman Metcalfe announced that he had received a letter from the Shaftsbury school board requesting a reappraisal of properties. He stated that the town is not ready to finance a reappraisal. The common level of appraisal has dropped to 80, and if it goes below this level a reappraisal will be required. At that point the state will contact listers and the process will begin. The preliminaries to a reappraisal, once in motion, will take two years, and that is what the town is anticipating in its budgeting.

#### **7. KAS/Landfill Closure Update:**

Mr. Chrostowsky reported that the landfill closure went out to bid last week. Bid notices have been placed in newspapers throughout Vermont and in nearby New York and Massachusetts. Bids must be received by January 30, 2006. Some replies and requests for plans have already been received and there is a site visit set for January 17. Mr. Chrostowsky thanked Bill Pennebaker for reviewing and critiquing the KAS plans and specifications. KAS has addressed some of his concerns and will be asked to address additional ones.

Mr. Pennebaker reported that he had reviewed information on geo-synthetic capping materials obtained from Buzz Surwillo, and based on this review had asked KAS to clarify the plan. He is concerned about possible flaws in drainage due to slope failure, and KAS has also been asked to rectify this in the plan. Bidders will deal directly with KAS for site plans.

#### **8. Working Session in Preparation for TAM Act 250 Hearing:**

Chairman Metcalfe asked for public comments before the work session. Alison Church of the Bennington County Regional Commission (BCRC) came forward to present information on the Airport Road traffic study she has completed. She stated that the survey results indicate that the 35 mph speed limit on the road is where it needs to be. Ms. Church was surprised at the number of vehicles using the road -- an average of 1104 per day -- and at the percentage of truck traffic. Even on Sunday, 36%-36% of the traffic is made up of trucks. In answer to questions from Ms. Mellinger, Ms. Church stated that she had not acquired information on the base and sub-base of the road's composition or on seasonal variations in use of the road by trucks. Chairman Metcalfe thanked Ms. Church for coming in and for her work.

Chairman Metcalfe introduced Shaftsbury resident Travis Buttle, who has used Airport Road numerous times a day over the last 5 1/2 years, both as a driver and a runner. In that period he has noted an increase in motor vehicles and in motor vehicle accidents, but no accidents involving trucks. Mr. Buttle stated that as a runner he has had closer calls involving cars than trucks, and has observed that both Dailey's and TAM operators tend to be courteous drivers. He does not think traffic on the road is as bad as it is made out to be, nor does he think a few added TAM trucks will cause a problem.

The board then went into work session. Chairman Metcalfe stated that he had talked again with attorney Rob Woolmington, who told him that the burden of proof is on the town to document prospective traffic problems, and that traffic issues discussed by the board would fall under criterion #5. He reminded the board that they automatically have

party status for the Act 250 hearing. Mr. Woolmington once again declined to represent the town, stating that the Act 250 board is user-friendly. Mr. Woolmington would, however, be happy to answer any questions.

Chairman Metcalfe reported that he had been told by state official Warren Foster that the impact questionnaire completed by the board is not meant to be legally binding or set in stone. Chairman Metcalfe said that if the board has concerns about added costs associated with increased traffic, the question concerning road maintenance can be answered including these concerns.

Chairman Metcalfe stated that the two main issues identified by the board at the last meeting were dust and traffic. The zoning board has addressed dust concerns by specifying closed doors to control interior dust and the use of calcium carbonate and watering to control exterior dust. All board members agreed that the zoning board had adequately dealt with the dust issue and that the select board did not need to raise that issue at the Act 250 hearing.

Concerning Airport Road traffic, Skip Fagerholm reported on his discussion with Dailey's. He detailed the sizes and weights of trucks used by Dailey's and the number of round trips per day, noting that the trucks run year-round, although less frequently in winter and spring. Mr. Fagerholm introduced Terry Aiken to answer more technical questions on trucks and truck traffic. Mr. Aiken described the bridge formula for truck weight, stating that if this formula is followed it makes no difference how much a truck weighs, it will not cause damage to a paved road. The formulas are set by state law.

