

**MINUTES OF THE SHAFTSBURY SELECT BOARD  
JULY 30, 2007  
COLE HALL  
SHAFTSBURY, VERMONT**

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

Others Present: **Mike Gleason (Bennington Banner), Jackie Carter, jim Carter (DRB), Phylis Porio (DRB), Craig Bruder (Planning Commission), Ron Daniels (Road Foreman), Gary Burgess (DRB), Brent Peacock, John Tiffany, Janet Thibodeau, Aaron Chrostowsky (Town Administrator), Susan Swasta (Recording Secretary)**

1. Call Meeting to Order:

**Chairman Wynn Metcalfe called the meeting to order at 7:03 PM. He asked if any Board member needed to recuse him/herself from any matter on the agenda. None did.**

**Chairman Metcalfe mentioned that White Creek Road resident John Williamson is beautifying Shaftsbury with his sunflowers.**

2. Minutes:

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**July 16, 2007 minutes**

Cinda Morse made motion to approve the July 16, 2007 minutes. Bill Pennebaker seconded.

**The following corrections to the July 16 minutes were requested:**

*On pages one and four "Christy Nevins" is changed to "Christy Nebius."*

*On page four, under agenda item 7, "Walter Hyjuk" is changed to "Walter Hyjek":*

*On page four, under agenda item 6, last sentence is changed to:*

**Motion to support the land purchase carried 5-0-0.**

*On page four, under agenda item 7, last sentence is changed to:*

**This appointment will complete a three-year term, until 2010.**

Motion to approve July 16 minutes as amended carried 5-0-0.

3. Warrants:

**The following warrants were presented for approval:**

<b>AP #3 -</b>	<b>\$ 72,436.33</b>	<b>General Warrant (includes workmen's compensation, auto insurance)</b>
<b>AP #4 -</b>	<b>\$ 13,711.30</b>	<b>General Warrant (includes health insurance, calcium chloride)</b>
<b>PR #3 -</b>	<b>\$ 6,179.98</b>	<b>Payroll Warrant</b>
<b>PR #4 -</b>	<b>\$ 12,242.90</b>	<b>Payroll Warrant</b>

Ms. Morse made motion to pay warrants. Karen Mellinger seconded. Motion carried 5-0-0.

#### 4. Zoning Administrator Job Description:

Jim Carter and Phylis Porio of the Development Review Board (DRB) and Craig Bruder of the Planning Commission came to the table for the discussion. Mr. Bruder stated that the only substantive change requested by the Planning Commission is to specify that the zoning administrator reports to the Planning Commission, not to all three Town Boards.

Ms. Morse asked how communication would take place if the zoning administrator reports to the Planning Commission, given that he works with the DRB. Mr. Carter stated that this reporting requirement is one area of state Chapter 117 that has not been revised, and that he has been advised that this was an oversight on the state's part.

Mr. Carter said that, in his mind, the issue is who has control over the zoning administrator. He has no quarrel with who he reports to, but the DRB should have control.

Mr. Bruder reiterated that the Planning Commission's concern is that the zoning administrator not report to three Boards. He noted that balance of power came up in the Planning Commission discussion.

Lon McClintock stated that the zoning administrator has non-discretionary authority, and that if there is any ambiguity the DRB exercises discretion. He advised having the zoning administrator get supervision from the Planning Commission.

Mr. Carter stated that the problem is not when the zoning administrator acts, but when he does not act, and something does not get done. He feels that in this case the situation is more obvious to the DRB than to the Planning Commission.

Mr. McClintock responded that if the zoning administrator does not act, a citizen may appeal lack of enforcement. Mr. Carter replied that this assumes the applicant would know to appeal.

DRB member Gary Burgess commented that the statute was written when towns had both planning and zoning boards. Now Shaftsbury has a DRB with discretion to deal with permits, and therefore the DRB has control over what the zoning administrator does.

Chairman Metcalfe (who also serves on the DRB) said that he has found that DRB members have a good working relationship with the present zoning administrator and are not shy about saying when things are wrong. He sees no problem with leaving supervision with the Planning Commission.

Aaron Chrostowsky noted that executive authority rests with the Select Board, and if the DRB and Planning Commission have a problem, they may refer it to the Select Board.

There was further discussion of how to define the supervisory structure for the zoning administrator is a way that would ensure communication with the DRB while conforming to the state statute. Bill Pennebaker suggested that the Planning Commission delegate some of its oversight responsibility to the DRB.

Mr. McClintock noted that the zoning administrator has an independent responsibility for enforcement, and this is not included in the job description. He would like to see it included. Mr. Carter stated that this responsibility is by statute, and suggested setting forth the specific statute responsibilities in the job description.

Mr. Bruder noted that the job description is used to measure the zoning administrator's performance, so references to the statute requirements need to be there to be used as part of the measuring stick.

There was a discussion of the distinction between the zoning administrator's role as defined by statute, and as an employee of the Town. Mr. Carter asked if the zoning administrator would be seen as representing the Town if called as witness in a legal proceeding. Mr. McClintock stated that such representation would be the province of the Select Board.

