

Brandon Select Board Meeting
October 14, 2013

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

In Attendance: Devon Fuller, Maria Ammatuna, Ethan Swift, Dave Atherton, Blaine Cliver

Also in Attendance: Robin Bennett, Bernie Carr, Arlyn Bloodworth, Lee Kahrs, Tina Wiles, Richard Baker, Steve Beck, Charlie Scarborough, Cindy Bell, Tracy Wyman, Dick Kirby, Phyllis Reed, Jim Leary, Jeff Guevin, Marty Feldman, Anne Bransfield, Robert Black, John Byatt

1. Call to order

The meeting was called to order by Devon Fuller, Chair, at 7:00PM.

a) Agenda Adoption – Motion by Ethan Swift/Dave Atherton to adopt the agenda as presented. **The motion passed unanimously – 4 to zero.**

2. Consent Agenda

a) Approval of Minutes – September 20, 2013 – Special Select Board

Motion by Maria Ammatuna/Dave Atherton to approve the minutes of the September 20, 2013 Select Board meeting. **The motion passed. Ethan Swift and Devon Fuller abstained from voting.**

a) Approval of Minutes – September 30, 2013 - Select Board

Motion by Maria Ammatuna/Ethan Swift to approve the minutes of the September 30, 2013 Select Board meeting with an amendment to remove Devon Fuller’s name from “Board Members in Attendance”. **The motion passed unanimously – 4 to zero.**

3. Public Comments for Items not on the Agenda

Jim Leary recently wrote a letter to The Reporter regarding the town office oil tank. He understands the town had a leaking oil tank that was brought to the town manager’s attention, which has since been removed. The town had been notified there had been a suspected leak and Mr. Leary asked when the town had been notified and why no action had been taken. Devon Fuller stated the Select Board was never informed of the leaking tank until Ms. Bennett was informed. As soon as the board was involved, action was taken. Ms. Bennett noted Mr. Sanderson had received notification about a month before and advised his supervisor. Jim Leary stated this concerns him, as the town dodged a bullet and he hopes the board has a plan in getting to the bottom of this neglect. Devon Fuller stated the board will investigate the policies.

Richard Baker stated the Select Board still owes the public minutes from eight meetings, which statutorily they should have been recorded within 5 days of the meetings. The Select Board had warned eight separate meetings for hiring a town manager and the statute requires the minutes be published within 5 days. The Clerk of the Board would be responsible for posting the minutes. Maria Ammatuna stated there is still confusion about which meetings Mr. Baker is referring to and suggested he put his request in writing to the Select Board, which could then be addressed at the next meeting. She stated his request is subject to interpretation, as the meetings were all warned and the discussions were held in executive session.

4. Bridge 114 Presentation – John Byatt

John Byatt, CLD Consulting Engineer, reported that CLD has been hired by the town to look at the rehabilitation of Bridge 114, which they are currently working with VHB on. They originally reviewed the bridge three years ago and did a hydraulic analysis, which found the bridge to be large enough to carry the 100-year flood, but the town buildings have a smaller opening that caused the flooding issues. Some of existing deficiencies are the voids between the stones, with much of the mortar gone. The worst voids are within 10 feet from the downstream arch and those were fixed during the Irene repairs. There were very large holes and missing concrete at the exterior of the arch that were fixed. The concrete area was built in 1921 and the original bridge was built in 1867. The depth of the sidewalk is in bad shape and the retaining wall near the park is also in poor condition. Under the bridge, the concrete that went all the way to the river bed is now gone. Upstream of the bridge, there is a concrete slab over the stone arch and there is a joint that leaks heavily. There is no need to increase the bridge size as it is the buildings that are causing the issues. From a historic perspective, in addition to the bridge, the concrete structure may also be historic. CLD will be working with the VTrans Historic Agency regarding clarification of this item. With regard to rehab options, the arch can be pointed and matched and the mortar can be injected. The big issue is water intrusion and this can be done by fixing some of the holes at the sidewalk and upstream, and stop the groundwater from coming in by placing a membrane and/or flowable fill, and improve the drainage. With regard to the roadway slab, the existing is approximate 12 inches thick and is not the full width of the road. There is 10 feet that had a bad mortar loss and the town may want to extend the slab and place a rubber membrane on top of the slab to keep from deteriorating. The condition of the slab is not known so the town may want to do core samples to determine if the slab is worth keeping. It would be good to do more testing to find what the limits are. It is recommended to replace the sidewalk, pier and parapet of the downstream concrete structure. The recommended cost to rehab the bridge is approximately \$685,000.00 and if the slab is replaced it would be up to \$870,000.00. There is a question whether the concrete sidewalk has to be replaced. One suggestion is to take the individual stones off the ends and widen the arch and replace the stones. This cost would have to be developed and would have to go through historic mitigation. It would require meeting with the VTrans historic individuals. There was also a suggestion of opening up the bridge upstream. Devon Fuller asked if opening up the grassy space would help with the water run-off. Mr. Byatt stated the issue with opening up the bridge is the beams probably are part of the building foundations and they may not be able to remove the beams without rebuilding the wall. There could be structural issues and complications with opening up the bridge. Mr. Fuller stated it would be nice to change the parapet from concrete to stone. Mr. Byatt stated VTrans may see the concrete as being part of the historic structure and there may be an adverse effect in trying to

