

MINUTES OF THE SHAFTSBURY SELECT BOARD
DECEMBER 11, 2006
COLE HALL
SHAFTSBURY, VERMONT

Board Present: Wynn Metcalfe, Chairman, Cinda Morse, Bill Pennebaker, Karen Mellinger, Jim Mead
Others Present: Eric Pero (Bennington Banner), Aaron Chrostowsky, (Town Administrator),
Susan Swasta (Recording Secretary), R.J. Joly (Burgess Brothers), Michael Biddy

1. Call Meeting to Order:

Chairman Wynn Metcalfe called the meeting to order at 7:00 PM.

2. Conflict of Interest:

Chairman Metcalfe asked if any Board member had a conflict of interest with any of the issues on tonight's agenda. None did.

3. Announcements:

Chairman Metcalfe announced that agenda items will be taken out of the listed order tonight so that R.J. Joly of Burgess Bros. may address the Board before other business is taken up.

4. Landfill Gas Remediation Project:

Mr. Joly took a seat at the table to discuss the Burgess Bros. bid for the landfill gas remediation project. He explained that the project is more complicated than just digging a ditch, and this accounts for the high cost. The trench will be 246 feet long, 15 feet deep, and a minimum of 4 feet wide. Piping will be installed and the trench must be filled with stone, not fill.

Cost of the stone may vary from \$8,326 to \$32,942, depending on the width of the trench, which must be sloped to avoid cave-in. It might also be possible to use a box to avoid cave-in. The estimate is based on 1 1/2-inch stone; if they run into fine sand, 3/4-inch stone will be required. Mr. Joly estimated the work would take two weeks.

Mr. Mead asked if there is room to avoid hitting the edge of the liner membrane, and Mr. Joly replied that there is plenty of room. Bill Pennebaker stated there is not much room, that the digging will be quite close to one well.

Mr. Joly said that he had talked to the project designers and confirmed that if one of the well pipes were to be knocked out of place, it could easily be straightened. The well pipes go straight down. If Burgess Bros. is to take on the project they would like to begin immediately.

Chairman Metcalfe thanked Mr. Joly for coming in and told him that the Board will discuss the project and get back to him right away.

5. Warrants:

The following warrants were presented for approval:

- AP#?? - \$ 47,182.00 Appropriations to organizations

- AP#?? - \$ 7,149.05
- Retirement Wt.#6R - \$ 1,125.08

Ms. Morse made motion to pay warrants. Ms. Mellinger seconded. Motion carried 5-0-0.

6. Minutes:

December 4, 2006 Budget Committee Minutes:

Ms. Mellinger made motion to approve minutes. Ms. Morse seconded. Motion carried 5-0-0.

December 4, 2006 Select Board Minutes:

Ms. Morse made motion to approve minutes. Mr. Mead seconded. Motion carried 5-0-0.

7. Public Comments:

Michael Bidy read a letter to the Board concerning what he considers to be improprieties committed by members of the Development Review Board (DRB) and its predecessor, the Zoning Board of Adjustment (ZBA). He stated that the actions of the ZBA last winter in taking Trevor Mance of TAM into a Deliberative Session were "highly irregular and in contravention of Vermont statutes." He feels that no reasonable explanation has been given for this action.

Mr. Bidy stated that on another occasion TAM was given an hours of operation variance, but the results were not made available to townspeople or interested parties by letter or by public posting. He protested denial of party status to himself by appealing to the state environmental court.

Mr. Bidy cited a third alleged instance of unlawful behavior by the DRB this past week. He appeared before the DRB to inquire about a complaint sent to Zoning Administrator Tony Zazzaro in October, concerning TAM's Airport Road driveway being too close to the curb line of North Road. Having received no response, he wrote to Mr. Zazzaro again in December, again citing five TAM violations, and asking that TAM be issued a notice of violation for the driveway.

Mr. Bidy stated that at the last DRB meeting he had been required to be sworn before being permitted to speak. At that time he had requested that DRB member David Mance, described by Mr. Bidy as "Trevor's father and an active part of TAM's applications processes", recuse himself and leave the table.

Mr. Mance refused to do so, and DRB Chairman Jim Carter informed Mr. Bidy that this was "public discussion" and that therefore David Mance could stay at the table and speak on the matter. Mr. Bidy questioned why he had been sworn in and told he was giving testimony, only to have it become "public discussion."

