

**Brandon Select Board Meeting**  
**March 11, 2019**  
**7:00 p.m.**

The Brandon Select Board will meet Monday, March 11, 2019 at 7:00 p.m. at the Brandon Town Hall located at 1 Conant Square expecting to consider the items noted on this agenda. Agendas shall be posted on the community bulletin board located at the Town Office at 49 Center Street and on the community bulletin board located between Dave's Grocery and the Forest Dale Post Office. The Select Board reserves the right to add additional items, if necessary, at the beginning of the meeting.

- 1) Call to Order
  - a) Agenda Adoption
- 2) Election of Select Board Officers
  - a) Chair
  - b) Vice-Chair
  - c) Clerk
- 3) Designation of Select Board as Other Statutory Bodies:
  - a) Board of Liquor Control Commissioners (Title 7, Section 166)
  - b) Board of Health (Title 18, Section 604)
  - c) Board of Sewer Commissioners
    - a/k/a – Board of Sewage System Commissioners (Title 24, Section 3506)
    - Board of Sewage Disposal Commissioners (Title 24, Section 3614)
  - d) Housing Board of Review (Title 24, Section 5005)
- 4) Establish Meeting Schedule, Time and Location
  - a) Second and Fourth Mondays
  - b) 7:00 p.m.
  - c) Brandon Town Hall
- 5) Adopt Meeting Rules & Procedures –
  - a) Rules of Procedure for Selectboard of the Town of Brandon, Vermont
  - b) Reports of Appointed Boards, Commissions, and Officials to the Selectboard
- 6) Designate Official and Alternate Newspaper(s) of Record
  - a) Official – The Reporter
  - b) Alternate – The Rutland Daily Herald
- 7) Approval of Minutes
  - a) Select Board Minutes - February 25, 2018
- 8) Town Manager's Report
- 9) Public Comment and Participation
- 10) Appointments:
  - a) Tree Warden
  - b) Fence Viewers (3)
  - c) Inspector of Lumber, Shingles and Wood
  - d) Weigher of Coal
  - e) BLSG Insect Control District (2 reps and 1 alternate)
  - f) Budget Committee (3)
  - g) Rutland County Solid Waste Dist. (1 rep and 1 alternate)
- 11) Road Posting
- 12) Approve Purchase and Sale Contract for Real Estate Conveyance
- 13) License Agreement Termination
- 14) Fiscal
  - a) Warrant – March 11, 2019 - \$91,027.44
  - b) Route 7 Construction Warrant – March 11, 2019 - \$170,718.94
- 15) Adjournment

## **Rules of Procedure for Selectboard of the Town of Brandon, Vermont**

### **A. PURPOSE.**

The selectboard of Brandon, Vermont, is required by law to conduct its meetings in accordance with the Vermont Open Meeting Law, 1 V.S.A. §§ 310-314. Meetings of the selectboard of Brandon must be open to the public at all times, except as provided in 1 V.S.A. § 313.

### **B. APPLICATION.**

This policy setting forth rules of procedure shall apply to the selectboard of Brandon, which is referred to below as "the body." These rules shall apply to all regular, special, and emergency meetings of the body.

### **C. ORGANIZATION.**

1. The body shall annually elect a chair, a vice-chair, and a clerk. The chair of the body or, in the chair's absence, the vice-chair shall preside over all meetings. If both the chair and the vice-chair are absent, the clerk shall act as chair for that meeting.
2. The chair shall preserve order in the meeting and shall regulate its proceedings by applying these rules and making determinations about all questions of order or procedure.
3. A majority of the members of the body shall constitute a quorum. If a quorum of the members of the body is not present at a meeting, no meeting shall take place.
4. No single member of the body shall have authority to represent or act on behalf of the body unless, by majority vote, the body has delegated such authority for a specific matter at a duly-noticed meeting and such delegation is recorded in the meeting minutes.
5. Motions made by members of the body require a second. The chair of the body may make motions and may vote on all questions before the body. A motion will only pass if it receives the votes of a majority of the total membership of the body.
6. There is no limit to the number of times a member of the body may speak to a question. A member may speak or make a motion only after being recognized by the chair. Motions to close or limit debate will be entertained.
7. Any member of the body may request a roll call vote. Pursuant to 1 V.S.A. § 312(a)(2), when one or more members attend a meeting electronically, a roll call vote is required for votes that are not unanimous.
8. Meetings may be recessed to a time and place certain.
9. These rules may be amended by majority vote of the body, and must be readopted annually.

#### **D. AGENDAS.**

1. Each regular and special meeting of the body shall have an agenda, with each item of business to be considered by the body. Those who wish to be added to the meeting agenda shall contact the town manager to request inclusion on the agenda. The chair shall determine the final content of the agenda.
2. At least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting, a meeting agenda shall be posted in or near the municipal office and at the following designated public places in the municipality: town clerk's office; bulletin board outside post office in Forest Dale. Additionally, at least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting, a meeting agenda shall be posted on [www.townofbrandon.com](http://www.townofbrandon.com). The agenda must also be made available to any person who requests such agenda prior to the meeting.
3. All business shall be conducted in the same order as it appears on the noticed agenda, except that any addition to or deletion from the noticed agenda must be made as the first act of business at the meeting. No additions to or deletions from the agenda shall be considered once the first act of business at the meeting has commenced. Any other adjustment to the noticed agenda, for example, changing the order of business, postponing or tabling actions, may be made by majority vote of the body.

#### **E. MEETINGS.**

1. Regular meetings shall take place on the second and fourth Mondays of the month at 7PM at the Brandon Town Hall, 1 Conant Square (basement meeting room).
2. Special meetings shall be publicly announced at least 24 hours in advance by giving notice to all members of the body unless previously waived; to an editor, publisher or news director, or radio station serving the area; and to any person who has requested notice of such meetings. In addition, notices shall be posted in the municipal clerk's office and at the following designated places in the municipality: town clerk's office; bulletin board outside post office in Forest Dale.
3. Emergency meetings may be held without public announcement, without posting of notices, and without 24-hour notice to members, provided some public notice thereof is given as soon as possible before any such meeting. Emergency meetings may be held only when necessary to respond to an unforeseen occurrence or condition requiring immediate attention by the public body.
4. A member of the body may attend a regular, special, or emergency meeting by electronic or other means without being physically present at a designated meeting location, so long as the member identifies him or herself when the meeting is convened, and is able to hear and be heard throughout the meeting. Whenever one or more members attend electronically, voting that is not unanimous must be done by roll call. If a quorum or more of the body attend a meeting (regular, special, or emergency) without being physically present at a designated meeting location, the agenda for the meeting shall designate at least one physical location where a member of the public can attend and participate in the meeting. At least one member of the body, or at least one staff or designee of the body, shall be physically present at each designated meeting location.

**F. PUBLIC PARTICIPATION.**

1. All meetings of the body are meetings in the public, not of the public. Members of the public shall be afforded reasonable opportunity to express opinions about matters considered by the body, so long as order is maintained according to these rules.
2. An agenda item dedicated to public comment will be part of each meeting.
3. Comment by the public or members of the body must be addressed to the chair or to the body as a whole, and not to any individual member of the body or public.
4. Members of the public must be acknowledged by the chair before speaking.
5. If a member of the public has already spoken on a topic, he or she may not be recognized again until others have first been given the opportunity to comment.
6. Order and decorum shall be observed by all persons present at the meeting. Neither members of the body, nor the members of the public, shall delay or interrupt the proceedings or the peace of the meeting or interrupt or disturb any member while speaking. Members of the body and members of the public are prohibited from making personal, impertinent, threatening, or profane remarks.
7. Members of the body and members of the public shall obey the orders of the chair or other presiding member. The chair should adhere to the following process to restore order and decorum of a meeting, but may bypass any or all steps when he or she determines in his or her sole discretion that deviation from the process is warranted:
  - a. Call the meeting to order and remind the members of the applicable rules of procedure.
  - b. Declare a recess or table the issue.
  - c. Adjourn the meeting until a time and date certain.
  - d. Order removal of disorderly person(s) from the meeting.

**ADOPTED:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signatures

\_\_\_\_\_

Date

**Reports of Appointed Boards, Commissions, and Officials to the Selectboard  
TOWN OF BRANDON, VERMONT**

**A. PURPOSE.**

General supervision of the affairs of the Town of Brandon belongs to its selectboard. See 24 V.S.A. § 872.

**B. APPLICATION.**

The selectboard's informed oversight of town government requires that all boards, commissions, and officials appointed by the selectboard report to it from time to time, and to the Town annually.

