

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

Board Present: Lon McClintock (Chairman), Wynn Metcalfe, Bill Pennebaker, Karen Mellinger, Cinda Morse

(Others Present: Ron Daniels (Road Foreman), Henri Billow (Treasurer), Mark Rondeau (Bennington Banner), Ken Carlson, Rose Carlson, John Small, Liz Putnam, Kathy Cardiff, Noel Cardiff, Charlotte White, Sarah Jane White, Tamara White, James S. White, Jim White (Tree Warden), Kathleen Hauser, Richard Hauser, Margaret Becker (Town Administrator), Susan Swasta (Recording Secretary)

1. Call Meeting to Order:

Chairman Lon McClintock called the meeting to order at 7:00 PM.

2. Announcements:

Chairman McClintock stated that the Myers Road tree-cutting issue is not on tonight's agenda, so people may comment during Public Comments. Tree-cutting on Hidden Valley and Simeon Dean Roads is on the agenda, so will be discussed during that part of the meeting.

Bill Pennbaker encouraged Shaftsbury residents to take the online broadband survey. He noted that the newspaper had incorrect information, and that Bennington residents should not take the survey.

Wynn Metcalfe announced that the street dance and steak roast will take place at the elementary school on August 4th.

Chairman McClintock announced that the Water Department annual budget has been approved, and that the water project is on schedule. Project bids are being analyzed.

3. Conflict of Interest Statement:

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

4. Public Comments:

Kathy Cardiff asked if the street sweeper will be coming soon. She said that streets are dangerous due to lots of winter debris. Road Foreman Ron Daniels said he has a call in to Bennington, but has not heard back yet. Ms. Mellinger asked if a power broom might be used in critical areas in the interim. Mr. Daniels said this would take a lot of time and would not work very well. Chairman McClintock said that he and Mr. Daniels will discuss this on Wednesday and get a price to rent a sweeper. Noel Cardiff commented on the dangerous condition of Paran Acres Road due to loose gravel, and said street sweeping should be put in the budget if a sweeper is not available for free from Bennington.

Myers Road resident Liz Putnam thanked Mr. Daniels for the job the road crew does on the road. She said that Myers Road residents were to have been notified about Board meetings concerning the road, and that they were not notified before a decision was made at the last meeting. Ms. Putnam said that Myers Road residents support what needs to be done for school bus safety, but want to keep a scenic road. They are concerned about widening.

Chairman McClintock said that he had not been diligent in notifying Myers Road homeowners in time. He noted that the road plan includes work only on the hill, not on the rest of the road. Ms. Putnam said many residents had received no notice at all. Town Administrator Margaret Becker said that she needs a complete list for notification.

Myers Road resident Jim White spoke against widening the road, saying it will increase speed and lead to more widening.

Mr. Pennebaker said that Jeff Mast of the Bennington County Regional Commission (BCRC) will be looking at the Myers Road/7A intersection.

Myers Road resident John Small asked that scenic values be considered in trying to preserve some trees. Chairman McClintock noted that they will only take trees on one side of the road.

Myers Road residents Charlotte and Tammy White spoke against widening the road.

Ms. Mellinger asked if Other Business may be taken up now, out of agenda order, because there are people here for the sidewalk discussion. The Board needs to approve a letter of commitment to the state regarding extension of the sidewalk down to the corner of the old Thompson Garage. She explained that the project bid came in so low that the extension can be done with money from the second grant. This needs to be acted on tonight in order to get the letter to VTrans.

Mr. Pennebaker made motion to move discussion of the sidewalk project (Other Business) up to this point in the agenda. Ms. Mellinger seconded.

Ms. Morse noted that they just had people here because the Myers Road matter had not been properly warned. They risk having that happen again in this case. It was agreed that the motion is just in favor of discussing the merits of the letter, not making a final decision.

Motion to move up discussion carried 5-0-0.

Ms. Mellinger stated that they have more than enough to cover the sidewalk extension, and that the state is willing to expedite the review process. She said that all the residents favor the extension. They need to get everything in line by the time the contractor reaches that spot. After further discussion, it was agreed that the letter of intent will be sent to the state, and a hearing on the sidewalk extension will be scheduled for the next Board meeting so that residents have a chance to comment. The engineer will be told to proceed in the meantime.

Mr. Pennebaker made motion to approve the letter of commitment to the state regarding the sidewalk extension. Ms. Mellinger seconded. Motion carried 5-0-0.

