

**MINUTES OF THE SHAFTSBURY SELECT BOARD
DECEMBER 18, 2006
COLE HALL
SHAFTSBURY, VERMONT**

Board Present: Wynn Metcalfe, Chairman, Cinda Morse, Bill Pennebaker, Karen Mellinger, Jim Mead
Others Present: Eric Pero (Bennington Banner), Bob Eastman, Sally Eastman, Chris Williams (Planning Commission), Bob Carter (Planning Commission), Craig Bruder (Planning Commission), Jerry Mattison (Emergency Manager), Trevor Mance (TAM), Marybeth Maguire, Aaron Chrostowsky, (Town Administrator), Susan Swasta (Recording Secretary)

1. Call Meeting to Order:

Chairman Wynn Metcalfe called the meeting to order at 7:00 PM.

2. Conflict of Interest:

Chairman Metcalfe asked if any Board member had a conflict of interest with any of the issues on tonight's agenda. None did.

3. Announcements:

Chairman Metcalfe commented on the Christmas lights in the village and recommended that people take a drive through the area to see them. Jim Mead added that there seems to be a competition going on in Shaftsbury Hollow as well.

4. Warrants:

The following warrants were presented for approval:

- AP#28 - \$ 30,144.42 Sheriff's patrol. pond fill, gravel
- PR#26 - \$ 8,496.64 Payroll Warrant

Karen Mellinger asked what the pond fill was used for, and Aaron Chrostowsky replied that he did not know, but will find out and let them know.

Cinda Morse made motion to pay warrants. Bill Pennebaker seconded. Motion carried 5-0-0.

5. Minutes:

December 11, 2006 Budget Committee Minutes:

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

December 11, 2006 Select Board Minutes:

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

6. Public Comments:

There were no public comments.

7. Emergency Management Update:

Jerry Mattison came forward to report on emergency management. He has put together a proposal for succession of authority in the case of emergency, such as a flu pandemic. All Board members were sent a copy of the document and potential succession list. Ms. Morse asked if three successors are needed for each slot, and Mr. Mattison replied that three is the preferred number. The same people can fill various slots.

Mr. Pennebaker thought that it would be good for the Board to collaborate on a list. Ms. Morse asked if other town departments did their own lists, and Mr. Mattison replied that everyone else is done. The deadline was November 28. Chairman Metcalfe stated that the Board will decide on a list at their December 28 meeting.

Mr. Mattison reported that he had updated the rapid response plan, which must be done yearly. He described changes, stating that it is mostly the same people and same numbers, but shelters are in a different order. The firehouses have backup power, but the school does not.

Ms. Mellinger made motion to adopt the updated rapid response plan. Ms. Morse seconded. Motion carried 5-0-0.

Mr. Mattison discussed the possibility of seeking a grant for a generator or other emergency items, asking for direction from the Board. A generator for the school would be expensive, and would require asking for almost all available grant funds. The grant would require a 50/50 match.

Ms. Mellinger noted that the funds would have to be from this year's budget. Ms. Morse asked if Mr. Mattison could do a little more homework on grant possibilities, and he agreed to do so. Chairman Metcalfe suggested that he talk to Fire Chief Joe Vadakin, since any matching funds would come from the fire department budget.

There was a discussion of the possibility of buying a portable generator rather than a generator large enough to power the entire school, and of whether the school might have money to contribute to a combined fund. Mr. Mattison agreed to investigate further and to try to attend the December 28 Board meeting. Board members thanked him for his work on emergency management.

8. Revision to Zoning Bylaw:

Chairman Metcalfe opened the discussion by noting that the Board had just received the zoning bylaw documents to review, and would not be ready to make a decision tonight. He would like the Planning Commission to present an overview and point out major changes so that the Board can start the process leading to adoption at the January 8 meeting. Ms. Morse asked if this will need to be warned, and Chairman Metcalfe replied that it will, since a public hearing is required.

Planning Commission members Williams, Bruder, and Carter joined the Board at the table. Planning Commission Chairman Chris Williams stated that the bylaws wording had been changed to reflect the current reality of the Development Review Board (DRB). In addition, the bylaws have been brought into line with the state's Chapter 117 requirements, which limit the power of local planning commissions to impact public facilities such as accessory apartments, group homes for the disabled, schools, churches, and transfer stations. Such facilities are considered to serve the common good.

