

## **Brandon Select Board Meeting January 27, 2020**

**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, Sue Gage, Mike Frankiewicz, Richard Russ, Brent Buehler, Steve Bissette, Chris Brickell, Jeff Thurston, Allie Walters, Lee Kahrs, Bernie Carr, Bill Moore, Dick Kirby

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

### **1. Call to order**

*a) Agenda Adoption* – **Motion** by Brian Coolidge/Tracy Wyman to adopt the agenda, as amended. **The motion passed unanimously.**

Add 6A – To receive the Town Farm Road Traffic Study

Add 8A – Request to approve Certificate of Highway Mileage

### **2. Approval of Minutes**

*a) Select Board Meeting – January 13, 2020*

**Motion** by Tracy Wyman/Tim Guiles to approve the minutes of the January 13<sup>th</sup> Select Board meeting. **The motion passed unanimously.**

### **3. Town Manager's Report**

Dave Atherton provided a report for the weeks of January 13<sup>th</sup> and 20<sup>th</sup>, 2020.

#### ***Segment 6:***

Handrail installation continues through the downtown. The fabricators had an issue with making the ones in front of the Brandon House of Pizza and they should be here this week. There has been discussion on the condition of the new concrete sidewalks and what is causing the spalling on the surface. We have VTrans and D & K engineers looking into it.

#### ***Other happenings:***

The Churchill Road Culvert project went out to bid on the 24<sup>th</sup>. We will have a mandatory pre-bid meeting on February 12<sup>th</sup> and bid opening on February 21<sup>st</sup>. There is quite a bit of interest in it already. Mr. Atherton has submitted a grant application to VTrans for the replacement of the Arnold District Road culvert. Mr. Atherton will be getting a cost estimate and scope together to apply for a FEMA/Hazard Mitigation grant for the replacement of the North Street bridge. This bridge was listed in the VERI report in 2015 as being undersized. The Town will have a meeting on Tuesday the 29<sup>th</sup> with Wright Construction to discuss options for a roof over the sidewalk at the Town Hall. Also, the FOTH will contribute \$10,000 towards the construction costs. Congressman Peter Welch visited us on the 23<sup>rd</sup> to take a walk through downtown to see the Segment 6 progress and stop by a few of our local businesses for a chat. He was impressed with our transformation of the downtown.

Seth Hopkins commended the Town Manager regarding the grant for the North Street bridge as the bridge has caused some difficulty and it is great that there is someone to do the preliminary work for the scope. This is an important piece of infrastructure to prioritize. Mr. Atherton hopes to also get a functioning sidewalk on that bridge as a connection to the Neshobe School.

Doug Bailey was pleased to learn that the Town is getting a roof over the sidewalk at the town hall.

Tracy Wyman asked when the culvert will be done on the Leicester Hollow bridge. Mr. Atherton advised the Town needs to obtain approval from Stream Alternations and depending on the contractor's availability, the footings will be done.

Bernie Carr reported Congressman Welch was very impressed with the various entities involved in the Route 7 construction process that included the Select Board, Town Manager and Public Works Department. He noted if Washington had that this type of cooperation, it would get a lot done. He was very impressed and complementary.

Mike Frankiewicz asked if there could be a Newton Road street sign placed at the end of Town Farm and Newton Road. Mr. Atherton will look into this request as he thought there was one at that location.

Dick Kirby noted concern with the snow that is piled up between the road and the sidewalks downtown. He saw some people get out of their cars and had to walk up the road before getting on to the sidewalk. He stated it is a hazard and the stairs in some of the businesses are still covered with snow and ice after the storms. Seth Hopkins stated there is a Winter Operations policy with priorities for the Town's staff. Dave Atherton stated there were some complaints about steps that he addressed with the DPW employees. They are checking them as they can, but there have been a lot of ice events. The businesses own their steps and it is the responsibility of the businesses to clean them off. Mr. Kirby stated the black grates around the trees are also slippery when they are wet. Bernie Carr stated the Chamber has not had a conversation about this subject, but he will meet with the Town Manager to obtain some direction and will draft a letter to the businesses encouraging them to clear the areas

around their entrances. It was noted that Café Provence has a long area that needs to be cleared. Mr. Atherton stated the Town usually does some clearing after storm events, but there is only one person that is on duty for sidewalks. Mr. Hopkins suggested some collaboration with the businesses would be good. Mr. Atherton noted there are 86 miles of roads to plow by four staff members and is a lot of work to do and maintain. It was noted that the clearing downtown cannot be done during the day with cars parked along the road. Brent Buehler stated it seems the roadway is narrower since the project and walking behind is probably not safe to do.