**C. REPORTING REQUIREMENTS.**

1. Elected officials are not required to report to the selectboard. Also exempt from reporting to the selectboard are appointed officials whose office is purely historical in nature, namely, fence viewers; inspector of lumber, shingles, and wood; and weigher(s) of coal. Elected offices of a purely historical nature, which the selectboard fills by appointment upon vacancy, namely the town agent and grand juror, are also exempt. Any officer in this section may make an annual report to the Town if they so choose.
2. All other appointed boards, commissions, and officials must submit an annual report to the Town for inclusion in the Town Report. If an individual is appointed solely as a member of a board or commission, the board or commission's report is required, not a report from the individual. Between annual reports, appointees must report in writing (no in-person appearance required) to the selectboard on the schedule in this section, OR when a significant event within their purview occurs, which common sense would indicate the board should be made aware of:

Every selectboard meeting:	Town manager
Monthly:	None
Quarterly:	Zoning Officer
Semi-annually:	Planning Commission; Energy Committee; Health Officer; Historic Preservation Cmsn; Revolving Loan Fund Cmte; Rutland Region Transportation Council representative; Rutland Regional Planning Commission representative; BLSG Insect Control District representatives

Annual report only unless a significant event occurs:  
Animal Control Officer; Budget Committee; Development Review Board; Emergency Management Director; Fire Warden; Green-Up Day Coordinator; Rutland County Solid Waste District representative; Tree Warden

3. Department heads and all employees report to the town manager on a schedule set by the town manager.

**ADOPTED:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signatures

\_\_\_\_\_

Date

**Brandon Select Board Meeting  
February 25, 2019**

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

**Board Members in Attendance:** Seth Hopkins, Doug Bailey, Tracy Wyman

**Others in Attendance:** Dave Atherton, Steve Bessette, Dick Kirby, Mickeen Hogan, Dennis Reisenweaver, Russell Jones, Mike Frankiewicz, Wayne Rausenberger, Paul Stone, Ben Lawton, Bill Moore

**1. Call to order**

The meeting was called to order by Seth Hopkins at 7:00PM.

***a) Agenda Adoption***

**Motion** by Tracy Wyman/Doug Bailey to adopt the agenda, as amended. **The motion passed unanimously.**

Move Item 9 to a subsequent meeting agenda.

**2. Approval of Minutes**

***a) Approval of Minutes – February 11, 2019 - Select Board Regular Meeting***

**Motion** by Doug Bailey/Tracy Wyman to approve the minutes of the February 11, 2019 Select Board meeting. **The motion passed unanimously.**

**3. Town Manager's Report**

Dave Atherton provided the following Town Manager's Report for the weeks of February 11<sup>th</sup> and February 18<sup>th</sup>:

***Segment 6:***

The project is shut down for the rest of the winter.

***Union Street Sidewalk:***

Comments on the final plans were received from VTrans today and the engineers will be addressing them.

***Park Street:***

The Town has received right-of-way clearance from VTrans, but is still waiting for the NEPA document from Historic Preservation.

***Newton Road:***

FEMA has awarded the Town the funding for the first three property buyouts on Newton Road. Mr. Atherton will be contacting the landowners regarding this subject.

***Other Happenings:***

Mr. Atherton attended the RRPC's monthly meeting on February 19<sup>th</sup>, due to Brandon's rep being out of the country. Mr. Atherton attended another RRPC Local Emergency Management workshop on February 13<sup>th</sup>. The discussion was on emergency shelters. Mr. Atherton was invited to a Preservation Trust dinner on February 20<sup>th</sup> to be a guest speaker on what has been going on in Brandon, specifically in the downtown area. As of February 22<sup>nd</sup>, the Town has 11 properties remaining on the current tax sale list that totals \$26,064.00.

***Rec Department News:***

Brandon Idol has been a wildly successful program with 200+ attending the last show. The next show will be on March 9<sup>th</sup> and there will be ticket presales as the event is expected to sell out. Thanks to all winter youth coaches for their guidance and patience during this long, cold basketball season: Lance Laraway, Chad Disorda, Ron Coble, Tanner Romano, Tony Lavelle, Kristle Humiston, Matt Gibbs, Monda Kelley, Bob Kelley, Molly McGee, Keith Wetmore, Chrysty Palmer, Heather LaPorte, Fred Pockette, Mike Howe, Gabe McGuigan, Jessica Ketcham and Adam Calvin. A special shout out to our youth cheerleading commissioner and coach, Sarah Whitney. She has grown the program for the last three years to the point that we have 15 youth participating, with the hopes of having a full competing varsity team in a few years. The learn to ski/ride program at the Snow Bowl is filling, with some spots still open. The Celtics bus trip to see the Houston Rockets on March 3<sup>rd</sup> is sold out.

***Economic Development:***

All of the downtown storefronts are rented, except the new one that was created in the yet-to-be renovated Chamberlain Building. Mr. Moore is currently speaking to someone about renting this space.

Seth Hopkins asked if the three Newton Road properties were on the north side that FEMA approved. Mr. Atherton advised the properties are the Lee's, Harrison's and Swan's. Mr. Hopkins confirmed the tax sale was scheduled for April 5<sup>th</sup>.

Doug Bailey reported he attended a Board of Civil Authority meeting and agreed to speak to the Board on behalf of the BCA regarding parking for voting. Mr. Atherton reported Bernie Carr was advised there would be space available near the Mobil station for parking. Mr. Atherton also spoke with one of the foremen about the possibility of parking in that area due to the downtown

construction that will provide for use for other events at the Town Hall. Mr. Bailey questioned whether the process for the Newton Road buyouts would include an appraisal being done that the homeowner would agree to prior to the process moving forward. Mr. Atherton advised this process would be using the current market value, which should be a benefit. There have been two other FEMA applications submitted for the process. It is anticipated there would be action on those by the end of the year. Mr. Atherton reported the State has allowed additional digging in the area, following the ice flow, to have a channel opened up. The State is looking at different ways of addressing this area. Mike Frankiewicz questioned where the landowner's property line ends concerning the river. Mr. Atherton noted it would depend on how the deed is written, with some property lines being at either the river's edge or in the middle of the river, however, the State owns the water. He noted the Town has to abide by what the State directs them to do with regard to the river.

#### **4. Comments for Items Not on the Agenda**

Seth Hopkins advised the Select Board received a report from Richard Baker, Brandon's representative to the Rutland Transportation Council. Mr. Hopkins noted the Board's appreciation for Mr. Baker representing the Town on this Board.

Dick Kirby asked if storeowners could shovel openings from the sidewalk to the parking spaces. Dave Atherton advised Public Works usually does this clearing at night; however, they have been very busy due to the amount of snowfall.

#### **5. BLSG Presentation**

Ben Lawton, member of the BLSG, thanked the Select Board and residents of the Town for the support of the BLSG that was formed in 1978 to reduce the population of the mosquito nuisance. This program also controls the disease-carrying mosquitos that had resulted in two deaths in the area. The mission of the BLSG changed with the advent of West Nile virus and there was an infusion of federal money to map out the areas in the Otter Creek floodplain where there was mosquito breeding. There are 45 species of mosquitoes and the BLSG collects and identifies them to determine which are disease-bearing. The BLSG has become much more efficient and use the same pesticides. A surveillance is done to see if there is resistance to the pesticides. There is a lawsuit from the Toxic Action Committee and there have been many postings on Front Porch Forum about this subject. Mr. Lawton noted that one female mosquito that is not killed by the larvicide used in the pools that are treated can multiply the mosquito population to 49 billion mosquitos. A 75% mortality rate would breed 10 million mosquitoes. The larvicide is effective, but there is still some that are not eliminated, which is the reason for the adult mosquito process. Mr. Lawton reported there have been cases of West Nile virus in the State. There can be an outbreak of the West Nile virus any time and this area has tested positive in its samples. In 2012, in the State of Texas, there were 1900 people that had the virus, with 877 being neuro-invasive and 89 deaths resulting. He noted this is a serious disease and can be fatal. The estimated cost of this outbreak in Texas was \$47 million.

Seth Hopkins reported Mr. Rausenberger of the BLSG was present during the Town's budget-planning meeting to provide information to the committee. The Town is of the mindset this is a



valuable service the BLSG provides to the community. It is a public health and economic development issue and the Town is united in wanting to support a robust insect control program.

Dennis Reisenweaver agreed the program should be continued, but asked why they come up private driveways, as they sprayed up his driveway and killed his honeybees. Ben Lawton reported the BLSG has both a commercial and private license and the BLSG should have been notified there were beehives. He advised there is information on how to opt out of the program. There is a bee pollinator protection policy and they need to know where the bees are located. Mr. Lawton advised that Mr. Rausenberger is working with the Beekeeper Association. Mr. Reisenweaver stated there is a State database for beekeepers that he is registered through. Mr. Lawton stated most people want the service to come up their driveways and apologized for this incident. Mr. Lawton noted that BLSG tries to do all of the sprayings after dark and he does not know the reason for this situation. Seth Hopkins advised there would be an executive session this evening regarding the pending litigation.