The third major area of change to the bylaws is permanent solid waste zoning. Chairman Williams reported that the Planning Board had taken an approach that recognized three types of solid waste facilities: transfer stations, landfills (including construction and demolition dumps), and hazardous waste facilities. He noted that the state has done a good job of regulating hazardous waste facilities, so the Planning Board has largely deferred to state laws in this section.

Chairman Williams stated that for transfer stations, the approach was to set physical requirements

proportional to the scale of operations. The required acreage and distance from residential areas is proportional to 1000's of tons of solid waste per year.

On permanent solid waste facilities, the intent is that the underground plume will never impede on anyone else's property. The presence of a liner is irrelevant, since liners are considered impermanent.

Ms. Morse noted that it appears that there is a 7000-tons-per-year upper limit for transfer stations. Chairman Williams replied that there is no limit, as long as there is a large enough lot and setbacks. Chairman Metcalfe asked if the bylaws require an extra acre for each 1000 tons over 5000 tons, and Chairman Williams replied that this is the case. He said that the Planning Board believes that economies of scale would preclude a transfer station on two acres, since it would not pay. It was noted by Trevor Mance that the TAM transfer station is 8.58 acres.

There was a discussion of how the TAM situation will be handled in the new solid waste bylaws. Planning Commission members attempted to include language that would grandfather in the TAM facility and its approved future expansion. but Town Attorney Rob Woolmington is skeptical that this would hold up in court. Mr. Woolmington suggested that a master plan might be a way around the problem, but the town has no master plan, and the Planning Commission is running out of time to put solid waste zoning in place.

The options are to have Mr. Woolmington to draft something that would permit the grandfathering in of TAM, or craft the bylaws around TAM. It was agreed that the latter approach would constitute spot zoning, so Mr. Woolmington will be consulted again.

Trevor Mance asked why transfer station lot size is linked to tonnage, stating that there is no straight correlation between tonnage and amount of land required. It depends on the processes being used. Chairman Williams replied that more tonnage may not change building size, but it would increase truck traffic and public traffic. Mr. Mance reiterated that there are many factors, and that every transfer station is different. One vehicle may carry one ton or seven tons. He does not see other kinds of businesses restricted by lot size based on volume of business, and believes it violates Chapter 117 on intended functional use.

Mr. Mance stated that this zoning makes it impossible for anyone to start a facility on two acres. Mr. Pennebaker replied that it is the Planning Board's duty to reduce impact on residential areas, and Mr. Mance replied that it is the Board's duty to recognize industrial areas for what they are. Chairman Williams stated that he does not think the new lot sizes and setbacks are radically different from present zoning. He will give Mr. Mance a copy of the zoning amendment to review.

Chairman Williams will contact Mr. Woolmington to see if he can craft language that will not interfere with TAM's operation, which has already been approved at the state and local level, in the new solid waste zoning. He will try to have this ready for the December 28 Select Board meeting.

Chairman Williams stated that he will also be coming to see the Select Board with a final report on the gravel pit study. Select Board members thanked the Planning Commission members for all of their work on zoning bylaws and the gravel pit study.

9. Landfill Gas Remediation Plan:

Mr. Pennebaker reported on the Heindel and Noyes proposal to pump the methane wells. They would first pump one well, then study gas depletion to see if it extends to the next well. He noted that if it works, it will be relatively inexpensive, but still not cheap. The cost would be about \$10,000 - \$15,000 for the mechanicals, then about \$30 per month operating cost. The initial study would be \$7000. Overall, this would be much less expensive than the Dubois and King trench system.

Mr. Pennebaker explained that this approach would pull the methane out of the ground as it is created, getting rid of it faster, rather than letting it defuse through the ground. He noted that Buzz Surwilo had recommended exploring this approach.

Ms. Morse asked about how the process would work, and Mr. Pennebaker described it. She asked if all capped landfills have this problem, and he replied that it is common for it to take one or two decades for methane to disperse. In this case, the town is dealing with a small landfill with close property lines.

