

**Brandon Select Board Meeting
September 9, 2019**

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

Board Members In Attendance: Seth Hopkins, Brian Coolidge, Tim Guiles, Doug Bailey, Tracy Wyman

Others In Attendance: Dave Atherton, Mike Frankiewicz, Brent Buehler, Russell Jones, Richard Kirby, Steven Zorn, Dennis Reisenweaver, Charles Powell, Ray Jobst, Steve Bissette, Bernie Carr, Barry Varian

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

The meeting began with a moment of silence in recognition of the 9/11 anniversary.

1. Call to order

a) Agenda Adoption – Motion by Doug Bailey/Tracy Wyman to adopt the agenda. **The motion passed unanimously.**

2. Approval of Minutes

a) August 26, 2019 – Select Board Public Hearing and Select Board Meeting

Motion by Tracy Wyman/Brian Coolidge to approve the August 26, 2019 Select Board Public Hearing and Select Board Meeting minutes. **The motion passed unanimously.**

3. Town Manager's Report

Dave Atherton provided a report for the weeks of August 26th and September 2nd.

Segment 6 - Two-Week "Look Ahead":

- Segment 'E' and 'F', (generally from Crescent Park area North):
 - . Placement of topsoil/hydro-seeding.
 - . Continued improvements within Crescent park.
 - . Imprinted asphalt crosswalks.
- Segment 'D':
 - . Continued work on retaining wall adjacent to Briggs Lane.
 - . Installation of curb and sidewalk associated with retaining wall.
 - . Night paving of the wearing course, (9/16 - 9/17).
 - . Day paving, (9/19).
 - . Imprinted asphalt crosswalks.
 - . Driveway preparations.
- Segment 'C':
 - . Sidewalk and curb preparations/ installations, (BHOP area).
 - . Night paving of the wearing course, (9/16 - 9/17).
 - . Day paving, (9/19).
 - . Imprinted asphalt crosswalks.
 - . Driveway preparations and pavement placements.

- Segment 'B':
 - . Installation of raised crosswalks, (Lot 'A').
 - . Night paving of the wearing course, (9/16 - 9/17).
 - . Day paving, (9/19).
- Segment 'A':
 - . Water main and services installations.
 - . Stormwater drainage installations.
 - . Roadway box cut and material placement for pavement preparations.
 - . Base course pavement placement, (09/20 - 09/21).
 - . Installation of curbing.
 - . Installation of sidewalks.
 - . Construction of retaining wall, (High Street to the North).
 - . Driveway preparations and pavement placements.

Route 73:

Crews paved on Saturday, 9/7. Paving of the intermediate course of asphalt is scheduled to continue in Brandon the rest of this week and early next week. Paving of the second course of intermediate asphalt is currently scheduled to begin after first course has been completed. Paving operations are dependent on weather and surface conditions, and therefore the schedule may be altered slightly at times. Temporary line striping will follow paving operations. One day of ledge removal work remains and is currently scheduled for next week. Ledge removal is located at the outcropping approximately .25 miles west of the mobile home park. Crews will continue with ditch work, clean up and stone fill in Brandon. This work will be ongoing. Drainage work near the golf course will be completed next week. Guardrail in Goshen will be completed by the end of this week.

Other Happenings:

The Union Street sidewalk project has started. There will be one-way traffic and temporary traffic lights on Union Street for the duration of the project.

Recreation News:

August 30th and 31st we had hundreds of folks come out for our first Estabrook Rock Fest. The first night featured "Brandon Idol - Kids Style" with 13 and under kids singing karaoke and on Saturday, 4 teen bands wowed the crowd. An equipment swap, vendors, race car, Boo-mobile and 20-foot high waterslides made for a weekend to remember. Special thanks to all volunteers who turned out to help make this weekend a success. Next year the Rock Fest will be paired with the Town-wide Yard Sales and it will be a one-day music extravaganza.

All fall youth sport programming is open, and registrations are pouring in. The 1st through 8th grade football, PreK through 6th grade soccer, Youth Aikido, 4th through 6th grade cheerleading and auditions for the fall youth theatre productions have all been going on for past 3 weeks. More youth offerings to come the end of September to include Cross Country Running, Odyssey of the Mind, and Brandon Dance with Middlebury College.

Our first Volunteer Fair is shaping up nicely. Mr. Moore will be meeting with area non-profits to create an opportunity to let folks learn about how to help their community.

Flagship Cinemas Booklets for sale at the Town Office. They expire January 31st, 2021. Only \$25 supports the Rec Department and an awesome deal if you plan to see a movie in the next 15 months!

Dave Atherton reported work has been started on the Churchill Road culvert. The bat study is being done. The box was built and paid for and the Town will be putting out the request to bid for the culvert box. There is engineering

work being done for the Arnold District culvert work and the Town will be applying for a grant through VTrans that will require a 20% match for the project.

