

**Town of Shaftsbury
Selectboard Meeting
6:30 PM
Monday, August 15, 2016
Cole Hall, 61 Buck Hill Road, Shaftsbury
*DRAFT***

Selectboard Members Present: Tim Scoggins, Mitch Race, Tony Krulikowski, Art Whitman, Ken Harrington

TA Present: David Kiernan

Others Present: Ed Corey

1. Call to Order

Tim Scoggins called the meeting to order at 6:30PM.

2. Conflict of Interest Statement

NONE

3. Approval of Minutes

Motion: Tony Krulikowski moved to approve the Minutes from the Regular Meeting on August 1, 2016. Art Whitman seconded.

Art Whitman suggested an edit to Paragraph 6 for clarification regarding a letter to the State concerning Town cooperation with matters related to the PFOA discovered at the former landfill. Art Whitman also asked for clarification regarding the timeline for the implementation of the Elm Street speed limit ordinance change. David Kiernan stated that a Special Meeting would need to be held on the 25th or 26th of August to address this item because of the Labor Day holiday.

3-0-1 Motion approved. Tim Scoggins abstained.

4. Warrants

Motion: Mitch Race moved to approve Check Warrant #4 \$9,385.79. Art Whitman seconded.

5-0-0 Motion approved.

Motion: Mitch Race moved to approve Retirement Warrant #3 \$122.27. Art Whitman seconded.

5-0-0 Motion approved.

Motion: Mitch Race moved to approve Payroll Warrant #3 \$17,645.52. Tony Krulikowski seconded.

5-0-0 Motion approved.

5. Announcements

NONE

6. Public Comments

Ed Corey came before the Board to say that there is currently no legible sign on Corey Drive as the existing sign is “all faded out.” Mr. Corey also stated that he submitted a letter regarding the PFOA discovered at the wells at the former landfill and asked why that letter had not been addressed by the Board. Tim Scoggins said that the general way that Selectboard interacted with the public has been through this particular portion of the Board meetings.

Ed Corey said that given the discovery of the PFOA at the former landfill site leads him to believe that the Town should not construct the new Town garage off of North Road. Mr. Corey pointed out that the Town has purchased three (3) parcels adjacent to that site for \$120,000.00 over the past few years and he’s glad that the PFOA was found before construction could begin on the garage. Tim Scoggins said that he personally believed that the presence of low levels of PFOA found at the former landfill site did not change the water situation at the proposed garage site at all. Mr. Scoggins pointed out that the levels found in the one well tested were just barely above the State of Vermont’s standard of 20 parts per trillion. Mr. Scoggins went on to say that levels of iron and manganese above State standards had previously been found in the monitoring wells near the property and it was the expectation of the Board that bottled water would need to be provided for drinking at the new garage site, but that the water could be used for washing trucks and other industrial purposes.

Mr. Corey asked how many wells will be tested at the site for PFOA contamination. Mr. Scoggins said that four (4) wells downgrade from the former landfill site would be tested. Mr. Corey asked about testing the well at the former Crawford property and Mr. Scoggins again said that the only wells tested were in the direction of water flow from the landfill. David Kiernan said that the State and their engineers would put together a plan of the wells that needed to be tested and that report would be issued soon.

Mr. Corey then inquired about the number of wells surrounding the site that were currently being monitored for other contaminants. Mr. Scoggins asked Mr. Corey to specify the nature of his inquiry and Mr. Corey then concluded his comments.

7. Treasurer's Report

Melanie Dexter reported that at the September 1st meeting, she would have final figures from the previous year's budget as there are still items coming in for review.

Ms. Dexter then directed the Board to her mid-month report and stated that cash flow is still strong and that she will not tap into the Town's line of credit until the cash on hand is below \$100,000.00.

Art Whitman asked about payments for the paving projects and David Kiernan said that when those payments come due, the Town will likely need to tap into the line of credit. Ms. Dexter said that when that time comes, the transaction takes a matter of hours.

8. FY17 Tax Rate

Melanie Dexter reported that the Grand List came in today (August 15th) and she is now asking to Board to approve a Municipal Tax Rate of 0.3842, which is just slightly below last year's rate of 0.3894. Ms. Dexter said that even when combined with the School Tax Rate, the overall rate is almost flat compared with last year.