make it wider. Mr. Rausenberger had suggested rebuilding the bridge and building a walkway outside of the parapet. The parapet currently does not have crash-tested rails and one option might be to put a barrier near the road and a parapet outside of that. The next discussion would be with VTrans about the historic precedents. Mr. Black of the design committee reported he met with Mr. Rausenberger to do a sketch of his recommendations for the bridge that includes restoring the original stone bridge and building a light gauge steel walkway on the downstream side to replace the heavy one. Blaine Cliver suggested putting together a packet to CLD to help with the discussion for this type of construction. The design committee has some people who serve as expert witnesses and the town has a way to present a case that could be very compelling.

The next step is to meet with VTrans and discuss the options the town wants. As part of the VTrans program, there would be a full historic study done and perhaps some testing of the slab. Typically there would be a local concerns meeting to obtain public input and after the engineering study and numbers are known, there would be an presentation. Once consensus is reached on the rehabilitation chosen, the final design would be done and construction would begin. Steve Beck stated as far as historic preservation, there are actually two bridges and questioned if the concrete over the arches is considered as historic. Mr. Byatt stated anything over 50 years old could be considered historic and CLD will meet with the VTrans historic coordinator to discuss this issue. There needs to be a determination on what is to be discussed; such as whether to open up the bridge, widen the bridge and the walkway recommendation. Devon Fuller asked how long this process will take. Mr. Byatt stated it depends on what option is chosen, with the biggest disturbance being replacing the concrete slab. Most of the options would likely be done in one construction season. The worst part of the bridge appears to be the part without a slab. Robert Black likes the idea of the local concerns meeting. The design group has done some work to start thinking about the condition of the bridge and the potential for economic development to leverage the maximum amount for the town. The committee has prepared a written document and would recommend the town prepare a design statement to note the desired recommendations. There has been a question whether the town would like to open the bridge upstream. Mr. Fuller stated it is worth looking at and the design committee is prepared to help.

5. Brandon Based Code – Planning Commission

Jeff Guevin, a member of the Brandon Planning Commission provided a presentation on the proposed Brandon Based Codes, a proposed new approach to zoning. The current zoning codes and Town Plan will be expiring soon and the goal of the Planning Commission is to create a zoning code that better reflects Brandon. The groundwork has been done and there has been some outreach and education seminars completed. Through surveys, there is a fairly clear idea of what people want in the town. The survey asked about development in various areas and what was perceived as appropriate or inappropriate for those areas. Mr. Guevin provided examples of the results of the survey. The program is not just about use, but will have more of a focus on keeping Brandon as is. The proposed codes are more like form/place-based zoning. The Brandon Based Codes will use concepts from the form Base Code and parts of the Brandon Land Use Ordinance that applies. The codes are built on the concept of transects or development levels that include natural, rural, neighborhoods, village and the downtown business district. Instead of a list of “though shalt nots”, it would give people flexibility and would provide them variety and

choices. The zoning code would have clear rules that would make the development process easier and more convenient, and encourage variety and choice, while maintaining Brandon's beauty. This would be good for business as it would provide more flexibility, clear rules, convenience and compatibility. There would be regulatory compliances that would remain. Currently the reach out phase is done and some preliminary ideas have been developed. The Planning Commission has contracted with a vendor to assist in this effort. The original contract was for \$6,500.00 and to date; Ms. Saxton has done a lot of good work. Somewhere in the transition of the budget, there are not sufficient funds to complete the contract. The Planning Commission has submitted a municipal planning grant application for \$8,000.00 that will assist with flood resiliency, recreation, tying the zoning with the Town Plan and bringing them both current. Mr. Guevin stated the municipal funding grant would be for projects going forward based on this project being completed.