Chairman Metcalfe noted that in the past the zoning administrator had been given that authority in representing the Town, along with a Select Board member, in a mediation process. Mr. Carter stated that he thinks the zoning administrator should only act as a witness for the Town in legal proceedings, not as a representative. The Select Board should decide who represents the Town.

After further discussion, Mr. McClintock noted that a tremendous amount of work has gone into this job description, which will put structure and accountability in the zoning administrator position. He said that he does not feel comfortable voting without more time to think about it. Phylis Porio urged the Board to get it done, noting that they have been working on it since January.

Ms. Morse asked if there is a procedural manual for the zoning administrator. Mr. Carter replied that there is, and said although it is outdated the principals are still good. Ms. Morse said that it would be useful to have some forms included in the job description. Ms. Porio stated that they want the zoning administrator to develop and maintain a procedural manual.

Mr. Carter suggested that the zoning administrator report to the Planning Commission, and that the Commission delegate some functions to the DRB. He noted that communication between the two will be essential.

Chairman Metcalfe asked Mr. Carter, Mr. Bruder, Mr. McClintock, and Ms. Porio to meet and finalize the job description. Ms. Morse asked to join the meeting. All agreed. They will have it done in two weeks so the Select Board can approve it.

#### 5. Public Comments

Ms. Porio stated that she does not believe a special election for a replacement Select Board member is a good idea right now. She thanked Ed Colvin for "leading the charge" for an election, but asked that the petition be withheld. Ms. Porio looks forward to their support in March for the regular election. The petitioners have agreed to withdraw.

Mr. Carter, noting that he is speaking as a private citizen, stated that he believes the Select Board had missed an opportunity and ignored the wishes of almost 50% of the electorate in not appointing Ms. Porio to the Board. He said that this will be viewed as an "irregular proceeding" that ignored the wishes of the majority, and urged the Select Board to act to allay that impression.

#### 6. Road Foreman Report:

Road Foreman Ron Daniels reported that the road crew has been scraping and mowing. He noted that the tractor used for mowing should be replaced. Ms. Morse asked if the schedule for the concentrated mowing by the contractor is the same as last year, and Mr. Chrostowsky replied that it is a little later.

Ms. Morse said that it needs to be earlier, because the grass is so high at some intersections that it creates a dangerous situation. Mr. Chrostowsky said that they need to specify a time next year.

Mr. Daniels said that the only good answer is for the Town to have its own tractor for mowing. Mr. Chrostowsky explained that the contractor's mower does not have an arm, so can not extend far back to cut brush. Mr. Daniels said that brush can only be cut far back from the road in areas where there are no trees.

Ms. Mellinger asked how much a tractor would cost, and Mr. Daniels replied that a good used one would be less than \$20,000, Ms. Mellinger noted that it had cost \$10,000 for mowing. Chairman Metcalfe pointed out that the Town did not have a person to free up to cut grass.

Ms. Morse said that the shredded bushes along the roads look awful. Mr. Daniels replied that a lot of that stuff should be cut with a chain saw.

John Tiffany described conditions on Shaftsbury Hollow Road, stating that brush is still sticking out onto the road, making it one lane in places. He said that the narrower the road gets, the worse the maintenance is.

Mr. Daniels said he had been told those areas had been cut and opened up. Mr. Tiffany replied that a chain saw is needed. Mr. Chrostowsky said that hopefully this can be addressed by the end of summer.

#### 7. Proposal for Paving:

Mr. Chrostowsky reported that the Town received no state money for for Class 2 road paving this year. The two roads identified as most in need of paving are Church Street, budgeted as \$30,000, and Grandview, budgeted at \$15,000. They decided to do Grand-view because, as a Class 3 road, it would not be eligible for a grant. This will go out to bid.

Bids will also be solicited for Elm Street and Lamb Road, Class 3 roads that are now gravel. Mr. Chrostowsky stated that Mr. Daniels recommended that some village roads get shim coats instead of paving. This will also go out to bid.

Chairman Metcalfe said that he thought the \$15,000 paving reserve fund was to be saved to be used with state funding, not used as a yearly fund. Other Board members agreed.

Ms. Morse asked what the next big project for proposed state funding would be, and how much would be required for matching. Mr. Chrostowsky replied that it would be Church Street and Cleveland Avenue, and the paving cost would be \$75,000.

Ms. Mellinger asked about bad potholes on Church Street. Mr. Daniels noted that cold patch does not hold up well. She asked how long a shim coat holds up, and was told that it lasts about ten years.

There was a discussion of highway funds. Mr. Chrostowsky was told to go ahead and prepare bid documents.

Ms. Morse asked if there should be a specific amount for the insurance guarantee by the contractor in the bid document. Board members agreed on a \$1 million general liability requirement. If this turns out to be a problem for contractors Mr. Chrostowsky will come back to the Board with it.

Janet Thibodeau asked what the total paving budget for next year is. She was told it is \$30,000, to be used for Grandview paving and for shim coating.