Doug Bailey asked if the Town is responsible for the parking lot once the Churchill Road is completed. Dave Atherton advised the parking lot is the Forest Service's responsibility. It was confirmed the project will be done this fall. Mr. Bailey asked if VTrans has approved Mr. Atherton's role for the Segment 6 project and Mr. Atherton advised VTrans has confirmed this change that was sent to the Select Board Chair.

Brian Coolidge has noticed some of the Segment 6 project's trees are dying. There have also been some complaints about the grass. Dave Atherton advised there are warranties on both items, and they will be redone in the spring. Casella is responsible for the subcontractor's work and they are aware there will need to be reseeding and plantings done.

Barry Varian questioned the status of the bottom of Seminary Hill. Dave Atherton stated it has been held up for the final design. It will then have to go to VTrans for their approval that will likely take 6 weeks. The project will probably be done in the spring, but the area will be covered with steel and asphalt so that vehicles will be able to make the turn during the winter.

Dennis Reisenweaver expressed concern that Bill Moore has responsibility for economic development and questioned if it was not as important, as in reading the minutes there is a report about recreation but very little about economic development. Seth Hopkins noted that was not an accurate statement as Mr. Moore comes to the Board when he has a new business owner or a Revolving Loan Fund request. Mr. Hopkins noted these matters are sometimes not divulged due to sensitive information relating to the businesses. Mr. Moore is regularly here with economic development work. The Board has not asked for a report other than an annual report. It was noted that Mr. Moore's time is split between 25% economic development and 75% recreation.

Dick Kirby questioned the schedule for the Park Street project. Dave Atherton advised that it will begin the spring of 2020. The contract has been awarded to Markowski, but there is not time to do it this year. Mr. Hopkins noted the Park Street work with the State Revolving Water fund will be 2020, but the State's final course of pavement will be the following year. The pavement that will be done next year will be base paving, but the final wearing course will not be done until the spring of 2021. The final paving will be included in VTrans's Class I Road Paving schedule.

4. Public Comment and Participation

Seth Hopkins advised that all meetings of the Select Board are for the Board's discussion, however, the public is afforded reasonable comments as long as order is maintained. Comments are to be addressed to the Chair and the public must be acknowledged by the Chair or Board as a whole.

Mr. Hopkins advised that after 25 years as an elected lister or assessor's assistant, Delores Furnari has retired. Ms. Furnari has been someone that many people have dealt with and the Town owes her a debt of gratitude and wishes her the best in her retirement.

Tracy Wyman asked what the plan will be going forward for the rest of the sidewalks such as those on Pearl Street and Carver Street. Dave Atherton advised this will be discussed, with the possibility of using some of the 1% option tax funds. It is something that previously has been in the annual budget but has not been budgeted for a while. Seth Hopkins suggested discussing this item during budget time, due to the expense of sidewalk work. Mr. Atherton advised the Town can apply for the Safer Routes to Schools grants that will assist with funding the projects.

Charles Powell read the following:

"To gain some understanding of the \$22,000 payment to Mr. Burlett, we have reviewed the minutes of previous selectboard meetings. We have the following questions and observations that we would like entered in this week's minutes.

- 1) *The Brandon Reporter quoted Town Manager David Atherton as saying he was not authorized to approve the payment to Daryl Burlett. The select board minutes of May 8, 2017 state that, according to the VCLT attorney, the town manager has the authority to make such payments under the Prompt Pay Act. Both of these statements can't be true.*
- 2) *The August 29th Addison Independent quoted Mr. Atherton as saying the \$22K payment was a mileage reimbursement. At the current IRS reimbursement rate of 58 cents a mile, that would cover 39,750 miles. That means Mr. Burlett made almost 32,000 trips from one end of town to the other.*
- 3) *Since the Warrant on July 29, 2019 was presented to the Select Board, that would indicate that the five review parties had approved the \$22K payment. Otherwise it would not have been presented for payment. Is that a correct assumption?*
- 4) *How could this payment request pass through each of the five entities, including engineers, only to be stopped by the Select Board without anyone questioning this outrageous mileage figure?*
- 5) *What was the "miscommunication with the Segment Six administration" that Mr. Atherton alluded to in the August 27 Rutland Herald article?*
- 6) *If the process of paying invoices before they went to the Select Board was an anomaly, how many other times has such an anomaly occurred?*
- 7) *Who, with experience, is auditing the road project finances for the Town of Brandon?*
- 8) *In all the places I've lived, a Public Works Director would be supplied a truck, usually with flashing lights to be able to survey traffic jobs safely. Is that not the case in Brandon?*

Respectfully submitted,

Charles Powell, Brent Buehler, Steven Zorn"

