

**Brandon Select Board Meeting
February 25, 2013**

NOTE: These are unapproved minutes, subject to amendment and/or approval at the subsequent board meeting.

In Attendance: Devon Fuller, Richard Baker, Dave Atherton, Ethan Swift, Mitch Pearl

Also in Attendance: Keith Arlund, Chris Brickell, Wayne Rausenberger, Mary Austin, Tracy Wyman, Tom A. McLaughlin, Thomas R. McLaughlin, Francis Farnsworth, Max Welton, Joanne Nichols, John Legault, Phil Marks, Robert Fales Sr., Bernie Carr, Jeff Stewart, Blaine Cliver, JoAnn Scarborough, Jeff Parker, William Warner, Gary Meffe, Nancy Meffe, Peter Smith, Patty Smith, Seth Hopkins, Judy Bunde, Robert Black, Lee Kahrs, Steve Beck, Dick Kirby

1. Call to order

The meeting was called to order at 7:02PM by Devon Fuller, Chair.

a) Agenda Adoption – Motion by Richard Baker/Mitch Pearl to adopt the agenda as presented. **The motion passed unanimously – 4 to zero.**

2. Consent Agenda

a) Approval of Minutes – February 11, 2013- Select Board

Motion by Ethan Swift/ Richard Baker to approve the minutes of the February 11, 2013 Select Board meeting with the following corrections. **The motion passed unanimously – 4 to zero.**

Page 2 under Manager’s Report, a correction of the word contacted, not contracted, on the third line of the first paragraph.

3. Fiscal

a) Warrant – February 25, 2013 - \$1,005, 953.14

Motion by Richard Baker/Ethan Swift to approve the warrant of February 25, 2013 in the amount of \$1,005,953.14. **The motion passed unanimously – 4 to zero.**

It was noted a significant portion of the warrant is pass through from the schools and Fire District.

Ethan Swift questioned the invoice for the Agency of Natural Resources for the Pittsford run-off. Mr. Arlund advised this is the storm water discharge permit annual fee. The Thayer BTS Housing invoice was also questioned and Mr. Arlund reported this was for work on a clogged culvert and storm drain at the Brandon Training School Campus. The work was within the town's right-of-way and part of storm water drainage system, and was a split cost.

4. Scheduled Reports from Committees and Officials

There were no scheduled reports.

5. Town Manager's Report

Keith Arlund reported that he attended the Brownfield's planning meeting at RRPC and he will be assisting in identifying potential sites in Brandon. Additional funds are available if any are identified. An audit exit interview was done and approval documents are being prepared for submittal to them. With regard to infrastructure, the draft waiver valuations for the Phase 1 properties was sent to VTrans for review, however, Patti Coburn is out of the office until March 6th. The VTrans Right-of-Way section has completed the review of the easements and comments/corrections have been sent to VHB, CLD and Tina Wiles for review. Brian Sanderson, Ray Counter and he will be discussing the traffic control plans with OMYA regarding the Phase 1 construction. Mr. Arlund has received the draft engineering project and this is being reviewed. Otter Creek Engineering is appealing the ranking and requests reconsideration. For Bridge 114, VHB reported that CLD is setting up the hydraulic model from the survey data they took and the report is scheduled to be complete by the end of March. The Town has received 9 responses from the RFQ for the Town Office and a meeting will be set soon to go over RFQ's. Max Ferro is working on plans and bid documents for a lump sum bid for the first floor storm repair work.

Ethan Swift reiterated that Aldridge and Elliot were ranked #1 for the resident engineering services and they have provided a draft contract that is being reviewed by VHB and VTrans. Keith Arlund stated the rankings were clear; and Aldridge and Elliott were ranked #1.

Devon Fuller confirmed the Town will not have answers for the right-of-ways for Segment 6 until after March 6th. Keith Arlund will confirm tomorrow whether anyone else has seen them.

6. Public Works Report

Mr. Arlund noted Brian Sanderson submitted a written report. Mr. Sanderson has submitted the highway posting for the spring and mud season for the board's approval, noting they are the same roads as last year.

Motion by Mitch Pearl/Richard Baker to post the roads as indicated in the highway posting document. **The motion passed unanimously – 4 to zero.**

Devon Fuller questioned the information on the sewer manhole work in Kennedy Park. Keith Arlund stated there was an issue with the grease trap at the diner, which has been corrected, with part of it due to the sewer line issue and part of the problem being the grease trap. There were a couple of bills that have been worked out.

7. Town Infrastructure

a) Consider Letter to CLD Re: Segment 6 Design Changes

Keith Arlund requested a motion from the Board to approve the letter to be sent to CLD regarding the Segment 6 design changes. This document included the edits that had been suggested by the Board and once it is ready to go, it will be posted on the web site.