## **6. Discussion of Discontinuance of Town Highway #57**

Dave Atherton noted that history of this discontinuance has been provided to the Select Board. He advised that Paul Stone is trying to go through the NRCS Conservation Program. This road was to have been discontinued by the Town in 1990; however, it did not go through the full process, which requires the process be started over. Mr. Atherton provided information to the Select Board to again consider discontinuing the road. A site visit would be required, with a hearing following the visit. Paul Stone provided the Select Board a letter requesting to discontinue the road. Mr. Stone advised he purchased the land in 1998 assuming the road was discontinued, but it is still on the VTrans map. Mr. Stone also provided a letter of support from Paul Quesnel, who owns the land near the Long Swamp Road that continues to Mr. Stone's land. Seth Hopkins thought the house immediately south of the bridge was numbered as being on Pearl Street and asked where Long Swamp Road begins. Mr. Atherton stated in viewing the maps, where the classification changes from a 2 to a 3 is at the tar and noted Long Swamp Road may start where it meets Short Swamp Road. Mr. Atherton will make the change to Pearl Street or Town Highway #4. It was questions whether the property could be accessed for a site visit. Mr. Stone stated it would depend on whether it is flooded. It was decided to meet at the intersection of Creek Road near Sanderson Bridge to do the site visit. The site visit was scheduled for Monday, April 8<sup>th</sup> at 6:00PM, with the hearing to be held at 6:30PM immediately following the visit. Mr. Atherton will research whether the vote could be done at the Select Board meeting that same night. Mr. Stone suggested the Select Board mail certified letters to the adjoining landowners and NRCS. Mr. Atherton did not think that certified letters would be required as due diligence would be done with the public notice. Mr. Atherton will confirm this process.

## **7. Appointments**

### ***a. Planning Commission (Remainder of 3-year term ending June 30, 2019)***

Seth Hopkins advised that Lisa Rovi has submitted a letter of resignation from the Planning Commission. Doug Bailey confirmed that Ms. Rovi is agreeable to resigning immediately if there is someone available to take the position; otherwise, she is willing to serve to the end of her

term. Dave Atherton advised that a letter of interest has been received from Lowell Rasmussen, who is currently serving on the Town's Energy Committee.

**Motion** by Doug Bailey/Tracy Wyman to appoint Lowell Rasmussen to the Planning Commission to fill the remaining 3-year term ending June 30, 2019 made open by the resignation of Lisa Rovi. **The motion passed unanimously.**

## **8. Approve Personnel Policy**

Seth Hopkins reported the Select Board and Town Manager have been working on this policy that has also been viewed by the Town's attorney. The last adoption of the policy was 1988. Mr. Hopkins noted this is the VLCT's model policy recommended for towns to use as a template that has been tailored to fit Brandon. The Town's attorney has confirmed it is current with Vermont Law.

**Motion** by Doug Bailey/Tracy Wyman to approve the Personnel Policy, as presented. **The motion passed unanimously.**

Mr. Hopkins stated the last page is the current contribution on health insurance that will need to be reviewed yearly. This item was added as an addendum to be able to update it as needed.

## **9. Approve Purchase and Sale Contract for Real Estate Conveyance**

This agenda item was postponed to a subsequent meeting.

## **10. Fiscal**

### ***a) General Fund Warrant – February 25, 2019 - \$1,023,150.20***

**Motion** by Doug Bailey/Tracy Wyman to approve the General Fund warrant of February 25, 2019 in the amount of \$1,023,150.20. **The motion passed unanimously.**

Dave Atherton reported \$946,908.00 is payment to the OV Unified School District for the transfer of the quarterly school tax.

### ***b) Route 7 Construction Warrant – February 25, 2019 - \$46,992.38***

**Motion** by Doug Bailey/Tracy Wyman to approve the Route 7 Construction warrant of February 25, 2019 in the amount of \$46,992.38. **The motion passed unanimously.**

The Board recessed to convene as the Board of Liquor Control Commissioners at 7:43PM.

The Board reconvened at 7:50PM.

**Motion** by Doug Bailey/Tracy Wyman to find that premature general public knowledge of a pending or probable civil litigation or prosecution, to which the public body is or may be a party will clearly place the Town at a substantial disadvantage. **The motion passed unanimously.**

**Motion** by Doug Bailey/Tracy Wyman to enter into executive session at 7:50PM to discuss the pending or probable civil litigation or prosecution to include representatives of the BLSG Mosquito District, under the provisions of 1V.S.A. Section 313(a)(1). **The motion passed unanimously.**

### **11. Executive Session**

**Motion** by Doug Bailey/Tracy Wyman to come out of executive session at 8:25PM. **The motion passed unanimously.**

There were no actions required.

**Motion** by Doug Bailey/Tracy Wyman to find that premature general public knowledge of the contract negotiations with the New England Police Benevolent Association (NEPBA) will clearly place the Town at a substantial disadvantage by discussing its negotiation strategy. **The motion passed unanimously.**

**Motion** by Doug Bailey/Tracy Wyman to enter into executive session at 8:26PM to discuss the contract negotiations with NEPBA under the provisions of 1V.S.A. Section 313(a)(1). **The motion passed unanimously.**

### **12. Executive Session**

**Motion** by Doug Bailey/Tracy Wyman to come out of executive session at 8:35PM. **The motion passed unanimously.**

**Motion** by Doug Bailey/Tracy Wyman to ratify the Collective Bargaining Agreement between the Town of Brandon and the New England Police Benevolent Association Local 422, as presented. **The motion passed unanimously.**

### **13. Adjournment**

**Motion** by Doug Bailey/Tracy Wyman to adjourn the Select Board meeting at 8:36PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant  
Recording Secretary

## **Town Manager Report for weeks of February 25<sup>th</sup> and March 4<sup>th</sup>, 2019**

### **Union St Sidewalk:**

VTrans has made final comments on the plans and our engineers are reviewing them. This is the last step in getting to the bid process.

### **Park Street:**

We are still waiting for the NEPA document from Historic Preservation.

### **Newton Road:**

Requested quotes from three appraisal firms for the property appraisals on 37, 51, 419 and 449 Newton Road. The contract was awarded to A. Geoffrey Wells Appraisals, PLC for an amount of \$1,200.

Had a meeting today with the three homeowners and Lauren Oates from Hazard Mitigation to discuss the next steps for the buyouts.

### **Other Happenings:**

As of 3/8/19 we have 6 properties remaining on the current tax sale list in the amount of \$25,198.49.

### **Rec Dept. News:**

- Baseball is starting. Registrations open until April 5<sup>th</sup> for Minors Softball, Minors Baseball, Mighty Mites and Majors, May 3<sup>rd</sup> for Summer baseball and T-ball.
- Pee-Wee Cheerleading is nearly full. This program will introduce cheer techniques to youth in grades K-3. Commissioner Sarah Whitney and Assistant Rec Director, Colleen Wright and Stacey Mohan will be coaching.
- Gettysburg Trip on June 21-23<sup>rd</sup> still has some open spots. Gettysburg was the most important battle of the Civil War, and Vermonters fought bravely at its most critical moment. Today, the battlefield is a beautiful and meaningful memorial that every American should visit. Join Historian Dr. Kevin Thornton for this 3-day, 2 night trip on June 21<sup>st</sup> – 23<sup>rd</sup>, 2019. This Bucket-list trip is an incredible deal. Most meals, lodging, museum fees are included. \$360pp single rate, \$325 pp double rate.

**Other items will be covered in the agenda.**

**To:** Dave Atherton, Town Manager  
Select Board Members

**From:** Elaine S. Smith

**Re:** March Appointments

**Date:** March 7, 2019

I contacted the individuals who served in these positions last year. Doug Sawyer is no longer interested in serving on the Budget Committee. Art Doty did not reply to my email regarding reappointment to the BLSG Insect Control District Board. All the other incumbents have expressed interest in reappointment.

Alternates are still needed for the BLSG Insect Control District and the Rutland County Solid Waste District.

**BLSG Insect Control District**

- Wayne Rausenberger
- 

**Budget Committee**

- Jan Coolidge
- Anthony Peduto
- 

**Fence Viewers**

- Cindy Bell
- Todd Nielsen
- John Reynolds

**Inspector of Lumber, Shingles and Wood**

- John Reynolds

**Rutland County Solid Waste Dist.**

- Gabe McGuigan

**Tree Warden**

- Wayne Kingsley

**Weigher of Coal**

- Lou Faivre
- Olga Hopkins

Elaine S. Smith  
Town of Brandon  
49 Center Street  
Brandon, VT 05733  
(802) 247-3635 ext. 201  
[esmith@townofbrandon.com](mailto:esmith@townofbrandon.com)

# NOTICE

Pursuant to Title 19, Vermont Statutes Annotated, Sections 1109 -- 1110, the State Transportation Board has made and promulgated the following rule, now administered by the Agency of Transportation, in accordance with Section 12 of Act No. 246 of 1990:

In order to prevent the abuse of any highway, or portion thereof, posted under the provisions of these Sections from November 15 to December 31 and from January 1 to May 15, inclusive, in each year, or until adoption and announcement of any modifications of said rules, no vehicle having a weight, including vehicle and load, in excess of the weights specified below, shall be operated on any part of the following classes of highways which are posted under the provisions of these Sections:

	<u>State Highways</u>	<u>Town Highways (Class 1, 2 and 3 highways)</u>
Two-axle trucks	20,000 lbs	15,000 lbs
Three-axle trucks	30,000 lbs	18,000 lbs
Tractor-trailer units	40,000 lbs	20,000 lbs

By Order of the Agency of Transportation  
Secretary of Transportation

The following roads have been posted in accordance to Title 19, Section 1109-1110 in the Town of Brandon.