Mr. Buehler questioned if the Park Street plans will be posted to the Town's website and Mr. Atherton noted the project has gone out to bid and should be posted. There is also a full set of plans in the Town Office.

Mike Frankiewicz asked when the Mobil Station and Dunkin Donuts will be coming to Town. Mr. Atherton stated it is hoped the project will begin this spring and be open by the end of the summer. Mr. Carr suggested it would be good to have the demolition done prior to the summer months. Mr. Atherton has heard that the project would start in April.

Sue Gage questioned when the slab work would be started and whether it would be around the time of voting. Mr. Atherton reported they will not start the project until the weather is good, as they have to get into the river, and it is anticipated the project will be done before November.

Jeff Thurston noted concern about the truck access up Seminary Hill and advised that he has spoken to Bernie Carr about this subject. Currently, when trucks are accessing Seminary Hill from the south, it is a dangerous situation for pedestrians due to the current width of the road. There is an issue with trucks coming up Prospect Street. There is one trucking company that will not come up to his facility anymore. Mr. Thurston noted that on average, there may be two trucks per day to his facility. Mr. Thurston stated until the Seminary Street area is fixed, the Town is going to have to be patient with the trucks when they are coming from the south and turning up Seminary Street and asked if there is anything that can be done about it. Seth Hopkins stated traditionally Prospect Street has been posted "No Trucks". Dave Atherton advised Seminary Street will be significantly wider once the slab project is completed and the current access is very temporary. Mr. Thurston advised that he has invested a lot of money in the building and is concerned with the trucking situation. Mr. Atherton advised the slab issue was not part of the Route 7 project and it is hoped to get it done by fall. Mr. Thurston stated the trucks coming from the north can maneuver Seminary Street, however, the ones coming from the south might not want to make the turn and there should be something more done on the sidewalk, perhaps painted orange. Mr. Thurston stated Walnut Street is possible to maneuver but West Prospect Street can be difficult with the curves, but sometimes the trucks have to go up that road. Tracy Wyman agreed with the issue of the width of the road, however, one of the truckers that received a ticket from the Town was going too fast and it was bothersome to him the way he came off Route 7. Mr. Atherton also advised that during the slab project, Seminary Street will be only one lane. Mr. Wyman agreed with Mr. Thurston that it is difficult at this point for trucks to make a

turn from the south. Mr. Atherton advised that the road will be going back to the same width it used to be once the repair has been done. Mr. Atherton suggested opening up West Prospect Street to trucks and placing signs temporarily until the bridge slab is done. Mr. Thurston will call the trucking companies to assure that they are coming up the right way. Mr. Atherton advised the Seminary Street area has been compromised and there are currently three iron plates under the temporary pavement. Mr. Atherton stated it might be best to make the change now, as Seminary Street will be reduced to one lane for the project. Mr. Atherton will talk to the engineers to see if something can be pushed back, and if not, there will have to be consideration of using West Prospect Street for trucks. Mr. Thurston noted he wanted to advise the Town of the safety concerns.

**Motion** by Doug Bailey/Brian Coolidge to open West Prospect Street to trucks for the duration of the Seminary Street reconstruction.

Mr. Bailey stated it is not a good solution, with the curves, but he does not see another option. Tracy Wyman suggested advising the truckers in the event of inclement weather to have caution. Jeff Thurston stated there are approximately 2 trucks per day that travel to the facility and they will do the best that they can with the truck traffic.

Brent Buehler suggested notifying the public before taking the No Truck signs down on Prospect Street. Seth Hopkins asked Lee Kahrs of The Reporter if she could make note of this in the paper.

**The motion passed unanimously.**

Seth Hopkins suggested doing a pedestrian safety notification. Dave Atherton advised there was a cone placed in the area, but he does not want to place a barrel in the area as they will likely get knocked over.