#### 8. Draft Road Plan Working Session:

Mr. Chrostowsky explained the methodology for the classification of roads. Chairman Metcalfe noted that the road crew had individually surveyed all roads, and that then Foreman Daniels and Mr. Chrostowsky had prepared the draft. Mr. Chrostowsky explained the road inventory worksheets and the road conditions covered by them.

Chairman Metcalfe asked Mr. Daniels to pick the worst roads, and Mr. Daniels mentioned LaClair, Tinkham, Myers, and Murphy Hill as roads where school buses travel and children's safety is at

stake. He also mentioned Shaftsbury Hollow and Paran Roads.

Chairman Metcalfe noted that all of these roads are in the top percentage of the road priority list. Mr. Daniels said that he is not against doing Paran Road, but Murphy Hill has a lot of traffic and has a bad section.

Chairman Metcalfe suggested that Mr. Daniels and Mr. Chrostowsky come up with a top ten list for attention. He noted that the road plan draft identifies some roads as high priority that don't currently need attention, like White Creek Road.

Ms. Morse stated that they are trying to get to a process for evaluating roads reliably, going forward. A couple of key evaluation pieces are still missing, and they should figure out what the missing parameters are.

Mr. Pennebaker suggested a "special circumstances" category that would include things like a bad hill that washes out, or an awful place in spring. Mr. Chrostowsky said they need to break down some roads, like East Road and Murphy Hill, into smaller segments.

Mr. McClintock recommended making the road conditions measurements higher numbers, instead of weighting everything 1-3. This would put roads in worse condition higher on the list.

Ms. Morse recommended looking at what smaller fixes, like fabric, can be done. If they stop having to do some fixes over and over again, money can be freed up for larger projects.

Mr. Daniels stated that they need to work the old priority list into this. Mr. Pennebaker suggested separating the list into two classes of work -- routine maintenance versus major repairs.

Mr. Tiffany expressed disappointment that the road plan is more of a priority list for paving than a maintenance plan. He said two road plans are needed, and more needs to go into it. Mr. Tiffany said that more weight is being given to through roads, and noted that on a non-through road, you're stuck.

He feels that the plan doesn't address areas like Shaftsbury Hollow that have been neglected over time, and said that there are now fifty houses up there, with more being added.

Chairman Metcalfe said that this is not just a blacktop priority list. Mr. McClintock said that the goal is to come up with a methodology that is constantly rotating so each road eventually comes to the top of the list. Mr. Tiffany said he saw no set standards being used.

Janet Thibodeau asked about the weighting for Class 3 roads and Mr. Chrostowsky explained the distinctions. Chairman Metcalfe noted that there is only so much money available no matter how bad conditions get on a road, or where it is on the priority list. He does not want people to misinterpret the list, because the reality is that lots of dirt roads and unpredictable springs can take all of the money.

Mr. Tiffany observed that more people are moving from paved to gravel roads and don't know how to drive on them. Chairman Metcalfe said that Ron Daniels and Mr. Chrostowsky will continue to focus on the road plan.

#### 9. Other Business:

Mr. Pennebaker said that the Vermont League of Cities and Towns (VLCT) would like to know how much each town spends on the two documents on school taxes that are required by the state. These accompany the tax bills. Mr. Chrostowsky will deal with this.

Ms. Morse reported that they could not get a traffic study for \$15,000. The contractor asked for \$25,000 per study area. They need to come back to this matter and figure out what to do. Ms.

**Morse announced a watershed meeting on August 7. She may try to attend.**

**Mr. McClintock asked what is being done about Ancient Roads. Chairman Metcalfe re-plied that a committee is being set up. Mr. McClintock advised making sure that gets scheduled because there is not much time.**

**Mr. McClintock asked if the Planning Commission will do a presentation on the solid waste zoning bylaw. He thinks it would be helpful. Chairman Metcalfe replied that he hopes there will be a presentation at next week's meeting, which will be an open hearing for public comment. The Select Board will then begin its discussion. He sees next week as the beginning of the process.**

**Mr. Chrostowsky asked for Board approval of a letter of agreement for computer ap-praisal services. This is done every year. The cost is \$183 per year.**

**Ms. Morse made motion to sign the letter of agreement for computer appraisal services. Mr. McClintock seconded. Motion carried 5-0-0.**

**Mr. Chrostowsky informed that Board that salt prices would be \$53 per ton from Barrett, and \$50.79 from American Rock Salt. This will be brought up next week.**

**Mr. Chrostowsky stated that there will be a meeting on Bennington County infrastructure needs with Senator Bernie Sanders on August 9 at 1:30 PM. Chairman Metcalfe received an invitation to attend.**

**There was a discussion of whether free green-up bags may be given out to residents to use for trash picked up along the sides of roads. Chairman Metcalfe said they have been generous with this in the past and recommended that it be kept an informal process.**

10. Executive Session (Personnel, Contract):

**The Board went into Executive session at 9:07 PM.**

Meeting adjourned at ?? PM.

**Respectfully Submitted,**

**Susan Swasta**