- 5. Tree Removal:**
 - a. Hidden Valley Road**
 - b. Simeon Dean Road**

Chairman McClintock stated that Jeff Mast of the BCRC recommends removing the trees in the Hidden Valley Road right of way because they are encroaching into the travel lane. Hidden Valley Road resident Richard Hauser said that the trunks of the trees, planted in 1973, are on his property. Someone asked him about trimming them last fall and he had agreed. Mr. Hauser said that when Hidden Valley Road was widened and paved, more land was taken from his side of the road, so the right of way is narrower. Chairman McClintock explained that this is a safety issue because pedestrians must go into the travel lane to get around the trees, and cannot be seen by drivers.

There was discussion of trimming the trees versus cutting them. Mr. Daniels and Mr. Metcalfe said that the Hausers would not be happy to see them trimmed back as much as would be necessary. Mr. Metcalfe suggested planting new trees. Mr. and Mrs. Hauser stated their opposition to cutting the trees. After further discussion, it was agreed that Mr. Metcalfe will go with Mr. Daniels and trim the trees. After trimming, the situation will be reevaluated to see if the trees need to be removed.

Ms. Morse made motion to cut back branches on the trees on Hidden Valley Road, and then to reevaluate. Ms. Mellinger seconded. Motion carried 5-0-0.

Ms. Becker has contacted the property owner on Simeon Dean Road concerning cutting of trees in the right of way along his property. The issue is visibility around a corner. Mr. Daniels said that the trees will need to be cut twelve feet up from the ground. Tree Warden Jim White added they should be limbed out to that height the whole way around.

Ms. Mellinger made motion to prune the trees along Simeon Dean Road as discussed tonight, all around and to a height of 12 to 15 feet. Mr. Pennebaker seconded. Motion carried 5-0-0.

Mr. White recommended that Board members check out Shaftsbury's back roads, because there are lots of hazardous trees. He will print up a tree inventory. It was agreed to put the tree plan on the agenda for the second August meeting.

6. Proposed Zoning Ordinance Regarding Town Right of Way:

Mr. Pennebaker reported that the Planning Commission and Town Attorney Rob Woolmington had reviewed and made changes to the ordinance. It states that the Town must issue a permit for anything to be constructed in a Town right of way. There is no grandfathering of encroachment; the Town has the right to remove anything from a right of way. Ms. Morse asked how likely it is that anyone could get a permit to construct something in a right of way. Mr. Metcalfe used the example of an extension of a pre-existing stone wall as something that might be permitted. He noted that in such a case the permit would be granted with the understanding that the wall may have to come down in

the future if the Town decided to widen the road. Mr. Metcalfe said that the ordinance also applies to vegetation such as trees and gardens.

Ms. Morse asked if the ordinance has the recommendation of the Planning Commission and Development Review Board (DRB). Mr. Pennebaker affirmed the support of the Planning Commission. Chairman McClintock noted that the DRB does not decide on zoning ordinances, but could give valuable input. It was agreed to warn the ordinance again and to ask for DRB comments.

7. Bid Opening -- Airport Road Box Culvert:

Ms. Becker opened three bids for the Airport Road box culvert: Dailey's for \$58,920; Camp for \$56,855; and CSI for \$44,262. Mr. Daniels said that they need to get started on this. Mr. Metcalfe noted that they have had satisfactory dealings with CSI in the past. He suggested that Chairman McClintock and Mr. Daniels review the bids and make the decision. Chairman McClintock said that this gives them too much discretion, and he would prefer approval to decide on the low bid.

Mr. Metcalfe made motion that Chairman McClintock, Ron Daniels, and Margaret Becker be given the go ahead to award the Airport Road box culvert to the lowest bidder, CSI, if their review shows it meets bid criteria. Ms. Mellinger seconded. Motion carried 5-0-0.

8. Proposed Appropriations Application Form:

Chairman McClintock stated that he welcomes comments on his rough draft of the form. Ms. Morse said that she likes the idea of an appropriations process, and asked if they will also ask organizations to provide information for the Town report. She is not comfortable with the first paragraph of the draft because she feels it is not appropriate for the Board to decide who appears on the ballot. They should make it clear that an organization must petition if they don't want the Board to decide. There was discussion of the process of determining which organizations go on the ballot.