#### **4. Public Comment and Participation**

Bill Moore reported there are many activities happening at the town hall. During the week there is ping pong, table tennis, a cornhole league and exercises. This week there will be a Children's Karaoke Bounce House Party. The Griff will be performing on February 8<sup>th</sup> and the next Brandon Idol will be on February 15<sup>th</sup>. Movies are shown on Sundays. Seth Hopkins noted this is a great use of the town hall. Mr. Moore thanked the Friends of the Town Hall for keeping the town hall in such good shape.

#### **5. Statement on DPW Director Resignation**

Seth Hopkins read the following statement regarding the DPW Director's resignation that the Board drafted. The Board could not release this statement until now due to a request from the Town's attorney.

*“The Brandon selectboard wishes to advise the townspeople of the resolution of the matter of public works director Daryl Burlett’s August 2019 resignation. The Town of Brandon has been legally represented by its attorney, Constance Tyron Pell of Carroll, Boe & Pell, PC; and further assisted by its insurers, the Vermont League of Cities and Towns (VLCT) through manager of claims Kelly Kindestin. Mr Burlett has been represented by his own attorney.*

*The Town has received an insurance claim in the amount of the check in question less our deductible. The Town has further sought reimbursement of legal costs incurred in resolving this matter and has been advised by VLCT that reimbursement of those costs is forthcoming to the Town as well. The Town’s loss is now subrogated to VLCT.*

*Mr Burlett served the Town of Brandon as full-time director of Public Works from March 10, 2015, through August 22, 2019. His resignation on that date followed the selectboard’s decision to decline to authorize payment of a mileage reimbursement invoice he submitted for the US Route 7 Segment Six project. This invoice appeared on the board’s Segment Six warrant at its July 29, 2019 meeting, and began several weeks of attempts by the town manager and selectboard to resolve our difference with Mr Burlett regarding whether he was due mileage. Noteworthy is that this situation involves one single invoice and check, not a pattern nor a series of transactions.*

*In general, the public works director would use a town vehicle for travel related to performing his duties. For reasons of his own, Mr Burlett requested of the town an exception to that practice, whereby he would use his personal vehicle for travel related to performing his duties and would use fuel from the town’s fleet fuel tank for his personal vehicle. Mr Burlett’s request was brought to the board by the town manager as a matter of information and was approved by the town manager as Mr Burlett’s direct supervisor, with the assent of the board. All fuel usage for all town vehicles and for Mr Burlett’s personal vehicle was correctly logged and regularly reconciled by town office administrative personnel throughout Mr Burlett’s employment by the Town. Mr Burlett is the only town employee who used a personal vehicle and town fuel in this manner, and the only town employee who was authorized to do so.*

*As has been a matter of public record, the federal prompt pay requirements for Segment Six mean that from time to time invoices must be paid between regular board meetings to authorize/sign warrants. Board minutes of April 24, 2017 indicate the process for authorizing invoices begins with the contractor, then requires approval by the consulting engineers and then the municipal project manager, Mr Burlett, before coming to the board. Board minutes of May 8, 2017, include the town manager’s report of a legal opinion from attorney Sarah Jarvis at VLCT that selectboard may delegate to the town manager authority to sign orders not drawing on the general fund (Segment Six is a special voter-authorized highway fund), per 12 VSA 1236. In order to meet the prompt pay requirement and to avoid using an interest-incurring line of credit, the board voted to authorize the town manager to sign these orders and authorize payment, with the warrants coming to the board at its subsequent meeting. The Town pays 100% of invoices, and then submits the same invoices to VTrans for reimbursement of 95% upon VTrans approval. VTrans uses Federal Highway funds and VTrans funds to reimburse the Town and is the authorized Federal Highway administrator for this project. A professional public infrastructure finance team at VTrans continuously examines and audits the Segment Six*

*expenses in their role as fiduciary for the Federal Highway funding involved, and these audits have concluded successfully with no findings (aka “clean audits”). VTrans is further subject to Federal Highway oversight and review. The Town submitted and then withdrew this invoice for mileage and will not submit any revised invoice for mileage. The July 10, 2017, minutes reflect further discussion of the process for prompt pay of Segment Six, and resulted in a failed motion requesting formal documentation of the process.*