<u>HWY #</u>	<u>NAME</u>	<u>CLASS</u>	<u>FROM</u>	<u>TO</u>
4	Pearl Street & Long Swamp Road	2	Corona Street	Sudbury Town Line
5	Union Street & Florence Road	3	Maple Street	Pittsford Town Line
7	Arnold District Road	2	Robert Wood Drive	Leicester Town Line
8	McConnell Road	2	Franklin Street	Forest Dale Road
9	High Pond Road	2	Union Street	Sudbury Town Line
11/13	Hollow Road	3	Champlain Street	Arnold District Road
15	Wheeler Road	3	Forest Dale Road	Leicester Town Line
16	Lover's Lane	3	Grove Street	Wheeler Road
18	Town Farm Road	3	Forest Dale Road	Leicester Town Line
20	Stone Mill Dam Road	3	Forest Dale Road	Wheeler Road
21	Newton Road	3	North Street	Town Farm Road
24	Wagner Road	3	Forest Dale Road	End
27	Paint Works Road	3	Forest Dale Road	McConnell Road
29	Basin Road	3	McConnell Road	End
30	Van Cortland Road	3	McConnell Road	End
31	Country Club Road	3	Franklin Street	Forest Dale Road
33	Park Street (portion)	3	Marble Street	Country Club Road
34	Smalley Road	3	Country Club Road	McConnell Road
35	Wood Lane	3	Franklin Street	McConnell Road
36	Birch Hill Road	3	McConnell Road	Pittsford Town Line
37	North Birch Hill Road	3	McConnell Road	Birch Hill Road
39	Marshall Phillips Road & Hack's Sawmill Road	3	High Pond Road	Sudbury Town Line
47	Prospect Street	3	Conant Square	End
61	Walnut Street/Cedar Street	3	Highland Avenue	Prospect Street
66/69	West Seminary Street	3	Center Street	Highland Avenue
82	Deer Run Road	3	Fox Road	End
84	Fox Road	3	North Street	Deer Run Road

SELECT BOARD, TOWN OF BRANDON

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**PURCHASE AND SALE CONTRACT**  
**between**  
**Wyman-Frasier Lumber Mill, Inc. ("Purchaser")**  
**and**  
**The Town of Brandon, Seller**

**This is a legally binding contract. If not understood, seek competent legal advice.**

The undersigned Purchaser hereby offers and agrees to purchase the property described in Paragraphs 3 and 4 below (hereinafter "the Property"), upon the terms and conditions stated herein. Purchaser reserves the right to withdraw this offer at any time prior to Seller's acceptance. Once Seller accepts the offer by signing this Contract and providing a copy of the fully signed Contract to Purchaser, this shall constitute the parties' legally binding contract for the purchase and sale of the Property. The "Contract Date" shall be the date on which the last of the parties has signed this Contract.

1. **Purchaser:** Wyman-Frasier Lumber Mill, Inc.

Address: 114 Wyman Road, Brandon, VT 05733

Phone Number: \_\_\_\_\_

E-mail: \_\_\_\_\_

Purchasers' Attorney: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. **Seller:** Town of Brandon

Address: 49 Center Street, Brandon, VT 05733

Phone Number: (802) 247-3635 x 210

E-mail: *datherton@townofbrandon.com*

Seller's Attorney: Constance Tryon Pell, Esq.  
Carroll, Boe & Pell, PC  
64 Court Street, Middlebury, VT 05753  
(802) 388-6711  
cpell@64court.com

3. **Address Of Property:** A parcel of land located adjacent to Conant Square (also known as U.S. Route 7), in Brandon, Vermont, and being a portion of all and the same lands and premises conveyed to the Town of Brandon in a Quit Claim Deed from Central Vermont Public Service Corporation, dated December 15, 1960, and recorded in the Brandon Land Records in Book 75 at Page 471, specifically being Parcel #3 as referenced therein.

4. **Property Description:** .47 +/- acre of undeveloped land depicted on the Town of Brandon tax map as Parcel #22-51-32.
5. **Total Purchase Price:** One Thousand U.S. Dollars (\$1,000.00).
6. **Earnest Money Deposit:** None.
7. **Closing:** Closing shall be held within one week of Seller's satisfaction of Special Condition 8.A. as stated herein, at the offices of Purchaser's attorney within the State of Vermont, unless otherwise agreed upon by the parties. The parties agree that time is of the essence with regard to the Closing Date.
8. **Special Conditions:** This Contract is subject to the following contingencies and special conditions. If any party terminates in accordance with the terms of one or more contingencies, the parties shall have no further obligations to each other. Failure of a party to comply with the deadlines set forth in any contingency shall constitute a waiver of that contingency by that party.
  - A. **Notice of Proposed Sale/Voter Approval.** The sale is subject to the Seller posting and publishing a Notice of the Proposed Sale at the Brandon Town Clerk's Office for a period of 30 days pursuant to 24 V.S.A. §1061(a)(1), and securing the statutorily required voter approval of the sale thereafter, if necessary. Seller shall promptly post and publish said Notice as soon as this Purchase and Sale Contract is signed by all parties.
  - B. **Termination of License Agreement.** The sale is subject to Seller terminating a License Agreement by and between Charles T. Powell, Steven D. Zorn and Brent L. Buehler, members of 4 Conant Square, LLC (referenced therein as "Owner") and the Town of Brandon (referenced therein as "Town") dated May 22, 2006, and recorded in the Brandon Land Records in Book 183 at Page 327.
9. **Fixtures And Personal Property:** None.
10. **Examination Of Title:** Following execution of this Contract, Purchaser shall cause the title to the Property to be examined promptly at Purchaser's own expense.
11. **Possession:** Possession shall be given on the Closing Date.
12. **Payment Of Purchase Price:** The entire purchase price is due at closing and is to be paid in cash, certified check, cashier's check, or attorney's trust account check.
13. **Deed:** The parties recognize that Seller acquired the Property by Tax Deed; at closing, Seller shall give to Purchaser a Vermont Quit Claim Deed, furnished and paid for by Seller. The Quit Claim Deed shall contain the following AS IS language:

"The transfer of the Property is AS-IS, WHERE-IS, with the Grantee taking all defects and risks associated with or connected to the Property, including but not limited to all risks associated with the following:



- a. Subject to the rights of reentry and repossession of the Property as more particularly described in the Deed from Central Vermont Public Service Corporation to Town of Brandon dated December 15, 1960, and recorded in the Brandon Land Records in Book 75 at Page 471..
- b. Subject to such facts as an accurate survey and physical inspection of the premises may reveal.
- c. Subject to easements, restrictions, agreements and all documents of record, if any.
- d. Subject to state and municipal ordinances, statutes and regulations, including zoning ordinances.
- e. Subject to all violations, if any, of environmental laws, rules, and regulations of the State of Vermont, the United States of America, and any political subdivision thereof, whether or not of record.
- f. Subject to any defects or problems associated with the real estate or any improvements thereon.
- g. Subject to all violations, if any, other than environmental in nature, of laws, rules and regulations of the State of Vermont, the United States of America, and any political subdivision thereof, whether or not of record.
- h. Subject to prior mortgages and liens of record, if any.

By acceptance of this deed, GRANTEE agrees to purchase and accept the Property in "AS IS" condition existing as of the date of delivery of this quit claim deed, with all faults, notwithstanding the possible existence of hidden defects or other matters not visible or ascertainable from an inspection and GRANTEE hereby expressly assumes the risk of any and all defects in the Property, including a possible lack of access for ingress and egress. GRANTEE fully understands that GRANTOR has made no warranties or representations, express or implied, pertaining to the Property, the condition thereof, the condition of the structures and improvements thereon, or any other matter pertaining thereto, including but not limited to matters relating to boundaries, acreage, access or compliance with state and local land use, subdivision, zoning, health, public buildings, water supply, wastewater disposal, environmental laws, and environmental conditions or hazards on the Property, the availability of permits, licenses, zoning, variances, certificates of occupancy, or any other matters pertaining to the condition or use of the Property. Expressly excluded from application are all warranties of merchantability, fitness for any particular purpose, habitability, or any other warranties express or implied at law. Further, GRANTEE expressly disclaims any and all warranties pertaining to, and concerning, the applicability of state and local laws, rules and regulations concerning the ownership, use and occupancy of the Property, including, but not limited to such laws, rules and regulations concerning state and local land use, subdivision, zoning, health, public buildings, water supply, wastewater disposal, onsite sewage disposal, and the compliance of the Property with the same and the existence, status and availability of all permits, licenses, approvals, and certificates of occupancy applicable to the Property, and the compliance of the Property with the same. GRANTEE acknowledges that GRANTOR has no responsibility to GRANTEE for any hazardous waste, asbestos, oil, petroleum waste, lead paint, urea formaldehyde and other liability causing substances on, under or emitting from the Property.

The Property is conveyed subject to all legally enforceable easements, rights-of-way, rights of travel along public ways, covenants, conditions, declarations, land use, subdivision, occupancy, municipal and other permits, and other restrictions of record to the extent not otherwise extinguished by the Vermont Marketable Record Title Act (27 V.S.A. §601-604).”

14. **Property Transfer Tax:** Purchaser shall be responsible for paying any Vermont Property Transfer Tax due on this transaction.
15. **Land Gains Tax:** Seller shall be liable for any Vermont Land Gains Tax due on account of this sale. If Seller is unable to provide satisfactory proof that no land gains tax is due, then Seller acknowledges that Purchaser must withhold 10 percent of the purchase price at closing unless Seller obtains a certificate from the Vermont Department of Taxes authorizing a reduced withholding amount.
16. **Default:** If Purchaser shall fail to complete said purchase as provided herein, or is otherwise in default, Seller may terminate this Contract and may pursue Seller's rights to all legal and equitable remedies provided by law.

