

MINUTES OF THE SHAFTSBURY SELECT BOARD
APRIL 20, 2009
COLE HALL
SHAFTSBURY, VERMONT

Board Present: Bill Pennebaker, Karen Mellinger, Wynn Metcalfe, Cinda Morse

Board Absent: Lon McClintock (Chairman),

Others Present: Mark Rondeau (Bennington Banner), Norm St. Onge (Planning Commission), Craig Bruder (Planning Commission), Ron Daniels (Road Foreman), Phylis Porio (DRB), Art Whitman (Economic Dev. Comm.), Jim White, Jim Howe, Trevor Mance (TAM), Mary Beth Maguire (TAM), Liz Putnam, Bruce Putnam, Barry Mayer, Susan Swasta (Recording Secretary)

1.Call Meeting to Order:

Vice Chairman Bill Pennebaker presided. He called the meeting to order at 7:00 PM.

2.Announcements:

Karen Mellinger announced that Green Up Day will be held on May 2 from 9:00 AM to 2:00 PM. There will be dumpsters at Cole Hall, trash bags at several locations, and prizes will be awarded to those finding lucky ladybugs.

Ms. Mellinger announced that Hazardous Waste Day and Free Tire Day will take place on May 9 from 9:00 AM to 1:00 PM. No latex paint will be accepted. Shaftsbury residents may bring up to four tires with no rims.

Mr. Pennebaker announced that Shaftsbury has lost two members of the community, Roy Mattison and Dr. Bette Ferris. Wynn Metcalfe noted that Clenn Frost had also passed away. A moment of silence was observed.

3.Public Hearing – Proposed Road Improvements to Myers Road:

Mr. Pennebaker asked for comments. Jim White stated that he would prefer to save money by not doing the Myers Road project. Road Foreman Ron Daniels said that the main reason for doing it is safety for school buses, and that the road also presents a maintenance issue. Liz Putnam agreed that safety is the number one issue and asked how they can make the road safe without being a pain in the neck in terms of cost. Mr. Pennebaker wondered if there is an intermediate path to fix the safety and maintenance problems without widening the road. Jim Howe asked about the safety issue, and Mr. Pennebaker replied that it is related to the width of the section going up the hill. Mr. Daniels said that when it rains this section washes out. He is not aware of any accidents.

Cinda Morse said that the Board will let people know what the next steps will be. Ms. Mellinger said that any decision on the project would be premature because she does not see it happening without the state highway aid payment. Right now they do not have the money. Ms. Putnam said many Myers Road residents had not received letters on this meeting, and Ms. Morse replied that the Board will make sure all receive letters in the future. Ms. Putnam thanked Mr. Daniels and the road crew for their wonderful work.

4. TAM, Inc. Contract & Transfer Station Operations:

Mr. Pennebaker recommended that this agenda item be tabled until TAM owner Trevor

Mance arrives. All agreed.

5. Selectboard Appointments:

Development Review Board (DRB) – two vacancies

Planning Commission – two vacancies

Trustees of Public Funds – one vacancy

Tree Warden

Mr. Pennebaker confirmed that present DRB members Wynn Metcalfe and Jake Jakubowski wish to remain on the board. Mr. Metcalfe stated that Christopher Clohessy is also interested in serving on the DRB. He suggested that Mr. Clohessy be made an alternate in order to gain DRB experience. Mr. Metcalfe said that in the past procedure has been for the various boards to interview candidates and make recommendations to the Select Board on appointments. Mr. Pennebaker noted that there is also a new applicant for the Planning Commission, Bhima Nitta.

There was discussion of the process of appointing board members. Ms. Morse stated that things have dragged on and appointments need to be made, but she feels that boards should be able to interview candidates. Ms. Mellinger said she would feel fine about reappointing present board members and making new applicants alternates, unless the various board chairs would rather take the time to do interviews. After discussion, it was agreed that the boards will interview candidates and make recommendations to the Select Board for the May 18 meeting. Ms. Morse will make sure that the boards receive information on applicants.

Mr. Metcalfe made motion to reappoint Jim White as Tree Warden. Ms. Morse seconded. Motion carried 4-0-0.

Ms. Morse will notify the chairman of Trustees of Public Funds about the two candidates for that board. Ms. Mellinger will notify all board candidates about the ongoing process.

Ms. Mellinger made motion to reappoint Kathy Cardiff as Town Service Officer. Ms. Morse seconded. Motion carried 4-0-0.

Ms. Mellinger made motion to reappoint Barth Vander Els as Town Health Officer. Ms. Morse seconded. Motion carried 4-0-0.

4. TAM, Inc. Contract & Transfer Station Operations (cont'd):

This agenda item was taken up again with the arrival of Trevor Mance and Mary Beth Maguire. Mr. Mance asked that the matter be discussed in Executive Session because it involves a contract and may also affect personnel. Board members agreed.

6. Solid Waste Implementation Plan (SWIP) Report:

Ms. Morse reported that the Town receives quarterly updates on the SWIP, but that things have been slow to get up and running because the original coordinator resigned and a new person has come in. She said there is a Web site with a newsletter, and she will provide Mr. Pennebaker with the information to link to it from the Town Web site.