Motion by Ethan Swift/Dave Atherton to approve the draft letter to CLD regarding the Segment 6 design changes, as amended, noting the Select Board's approval.

Richard Baker noted he is confused, as the minutes from the prior meeting do not suggest additional parking at the Stephen A. Douglas House. Devon Fuller stated this was the letter of recommendation from VHB and Mr. Baker noted the letter indicated the parking was not suggested. Mr. Fuller stated during the conversation with Mr. Colgan, it was indicated the Town would like to look at parking spaces and Mr. Colgan changed the document after that discussion. Mr. Baker questioned why the minutes were approved if it indicates the parking is not recommended. He stated the local project manager indicated it was not recommended and at the February 11th meeting, it was not recommended and the document dated February 13th indicates the parking spaces are recommended now. Mr. Baker stated there is a huge parking lot behind the Baptist Church that could be utilized. Blaine Cliver stated when discussing this issue with the Baptist Church, they indicated that they did not want people using their parking lot. Mr. Fuller stated the Stephen A. Douglas House has limited parking spaces and when this was explained to Mr. Colgan, he reviewed what CLD had indicated and he did not have a problem with it. Mr. Baker stated it is not an appropriate place for parking, as the spaces are too close to the intersection and it will make it difficult for people to turn. Mr. Fuller stated that both CLD and VHB feel that it will work.

Motion by Richard Baker/Mitch Pearl to amend the first motion to vote on the document, with exception of Item #3, and voting on this item separately. **The motion passed – 3 to 2.**

Motion by Devon Fuller to request parking at the Stephen A. Douglas House, Item #3. **The motion passed – 4 to 1.**

Motion by Mitch Pearl/Dave Atherton to the send the letter, as written, to CLD given that it has been voted to include Paragraph 3. **The motion passed – 4 to 1.**

Mitch Pearl stated he is not sure why it is necessary that this very direct change be made, as it does not have a permitting impact. He does not understand all of Mr. Baker's concerns and maybe it is premature to say that parking will definitely be there and maybe the language could be softened a bit. Ethan Swift stated this discussion had been held concerning modifications or changes to consider and it seems like this is the time to move all of those actions forward for review of any other engineering or permitting issues, as this is a change in footprint. It seems like it is something that has been discussed thoroughly with VHB and CLD and he feels it should be included in the letter. Devon Fuller stated if it is not requested now, it will cost the Town more money and a possible delay of the project, as change orders cost money and the more information they have now, the more they can get done.

8. Citizen's Public Forum

Peter Smith questioned how the Select Board weighs in the on the marijuana dispensary in town. From his understanding, it has been brought up and he asked what has happened with it. Devon Fuller stated the dispensary is allowed, as long as they adhere to the zoning ordinance. Mr. Smith asked how something like that could come into the town without the public knowing about it. He attended a DRB meeting because he had received an adjoining land owners notice and thought it was an informational meeting. He stated at the DRB meeting, anyone who was going to speak had to go under oath and he was there for information only and had a number of questions. He did not take an opportunity at that time to speak and noted that according to the bylaws of the DRB, there were supposed to be questions allowed. He stated there are a number

of concerned individuals present who would like to voice their opinion, as the townspeople want to maintain a decent community. Mitch Pearl stated the DRB is an independent body that is a quasi-judicial proceeding. With a pending application, it would be inappropriate and illegal for this board to weigh in on an application. The Select Board passes a zoning ordinance and the DRB has to work according to the ordinance, along with Vermont statutes. It would be inappropriate for the Select Board to voice opinion in the middle of proceedings. Opinions from the public can be offered at the open session of a Select Board meeting, but the Select Board cannot comment. The Town can appeal if it is felt the ordinance was not followed properly, which is another reason the Board could not provide comment. Mr. Pearl stated people have a right to voice their concerns, but there is a division of town responsibilities in town government and there are certain things that the Select Board, the DRB and the Listers act independently on. Peter Smith asked why an ordinance disallowing it was not done. Devon Fuller stated the amount of discussion held was very minimal and he has not heard from any members of the public until now that they are opposed to the dispensary. Mr. Fuller indicated the Select Board tries to do what the public wants and desires, when they are aware of concerns. Joanne Nichols stated she also went to the DRB meeting, as she had received a letter. She asked what can be done at this point about this situation. Keith Arlund stated there are mechanisms in the statute following a decision; however, there is no recourse until a decision is made. Ethan Swift stated this dispensary has been in the news for a long time. Mitch Pearl stated if an ordinance had been proposed, he probably would have been against the ordinance, if they meet all state statutes. He stated the issue was raised several months ago, not because of an application in the town, but because Rutland did pass an ordinance against it and that was an issue that different towns were dealing with. There was no ordinance drafted or proposed. Ethan Swift stated it is his understanding that a prescription is required and there are many rules and regulations governing the dispensary. Mitch Pearl stated these businesses are run under strict regulations and run according to the Department of Health. The State had indicated there can be up to four dispensaries state-wide. Judy Bunde stated she did a lot of reading on this subject and wrote Mr. Fuller an email the day of the DRB meeting. She researched medical marijuana and medical marijuana dispensaries and in the past Select Board minutes, she has not found an entry on this subject in the minutes. Devon Fuller stated the Select Board minutes can be reviewed on line or people can contact the Town Office to request copies of minutes. Mr. Thornton asked if the public could have an ordinance drafted to be discussed during Town Meeting. Bernie Carr stated nothing binding can be done at Town Meeting, but it can be discussed at Town Meeting with a non-binding resolution made. Devon Fuller suggested people participate more in the DRB and Select Board meetings and when there is something in the paper that bothers the public, they should contact the Select Board, Town Manager or School Board. Mr. Fuller stated this is a legal business in the State of Vermont. Mitch Pearl stated the Select Board is aware there is a public proceeding that is based on the rules and the zoning ordinance. Tom McLaughlin asked if there was a town loan provided to get the original business started and it was confirmed there was not a loan provided. Gary Meffe stated this business would be highly regulated and would require a prescription from a doctor for terminally ill patients. The facilities are locked 24 hours a day and one cannot enter a facility without a prescription, with only one person allowed in a dispensary at a time. Judy Bunde added it is not a prescription from a doctor, rather it is a Vermont-issued medical marijuana card and the State has put a limit of 1000 cards. There are only 27 of the cards currently issued in Rutland County. Ms. Bunde does not know how this entire scenario will play out, but she does not think it will be as big a problem as people think. It was asked who will be