Motion: Ken Harrington moved to set the Municipal Tax Rate for FY17 at \$0.3842 per \$100.00 of valuation. Art Whitman seconded.

5-0-0 Motion approved.

9. Road Foreman Report

David Kiernan delivered the Road Foreman report and stated that Harvest Hills and Hewitt Drive had all been repaved and the Town is now waiting on the chip sealing. Mr. Kiernan reported that Beaudoin Brothers finished the grading on East Road and he hoped that the paving would be completed later this week. The Town crew was out grading and doing clean-up from a storm on Saturday, August 13th. Mr. Kiernan said that the crew would next be working in fabric projects in anticipation of the fall season. Mr. Kiernan asked any members of the public concerned with road conditions to call him at the office.

10. Zoning By-Laws proposed changes – Chris Williams Planning Commission

Chris Williams, Chairman of the Planning Commission, and David Mance, member of the Planning Commission, came before the Board to discuss the proposed changes to the

Town's Zoning By-Laws. The changes have been made with the assistance of Jim Sullivan of the Bennington County Regional Commission (BCRC).

Mr. Williams began by saying that Zoning regulations have been in place in Shaftsbury for thirty (30) years and that this is the first comprehensive review of the By-Laws in that time. The Planning Commission has found a series of contradictions in the current set of By-Laws; references are made to sections that no longer exist. Mr. Williams also pointed out that Vermont Land Use regulations have changed over the past 36 years and that the State now oversees such things as telecommunication towers. The Planning Commission also discovered that the By-Laws concerning the Village District and the use of property for commercial purposes were quite restrictive in nature, as the concern at the time of the original adoption of the By-Laws limiting over-development. Mr. Williams went on to say that commercial use of property in the Commercial District was conditional and subject to the approval of the Development Review Board. Mr. Williams said that the Planning Commission desires to "open up" the By-Laws to encourage commerce by changing certain uses from conditional use to permitted use with site plan review. Mr. Williams said that the Commission is about halfway through the process of the full review of the By-Laws.

Tim Scoggins asked Mr. Williams to read from the Planning Commission's letter to the Board enumerating the major changes proposed to the By-Laws:

- The Recreational Overlay Zone along Route 7A has been deleted to streamline regulations and the uses have been incorporated into those allowed by the Roadside Commercial District.
- The Shoreline District has been deleted because State statutes govern these portions of property.
- The Village Commercial District has been renamed the Village Center District.
- Setbacks (front, rear and side) for commercial uses have been reduced to accommodate non-conforming structures in the Commercial District that are high-density and close to the road and other structures.

Art Whitman asked what differentiated the two commercial districts in the Village. David Mance said that at one time, the residents of the area lying south of the corner of 7A and Church Street had petitioned to limit the allowable commercial uses. Mr. Mance said that Planning Commission is discussing the possibility of having just one commercial district.

- Regulations for telecommunications structures have been deleted as they now fall under State rules.
- Conditional uses in the Roadside Commercial District have been expanded include restaurants.
- Permitted uses in the Forest and Recreation District now include “commercial or non-commercial facilities supporting non-motorized, low-impact dispersed recreational activities that are suitable for the forest environment.”
- A section on non-conforming structures has been added to compliment the present non-conforming uses.
- As own-drawn site plans have been found to be inaccurate or incomplete in the past, the By-Laws now require that the plans be prepared by a licensed design professional.

Ken Harrington asked if that section could be modified or removed as the cost of a professional designer could be a deterrent to applicants. David Mance said that there could be an opportunity for the DRB to provide a waiver, but that the DRB relies on plans that are sometimes inaccurate and then properties end up in violation of the Zoning By-Laws. Mr. Mance said that the applicants are responsible for certifying accuracy of the plans and it’s not the Town’s responsibility to manage the design. Ken Harrington asked if the Zoning Administrator could oversee compliance with the By-Laws for an additional fee and Mr. Mance replied that the skill set needed to evaluate sites was not part of the Zoning Administrator’s job and the travel time alone would not be cost effective. Tim Scoggins said that he was also concerned with the requirement that the site plan be submitted by a licensed design professional but that the Planning Commission had convinced him that inaccurate plans are a problem and that code violations have occurred as a result of inaccuracies.

