

# **Town of Shaftsbury Selectboard Regular Meeting Monday, April 1, 2013**

**Members Present:** Craig Bruder, Karen Mellinger, Ken Harrington, Carl Korman.

**Members Absent:** Billy Obenauer

Town Officials Present: Margy Becker (Town Administrator), Sandra Mangsen (Recording Clerk), Planning Commissioners: Chris Williams, Bill Pennebaker, David Spurr; DRB Members: Megan Donckers, Tom Huncharek, Mitchell Race; Jay Palmer, Fire Warden: Oliver Durand; School Board Members: Larry Johnson, Fran Kinney; Joe Herrmann (Water Department Superintendent); Barry Mayer, Trustee of Public Funds; Others Present: Mary Gronning, Joanne Race, Michael Foley, Jeri Schoof.

## **1. Call to Order**

Craig Bruder called the regular meeting of the Selectboard to order at 6:02 p.m.

## **2. PUBLIC HEARING – Zoning Bylaw Amendment "Open Space Subdivisions"**

Craig Bruder explained the background and the reason for the public hearing and then turned the meeting over to Chris Williams, Chair of the Planning Commission. The Planning Commission had developed the proposed amendment.

Chris Williams reported that the goal of the Planning Commission in developing this proposal was to make some areas more attractive to development, while keeping the basic requirements with respect to setbacks unchanged.

Margy Becker read portions of an e-mail from Town Attorney Rob Woolmington, which raised the following issues:

- a) Mobile home parks are excluded from this proposed amendment, which could make them more difficult to site than conventional subdivisions
- b) The provision of land open for use in common by all lot owners might require providing just compensation for the land taken from lot owners

Attorney Woolmington recommends changing "may" to "shall" in the last sentence of the final paragraph because of these concerns. Selectboard members raised various questions with regard to common ownership of property and the reasons for encouraging this sort of development.

Bill Pennebaker asked for a comparison with beach/water rights held in common; Carl Korman responded that the situation here is somewhat similar.

There was a discussion of why the Planning Commission did not mention mobile homes in this proposal, thus excluding them from the potential "density bonus."

Bill Pennebaker noted two areas that seem to require further attention in the proposed amendment:

- a) the lack of setback requirements on individual lots
- b) the lack of restrictions on further development of the parcel that has already been subdivided and received a density bonus.

Bill Pennebaker recommended inserting a sentence to prevent further subdivision of a lot once it has been subdivided.

There being a conflict between subdivision regulations (Section 6.06) and the proposed bylaw amendment, Chris Williams recommended inserting a reference to the subdivision regulations in zoning bylaws to direct applicants' attention to this proposed regulation on open-space subdivisions.

Ken Harrington reported on community feedback he had received, indicating that residents had difficulty understanding the proposal. He also asked about the likelihood that low-income housing would result from this proposal.

Craig Bruder responded that the idea is to encourage preservation of open space within subdivisions. It does not specifically mention low income housing, which could be developed under this proposal.

Ken Harrington asserted that he would prefer a simpler, more cut and dried proposal; Carl Korman remarked that the proposal seems quite clear as it stands; Karen Mellinger agreed that the proposal is clear, and noted her appreciation for the Planning Commission's work in developing it.

Chris Williams suggested that the proposal also should include a definition of "multi-family housing."

Jay Palmer asked about the role of steep land in a parcel (i.e., land with a grade of more than twenty-five percent); it was pointed out that the area on which the density bonus depends must be buildable, thus excluding land with a steep grade.

Oliver Durand asked a question about changes to zoning districts; it was explained that such changes were not the topic of this hearing. This matter still rests with the Planning Commission.

Craig Bruder asked if there were other comments; none were offered.

There was some concern that the hearing might have to be re-warned if the intention is to put the proposed changes in the subdivision regulations, rather than as an amendment to the zoning bylaws. Whether the matters discussed are merely clarifications or substantive changes was also considered.