*In the context of the preceding paragraph, the town manager regularly examines and approves Segment Six invoices that have been submitted by the contractor and approved by the engineers and municipal project manager. Such invoices exceed his usual spending authority of \$10,000 but were specifically authorized by board vote on May 8, 2017. The town treasurer signs check that make payments authorized by the selectboard or in this case the town manager as the selectboard’s designee. The \$22,011 invoice presented by Mr Burlett which reached the board on July 29, 2019, had not been reviewed by the contractor or the engineers because it originated “higher” in the chain than their places in the chain. It originated with Mr Burlett himself as municipal project manager. It had not been authorized by the town manager, who had directed Mr Burlett to obtain pre-clearance from VTrans for any mileage invoice he anticipated submitting. Mr Burlett advised the town manager that he would do so. The Town has since learned that VTrans had already advised Mr Burlett not to submit for mileage in the way he was contemplating, as it would not be approved.*

*Between July 29 and August 22 the town manager attempted to resolve with the town’s employee Mr Burlett the conflict between the board’s refusal to authorize mileage to Mr Burlett and the fact that the check had already been issued to Mr Burlett without proper authorization. Mr Burlett resigned on August 22, and the town manager continued to attempt recovery of the funds. On September 5, the Town was advised that Mr Burlett had obtained legal representation, and from that point, the Town’s attorney and Mr Burlett’s attorney have been in correspondence. The Town also pursued a loss claim with its insurers, VLCT, who are investigating the matter.*

*The Town appreciates the patience of the townspeople as the professionals who protect the Town’s interests have been working on our behalf. At this time, the selectboard considers the matter resolved. The Town has received the full amount of the check in question and has been advised we will receive the full amount of our legal expenses. The Town’s loss in this matter consists of our insurance deductible of \$1,000 and a considerable amount of time and effort by the selectboard, the town manager, town attorney, and town insurer. We believe this is the best possible outcome to resolve this matter with the least harm to the Town.*

*Respectfully submitted,  
Seth Hopkins, chair, on behalf of Brandon Selectboard”*

Mr. Hopkins noted the Board appreciates the patience of the community, but the professional advisors were of the opinion it would be best to first resolve the money issue and recovery of the loss, prior to the announcement.

## **6. Appointment of Animal Control Officer**

Dave Atherton reported Margaret Kahrs has submitted a letter of interest and has spoken with Chief Brickell concerning the Animal Control Officer position. It would require Select Board approval for the appointment. Seth Hopkins noted Ms. Kahrs has also spoken previously with the Select Board concerning the position.

**Motion** by Doug Bailey/Tracy Wyman to appoint Margaret Kahrs as the Brandon Animal Control Officer. **The motion passed unanimously.**

Seth Hopkins, on behalf of the Select Board, thanked Ms. Kahrs for her interest in serving and thanked the Police Department for taking on this responsibility while there was not an Animal Control Officer on staff.

## **7. Town Farm Road Traffic Study**

Dave Atherton reported the traffic study has been received from the Regional Planning Commission that was requested due to some issues with truck traffic on Town Farm Road. The traffic study was done between October 11<sup>th</sup> and October 18<sup>th</sup> and the data from this study is included in the document. There had been a discussion of possibly lowering the speed limit, however it is not recommended that this be done, as it does not appear to be a problem. Seth Hopkins advised that the Town can share the information with anyone who is interested in viewing it. The Town has a posted speed limit of 35mph, although the recommendation was not setting speed limits on Class 3 gravel roads. The report indicates the average speed was 29mph and it seems the speed limit is not going to change the behavior of the drivers. Tim Guiles stated part of this conversation was to determine if the Board could do something that the people would like to see and perhaps a modest gesture could be to reduce the limit. Mr. Atherton stated last week he received an email about the condition of the road, and he drove from Leicester to Brandon and noted the road was plowed wide and was in pretty good condition. Even with truck traffic, there were no ruts in the road, and they don't seem to be causing an issue for maintaining the road. The trucks have to go by someone's house and the dirt portion of Town Farm Road is the shortest distance to Leicester and the road foreman would rather have them on the dirt rather than the pavement. There are no other solutions as it is accessed by the public and used by the public and is no different than any other road. Mr. Atherton would like the road to be left as is, as there has been an attempt to change a few things but closing the road to trucks is not viable. Doug Bailey stated the report indicates 82% travel at or below the posted speed limit and in a five-year time span there have been only 2 accidents on the paved portion of the road. Mr. Bailey did not think going to 30mph will change anything and suggested getting the information posted so that people can review it. Mr. Atherton will post the traffic study on the Town's website.