Chris Williams said that there is software available that will assist individuals in preparing site plans. Mr. Williams went on to say, however, that details such as drainage and grading are better left to professionals.

- Metal waste, solid waste and hazardous waste facilities have been deleted from the Commercial Industrial District as it was felt that these high impact uses should not occur within such a visible corridor.

Mr. Williams then highlighted the questions that the Planning Commission are currently contemplating:

- Does Shaftsbury need two separate commercial districts? Should commercial uses be governed by lot size and wastewater requirements?

- Should the industrial districts be classified separately (the area near the former Stanley Tools as “low-impact” and the area along Airport Road as “high-impact”)?
- Should mixed-uses be allowed in all districts?
- Does land grading constitute land development (present By-Laws say that it does)? Should a permit be required for large-scale grading?
- Should the Town implement an Aquifer Protection Overlay Zone for the West Mountain aquifer?
- Should the Town implement a Ridgeline Overlay Zone to prevent the construction of camps on highly visible ridgelines?

Art Whitman asked if there are currently restrictions on the construction of camps. David Mance said that this is more of a question of aesthetics.

Mr. Mance said that he hoped that by streamlining the By-Laws, the Planning Commission could offer guidance to residents in the form of flow charts and tables, hopefully making the zoning process easier to understand.

Chris Williams invited the public to attend Planning Commission meetings the second and fourth Tuesdays of every month at 7:00PM at Cole Hall.

11. PFOA – Landfill Update

Tim Scoggins said that the Town is currently awaiting the results of the tests of the private wells in the immediate vicinity of the former landfill. David Kiernan said that all wells, except for one, had been tested last week. The property owner of the one untested well declined the test. Mr. Kiernan said that he expected results on August 26th. Mr. Kiernan said that the Town wells have not been tested yet and those will be selected by the State.

Art Whitman asked if there was any legal consequence for the Town concerning the one property owner who declined the test of their well. David Kiernan said that he hadn't talked to the Town's attorney yet but that the Town cannot mandate the test. Mr. Whitman suggested that the property owner sign a waiver, and Tim Scoggins asked Mr. Kiernan to consult with the State to see what the best course of action should be.

Tim Scoggins reminded the public that the Selectboard had sent a letter to Alyssa Schuren from the State and while no formal response had been received, Ms. Schuren was sympathetic to the Town's position but is awaiting on the results from the private well tests to address the matter. Mr. Scoggins said that he believed this is a prudent

course of action as no PFOA may be found or, if only a few wells are contaminated, point-of-entry systems can be installed. Mr. Scoggins said that he expected Shaftsbury to be only the first of many towns that will be grappling with this problem.

Ken Harrington asked if PFOA contamination is found clustered on several properties if testing will be expanded to surrounding areas. David Kiernan said that if contamination was found anywhere, the testing area would be expanded a half mile in every direction. Tim Scoggins said that it was not quite understood how the PFOA spreads.

Tony Krulikowski asked what the cost to the Town has been to date. Mr. Kiernan said that for just the preliminary testing, he expected the cost to be about \$25,000.00, plus the cost of testing the Town's wells (estimated at about \$4,000.00).

12. Sidewalk Project Corner of 7A and Church

a. Award Construction Bid

David Kiernan reported that one (1) bid was received for the construction of the sidewalk, submitted by Weaver Excavating. Mr. Kiernan reported that both VTrans and KAS recommended not accepting that bid because of cost factors. Between the proposal received on the construction portion and the separate inspection portion, the cost to the Town would be approximately \$60,000.00. Mr. Kiernan said that the addition of the street lights, pedestrian crossing sign and radar speed signs to the bid contributed significantly to the proposed cost.

David Kiernan said that either the one (1) bid submitted was too high or the project scope has expanded such from the original planning that the projected budget is now too low. Mr. Kiernan said that the Board would need to see other bids in order to make that determination and he said that he would be putting the project back out to bid should the Board choose not to accept Weaver's bid. KAS and VTrans reported that similar projects have been constructed at costs lower than Weaver's bid.