Karen Mellinger suggested that including mobile home parks in the regulation might be considered a substantive change.

The Chair continued the public hearing Apr 15 at 6:30PM. Chris Williams will alter the wording of the proposal so that it will fit conveniently within the subdivision regulations.

**Motion. To recess the Selectboard meeting for a Water Board meeting. Moved by Carl Korman; seconded by Ken Harrington. Carried 4-0-0.**

The Water Board meeting was adjourned at 7:21 p.m. (refer to separate minutes)

**Motion. Carl Korman moved that the Selectboard meeting be reconvened. Seconded by Karen Mellinger. Carried unanimously.**

The Selectboard meeting was reconvened at 7:23 p.m.

### **REGULAR BUSINESS**

#### **3. Announcements –**

Margy Becker noted that deck repairs to Bridge 35 on Lower East Road will begin on April 10.

A Hazardous Waste day is scheduled for April 27 at the transfer station; hours will be limited 9AM – Noon. Margy Becker is trying to find a way to dispose of florescent light bulbs on the same day, but it is somewhat problematic. Moreover, there has been some illegal dumping of such light bulbs in the town by an unknown person or company.

#### **4. Conflict of Interest Statement**

There were none.

#### **5. Public Comments**

Mary Gronning expressed her disappointment over the recent appointment of David Mance to another term on the Development Review Board, without following the proper procedures for such appointments. She noted that Vermont has been cited as deficient in professional ethics and in following standard procedures, according to a recent study. Past Selectboard procedure was to require interviews for all candidates for appointments to the Planning Commission or to the Development Review Board. In the case of Mr. Mance no interview was held, and the opening was not publicly advertised in advance. She concluded by encouraging the Selectboard to treat everyone equally and to follow its own procedures.

Craig Bruder responded by apologizing to Selectboard members and the public for not following the procedures they had established. He promised to do better in the future. Karen Mellinger pointed out that the Selectboard had recently conducted a lengthy series of interviews to appoint a number of candidates, but, after the fact, would have preferred to have adhered to established procedures in this case. Jeri Schoof noted that she agreed with Mary Gronning's comments.

Jeri Schoof announced an upcoming meeting of the Shaftsbury Garden Club and invited new people to join the club and help to look after selected properties in town. The meeting will be held at 2 p.m. on Apr 10 at the Methodist Church.

Mike Foley asked why his previous application to serve on the Development Review Board was apparently not considered. In his view the Selectboard should not have assumed the outcome would have been the same had interviews been conducted and policy followed. In his view this is yet another instance of a lack of transparency on the part of the Selectboard.

Karen Mellinger responded that they had indeed made a mistake in this instance, but that the Development Review Board needs to be functioning. Many candidates including Mike Foley had been considered carefully during the recent round of appointments.

#### **6. Approve Annual Highway Financial Plan/Paving grant application**

Margy Becker presented a form from VTRANS, which serves to demonstrate that the town is spending at least \$300/mile to maintain or improve town roads. Their interest is in ensuring that the town is keeping its infrastructure up-to-date.

\$175,000 is the maximum grant from the State, representing either 70 or 80% of cost of a highway project, depending on whether there is an updated inventory of culverts on every town road. Margy Becker noted that the list of culverts is up-to-date, but she would also like to inventory traffic control signage and perhaps street signage.

**Motion. To accept the annual financial plan for the Town's highways. Moved by Karen Mellinger; seconded by Ken Harrington. Carried unanimously.**

#### **7. Town Officer (Annual) Appointments**

Several annual appointments of town officers need to be made: Emergency management coordinator; Energy coordinator; Tree warden; Town health officer. Margy Becker will ensure that these vacancies are appropriately advertised. The appointments will be considered at the next meeting.

#### **8. Conflict of Interest Policy – 3<sup>rd</sup> Reading**

There was a discussion of the draft, especially with regard to real vs. apparent conflict of interest, and of comments that former Selectboard Chair, Lon McClintock, had intended to submit.