Mr. Mead asked why weights are posted for roads, and Mr. Aiken replied that weight limits should only apply to unpaved roads. In answer to a question from Ms. Morse, Mr. Aiken stated that compliance to bridge formulas is up to the truck operators, but that the town may request DOT inspections.

Ms. Mellinger stated that there has been a question as to whether Airport Road is properly constructed to handle heavy trucks during the spring thaw. Mr. Fagerholm replied that Dailey's uses the road during the spring, as do oil and logging trucks.

Chairman Metcalfe asked Mr. Aiken about potential hazardous materials problems, and he stated that, in his opinion, garbage trucks would not contain enough potentially hazardous materials to present a problem. He felt that the only issues of hazardous waste for Shaftsbury would be oil or gas trucks.

Ms. Mellinger asked about increased onsite traffic at the TAM facility, and was told that this issue was being addressed by the planning board.

Chairman Metcalfe said that he did not foresee a significant increase in current levels of Airport Road traffic from the prospective TAM facility. Ms. Morse agreed, stating that the board should express agreement with the conditions set forth in the zoning permit. Mr. Fagerholm agreed.

Ms. Mellinger stated that she was much more comfortable with the 8000 ton-per-year transfer station specified by the zoning board than with the 15000 ton-per-year operation proposed by TAM, and asked if there was any assurance that Act 250 would limit the tonnage to 8000. Chairman Metcalfe said there was no assurance, and she stated that she would want to have more traffic information for a larger facility.

Chairman Metcalfe suggested that the board state at the Act 250 hearing that they are in support of the zoning board permit, but if the 8000 ton limit is raised, the board would like to revisit traffic issues. The zoning board's 8000 ton permit is set for two years in order to see how things work out.

The board decided that Chairman Metcalfe should represent them at the hearing, and state the board's support of the zoning board decision with the qualifications concerning traffic if a larger facility is approved.

Chairman Metcalfe asked for questions from the audience. Mike Bidy stated his concern about Airport Road during the spring thaw season and its ability to withstand heavy truck traffic. He believes this issue has not been properly addressed, and should be brought to the Act 250 hearing. Mr. Jakubowski said that Airport's Road engineering and

composition have not been addressed and that the town should have more information in light of possible additions to commercial development on the road. John Tiffany agreed.

Ms. Morse believes the host town agreement would be the place to address this matter, but Ms. Mellinger felt that Act 250 would provide leverage for any needed work on the road. Mr. Fagerholm stated that this was a long term matter for the town, not the responsibility of one business that would be adding eight truck trips per day.

Mr. Mance stated that he had chosen this location because it was zoned industrial, and that he does not see why he should provide infrastructure for the town when his business will account for 2% of the truck traffic. Mr. Pennebaker said that he thought it would be unfair to use the host town agreement to mandate road maintenance fees when only solid waste businesses are required to have such an agreement.

Mr. Bidy stated that he wants the board to address the issue of large trucks turning at the Airport Road-North Road intersection. He feels this is a dangerous situation. Mr. Jakubowski stated that North Road will be closed to commercial traffic and that this will apply to TAM. Audrey Rutheiser asked who would enforce this restriction and was told that the sheriff, state police, and zoning administrator would have the power to enforce it. Mr. Fagerholm said that it should pose no problem to have North Road posted as closed to commercial traffic. He also said that many small intersections in Bennington County have problems with large trucks turning.

#### **9. Other Business:**

Mr. Mance asked if the board had approved the Act 250 impact questionnaire. Chairman Metcalfe replied that it has, with the addition of stated concerns about possible additional costs for road maintenance.

Mr. Bidy stated that he believes neither the zoning board nor the select board has adequately addressed the ten Act 250 criteria, and that the select board's planned support of the zoning board's decision at the hearing is inadequate.

Ms. Swasta reminded the board that there had not been a vote on the motion to pay warrants.

**The motion to pay warrants passed 5-0-0.**

There was no additional business.

**Mr. Fagerholm made motion to adjourn. Ms. Morse seconded. Motion carried 5-0-0. Meeting adjourned at 9:02 PM.**

Respectfully Submitted,

**Susan M. Swasta**