David Kiernan said that he would be able to put the project out to bid by Thursday, August 18th but that the estimated completion date would need to be adjusted and may need to accommodate a spring construction schedule. Should the project actually cost more than anticipated, the Board can then budget for additional funds for FY18.

b. Award Construction Inspection Bid

David Kiernan suggested that the Board hold the bids for the construction inspection until more bids have been received on the construction portion of the project.

Motion: Art Whitman moved the Board not accept the bid from Weaver Excavating upon recommendation by VTrans and KAS because it is too high. Mitch Race seconded.

5-0-0 Motion approved.

Motion: Art Whitman moved to hold off on the bids for construction inspection until the construction bid is awarded. Mitch Race seconded.

5-0-0 Motion approved.

Tim Scoggins asked where the bid is advertised. David Kiernan said that he will put it in the paper and it will also be advertised to large construction companies. All prospective bidders must be VTrans certified and will be advertised on their website as well.

13. Elm Street Speed Limit Change

Tim Scoggins conducted the first reading of the proposed Elm Street speed limit change to the Selectboard by stating that the speed limit will be changed from 35 mph to 25 mph and proper speed limit signs will be posted. David Kiernan said that there will need to be three (3) readings of the proposed ordinance and it will also be advertised in the Bennington Banner and on the Town's website. Mr. Scoggins went on to say that the Board has the authority to set the speed limit, the speed limit is being changed due to the characteristics and residential nature of the roadway, penalties for speeding will be enforced according to State law and the State Police and County Sheriff have the authority to enforce the speed limit.

Motion: Mitch Race moved to formally adopt the ordinance lowering the speed limit on Elm Street from 35 mph to 25 mph. Tony Krulikowski seconded.

5-0-0 Motion approved.

14. Town Administrator's Report

David Kiernan reported that there is a meeting on Thursday, August 24th regarding SWIP to go through the first year of the Bennington County Solid Waste plan and review the rules and organization of the SWIP team. David Kiernan said that Mitch Race is one of Shaftsbury's liaisons but cannot make the meeting. Tony Krulikowski is the other liaison and can attend. David Kiernan said that he will also be attending due to discussions related to transfer stations.

15. Other Business

NONE

16. Review of Action Items

7/5/16 Water Board Meeting:

- Jim McGinnis will provide copy of North Bennington Water Regulations to fold into Shaftsbury Regulations – **Tim Scoggins said that he is still working on this and has reached out to Steve Goodrich in North Bennington.**
- Jim McGinnis to speak with Town Tax Collector about possibly foreclosing on a property due to a delinquent water bill – **Tim Scoggins said that the Board should remind Jim McGinnis to follow up on this.**

7/5/16 Regular Meeting:

- Corey Drive – will look into fitting into road projects for upcoming budget year
- David Kiernan will generate cost estimate on park safety improvements needed in next 30 days – **Mr. Kiernan reported that he estimated \$10,000.00 for materials for Cleveland Avenue and would use the road crew for labor. Equipment at Howard Park would be moved and stored for the time being. Mr. Kiernan said that he has two (2) bids on the wood fiber. The wood fiber would be laid down after the road crew digs down under the equipment and lays some road fabric as a base.**

Tim Scoggins said that the short-term plan is to make the Cleveland Park safer and the long-term goals are to select what equipment will remain at Howard Park and to determine what to do with the pond. David Kiernan said that if the equipment is moved, the pond could be allowed to grow over and returned to a more natural state. Efforts to drain the pond would be costly.

Mitch Race asked about the new well at Howard Park and David Kiernan said that the system was turning itself off periodically. Mr. Kiernan said that he was in touch with the engineer and hoped to have some answers soon. Ken Harrington asked if it was equipment failure or design failure and David Kiernan said that he would need to speak with a representative of Mance Engineering before making that determination.

8/15/16 Regular Meeting:

- David Kiernan - what are the consequences of a property owner refusing PFOA testing?

17. Executive Session re: real estate negotiations (if needed)

Not needed

18. Adjournment

Motion: Mitch Race moved to adjourn the meeting at 7:54PM. Tony Krulikowski seconded.

5-0-0 Motion approved.