If Seller shall fail to complete said sale as provided herein, or is otherwise in default, Purchaser may terminate this Contract, and may pursue Purchaser's rights to all legal and equitable remedies provided by law.

In the event legal action is instituted arising out of a breach of this contract, the prevailing party shall be entitled to reasonable attorney's fees and court costs.

17. **Risk Of Loss/Insurance:** During the period between the date of this Contract and the transfer of title, the risk of loss shall be on Seller and Seller shall continue to carry the fire and extended coverage insurance presently maintained on the buildings on the Property (or, upon the written request of Purchaser, and at Purchaser's expense, in such greater amount as Purchaser may reasonably request). In the event that any of the said buildings are destroyed or damaged and are not restored to their present condition by the date set for closing, Purchaser may either accept title to the Property and receive the benefit of all insurance monies recovered on account of such destruction or damage, or terminate this Contract.
18. **Closing Adjustments:** Property taxes, water, sewer, and other municipal charges, as well as association dues and other similar charges, shall be prorated between the parties as of the closing date. If any tax, charge or rate is undetermined on the date of closing, the last determined tax, charge or rate shall be used for the purpose of proration.
19. **Notice:** Any notice required by this agreement must be given in writing, either by mailing, overnight delivery, electronic mail, or hand-delivery. Notice will be effective as of the date actually received by the other party.

20. **Local and State Regulations:** The parties hereby acknowledge that Seller has advised Purchaser that local and state building regulations, zoning regulations, and subdivision regulations and wastewater system and potable water supply rules under Chapter 64 of Title 10 pertaining to the Property may limit significantly the use of the Property.
21. **No Broker:** The parties hereby acknowledge that no real estate broker or other similar party is entitled to a commission on account of this transaction.
22. **Binding Effect.** This Contract shall inure to the benefit of and be binding upon each of the parties hereto and their respective heirs, successors, administrators, executors and assigns.
23. **Entire Agreement.** This Contract contains the entire agreement by and between the parties hereto, superseding any and all prior agreements, written or oral, affecting said Property.
24. **Miscellaneous.** This Contract shall be governed by the laws of the State of Vermont. Any legal action arising out of this Contract shall be brought in the Vermont Superior Court in the county where the Property is located. Electronic copies and facsimile communications of this Contract will be considered binding by the parties to the same extent as original documents.
25. **Modification And Amendment:** No modification, amendment or deletion affecting this Contract shall be effective unless in writing and signed by all parties.

Purchaser hereby offers and agrees to purchase the above-described Property at the price and upon and subject to the terms and conditions of this Contract. Purchaser acknowledges receipt of a copy of this Contract.

WYMAN-FRASIER LUMBER  
MILL, INC.

Date of offer: \_\_\_\_\_

\_\_\_\_\_  
Tracy Wyman, President

Seller hereby accepts the offer set forth above and agrees to sell the above-described Property, at the price and upon and subject to the terms and conditions of this Contract. Seller acknowledges receipt of a copy of this Contract.

**Town of Brandon - Seller**  
By: BRANDON SELECTBOARD

BY:

\_\_\_\_\_  
Seth Hopkins, Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Doug Bailey, Vice-Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Devon Fuller

\_\_\_\_\_  
Date

\_\_\_\_\_  
Tracy Wyman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Brian Coolidge

\_\_\_\_\_  
Date

## LICENSE AGREEMENT

Whereas, Charles T. Powell, Steven D. Zorn and Brent L. Buehler, members of 4 Conant Square, LLC, (the "Owner") owns property and improvements located at 4 Conant Square in Brandon, Vermont (identified as Lot No. 22-51-24 in the Town of Brandon Tax Maps) (the "Property");

Whereas, the Town of Brandon (the "Town") owns an unimproved property on Conant Square that bounds the Property on the west and southwest (identified as Lot No. 22-51-32 in the Town of Brandon Tax Maps (the "Town Property");

Whereas, the Owner seeks to use a small portion of the Town Property to provide for partial access to the Property and to meet the traffic circulation needs of the Property as currently configured and the parking needs of the Property; said portion of the Town Property is described as :

A strip of land approximately ten feet (10') wide lying between the Property and Lot No. 22-51-32 in the Town of Brandon Tax Maps and running from the Town Property's frontage on the Conant Block (U.S. Route 7) and in a southerly direction a distance of approximately sixty feet (60') (henceforth, the "Strip").

Whereas, the Town previously had a License Agreement with Warren Kimble for Kimble's use of the Strip. 4 Conant Square, LLC, is the present owner of the "Property".

Whereas, Warren Kimble in fact has paved the Strip and placed guardrails thereon.

THEREFORE, in consideration of the mutual covenants contained in this agreement, the parties agree as follows:

### Section 1.

The Town hereby grants a non-exclusive license to the Owner, subject to the terms of this agreement, to occupy, use and enjoy the Strip to provide for partial access to the Property and to meet the traffic circulation needs of the Property as currently configured and the parking needs of the Property. The Owner will maintain the Strip during the period of the license.

### Section 2.

The license granted to the Owner by the Town under this agreement is given as an accommodation to the Owner and shall be without charge to the Owner. The Owner hereby acknowledges the title of the Town to the Town Property and agrees never to challenge, resist or oppose such title.

### Section 3.

The Owner shall exercise their license under this agreement at their own risk and shall indemnify and hold the Town harmless from and against any and all liability for damages, costs, losses expenses, or attorney's fees resulting from or in any way connected with the occupancy, use and enjoyment of the Strip by the Owner or their licensees, agents, invitees or guests. For and during the period of this license, Owner shall include the Town as an additional named insured on its premises liability policy in an amount of at least One Million Dollars (\$1,000,000.00) per occurrence.

Section 4.

The Town reserves the right to terminate the license granted by this agreement at any time giving the Owner at least ninety (90) days' written notice of such termination; said notice to be forwarded to the Owner of the Property (4 Conant Square). Upon such notification, the Town will advise the Owner whether the Owner's improvements to the Strip must be removed and the Strip returned to its original condition and, if so, the Owner will have one hundred twenty (120) days from the effective date of the termination to return the Strip to its original condition.

Section 5.

The Owner may relinquish or release the license granted under this agreement and, if so, will so advise the Town and request whether the Town would like the Owner's improvements to the Strip to be removed and the Strip returned to its original condition. If so, the Owner will have one hundred twenty (120) days from the date of the Town's reply to return the Strip to its original condition.

Section 6.

This agreement shall constitute the entire agreement of the parties and shall be governed and construed by the laws of the State of Vermont.

Section 7.

This agreement is non-assignable without the prior written consent of the Town by and through its duly authorized agent.

Dated at Brandon, Vermont, this 27<sup>th</sup> day of May, 2006.

TOWN OF BRANDON

By: [Signature]  
Duly Authorized Agent *Town Manager*

4 CONANT SQUARE, LLC

BY: [Signature]  
CHARLES T. POWELL

BY: [Signature]  
STEVEN D. ZORN

BY: [Signature]  
BRENT L. BUEHLER

TOWN OF BRANDON, VT  
Received for record JULY 17 2006  
at 10:25 A.M. and recorded in  
Brandon Land Records, Book 183 Page 327-328  
Attest: [Signature]  
Town Clerk

A true record made this 17th day of July, A.D 2006 at 10:25 A.M.

Attest: [Signature]  
Town Clerk

**Brandon Select Board Meeting  
February 11, 2019**

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

**Board Members In Attendance:** Seth Hopkins, Doug Bailey, Tracy Wyman, Devon Fuller, Brian Coolidge

**Others In Attendance:** Dave Atherton, Steve Bissette, Dick Kirby, Micken Hogan, Chris Brickell, Bernie Carr, Dennis Reisenweaver, Shirley Markland, Russell Jones

**1. Call to order**

The meeting was called to order by Seth Hopkins at 7:00PM.

***a) Agenda Adoption***

**Motion** by Devon Fuller/Doug Bailey to adopt the agenda as presented. **The motion passed unanimously.**

**2. Approval of Minutes**

***a) Approval of Minutes – January 28, 2019 - Select Board Regular Meeting***

**Motion** by Tracy Wyman/Doug Bailey to approve the minutes of the January 28, 2019 Select Board meeting. **The motion passed unanimously.**

**3. Town Manager's Report**

Dave Atherton provided the following Town Manager's Report for the weeks of January 28<sup>th</sup> and February 4<sup>th</sup>:

***Segment 6:***

- . Evaluation and modification to the installation of traffic control signals near Central Park (Segment 'B') for improved clarity to infrastructure.
- . Installation of the storm water treatment structure No. 2 located adjacent to 8 Conant Square.
- . Initiation of exploratory procedures to determine existing sewer services and other underground utilities' locations and depths generally from Whittaker's to the South. This is preparation for the upcoming construction season.
- . Installation of drainage adjacent to storm water treatment structure No. 1 located at 43 Franklin Street.

### ***Union Street Sidewalk:***

Final plans are still in review. The Town is still on schedule to get this out to bid in February.