7. Owen & Kathy Beauchesne Request re: Zoning Administrator:

Mr. Pennebaker said he would like to pass this matter to the Planning Commission, since the Zoning Administrator comes under the control of the Commission. Mr. Metcalfe said that he thinks the Beauchesne matter is a dead issue that has gone through all the courts,

and that the Planning Commission has more important things to do. Mr. Pennebaker stated that he thinks it needs to be given proper consideration.

Ms. Mellinger made motion to refer the Beauchesne issue to the Planning Commission for their review and recommendation.

Mr. Pennebaker observed that if he were to second the motion it would proceed to a tie vote, so he thinks they should wait for a full board. The motion was not seconded.

8. Conflict of Interest Statement:

Mr. Pennebaker asked if any Board member has a conflict of interest with any topic on tonight's agenda. None did.

9. Public Comments:

There were no public comments.

10. Conflict of Interest Policy – Comment:

Mr. Pennebaker asked for comments from the Board. Ms. Morse asked about the intent of Article 5 sections e and f. She said that e seems to indicate that the Select Board would decide conflict of interest cases arising in the DRB and Planning Commission, while f seems to indicate that the various boards independently decide on conflicts of interest. She disagrees with section e, and is not clear on what the article means.

Mr. Metcalfe referred to section 4.a.3, saying that it could rule out pretty much the entire DRB on any given night, and might also rule out the Planning Commission because members are friends and this is a small town. There was discussion of what is meant by "business associate", "colleague", and "close friend." Mr. Metcalfe said that in DRB cases where he has a conflict of interest, he should just be able to recuse himself from that particular matter.

Mr. Pennebaker said that section 5e might just refer to individuals appointed by the Select Board, not to other boards. Mr. Bruder said that his understanding is that the Select Board would handle conflicts of interest concerning individual appointees, and that other boards would settle things themselves. Art Whitman agreed that the DRB and Planning Commission should be able to vote in their own bodies on recusals.

DRB Chairwoman Phylis Porio went over parts of the policy that she has questions about. She said that the definition of "business associate" is unclear, and that section 5e, previously discussed, should be eliminated. Ms. Porio stated that section 5d, describing the recusal process for the Select Board, should be written to include the DRB and Planning Commission. She felt that sections 5c and 6d are contradictory, in that 5c states that an official cannot represent someone in a private matter and serve on a board, while 6d says that the official must just recuse him/herself in that particular matter. Ms. Porio said that 6d describes the present practice, which has been functioning well. She felt that 5c should be eliminated.

Mr. Whitman said that the conflict of interest policy should also be kept in mind for the RFP process as well. Mr. Pennebaker said that he will pass these suggestions along to Chairman McClintock, who has been drafting the policy.

11. Review and Approve Warrants:

The following warrants were presented for approval:

Payroll Warrant #41:\$ 5,824.03

Ms. Morse made motion to pay Warrant PR#41. Ms. Mellinger seconded. Motion carried 4-0-0.

Payroll Warrant #42:\$ 4,885.94

Ms. Morse made motion to pay Warrant PR#42. Ms. Mellinger seconded. Motion carried 4-0-0.

Transfer Warrant: \$42,117.56 (reappraisal, water department, Hooke Fund, sidewalk fund, planning loan)

Ms. Morse made motion to pay Transfer Warrant. Ms. Mellinger seconded. Motion carried 4-0-0.

General Warrant #42: \$ 6,434.22 (Bennington Banner notices, sheriff patrol)

Ms. Morse made motion to pay General Warrant #42. Ms. Mellinger seconded. Motion carried 4-0-0.

Ms. Mellinger noted that sheriff patrols have taken place between 10:00 PM and midnight. She said that they have had complaints of speeding in early morning hours, and asked that patrol times be varied a bit. Mr. Metcalfe said he will call the sheriff about this.

12.Review and Approve Meeting Minutes:

March 9, 2009 minutes

Ms. Morse made motion to approve March 9 minutes. Ms. Mellinger seconded.
The following corrections were requested:

On Page 5, under "Other Business," ninth paragraph, last sentence changed to:

There will be a box to recycle rechargeable batteries.

On Page 5, at the end, time of adjournment of 10:00 PM was inserted.

Motion to approve March 9 minutes as amended carried 4-0-0.

March 16, 2009 minutes

Ms. Morse made motion to approve March 16 minutes. Ms. Mellinger seconded.

The following correction was requested:

On Page 5, at the end, time of adjournment of 9:27 PM was inserted.

Motion to approve March 16 minutes as amended carried 4-0-0.

April 6, 2009 minutes

Ms. Morse made motion to approve April 6 minutes. Ms. Mellinger seconded.

The following correction was requested:

On Page 5, at the end, time of adjournment of 9:45 PM was inserted.

Motion to approve April 6 minutes as amended carried 4-0-0.

13.Other Business:

Ms. Mellinger said that a Townline Road resident has requested that a dead end or no outlet sign be placed at the beginning of the road. The state told him he should contact the town. Road Foreman Ron Daniels will be contacted about this.

Mr. Metcalfe made motion to go into Executive Session (Contract and Personnel) at 8:23 PM. Ms. Mellinger seconded. Motion carried 4-0-0.

The Board came out of Executive Session and the meeting adjourned at ??? PM.

Respectfully Submitted,
Susan Swasta