**Motion** by Tim Guiles/Doug Bailey to reduce the speed limit on the dirt portion of Town Farm Road to 30mph.

Tim Guiles stated in trying to look for a compromise, lowering the speed limit to 30 mph would be a gesture of showing that the Board is trying to find a middle ground. Seth Hopkins noted it would be fixing a problem that does not exist.

Dave Atherton stated the complaints about the road were not speeding issues, rather truck issues, but that is the best way for the trucks to travel out of the area. Chief Brickell cautioned the Select Board in reducing a speed limit as a feel-good measure, as the speed limits are not set because of perception. There has been a traffic study done and if the speed limit is changed when the facts do not show that there is an issue, there will be strict enforcement of speeds on the road. This would be setting the Police Department to do more enforcement when there is not a problem.

**The motion failed – 1 to 3.**

## **8. Approve Town Road and Bridge Standards**

Dave Atherton advised this document has to be adopted every year and there was a re-adoption midyear last year because the State changed the form and is the same form that was approved in August. The document helps when the Town is applying for State and Federal grants, with Newton Road being a good example. It was confirmed the document is unchanged from what was approved a year ago. Tim Guiles would like to see the inventory of the deficiencies and Mr. Atherton advised the information is available at the Town Office. Mr. Guiles noted the Board has talked about determining a five-year plan on what is needed for upgrades.

**Motion** by Doug Bailey/Tracy Wyman to approve the Town Road and Bridge Standards as presented. **The motion passed unanimously.**

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

Dave Atherton advised this motion is required to certify that the Town has a network inventory.

**Motion** by Doug Bailey/Brian Coolidge to approve the Certification of Compliance for the Town Road and Bridge Standards. **The motion passed unanimously.**

## **10. Approve Certification of Highway Mileage Year Ending February 10, 2020**

Dave Atherton advised there are a couple of changes due to the Segment 6 project with Carver Street, Union Street, Park Street and the little cut off on Pearl Street. Mr. Atherton advised the area in front of the Brandon Inn is going to be Town Highway 2 and will be designated Class 3. Mr. Atherton reported he has worked with VTrans on this item and has reviewed it. There are no changes to Class 4 highways or legal trails. The entire package is available at the Town Office.

**Motion** by Tracy Wyman/Brian Coolidge to approve the Certification of Highway Mileage Year Ending February 10, 2020. **The motion passed unanimously.**

Mr. Atherton noted there is a sizable amount of funds received from the State for Class I roads.

## **11. Approval of Town Meeting Warning**

Sue Gage advised the warning has been reviewed and she had nothing further to add. Seth Hopkins reviewed the warning and noted the meeting is scheduled for March 2<sup>nd</sup> to provide a



budget presentation, with voting to take place on Tuesday, March 3<sup>rd</sup> by Australian ballot for the budget and appropriations. Mr. Hopkins thanked the Town Clerk for preparing the warning.

**Motion** by Brian Coolidge/Tracy Wyman to approve the Town Meeting Warning as presented. **The motion passed unanimously.**

## **12. Fiscal**

### ***a) Warrant – January 27, 2020 - \$110,465.65***

**Motion** by Brian Coolidge/Tim Guiles to approve the January 27, 2020 warrant in the amount of \$110,465.65. **The motion passed with one abstention – Tracy Wyman.**

Doug Bailey questioned if the invoice for Root-X was for the Wastewater Department. Dave Atherton confirmed it was for that department and noted that past practice was to purchase one box at a time with a shipping cost of \$60.00. The Department purchased twenty boxes with a total freight cost of \$200.00, which was a significant cost savings.

### ***b) Route 7 Construction Warrant – January 27, 2020 - \$35,166.41***

**Motion** by Tracy Wyman/Brian Coolidge to approve the January 27, 2020 Route 7 Construction warrant in the amount of \$35,166.41. **The motion passed unanimously.**

## **13. Adjournment**

**Motion** by Tracy Wyman/Brian Coolidge to adjourn the Select Board meeting at 8:13PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant  
Recording Secretary