

SHAFTSBURY SELECTBOARD
REGULAR MEETING
JANUARY 18, 2010
MINUTES

Budget Workshop:

ATTENDING: Board members present: Lon McClintock, Bill Pennebaker, Karen Mellinger, Cinda Morse, Craig Bruder; Town Officials: Bob Holmes, Auditor; Henri Billow, Treasurer; Ron Daniels, Road Foreman; Larry Johnson, Lister; Joe Vadakin, Fire Chief; Staff: Margy Becker, Town Administrator

1. Call to Order

Chairman McClintock called the Budget workshop to order at 6:00PM.

2. Budget Discussions

Department Heads met with the Selectboard to review a final proposed budget. Bob Holmes, Auditor, recommended reducing the budget for the 2011 Town Report, noting \$4500 would be a sufficient budget based on this year's bid responses. He stated the Auditors are willing to forego a compensation increase. Mr. Holmes then spoke in favor of raising the transfer into the Audit Reserve Fund to \$4,500. He explained the audit conducted in 2004 had cost \$11,000; the Auditors are estimating a FY10 or FY11 audit will cost \$15 - \$16,000. The Selectboard agreed to transfer \$500 from the Town Report budget to the Audit Reserve Fund transfer for a total fund transfer of \$5,000.

Ron Daniels, Road Foreman asked for reinstatement of \$5,000 to the overtime budget. Bill Pennebaker reviewed his examination of the Reappraisal Fund accruals, reporting that even with reduced set-asides, the fund balance would be sufficient in 2014 to finance a reappraisal. Mr. Pennebaker then recommended that \$2,500 be shifted from the transfer to the Reappraisal Fund to the overtime budget. Treasurer Henri Billow noted the uncertainty of future State payments to help offset the costs of a reappraisal. After further debate the Board agreed to reduce the set-aside into the Reappraisal Fund by \$2,500. The appropriation to the overtime budget was increased accordingly.

Fire Chief Joe Vadakin met with the Board. He agreed with the proposed budget, but noted some line items needed to be reallocated to reflect costs of radio and communications equipment versus regular utilities. He briefly discussed the Department's success in obtaining grants to fund new radios, possible energy-conservation and other building improvements.

Craig Bruder made the motion to adjourn the budget workshop at 6:53PM. Bill Pennebaker seconded. The motion carried.

Regular Meeting:

ATTENDING: Board members present: Lon McClintock, Bill Pennebaker, Karen Mellinger, Cinda Morse, Craig Bruder; Town Officials: Larry Johnson, Lister; Staff: Margy Becker, Town Administrator; Residents and Visitors: Ben Benedict, Tom Dailey, Esq.; Mark Rondeau, Jim Therrien, Bennington Banner; Town Attorney, Rob Woolmington; Linda Weber, Annette Jenks, Peggi Price, Dave Durfee (Ancient Roads Committee); Robert Moffitt, Michael Carver, Beth Boepple, Esq., Catherine and Robert Brawer, Ellen Schutz, John White, Jim Malady, Esq; Charles Washburn; Susan Nilsen-Bonelli, Sherry Nilsen, Martin Brekne, Scott Nilsen, Steven Tonnesen (Norsemens Shooters), Stephen Washburn, William P. How, Sandra Mattison Young, Dave McKeighan; John Whalen, Esq.;

1. Call to Order

Chairman McClintock called the Regular Meeting to order at 7PM.

2. Announcements:

There were no announcements.

3. Conflict of Interest Statement:

Chairman McClintock inquired if any Board member had a conflict of interest with any matter on the agenda. No conflict of interest was noted for the record.

4. Public Hearing: Ancient Roads Committee Recommendation to add 3 ancient town rights-of-ways to the Town Highway Map:

Chairman McClintock summarized the Ancient Road's Committee's investigations into 3 known and observable old town rights-of-ways. The Committee performed its research over a 2 year period.

Proposal to map an old road/trail from the end of Granger Holl Road to the Arlington Town Line as a Class 4 Road:

Attorney Malady, representing the Norsemens Shooters, stated opposition to adding said right-of-way to the Town Highway Map, noting the many properties in the area and the fact the old road is a gated road. His subsequent testimony addressed the location of the old road with respect to the boundaries of the Norsemen's Shooters parcel and the Nilsen parcel.

Martin Brekne expressed opposition to taking the gate down, saying that his property was vandalized when the gate was down. He reported that in the early 1970's a bridge went out that the Town did not fix. Landowners have since installed a new bridge, and they maintain the road and ditches.

Steve Washburn, caretaker of the Norsemens Shooters property, testified the old road that has been researched by the Ancient Roads Committee is not the old stage coach road and has never been a town road. He referred to another road as a town road, referenced the Bryce farm c. 1965, a motor cycle accident in 1966, and indicated that he had old maps he was willing to share with the Town.

Scott and Sherry Nilsen inquired whether the Norsemens Shooters would be liable for the public safety, should the road/trail be preserved as a town road. Susan Nilsen-Bonelli stated concerns regarding maintenance and future use of the road. She expressed concerns regarding the loss of privacy as a result of increased public use.

Lon McClintock stated that if the road is established as a Class 4 road, there would not be town monies available to maintain the road. He addressed briefly the matter of sovereign immunity and the lack of a clear-cut answer on liability issues.