Bernie Carr noted he has attended some of the sessions on the proposed zoning and stated there is going to be less concern about the use and concentrate on maintaining the integrity of the property. Anne Bransfield stated it would be a blend of what already exists. Mr. Guevin stated it is just a different way to do zoning and it is intended to make enforcement easier. Mr. Swift noted there needs to be information on a fluvial erosion overlay and other elements. Mr. Guevin stated there will need to be several revisions made to the Town Plan that includes the flood element. Tina Wiles noted there will be other revisions to the Town plan due to legislation on items such as energy and floods. The Regional Planning Commission has provided some suggestions for the revision.

Mr. Guevin stated the vendor's contract was signed in May and the Planning Commission understood there would be \$2,000.00 in funding from the budget from last year and \$2,000.00 from the budget for this year, which left \$2,500.00 outstanding. Richard Baker stated a contract was signed for \$2,400.00 at the end of June so that the prior year's budget money would not be lost. There would be \$2,000.00 available from this year's budget; however, the Select Board has not approved a contract for \$6,400.00. Anne Bransfield stated there is a scope of work for \$6,500.00 and if the town receives the planning grant, it will enable them to continue on Phase 2. The Planning Commission does not have the technical expertise to complete the product. Jim Leary asked if there are any other municipalities that have adopted the Form Base Code and Jeff Guevin stated there are several towns that have started the process, but not completed. It was noted that the Newport business district has adopted the codes, but not the entire town. Robert Black stated there are other entities, such as the Vermont Community's Foundation, where funding may be available. Mr. Black questioned whether there is a standard relative to future development for individuals who may sue the town due to increased restrictions on property that is owned. Mr. Black also asked if there is a comprehensive plan for parking. Mr. Guevin stated the parking is set by the Segment 6 Project and while Form Base Code takes into account street-scape, the time for regulating the Segment 6 Project is slipping away. As for more restrictions, it is not thought that it will be more restrictive, as it is not use-based. Robin Bennett stated Segment 6 is going to cut down significantly on asphalt. Ethan Swift stated there are several requirements regarding asphalt, but there are allowances for pervious asphalt. Bernie Carr noted he likes all that he has heard about this program and he encouraged the Planning Commission to approach projects that are going to be happening in town to provide information on what the town is considering. Devon Fuller stated public hearings would need to be held. Anne Bransfield

stated a lot of public input will be required. Mr. Fuller suggested the Planning Commission research other options for funding, as he does not think the town will have funds available. It was his understanding the \$8,000.00 planning grant would assist with this project. Anne Bransfield stated the Planning Commission thought the funding for the current project was available and there is still \$2,100.00 needed for completion. Other suggestions for funding sources included the Orton Foundation, the Vermont Community Projects and the Trustees of Public Funds. Dick Kirby questioned if it includes just the downtown and Mr. Guevin stated it would include the entire town. Richard Baker encouraged the Select Board to expand the contract to \$6,500.00, as the contract was only signed for \$2,400.00.

6. RCCV Student Request

Shelby McDonough, a recent graduate of OV and a current student at CCV provided a presentation on a final project that she is doing titled "How I Will Change the World". Ms. McDonough's project is focused on the social issue of drunk driving. Ms. McDonough requested permission from the Select Board to prominently display her completed project in Brandon in an effort to raise awareness of this issue. Ms. McDonough provided an example of the display she will be creating and requested permission to place it in a location for a couple of weeks where people can view it when driving by. Areas discussed were between the bus stop and the Congregational Church, near the Fire Station or Police Station, or where the car wash used to be. Ms. Bell also offered her property on 40 High Street as a location. The Board noted it needs to be staked down well and suggested it is a double-sided sign. Devon Fuller questioned the Zoning Administrator whether there were conditions that would have to be met. Ms. Wiles did not see an issue with the sign, noting it would be a town-approved sign. The Select Board requested to see the final design and location for the display.