### ***Park Street:***

The Town has received right-of-way clearance from VTrans. We are still waiting for the NEPA document from Historic Preservation.

### ***Other Happenings:***

Dave Atherton attended a Local Emergency Management Plan (LEMP) workshop on February 6<sup>th</sup> at Rutland Regional Planning Commission. He will be attending a few more of these due to the required changes to the LEMP.

Mr. Atherton was asked to be a member of the ERAF working group to discuss possible changes in how towns can qualify for emergency relief funding. The first meeting was held on February 7<sup>th</sup> in Waterbury. There will be recommendations made to go to Montpelier for review and approval.

### ***Rec Department News:***

- . Brandon Rec is back on the slopes with our popular Snow Bowl Ski/Ride program, a collaboration with the Pittsford Rec. Four Sundays in March participants will take a bus from Otter Valley up to the mountain for late season lessons and skiing. Limited space so sign-up well before the February 22<sup>nd</sup> deadline.
- . Tango Lessons with Todd Brown have begun on Wednesdays at the Town Hall. Beginners 6:30PM - 7:30PM, Intermediate 7:30PM - 8:30PM and Practice from 8:30PM - 9:30PM. First lesson and practices are Free!
- . Still not too late to learn all about pickleball with ambassadors Janne & Howard Giles. This Sunday, February 10<sup>th</sup> at Neshobe Gym from 3PM - 5PM.
- . February 16<sup>th</sup> . Brandon Idol does Broadway. Come hear the 9 finalists with live piano accompaniment at the Town Hall starting at 7PM. This is their first of four themed concerts that will lead to the final concert on June 7<sup>th</sup> at the Brandon Carnival where one of them will win \$1000.00.
- . Indoor Soccer practice will start on February 17<sup>th</sup> for kids in grades 4-6. They will play games as a co-ed team at Giorgetti Arena turf starting the beginning of March. Only four spots remain.
- . Our collaboration with the Compass Center for vacation week camp continues with a week-long arts experience led by Kim Hewitt. Runs 10AM - 3PM February 18<sup>th</sup> - 22<sup>nd</sup>. We have drop in and week-long options.



. February 21<sup>st</sup>, we have Tre Bucci of GNG fitness coming down for a late season pre-tournament basketball camp. Girls' camp runs 8AM - Noon and the boys' camp runs 12:30PM - 4:30PM. Only four spots left in each camp.

. February 22<sup>nd</sup> we have a sledding party planned with our friends at the Neshobe Golf Course. Free hot chocolate and a great menu as well as music outside from 3pm-5pm.

. After sledding and dinner, there will be music and family fun upstairs at the Town Hall with an inflatable castle, Karaoke and disco lighting. 5:30PM - 8:30PM on Friday February 22<sup>nd</sup>.

Devon Fuller asked if they are boring for ledge on Route 7 for Segment 6. Dave Atherton advised the work is for sewer and underground items, as last summer there were some discrepancies of where the sewer services were.

Shirley Markland questioned the status of the disabled pedestrian crossing lights. Dave Atherton reported the lights will not be on until the paint can stay on the roadway. Ms. Markland noted concern with the curve by Whittaker's, as one cannot see traffic coming from the north when crossing by the library. Mr. Atherton stated there were problems with the way the lights were functioning. There has been an engineering review and there are some issues with the lights. The Town was advised the lights should not be turned on until the roadway painting is done. Mr. Atherton suggested crossing closer to the park. Seth Hopkins noted when the lights are flashing; the pedestrian lights cannot be enabled. Devon Fuller suggested the bank corner is a place where people have been known to cross for years. Ms. Markland stated Park Street is at its widest near the library and there is no safe way to get from her house to the library and noted the Town is out of compliance with the American Disabilities Act. Mr. Atherton stated the Town does not own the lights until the project is completed. Mr. Atherton advised the process for questions is to contact Bernie Carr, who is the Project Information Officer. Ms. Markland stated she is not the only one walking on that street and it is a real hazard, particularly with the snowbank. Bernie Carr reported there is a meeting with Casella on Wednesday and this item is at the top of his list. He is not sure if they can come up with a solution at this point, with no constructed crosswalks. Mr. Carr will be in contact with Ms. Markland after the meeting.

Steve Bisette noted concern with the snow banks not being pushed back far enough on the Union Street corner in front of Rite Aid, making the area very narrow. Mr. Atherton will discuss this item with Public Works.

#### **4. Comments for Items Not on the Agenda**

Seth Hopkins questioned if there has been an RRPC TAC meeting held. Dave Atherton has not received any information on this subject and will contact the Town's representative to provide a report to the Select Board before Town Meeting.

Dave Atherton advised this is Devon Fuller's last Select Board meeting. He noted it has been an interesting seven years working with Mr. Fuller on the Board. Mr. Fuller stated he feels comfortable stepping down, as there is good Board representation, Town Manager and Town employees

working for the Town. Seth Hopkins thanked Mr. Fuller on behalf of the Board for his 8 years of service as a Select Board member.

#### **5. Approve Certification of Compliance for Town Road and Bridge Standards**

Dave Atherton advised this is the annual State compliance certification for town roads and bridges. It was noted a developer would be asked to meet State standards for road widths and it also helps for reimbursement for certain funding.

**Motion** by Devon Fuller/Tracy Wyman to approve the Certification of Compliance for Town Road and Bridge Standards and Network Inventory. **The motion passed unanimously.**

#### **6. Approve Certificate of Highway Mileage**

Dave Atherton reported the Town discontinued a Class IV road, but it did not change the mileage that is being maintained. Seth Hopkins stated the Class I distances were confirmed.

**Motion** by Devon Fuller/Brian Coolidge to approve the Certificate of Highway Mileage as presented. **The motion passed unanimously.**

#### **7. Approve Union Street Rail Right-of-Way**

Dave Atherton advised the Town is getting close to sending the sidewalk out to bid. A meeting was held with the Railway people regarding the sidewalk crossing. The Railway is redoing their crossings and offered to do the sidewalk portion, but are asking that the Town claim the statutory 3-rod right of way and requested the Board's approval. The right-of-way width request is for Railroad Avenue, North Railroad Avenue, Church Street and Union Street.

**Motion** by Tracy Wyman/Devon Fuller to approve the Union Street Rail Right-of-Way as presented. **The motion passed unanimously.**

#### **8. Approve Revolving Loan Application for Park Street Construction Phase**

Dave Atherton advised this is Step 3 of the loan for drinking and clean water. He noted this project is close to finalizing for the bid process and this is the last step.

**Motion** by Brian Coolidge/Tracy Wyman to approve the State Revolving Loan application for the Park Street construction phase as presented. **The motion passed unanimously.**

Devon Fuller questioned the reference to a Carver Street expansion on Page 5 of the document under Long-term Debt Schedule. It was noted this was for the water that was done last year for the water line portion that was added for Segment 6.

Doug Bailey suggested updating the bottom line on the same page. Mr. Atherton advised the document can be updated for clerical edits.

#### **9. Consider Sale of Town Owned Properties**

Tracy Wyman recused himself from discussion and action on this item.

Dave Atherton reported Tracy Wyman submitted an offer for a singular property.

**Motion** by Devon Fuller/Doug Bailey to approve the sale of Parcel – Map 22-51-32\_ Bk 75, Page 471 in the amount of \$1,000.00. **The motion passed.**

Mr. Atherton advised this was a piece of property deeded from Central Vermont Service Corporation that has been on the Town's books for several years and does not have an assessed value. There is sewer line on the south end that can be accessed through Briggs Lane and the Town does not do anything with this piece of property. Seth Hopkins asked if it is in the best interest of the Town to sell the parcel and Mr. Atherton confirmed it would be. He noted that all statutory requirements have been completed and if approved, a notice will be placed in the paper for 30 days and Mr. Wyman will be provided with a sales agreement after the 30 days. The property is adjacent to a parcel between the river and Briggs Lane.

## 10. Fiscal

### *a) General Fund Warrant – February 11, 2019 - \$203,762.23*

**Motion** by Devon Fuller/Brian Coolidge to approve the General Fund warrant of February 11, 2019 in the amount of \$203,762.23. **The motion passed unanimously.**

Doug Bailey questioned the \$2,500.00 invoice for tree removal. Dave Atherton reported there have been trees removed on Basin Road, McConnell Road and some limbs removed in other areas. Mr. Bailey questioned the \$2,600.00 repair on the John Deere 410. Mr. Atherton advised there were repairs done on the backhoe due to an oil leak.