Ms. Morse said that a funded organization should be required to submit a statement for the Town report, that an organization's first request should be required to come with a petition, and that the Select Board should have discretion over the amount of the organization's request, not whether it appears on the ballot at all. Chairman McClintock and Mr. Pennebaker felt that the Board should have some latitude in deciding if an organization is worthy of appearing on the ballot, even if it has been on the ballot before. Chairman McClintock asked Ms. Morse to prepare a draft of a cover letter on this matter. He will then redraft a two page document and they will discuss it again.

9. Proposed Conflict of Interest Policy:

Chairman McClintock said that he had received good feedback from Jim Barlow on the conflict of interest policy. Mr. Barlow commented on a simple majority, on distinction between elected and appointed officials, and on the two ways to adopt a policy: the Board adopts it for the Board, or voters approve it as an ordinance to apply to everyone. Mr. Barlow had recommended adopting it first for the Board, then deciding on voter ap-

proval. Chairman McClintock supports the recommendation to adopt a short term conflict of interest policy, then go to Town meeting with an ordinance.

There was discussion of section 5c, which Mr. Pennebaker noted would mean certain members of the DRB could not serve on the Board. Chairman McClintock agreed it would eliminate certain types of small businessmen. He and Mr. Pennebaker felt it is troubling if a person needs to recuse himself/herself frequently.

Ms. Morse brought up article 5d, which states that the Select Board chair will ask members to recuse themselves. She felt that this is not the chairman's role; that members should self-identify and recuse themselves as individuals. Chairman McClintock said that this gives some responsibility to the chair to make sure the issue is addressed if an individual decides not recuse himself/herself. It was agreed that language should be added to the effect that this should be a matter of discussion by all Board members, not just the chairman. Ms. Morse added that, in the case of other boards, the Select Board should only get involved as a last resort. Chairman McClintock will redraft and circulate the policy to everyone. Mr. Pennebaker said that comment on discussion should be added to 5f.

10. Other Business:

Mr. Metcalfe asked if the work on Myers Road will proceed. Chairman McClintock said that he and Mr. Daniels will go up there on Wednesday. Trees to be removed have been marked with ribbons.

Chairman McClintock stated that they need to start making payments on the water project before the bond is received. He said that Treasurer Henri Billow got a bond anticipation note from Chittenden Bank for \$425,000 at 2% interest, effective today.

Ms. Mellinger made motion to approve the Bond Anticipation Note. Ms. Morse seconded. Motion carried 5-0-0.

Chairman McClintock reported that they have received a letter of resignation from Town Auditor Jim Meskin for personal reasons.

Ms. Morse made motion to accept Jim Meskin's resignation as Town Auditor with deep regret and appreciation. Mr. Metcalfe seconded. Motion carried 5-0-0.

The Board authorized Ms. Becker to advertise an auditor position.

Chairman McClintock stated that Planning Commission chairman Craig Bruder has reported that the Commission consensus is that a smaller board is more effective. They do not want to increase commission size to accommodate more members.

Mr. Pennebaker said that he will put the updated Town Plan on the web site. He asked Board members to read the plan for accuracy.

There was brief discussion of Highway Department rental of the property next to Cole Hall.

Ms. Morse made motion to authorize payment of rent for the property adjoining Cole Hall for Highway Department storage purposes for July and August. Ms. Mellinger seconded. Motion carried 5-0-0.

11. Minutes:

July 6, 2009 minutes

Approval of July 6 minutes was postponed because some Board members had not received the minutes.

12. Warrants:

The following warrants were presented for approval:

Retirement Warrant #1R: \$ 105.78

Ms. Morse made motion to pay Retirement Warrant #1R. Mr. Pennebaker seconded. Motion carried 5-0-0.

Retirement Warrant #2R: \$ 105.78

Ms. Morse made motion to pay Retirement Warrant #2R. Mr. Pennebaker seconded. Motion carried 5-0-0.

Check Warrant #W2: \$78,195.33 (reappraisal, roadside mowing, water project, insurance)

Ms. Morse made motion to pay Check Warrant #W2. Ms. Mellinger seconded. Motion carried 5-0-0.

Warrant #51: \$26,220.64 (ESPC, calcium, gravel, grader, TAM)

Ms. Morse made motion to pay Warrant #51. Ms. Mellinger seconded. Motion carried 5-0-0.

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

The meeting adjourned at 9:16 PM.

Respectfully Submitted,
Susan Swasta