Motion by Blaine Cliver/Dave Atherton to accept the sign as shown, or with modifications that would be aesthetically best to support Ms. McDonough's school project to bring awareness to drunk driving, and to approve the display of the project for a duration of 14 days. Maria Ammatuna made a friendly amendment to approve the design this evening and the placement at the next meeting. **The motion passed unanimously – 4 to zero.**

7. Account Contracts

Robin Bennett advised there are two contracts that need to be signed by the town to move forward with the accounting of last year's financials that includes Glenna Pound's contract and the auditor's contract. Ms. Pound's work should be complete by October 24th and the auditors work will not be complete until the end of December. Ms. Pound did not begin until three weeks ago. The original contract had indicated a completion date of October 17th, however there were delays on the part of the town. Ms. Pound is scheduled to be here on Wednesday of this week.

Motion by Dave Atherton/Ethan Swift to authorize the town manager to sign the contract for Glenna Pound for an amount not to exceed \$8,775.00. **The motion passed with one abstention.**

Richard Baker noted part of the audit is paid by the waste water treatment plant. Devon Fuller requested the contract for the auditors include a dollar amount for Select Board approval. Ms.

Bennett will contact the auditors to obtain a corrected contract for the Select Board's review at the next meeting.

8. Town Hall Oil Tank

Due to the recent events of the town office oil tank, it was brought to the town's attention there was a similar situation at the town hall. Robin Bennett contacted the state and upon removal of the town hall's oil tank, there was contamination found and as much of the soil that was feasible was removed, to avoid compromising the foundation. The process took about two days and was not as severe as the other issue. The tank was full and was a mixture of water and oil. The removal and disposal costs will be approximately \$3,200.00. The clean-up is eligible for reimbursement from the Petroleum Fund. Dave Atherton asked if there are any more underground tanks that the town owns. Ms. Bennett has asked if there are others the town owns and it is not thought there are any other underground tanks. Maria Ammatuna stated there were prior fuel postings for the highway garage and suggested researching if the town garage may have had an underground tank. Jim Leary questioned when the town had been advised of the town office oil tank and Ms. Bennett stated there was notification received by the town in 2009 that there was a problem with the oil tank and that it needed to be removed. Devon Fuller stated this is the first the Select Board had heard there was an issue with the fuel oil tank.

9. Town Office Project

Robin Bennett stated the town is still waiting for the insurance settlement. Ms. Bennett has spoken with the adjuster and it is hoped to have a final number by the end of the week. Devon Fuller suggested advising the contractor about the delay. Robert Black has talked with McKernon and there is concern whether the subcontractors can hold the pricing due to the length of the delay. There is a lead time for the steel and concern about the cold weather. There is a meeting set up later this week to talk about finishing the project. The volunteers have done a great job but need some guidance on how to complete the job. Maria Ammatuna stated the second floor renovation of the town office has never had a budget and there was never a plan or funds available to reuse the space. Devon Fuller stated there was a plan, but there is no budget. The project delay continues because the VLCT did not send an adjustor due to the late submission of the claim. Dave Atherton asked when the claim was submitted and it was noted that it was done in November 2012. The application expired and the town did not extend the claim. VLCT has provided an opportunity for the town to extend the claim due to other issues about contents. Jim Leary stated VLCT could have denied the claims and Maria Ammatuna confirmed this was the case and the town is very fortunate.

10. Waterline/Segment 6/Bridge 114

Robin Bennett stated as of right now, the waterline project is at the state level. There is an issue with a right of way; however, consent has been received from the property owner. The change should require only a friendly amendment, however, there may also need to be an agreement with the Army Corps of Engineers.

Ms. Bennett reported there is a Segment 6 meeting scheduled for 9:00AM on Wednesday at the town hall. Information will be available at that time regarding the questions on the CLD invoices.