Mr. Bidy stated that in another instance he and Lucy Robinson were told that they could not speak before the Board because they had brought an attorney to speak for them on a prior occasion, and could therefore only approach the Board through the attorney. At this same meeting, Mr. Bidy stated, Trevor Mance and his attorney Tom Dailey took turns speaking.

Mr. Bidy stated that he has not decided whether to pursue relief through Vermont Superior Court, but wants to inform the Select Board that "the rights of certain townspeople are being stomped on to the benefit of certain others."

Chairman Metcalfe replied that the Select Board has decided that any matters of this nature will be tabled until the other side can respond. DRB Chairman Carter will be allowed to respond. The Board thanked Mr. Bidy for coming in.

8. Emergency Management Update:

The emergency management update was postponed because Jerry Mattison was not present.

4. Landfill Gas Remediation Project (resumption of discussion):

Chairman Metcalfe asked Board members what action should be taken. Mr. Pennebaker replied that he would like to talk to the state before deciding. Buzz Surwilo told him that he would talk to project designers Dubois and King and with Burgess Bros. Mr. Pennebaker would like to do some exploration on the problem well, and consider trying something a little less dramatic to see if it would work.

There was a discussion of the high methane measurements, which Mr. Pennebaker stated may not be a new condition, since levels could not be measured precisely with the old meter. He believes that the town runs the risk of spending \$50,000 to install a gas remediation system that may not work. A particular risk is that this design does not deal with Well Number 4, which new measurements show to be a problem in addition to the other wells.

Mr. Mead asked if there has been any methane problems at the Eastman property, and was told there have not. He noted that they are running out of time to complete the project, and might have to wait until spring if it is postponed.

Mr. Pennebaker reiterated that, now that he knows Well Number 4 is also a problem, he would like to try a simpler remedy if the state will buy into it. He stated that Dubois and King do not guarantee that their remediation design will work.

Chairman Metcalfe noted that Highway Foreman Ron Daniels feels that town workers cannot take on this project. Mr. Pennebaker stated that Mr. Surwilo had been surprised at the size of the project. It was decided to have Mr. Pennebaker discuss the project further with the state.

9. Sidewalk Design Consultant Bid Opening:

Aaron Chrostowsky opened five bids from the sidewalk design consultants. The five were: SVE Associates for \$25,000; ESPC for \$25,435; Hoyle for \$27,185; Dufresne for \$27,982; and Resource Systems for \$38,895. Ms. Mellinger stated that the bidders are to be reviewed for qualifications, not just price. She and others will look at them.

10. Other Business:

Ms. Morse asked Mr. Pennebaker how much methane is needed to make capturing it for energy uses feasible. He replied that it would be more than a small landfill like the town's could produce. Mr. Mead asked why the methane cannot be pumped out, and Mr. Pennebaker

said that this is a possibility. Mr. Chrostowsky noted that Heindel and Noyes had suggested that remediation, and Mr. Pennebaker said perhaps they should be asked about it.

Ms. Mellinger asked if the Grant Street site visit had taken place. Mr. Chrostowsky replied that it had and that Mr. Daniels is meeting with one of the landowners tomorrow.

Ms. Mellinger noted that the town web site is out of date, and asked if updating is becoming too time-consuming for Mr. Chrostowsky. He replied that it is not, and that he will get back into it.

Mr. Mead asked why meeting announcements have not been in the Bennington Banner, and Mr. Chrostowsky replied that the last notice may have been sent too late.

Ms. Mellinger stated that the transfer station will not be accepting Christmas wrap for recycling, and that signs should be posted there. It might also be good to put an item in the newspaper. Ms. Morse said that the attendant should also inform people of this.

Mr. Chrostowsky stated that he has learned that if the Board wants the budget to be voted on by Australian ballot, it just has to be warned as an article for Town Meeting. If a majority votes in favor, it would be done by Australian ballot the next year. Chairman Metcalfe said that if the Board is contemplating this, it should be made a topic of discussion at a Board meeting, so that townspeople can come in to debate the issue.

11. Executive Session

Ms. Morse made motion to go into Executive Session (Personnel). Mr. Mead seconded. Motion carried 5-0-0.

Board went into Executive Session (Personnel) at 7:45 PM.

The meeting adjourned at 9:30 PM.

Respectfully Submitted,

Susan M. Swasta