Attorney John Whalen noted the trail across the Bryce property has been thrown up.

Martin Brekne addressed the use of the old road as one of many horse trails, and he expressed concerns regarding liability issues.

Peggi Price noted the existence of a survey and the fact that the old road is noted on the 1856 maps and the 1869 Beers Atlas.

Extension of Shaftsbury Hollow Road: Proposal to Map as Legal Trail:

Steve Washburn concurred the old road exists from Spruce Peak to Governor Galusha's homestead. There were no other public comments regarding this segment of road.

An old Cross Road – Little Rhode Island Cemetery:

Tom Dailey, Esq., representing the Hogans on Old Dept Road, said the right-of-way runs across the end of the Hogan's property. He stated he has walked the property and seen several trails and an old sugar bush operation. He had trouble following the old road to its terminus at the Little Rhode Island Cemetery. Attorney Dailey referenced an Order dated 1910 to 1911 regarding discontinuance of the road. He said the Order is still valid and binds the current Selectboard. He further argued that only a court could overturn the Order. Attorney Dailey said there had not been a formal 'laying out' of a road since the Order to Discontinue. He noted he found evidence the road had been considered for abandonment in the 1870's. Attorney Dailey said the Hogans were not in favor of having the old road added to the Town Highway map. Doing so would interfere with enjoyment of their property. Attorney Dailey concluded his remarks by saying he thinks there is an old right-of-way at the north end of the Hogan property that disappears through a gap in the stonewall.

Attorney Beth Boepple, representing the Brawers, said she had walked the area 3 times but found no discernable roadway. She talked about a landowner giving license to use private property as a winter road. She encouraged the Selectboard to take a very close look at the proposal to map the right-of-way.

Mike Carver testified the road is observable, stating that he also maintains the trail as a ski trail. He advocated for public access to ski trails.

Ben Benedict contested the existence of the right-of-way as documented by the Ancient Roads Committee. He stated the location of the road is very hard to determine. He suggested a more practical route to access the cemetery would be via the extension of Sugar House Road.

Attorney John Whalen submitted a letter for the record. He said the east end of the road is unobservable and stated his agreement that the 1910 findings are conclusive. He talked about 'winter roads'. He then questioned the recreational value of the old road, noting its proximity to houses. Attorney Whalen further argued the presumption of abandonment is correct, if a road is not used in 30 years.

Dave McKeighan spoke of the Brawer property being 70 acres that were once an old farm. At the northerly corner there is a finger of land that crossed the old road. There was no water on the Brawer property, so the finger-like parcel was used to access water.

Attorney Boepple inquired as to whether Committee member Peggi Price had a conflict of interest regarding deliberations on the status of the old road. Bill Pennebaker stated Ms. Price did not participate in Board discussions on the road.

David Durfee, Committee member, said the Committee had walked the old road from the eastern end last June. He stated there was clear evidence there had been a road. He spoke of the 1932 hearing to discontinue the road, with no results.

Tom Dailey, Esq., again testified to the existence of the 1910 Order to Discontinue. He encouraged the Selectboard to examine all available records.

Ellen Schutz read her letter to the Selectboard and asked that it be entered into the record. She testified the road in fact is not a town road. She expressed opposition to its use as a trail. Chairman McClintock thanked the public for attending the hearing and closed the hearing at 8:20PM.

5. FY2011 Budget Discussions Cont.'

The Board discussed Chairman McClintock's suggestion to set aside a decreased portion of the FY09 fund balance into a contingency reserve fund so-called. Bill Pennebaker expressed support for a \$10,000 set-aside, which would mean \$3,712 could be used to lower taxes. After further discussions the Board concurred with the

\$10,000 set-aside. The Board further discussed the bottom-line proposed tax increase of 2.6%.

Cinda Morse made the motion to adopt the budget as amended, with total expenses of \$1,666,392 and \$1,283,023 to be raised in taxes. Bill Pennebaker seconded. The motion carried unanimously.

Karen Mellinger briefly reported on the status of school budgets. She reported District 2 may be achieving a decrease of .483 on its tax rate, due to increased state aid. District 1 is facing a possible 7 cent increase in its tax rate. Ms. Mellinger further reported she predicts the proposed Town budget would result in a 1.5 cent increase in the municipal rate and further noted the possibility that most of Shaftsbury residents might see a reduction in property taxes this year.

6. Warrants:

Payroll Warrant #29 in the amount of \$10,661.39.

Karen Mellinger made the motion to approve Payroll Warrant #29. Cinda Morse seconded. The motion carried 5-0.

Check Warrant #26 in the amount of \$23,081, inclusive of payments to Clodfelter (reappraisal expense) and to TAM.

Karen Mellinger made the motion to approve Check Warrant #26. Cinda Morse seconded. The motion carried 5-0.

7. Minutes of December 14, 2009

Karen Mellinger made the motion to approve the Minutes of December 14, 2009. Craig Bruder seconded. The motion carried.

8. Other Business:

Jim Therrien of the Bennington Banner requested the Selectboard consider placing on the warning for town meeting an article addressing overuse of executive sessions. He stated this has been a concern of the Vermont Press Association. Cinda Morse requested a report of sidewalk grant and water project transactions.

9. Adjournment

Bill Pennebaker made the MOTION to adjourn at 9:10PM. Craig Bruder seconded. The motion carried.

Submitted by,
Margy Becker