11. Town Manager's Report

Robin Bennett reported the first department head staff meeting was held and the decision was made to hold the meetings twice per month. There was discussion about the Fiscal 14/15 budget and Ms. Bennett hopes to have a proposed timeline available at the next Select Board meeting. The paving of Barlow Avenue will take place on October 28th. There has been a discussion with Markowski about the removal of the Newton Road rock pile this fall. There has been a discussion with the DPW staff concerning maintenance, plowing and sanding. The Culvert inventory has been granted an extension due to the increase of culverts and the government shut down of the GPS link that was being used. There has been a 30-day extension for the demolition of the Wheeler Road property due to asbestos issues. Steve Beck and Ms. Bennett met with Leanne Tingay regarding the VDAT program. The VDAT team will be in town November 5th through the 7th. The Market Study that the DBA is working on will be presented on October 29th. The Recreation Director will be working with an Eagle Scout on a proposal for a dog park, which will be brought before the Select Board at a future meeting. Other Recreation activities include a Jack-o-lantern display that will take place on the steps of the town hall at 7:00PM on October 26th. The public is encouraged to bring their own for display and pictures. The soccer and football programs will be ending October 26th and volley ball will begin in November. There will be a Celtic game bus trip scheduled for New Year's Eve.

Ethan Swift noted there had been previous discussion about reviewing the estimate from Markowski for crushing the rock pile on Newton Road to be used for the town's roads, as it was thought to be a more efficient use of the material. With regard to the culvert inventory, Mr. Swift asked how the government shut-down comes into play, as VTrans manages the on-line culvert inventory. Mr. Bennett advised the GPS used is a government website. Dave Atherton stated there was a quote for around \$90,000.00 for crushing the rock pile for use on the roads and he thought the Select Board had decided not to move forward with this item. Ethan Swift noted it would be a significant savings for the town and would put the town in good shape for stone for the foreseeable future. It would be a significant upfront cost; however, the overall savings would be significant. At the time this was being considered, the town was working with another vendor who came in with the highest bid, however, since that time this vendor has backed out. Tracy Wyman asked if there would be enough fines and Mr. Swift noted there would be. Devon Fuller was under the impression Markowski would fix Maple Street in exchange for the rock pile. Ms. Bennett stated Markowski is prepared to pay for the stone, which is approximately the same as the amount for the cost of repaving Maple Street. Ms. Bennett will look into this item.

Maria Ammatuna stated the Board had provided Mr. Sanderson an extension on completing the sidewalk inventory, which will be needed for the capital improvement discussions.

12. Other Business

Blaine Cliver questioned whether the logs can be removed from the river. Ethan Swift reported the town is waiting for permission from Jarod Borg of River Management. Tina Wiles stated Mr. Borg is looking into this and he will provide his findings in writing to Mr. Swift. Devon Fuller asked which logs are being considered for removal. Mr. Borg has indicated logs that could create a debris jam would want to be removed, but not all logs in the river should be removed. Mr. Swift stated the fishery biologists prefer to keep logs in the river if they are not creating a flooding hazard. Mr. Swift has submitted photos of the logs proposed for removal to Mr. Borg.

Dave Atherton questioned the status of the dirt road work, in particular Deer Run. Robin Bennett will follow-up with Mr. Sanderson on this item. Ethan Swift noted Judi Pulsifer, Principal of Neshobe School, has requested permission to close Route 7 from Park Street to the town hall for the Halloween Parade scheduled for October 31, 2013 at 1PM. The parade route will be from Park Street to the town hall and back to Park Street, due to the bussing logistics.

Motion by Ethan Swift/Dave Atherton to approve the closing of Route 7 for the Neshobe Halloween Parade. **The motion passed unanimously – 4 to zero.**

Maria Ammatuna requested Ms. Bennett research the conflict of interest opinion from Attorney Carroll.

13. Fiscal

a) Warrant – October 14, 2013 - \$88,305.08

Motion by Maria Ammatuna/Dave Atherton to approve the warrant of October 14, 2013 for an amount not to exceed \$88,305.08.

Dave Atherton questioned the invoice for the movie umbrella license. Ms. Bennett advised this is a license to enable the Recreation Director to show movies in the town hall. Maria Ammatuna noted the invoice should be under the Recreation Department. Ms. Bennett will correct the classification.