Seth Hopkins stated these are reasonable questions and the matter is now in the hands of attorneys. When the Select Board met in an executive session, at the point Mr. Burlett resigned, it was due to the Town's action to seek an attorney, which discussion would not be held in public session. This is public money and the Select Board has a fiduciary responsibility for the money that has been entrusted to them. The Board must adhere to the process that is in place that requires some confidentiality. Mr. Powell wanted the questions recorded in the town minutes. Brent Buehler asked if the warrant had been sent through the channels before it was approved. Mr. Hopkins advised the warrant did go through the process. When the contractor has an expense, they are the first one to approve it, but Casella may not have seen the bill. The inspecting engineers review the bills that come from the contractor, and again, the engineers have not seen it. The municipal project manager must examine and approve or disapprove the bills, which was Mr. Burlett, and he authorized the invoice. At that point, it goes to the bookkeeper for the checks to be prepared. Doug Bailey and Seth Hopkins met with the treasurer and were advised the town treasurer authorizes the checks that have been assigned by town departments. They are presented to the town treasurer as a matter of statute. At that point, the invoice becomes a warrant, which is a list of checks that come to the Select Board. A normal warrant not Segment 6 may take two weeks, as the Board signs the warrant authorizing the treasurer. With the Segment 6 warrants, because of the Federal Prompt Pay requirement, the Board meets after checks have been dispersed. Mr. Atherton noted that he was on vacation during the time of this transaction. Mr. Powell noted concern that the payment of \$22,000.00 for mileage was paid without question and noted that the IRS allowance for mileage would come out to a shocking number of trips for this amount of payment and questioned whether the Town employee was censured for approving without Mr. Atherton's approval. Mr. Hopkins noted that it is not the authority of the Select Board to advise whether employees are reprimanded.

Russell Jones advised that he did not quote Mr. Atherton saying it was for mileage and noted those were Mr. Jones' words in the newspaper.

Seth Hopkins stated the Board has retained legal counsel and there is a matter of significance that the Board intends to resolve and welcomes the public's participation in holding the Board responsible for fiduciary responsibility. Mr. Hopkins suggested the questions should be forwarded to the Town's attorney for answers. Mr. Hopkins is confident the Town has done nothing inappropriate and this will be resolved in a matter where there will be no loss to the Town. Mr. Bailey hoped that the questions can be answered in public session in the near-term future. Mr. Hopkins noted steps have been taken and the process has been revised so that this will not happen again.

5. Designate Voting Delegate for Annual VLCT Business Meeting

Dave Atherton requested the Select Board designate a voting delegate for the annual VLCT Business meeting to be held Wednesday, October 2nd.

Motion by Tim Guiles/Doug Bailey to appoint Dave Atherton as Brandon's voting delegate for the VLCT Annual Business meeting on October 2nd. **The motion passed unanimously.**

6. Appointment of Alternate Representative for SRF Park Street

Dave Atherton advised this request is for the Clean Water State Revolving Loan Fund monies for the Park Street project. A representative and alternate representative are required for the project and Mr. Atherton recommended Jacqueline Savelle be appointed as the alternate.

Motion by Tracy Wyman/ Brian Coolidge to appoint Jacqueline Savelle as the Alternate Representative for the Park Street project. **The motion passed with one no vote – Doug Bailey.**

7. Fiscal

a) Warrant – September 9, 2019 - \$92,058.20

Motion by Tracy Wyman/Brian Coolidge to approve the September 9, 2019 warrant in the amount of \$92,058.20. **The motion passed unanimously.**

Doug Bailey questioned the warrant for Stearns Services. Dave Atherton advised the Town no longer uses NEMRC for payroll and now uses Stearns Services for consulting services.

b) Route 7 Construction Warrant – September 9, 2019 - \$569,495.72

Motion by Brian Coolidge/Tim Guiles to approve the September 9, 2019 Route 7 Construction warrant in the amount of \$569,495.72. **The motion passed with one abstention – Tracy Wyman.**

Doug Bailey questioned whether it is necessary to act on this considering the current situation. Dave Atherton advised that the Board still must approve the expenditures. It was noted the prompt pay is only if the meeting does not fall within 7 days and none of these invoices are in arrears and the Town has 7 days from the date of the invoice. Mr. Atherton advised the Town is not able to dictate when they send invoices.

c) Bridge 114 Warrant – September 9, 2019 - \$2,197.64

Motion by Tracy Wyman/Doug Bailey to approve the September 9, 2019 Bridge 114 warrant in the amount of \$2,197.64. **The motion passed unanimously.**

Dave Atherton advised that some of what was left is for the slab. A balancing change order was done, and it is now part of the slab work within the Segment 6 project.

The Select Board recessed at 7:40PM.

The Select Board reconvened at 7:52PM.

Motion by Brian Coolidge/Tracy Wyman to enter executive session at 7:52PM in accordance with 1 VSA 313(a) (3) - Appointment or employment or evaluation of a public officer or employee with the session to include the Town Manager. **The motion passed unanimously.**

7. Executive Session

The Select Board came out of executive session at 8:30PM. There was no action required.

8. Adjournment

Motion by Brian Coolidge/Seth Hopkins to adjourn the Select Board meeting at 8:31PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant
Recording Secretary