### *b) Route 7 Construction Warrant – February 11, 2019 - \$40,009.89*

**Motion** by Brian Coolidge/Tracy Wyman to approve the Route 7 Construction warrant of February 11, 2019 in the amount of \$40,009.89. **The motion passed unanimously.**

## 9. Adjournment

**Motion** by Brian Coolidge/Tracy Wyman to adjourn the Select Board meeting at 7:30PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant  
Recording Secretary

**NEUSE, DUPREY & PUTNAM, P.C.**

ATTORNEYS AT LAW

ONE CROSS STREET

MIDDLEBURY, VERMONT 05753-1445

ANTHONY R. DUPREY  
BENJAMIN W. PUTNAM

AMY R. MENARD (also admitted in Alaska)  
JUDSON E. HESCOCK

KARL W. NEUSE (RETIRED)

TEL: (802) 388-7966  
FAX: (802) 388-9713

EMAIL: MAIL@NDP-LAW.COM  
WEBSITE: WWW.NDP-LAW.COM

March 5, 2019

**Via Email and First-Class Mail**

Town of Brandon Select Board  
Attn: Mr. David Atherton, Town Manager  
49 Center Street  
Brandon, VT 05733

**Re: Proposed Sale of Town-owned Parcel 22-51-32**

Dear Mr. Atherton and Members of the Brandon Select Board:

This office represents Brent Buehler, Charles Powell, and Steven Zorn. I write on their behalf in connection with the Select Board's consideration of sale of the above-referenced parcel.

Messieurs Buehler, Powell and Zorn are the owners of property parcel 22-51-24 which is surrounded on three sides by the parcel (22-51-32) which is contemplated for sale. As you are no doubt aware, the location and nature of the boundary configuration between the two properties renders it virtually impossible to consider actions with regard to one property that does not affect the other. A clear example of this relationship is demonstrated by the fact that the mixed-use building located on the Buehler, Powell, Zorn property (for ease, referred to collectively in this letter as "Buehler property") is constructed so that it cantilevers out over the riverside strip of parcel 22-51-32. In the event that repair or maintenance is required on that aspect of the Buehler property building or foundation, the Buehler property would require access through, over and on parcel 22-51-32. Likewise, the maintenance or lack of maintenance of a stone retaining wall on parcel 22-51-32 has the potential to directly affect the maintenance and structural integrity of the Buehler property. On the other side of the parcel, the Buehler property parking area has, through agreement with the Town, made use of a small strip of land in parcel 22-51-32. This parking area, although small, is key to their use of their residence.

We understand the Town now desires to sell parcel 22-51-32. Although, at one point in the past, Mr. Atherton discussed with my clients the sale of the retaining wall strip of parcel 22-51-32, they were unaware that the Town desired to sell the entire parcel. We further understand that at the Select Board meeting of February 11, 2019, the Board approved sale of parcel 22-51-32 in exchange for \$1,000. We further understand that this purchase price offer was considered to be in the Town's best interest although, it is our understanding, no appraisal of the parcel has been conducted.

My clients believe that the Town's sale of parcel 22-51-32 to a new owner has the potential to be fraught with problems given the inter-related nature of the two parcels. They further believe that any such sale carries an unacceptable risk of prejudice to their rights in their own property. For this reason, they extend to the Town of Brandon a cash purchase offer of \$1,500.00 for parcel 22-51-32.

We would appreciate the Town's consideration of this offer at its earliest opportunity. The sale of the property to my clients would be in the Town's best interests for the following reasons: 1) it would provide greater sale revenue than any other offer; 2) it would generate tax revenue for the Town in the future; and 3) it would eliminate the potential for owner disagreements over the use or maintenance of the two parcels in the future.

Thank you for your consideration of this offer. I will be available to discuss this offer and any questions you might have now or at the Select Board Meeting set for March 11, 2019.

Very truly yours,



Amy R. Menard, Esq.

C via email: Charles Powell, Brent Buehler, Steven Zorn

## David Atherton

---

**From:** Amy Menard <Amy@ndp-law.com>  
**Sent:** Monday, March 4, 2019 3:03 PM  
**To:** 'datherton@townofbrandon.com'  
**Subject:** Brandon Parcel Sale: 22-51-32

Dear Dave --Thanks again for taking my call. As counsel for Zorn, Buehler and Powell, I look forward to exploring a resolution on the appropriate disposition of this property. As I explained, the sale of the parcel to a Select Board Member Wyman poses a number of risks to my clients, not least of which is lack of access to repair their building in the event it is required on the river side of their home. Because of this, they really have no choice but to take steps to ensure that the rights to use and access their own property is not jeopardized and whether the sale to Mr. Wyman for \$1,000 is indeed in the best interests of the Town.

I look forward to discussing this issue further with Connie so as to avoid the cost and complication of the §1061 process or the potential for related legal proceedings.

Amy

---

**Amy R. Menard, Esq.**

Attorney and Counselor at Law  
Admitted Vermont and Alaska

Neuse, Duprey & Putnam, P.C.

One Cross Street • Middlebury, VT 05753-1445

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All Invoices For Check Acct 01(10 General Fund) 03/11/2019 To 03/11/2019

Vendor	Invoice	Invoice Description	Purchase Amount	Discount Amount	Amount Paid	Check Number	Check Date
200263	ALDRICH & ELLIOTT, PC	78283	Park St Sewer & Water	4095.48	0.00	4095.48	46492 03/11/19
310590	AMERICAN WINDOW CLEANING II	1953	downstairs windows	50.00	0.00	50.00	46493 03/11/19
100598	AUBUCHON HARDWARE	1622988110	fasteners/paint/hardware	112.14	0.00	112.14	46494 03/11/19
100598	AUBUCHON HARDWARE	1622988112	snow pusher, screws	45.57	0.00	45.57	46495 03/11/19
100598	AUBUCHON HARDWARE	1622988113	ext. cord, hooks	25.97	0.00	25.97	46496 03/11/19
100125	BARTOL, CURT R PH D	FEB2019	psychological report	15.00	0.00	15.00	46497 03/11/19
100275	BRANDON FREE PUBLIC LIBRARY	MAR 2019	APPROPRIATION	7666.67	0.00	7666.67	46498 03/11/19
100280	BRANDON LUMBER & MILLWORK CO.	760965/3	plywood	171.11	0.00	171.11	46499 03/11/19
100280	BRANDON LUMBER & MILLWORK CO.	760975/3	plywood	156.12	0.00	156.12	46499 03/11/19
100280	BRANDON LUMBER & MILLWORK CO.	760988/3	torch	54.99	0.00	54.99	46499 03/11/19
100280	BRANDON LUMBER & MILLWORK CO.	761000/3	batteries	12.99	0.00	12.99	46499 03/11/19
100280	BRANDON LUMBER & MILLWORK CO.	761156/3	locknuts, cap screws	54.40	0.00	54.40	46499 03/11/19
100280	BRANDON LUMBER & MILLWORK CO.	761187/3	staplegun	24.19	0.00	24.19	46499 03/11/19
100280	BRANDON LUMBER & MILLWORK CO.	K60962/3	blade	5.99	0.00	5.99	46499 03/11/19
100310	BRANDON SENIOR CITIZENS CENTER	MAR 2019	APPROPRIATION	1125.00	0.00	1125.00	46500 03/11/19
310390	BTS, INC	13403	move ext wires, email fi	65.00	0.00	65.00	46501 03/11/19
310501	BURLETT, DARYL	3/1/19	Boat for WW plant	249.99	0.00	249.99	46489 03/01/19
100198	CARGILL, INCORPORATED	2904607029	salt	1736.14	0.00	1736.14	46502 03/11/19
100198	CARGILL, INCORPORATED	2904619253	salt	1740.91	0.00	1740.91	46502 03/11/19
100198	CARGILL, INCORPORATED	2904622104	salt	1727.39	0.00	1727.39	46502 03/11/19
100198	CARGILL, INCORPORATED	2904637025	salt	1744.09	0.00	1744.09	46502 03/11/19
310894	CARRARA, SARAH-LYNNE	03/01/19	zumba	125.00	0.00	125.00	46503 03/11/19
301503	CHAMPLAIN VALLEY PLUMBING	296206	heating fuel @ Town Hall	298.08	0.00	298.08	46504 03/11/19
301503	CHAMPLAIN VALLEY PLUMBING	297257	diesel fuel	961.50	0.00	961.50	46504 03/11/19
301503	CHAMPLAIN VALLEY PLUMBING	297445	heating fuel @ HWY	1101.68	0.00	1101.68	46504 03/11/19
301503	CHAMPLAIN VALLEY PLUMBING	297698	heating fuel @ HWY	585.81	0.00	585.81	46504 03/11/19
301503	CHAMPLAIN VALLEY PLUMBING	321535	diesel fuel	1584.96	0.00	1584.96	46504 03/11/19
310097	COMCAST	WW 2/21/19	MARCH WASTE WATER	184.52	0.00	184.52	46505 03/11/19
310319	CREATIVE APPAREL	418	printing	848.20	0.00	848.20	46506 03/11/19
330426	CVC PAGING	172-16883	WW QUARTERLY PAGER	35.85	0.00	35.85	46507 03/11/19
100900	DISORDA, TIMOTHY OR ETHEL	FEB 2019	tax over payment	1548.68	0.00	1548.68	46508 03/11/19
101007	EARLE'S TRUCK REPAIR, INC.	14304	repairs to F550	1687.96	0.00	1687.96	46509 03/11/19
100494	ENDYNE INC	290547	testing	142.50	0.00	142.50	46510 03/11/19
100925	FOLEY SERVICES INC	1227264	uniforms	21.37	0.00	21.37	46511 03/11/19
100925	FOLEY SERVICES INC	1227266	uniforms	45.18	0.00	45.18	46511 03/11/19
100925	FOLEY SERVICES INC	1228653	uniforms	21.37	0.00	21.37	46511 03/11/19
100925	FOLEY SERVICES INC	1228655	uniforms	48.73	0.00	48.73	46511 03/11/19
310258	FRANKIEWICZ, MIKE	POLLS 3/5/19	polls 3/5/19	82.50	0.00	82.50	46512 03/11/19
310426	FYLES BROS., INC.	169750	propane/WW supply garage	169.51	0.00	169.51	46513 03/11/19
310426	FYLES BROS., INC.	169751	propane/WW main garage	191.40	0.00	191.40	46513 03/11/19
310426	FYLES BROS., INC.	169759	propane @ Town Hall	73.81	0.00	73.81	46513 03/11/19
310426	FYLES BROS., INC.	169760	propane @ Town Office	300.44	0.00	300.44	46513 03/11/19
310426	FYLES BROS., INC.	169785	propane @ Police Dept	387.87	0.00	387.87	46513 03/11/19
310426	FYLES BROS., INC.	173502	propane @ Town Hall	120.93	0.00	120.93	46513 03/11/19
100900	GILES, GREGORY A	0030-0730	tax over payment	265.95	0.00	265.95	46514 03/11/19
100725	GREEN MOUNTAIN GARAGE	132047	battery for trk #3	289.76	0.00	289.76	46515 03/11/19
100725	GREEN MOUNTAIN GARAGE	132187	battery	110.31	0.00	110.31	46515 03/11/19
100725	GREEN MOUNTAIN GARAGE	133140	cable ties	9.02	0.00	9.02	46515 03/11/19
100725	GREEN MOUNTAIN GARAGE	133181	oil filter	19.11	0.00	19.11	46515 03/11/19
100725	GREEN MOUNTAIN GARAGE	133235	oil filter	10.12	0.00	10.12	46515 03/11/19