Blaine Cliver questioned the four separate invoices for the purchase of winter sand and why it is split between two different departments. It was noted the invoices are by delivery due to each load weighing a different amount. Robin Bennett will look into the question of why there are two departments noted. Mr. Cliver also questioned what the CLD invoice was for. Ms. Bennett advised this was for the waterline project and noted that many of the recent charges are for integrating the waterline project into the bigger project.

Maria Ammatuna questioned the invoice for K. A. Bagley for the brush-hogging of the old landfill as to why this was not done in-house. Ms. Bennett will look into this invoice. Ms. Ammatuna also recommended holding the invoices for Place Sense, which is the contractor for the Planning Commission. Currently, there is a contract for \$2,400.00 and the check is for \$3,597.75. Robin Bennett noted this invoice is for the total amount of the billing.

Maria Ammatuna noted there is a warrant regarding a contract/employee-related question that will need to be discussed during executive session.

Motion by Maria Ammatuna/Dave Atherton to table the motion to approve the warrants. **The motion passed unanimously – 4 to zero.**

b. Road Salt Purchase Order

Motion by Ethan Swift/Dave Atherton to approve P.O. #51400 for an amount not to exceed \$44,998.66 for the purchase of road salt. **The motion passed unanimously – 4 to zero.**

Maria Ammatuna questioned if the town is doing another salt/sand mix. Devon Fuller stated this is the mix that Mr. Sanderson will be using. Dave Atherton noted the town is paying less per ton this year than last year.

c. Gift Acceptance

Robin Bennett advised an individual, who wishes to remain anonymous is providing two \$10,000.00 gifts to the town. A \$10,000.00 donation has been made to the Recreation Department for a Golf Program and a \$10,000.00 donation has been made for the sewer program. Since there is not currently a Golf program, these funds can be used as a start-up of the program. The donation to the sewer program did not have any restrictions. Ms. Bennett recommended the Board accept the gifts, after which she can respond back to the party's attorney.

Motion by Blaine Cliver/Maria Ammatuna to accept the gifts on behalf of the town. **The motion passed unanimously – 4 to zero.**

Motion by Dave Atherton/Blaine Cliver to enter into executive session at 9:38PM, with the session to include the town manager. **The motion passed unanimously – 4 to zero.**

17. Executive Session 1 V.S.A.313(a)(1)

Motion by Devon Fuller/Blaine Cliver to come out of executive session at 9:56PM. **The motion passed unanimously – 4 to zero.**

Motion by Dave Atherton/Blaine Cliver to approve, after the fact, the MOU signed by the Interim town Manager on 9/6/13 for healthcare cover of Union employees, which was not approved prior to signing by the Select Board. **The motion passed unanimously – 5 to zero.**

Motion by Blaine Cliver/Ethan Swift to enter into executive session at 9:59PM, with the session to include the town manager. **The motion passed unanimously – 4 to zero.**

18. Executive Session 1 V.S.A.313(a)(1)

Motion by Ethan Swift/Blaine Cliver to come of executive session at 10:03PM. **The motion passed unanimously – 4 to zero.**

Motion by Maria Ammatuna/Blaine Cliver to authorize the town manager to sign appropriate document as it relates to the Gibbud case. **The motion passed unanimously – 5 to zero.**

Motion by Blaine Cliver/Ethan Swift to enter into executive session at 10:05PM, with the session to include the town manager. **The motion passed unanimously – 4 to zero.**

19. Executive Session 1 V.S.A.313(a)(1)

Motion by Ethan Swift/Blaine Cliver to come out of executive session at 10:16PM. **The motion passed unanimously – 4 to zero.**

Motion by Maria Ammatuna/Dave Atherton to authorize the increase of .00125% to the VMERS contribution in the Town Manager's contract to match all other employees. **The motion passed unanimously – 5 to zero.**

Motion by Maria Ammatuna/Dave Atherton to approve the warrants in the amount of \$86,707.33. **The motion passed unanimously – 5 to zero.**

20. Adjournment

Motion by Maria Ammatuna/Dave Atherton to adjourn the Select Board meeting at 10:18PM. **The motion passed unanimously - 4 to zero.**

Respectfully submitted,

Charlene Bryant
Recording Secretary