Ken Harrington asked for clarification in a situation where he might be among bidders on a town project. Craig Bruder advised that in such a situation, the proposed policy would suggest that Ken Harrington would recuse himself from discussion and voting on awarding of the bid.

The members decided to revise the draft policy based on their notes from previous discussions. Of special concern are paragraphs 6B and 5C, which appear to be in conflict. Karen Mellinger will revise the document for further discussion.

**9. Letter of Support – Batttenkill Valley Health Center (Arlington)**

The Selectboard has been asked by Dr. Michael Welther to provide a letter of support for the establishment of the Battenkill Valley Health Center, which hopes to provide health care to under-serviced populations.

Carl Korman noted that his only knowledge of the individual and the project is from the newspaper. Dr. Welther will be invited to describe the initiative at a future meeting

**10. Approval of Selectboard Liaison Assignments**

The assignments will be considered at a future meeting.

**11. Town Garage Committee Status**

Karen Mellinger reported that the committee met; minutes were distributed to Selectboard members. Fourteen people attended the first meeting, including several who had direct knowledge of the work already undertaken to develop the recent proposal for a new town garage.

The committee plans to meet bi-weekly, on the second and fourth Wednesday of each month, at Cole Hall, 6:30 p.m. Agendas will be posted in advance.

Several individuals have volunteered to work on the public communication aspect of the committee's work.

The committee discussed the recent defeat of bond issue and concluded that the cost was seen as the main problem. Different approaches to construction were considered. There was a discussion of the attempt to acquire a lot adjacent to the existing garage. The Town does not consider this to be an option, presently.

Barry Mayer described the way the meeting was conducted and suggested the group might appoint a facilitator rather than a chair.

Ken Harrington asked how much salt and sand was used in a year by the Town. Margy Becker informed him the Town uses 600 tons/year. Craig Bruder promised that the information on sand tonnages would be made available.

Barry Mayer pointed out that time is short if, a November bond vote is envisioned. He recommended providing information to the community by whatever means may be available.

**12. Town Administrator's Report – Margy Becker**

The Fire Department annual dinner is scheduled for Apr 20. A meeting with the web site developer is scheduled for April 5.

Margy Becker is consulting with TAM regarding disposal of contaminated used oil. She noted the Animal Control Officer has asked about how to deal with farm animals that need to be impounded.

She is working on personnel issues, in particular developing a job description for a superintendent of parks.

Margy Becker reported that small state grants are available to address hazardous situations identified on White Creek Rd and Buck Hill Rd. A state engineer can come and make recommendations re signage, or other possible alterations to improve safety.

A conversation about water allocations in North Bennington and Shaftsbury is ongoing.

### **13. Other Business**

Karen Mellinger inquired whether fuel bids would be let in the near future. Margy Becker said yes, they would. She inquired when the road crew would start summer hours. Margy Becker will consult with Terry Stacy, and report to the Selectboard.

### **14. Minutes: March 11 and 18, 2013**

**Motion. To approve minutes of Mar 11, 2013, as circulated. Moved by Karen Mellinger; seconded by Carl Korman. Carried unanimously.**

The minutes of the meeting of Mar 18 will be considered at the next meeting.

### **15. Warrants**

**Motion. To approve check warrant # 28 in the amount of \$20,521.64. Moved by Karen Mellinger; seconded by Carl Korman. Carried unanimously.**

**Motion. To approve payroll warrant # 39 in the amount of \$11,661.72. Moved by Karen Mellinger; seconded by Carl Korman. Carried unanimously.**

**Motion. To approve payroll warrant # 38 in the amount of \$6,913.13. Moved by Karen Mellinger; seconded by Ken Harrington. Carried unanimously.**

### **16. Adjournment**

**Motion. To adjourn the meeting. Moved by Carl Korman; seconded by Karen Mellinger. Carried unanimously.**

The meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Sandra Mangsen  
(Recording Clerk)