Vendor	Invoice	Invoice Description	Purchase Amount	Discount Amount	Amount Paid	Check Number	Check Date
100725	GREEN MOUNTAIN GARAGE	133320	plug, lights, pigtail	15.29	0.00	15.29	46515 03/11/19
100725	GREEN MOUNTAIN GARAGE	133461	oil filters	20.70	0.00	20.70	46515 03/11/19
100792	HULBERT SUPPLY CO INC	X002628-00	parts - reducer valve	156.57	0.00	156.57	46516 03/11/19
100792	HULBERT SUPPLY CO INC	X002636-00	tubing cutter	21.53	0.00	21.53	46516 03/11/19
100811	INITIAL IDEAS	50920	Plaque engraved for Devo	37.00	0.00	37.00	46517 03/11/19
310803	KIMBALL JONATHON & BRENNNA	A-322A	refund of access deposit	300.00	0.00	300.00	46518 03/11/19
310803	KIMBALL JONATHON & BRENNNA	E-277A	refund of excav deposit	300.00	0.00	300.00	46518 03/11/19
310033	KNAPP, ELLEN	3/5/19	polls 3/5/19	25.00	0.00	25.00	46519 03/11/19
310138	KNAPP, HILLARY	3/5/19	polls 3/5/19	93.50	0.00	93.50	46520 03/11/19
310639	MANIERY, DOMINICK	03/08/19	trainer for wrestling	110.00	0.00	110.00	46521 03/11/19
100149	MODERN CLEANERS & TAILORS, INC	FEB2019	uniform maint	114.50	0.00	114.50	46522 03/11/19
310795	NATIONAL BUSINESS TECHNOLOGIES	IN289808	serv contract - printers	58.29	0.00	58.29	46523 03/11/19
310795	NATIONAL BUSINESS TECHNOLOGIES	IN289809	serv contract - copiers	80.94	0.00	80.94	46523 03/11/19
100788	NEW ENGLAND MUNICIPAL RESOURCE	43524	MARCH ASSESSMENT	7550.00	0.00	7550.00	46524 03/11/19
310595	OCCUPATIONAL HEALTH PARTNERS	00011991-00	WW-Respirator fit test	141.10	0.00	141.10	46525 03/11/19
330423	PATCH, TERRIE	3/5/19	polls 3/5/19	25.00	0.00	25.00	46526 03/11/19
310736	POCKETTE PEST CONTROL	12077	pest control/Police Dept	65.00	0.00	65.00	46527 03/11/19
310736	POCKETTE PEST CONTROL	12078	pest control/Town Hall	80.00	0.00	80.00	46527 03/11/19
310736	POCKETTE PEST CONTROL	12079	pest control/Town Office	70.00	0.00	70.00	46527 03/11/19
310736	POCKETTE PEST CONTROL	12080	pest control/storage are	50.00	0.00	50.00	46527 03/11/19
300710	RIDEOUT, LAURA	3/5/19	polls 3/5/19	25.00	0.00	25.00	46528 03/11/19
300661	RIDEOUT, SCOTT	3/5/19	polls 3/5/19	25.00	0.00	25.00	46529 03/11/19
100479	RSVP	MAR 2019	APPROPRIATION	550.00	0.00	550.00	46530 03/11/19
100566	RUTLAND COUNTY HUMANE SOCIETY	MAR 2019	appropriation	750.00	0.00	750.00	46531 03/11/19
300528	RUTLAND RECREATION & PARKS	03/08/19	soccer league	430.00	0.00	430.00	46532 03/11/19
300528	RUTLAND RECREATION & PARKS	135242	soccer	1600.00	0.00	1600.00	46532 03/11/19
310767	SIMPLE SYSTEMS OF VERMONT LLC	30119	HP desktop for Elaine	1010.76	0.00	1010.76	46533 03/11/19
300247	SURPASS CHEMICAL CO INC	331868	sodium hypochlorite	427.96	0.00	427.96	46534 03/11/19
310897	THE GRIFT LLC	03/08/19	deposit: Apr 12th concer	250.00	0.00	250.00	46535 03/11/19
200277	THUNDER TOWING & AUTO RECOVERY	5639	winch out truck #5	150.00	0.00	150.00	46536 03/11/19
200277	THUNDER TOWING & AUTO RECOVERY	5641	repairs	473.20	0.00	473.20	46536 03/11/19
330348	VERIZON WIRELESS	9824725376	serv Jan 23 - Feb 22	240.06	0.00	240.06	46537 03/11/19
100670	VERMONT DEPT OF ENVIR CONSERVA	2/27/19	Park NOI Stormwater Disc	100.00	0.00	100.00	46488 02/27/19
300382	VLCT EMPLOYMENT RESOURCE AND B	28588-Q2	2nd quarter unemployment	894.00	0.00	894.00	46538 03/11/19
100146	VLCT PACIF	APRIL 2019	2nd quarter liability/WC	41415.50	0.00	41415.50	46539 03/11/19
100146	VLCT PACIF	INT68010219-	2019 coverage sidewalk t	426.00	0.00	426.00	46540 03/11/19
310046	W.B. MASON CO INC	I63741267	detergent	2.42	0.00	2.42	46541 03/11/19
310046	W.B. MASON CO INC	I63835058	cleaners/mailers	55.38	0.00	55.38	46541 03/11/19
310046	W.B. MASON CO INC	I63918071	mailers	21.48	0.00	21.48	46541 03/11/19
310898	WILDLIFE ENCOUNTERS ECOLOGY CE	3368	presentation	520.00	0.00	520.00	46542 03/11/19
330427	WINNING IMAGE GRAPHIX	14709	screen T-shirts	195.00	0.00	195.00	46543 03/11/19



03/08/2019

TOWN OF BRANDON Accounts Payable

01:33 pm

Check Warrant Report # 63146 Current Prior Next FY Invoices

Luanne

All Invoices For Check Acct 01(10 General Fund) 03/11/2019 To 03/11/2019

Vendor	Invoice	Invoice Description	Purchase Amount	Discount Amount	Amount Paid	Check Number	Check Date
Report Total			91,027.44	0.00	91,027.44		

Selectboard

To the Treasurer of TOWN OF BRANDON, We Hereby certify that there is due to the several persons whose names are listed hereon the sum against each name and that there are good and sufficient vouchers supporting the payments aggregating \$ \*\*\*\*91,027.44  
 Let this be your order for the payments of these amounts.

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03/08/19  
12:36 pm

TOWN OF BRANDON Accounts Payable  
Check Warrant Report # 63144 Current Prior Next FY Invoices  
All Invoices For Check Acct 99(10 General Fund) 03/11/19 To 03/11/19

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Jacolyn

Vendor	Invoice	Invoice Description	Purchase Amount	Discount Amount	Amount Paid	Check Number	Check Date
300286	CASELLA CONSTRUCTION INC	PR 35	110851.83	0.00	110851.83	46486	02/25/19
100456	DUBOIS & KING INC	219226	36804.57	0.00	36804.57	46487	02/25/19
310760	FUSS & O'NEILL INC	0208939	9320.37	0.00	9320.37	46490	03/08/19
310760	FUSS & O'NEILL INC	209817	13742.17	0.00	13742.17	46491	03/08/19
Report Total			170,718.94	0.00	170,718.94		

Selectboard

To the Treasurer of TOWN OF BRANDON, We Hereby certify that there is due to the several persons whose names are listed hereon the sum against each name and that there are good and sufficient vouchers supporting the payments aggregating \$ \*\*\*170,718.94  
Let this be your order for the payments of these amounts.

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