regulating the facility and Mr. Fuller advised the State will be regulating this process and the State website will provide additional information on this subject. Chris Brickell stated a comment made at the DRB was taken out of context and there had been a lot of discussion of the limits of the statutes and what was agreed to were security measures and nothing more than that. The Police Department is not necessarily endorsing the business. Mitch Pearl stated while the expression of concern is a reality, the Board cannot comment on the proceedings.

Norm Milot wished to discuss the high speed traffic on Route 7, as he feels that something should be done about it. He stated the trucks are vibrating the houses and berating the properties. Chris Brickell stated he has done exhaustive traffic studies and has issued tickets when appropriate. There have been a number of complaints and the police address them every time and if there is a specific complaint now, he will address it. Devon Fuller understands the Police Department cannot be in all places at all times. Tom McLaughlin stated he worked on Franklin Street for a number of years and he feels the stone trucks stop speeders. There may be issues with out-of-state trucks, but many of the trucks are the stone trucks that travel through town and they obey the traffic rules. It was noted the trucks follow the rules better than many of the cars.

Bernie Carr questioned whether Steve Beck could be involved in the Brownfield's process with the RRPC, as he has experience in that area.

Mary Austin was present to discuss the speed limit on Wagner Road and requested the speed limit be reduced to 25 miles per hour. There have been problems with local speeders and she hopes this will be taken care of by the spring. Ms. Austin noted she spoke to Mr. Arlund last summer. Devon Fuller stated an answer will be provided by the next Select Board meeting.

9. Old/Other Business

a. Consider Paynter/Bullock Findings & Order

Keith Arlund stated Attorney Carroll has provided the draft order and if the Board is in agreement with the revised document, with the word-smithing corrections, he suggested having a brief Executive Session to discuss the petition.

Mitch Pearl stated it has been an honor to serve the people of Brandon and he encouraged members of the public to participate in the Select Board, as the concept of the select person is to serve for a period of time and then rotate to another person. He stated the Board is trying to do what is best for the Town.

Motion by Richard Baker/Mitch Pearl to recess the Select Board meeting at 8:12PM to convene as the Board of Sewer Commissioners. **The motion passed unanimously – 4 to zero.**

The Select Board reconvened at 8:24PM.

Motion by Mitch Pearl/Ethan Swift to enter into executive session at 8:24PM for contract and personnel discussion with the session to include the Town Manager. **The motion passed unanimously – 4 to zero.**

10. Possible Executive Session – Contracts/Personnel (If Needed)

The board came out of executive session at 8:42PM.

Motion by Mitch Pearl/Richard Baker that the Brandon Select Board hereby denies the petition of Paynter and Bullock and declines to lay out a temporary logging easement over the lands of Reisenweaver in accordance with the “Findings of Fact, Conclusions of Law and Order in Re: Petitions of Paynter and Bullock.” **The motion passed – 5 to zero.**

11. Adjournment

Motion by Richard Baker/Mitch Pearl to adjourn the Select Board meeting at 8:45PM. **The motion passed unanimously – 4 to zero.**

Respectfully submitted,

Charlene Bryant
Recording Secretary