Mr. Pennebaker made motion to accept the Heindel and Noyes remediation plan and proceed with the study. Mr. Mead seconded.

Mr. Mead asked where the money will come from, and Mr. Chrostowsky replied that it will come from the \$43,000 left in the noted acquired for landfill closure.

Sally Eastman, adjoining property owner, asked how loud the pumps will be. Mr. Pennebaker replied that he does not know, but hopes they would be housed, and quiet. Mrs. Eastman stated that they want the problem solved, and that they have been concerned about it for 29 years. She is tired of the experimenting. Mr. Pennebaker replied that no professional engineer could give her a good answer.

Bob Eastman asked what happened to the trench that had been put in, and Chairman Metcalfe replied that it is under the new landfill cap, and that they were not expecting the methane buildup. Mr. Eastman expressed frustration at the lack of communication, noting that he has not been receiving methane readings, and the state said they should be getting them. The Board agreed to supply him with readings.

There was a discussion of past methane measurements on the Eastman property, and problems with methane in a drain on the property. The Board agreed to put in a second methane detector in that area. The Eastmans stated that they have real concerns about noise levels. Mr. Pennebaker replied that noise levels are not known yet. Mr. Eastman said that he would like to be present when there are engineers at the site, and Chairman Metcalfe said that the Eastmans will be called when this issue is on the agenda.

10. Facilities Committee:

Chairman Metcalfe announced that the Board would like to start thinking in terms of long-range facilities planning. He asked that anyone interested in serving on a Facilities Committee call Mr. Chrostowsky. He noted that the Planning Commission also needs another member.

11. Fire Truck Sale:

Chairman Metcalfe asked for a motion to sign the fire truck sale agreement put together by Highway Foreman Ron Daniels.

Ms. Morse made motion to sign the fire truck agreement. Ms. Mellinger seconded. Motion carried 5-0-0.

12. Other Business:

Chairman Metcalfe asked about setting a date for public discussion on adopting the Australian ballot for the town budget. It was set for the January 15 meeting. Ms. Mellinger will write an editorial giving the details.

Chairman Metcalfe pointed out that a vote was not taken on the Heindel and Noyes motion. It was reiterated at this time.

Mr. Pennebaker made motion to accept the Heindel and Noyes remediation plan and proceed with the study. Mr. Mead seconded. Motion carried 5-0-0.

Chairman Metcalfe stated that the Board needs to approve the statement of errors and omissions from the town listers. There statement reflects a \$705,000 difference.

Ms. Mellinger made motion to sign the listers statement. Ms. Morse seconded. Motion carried 5-0-0.

Chairman Metcalfe stated that the Board needs to approve an oversized tractor trailer delivery to the TAM site between now and December 21.

Ms. Morse made motion to approve the oversized vehicle delivery to the TAM site. Mr. Mead seconded. Motion carried 5-0-0.

Chairman Metcalfe reported that the Vermont Old Cemetery Association will do five days of work on old headstones for \$1500. He thinks that this is a good deal.

Ms. Morse made motion to approve work by the Old Cemetery Association for \$1500. Mr. Mead seconded. Motion carried 5-0-0.

Chairman Metcalfe described a problem that has come up concerning who has the authority to grant an exemption to the \$196 zoning permit charge in the case of a home lost to fire. The DRB chair has agreed to this exemption, but the Select Board has the authority to grant it. Ms. Morse asked if the \$196 is a hardship in this case, and was told that it is.

Ms. Morse made motion to grant an exemption to the \$196 zoning permit fee to a town resident whose home was destroyed by fire. Ms. Mellinger seconded. Motion carried 5-0-0.

Ms. Morse asked that the proper procedure be circulated to those concerned.

Mr. Pennebaker reported that he has noticed that methane readings go up on sunny days, down on cloudy days. He thinks they are affected by barometric pressure.

Mr. Chrostowsky reported that the archeologists have finished their work at the cemetery for the sidewalk projects. A few artifacts were found, but nothing to impede the project.

The meeting adjourned at 8:28 PM.

Respectfully Submitted,

Susan M. Swasta