

Brandon Select Board Meeting February 10, 2020

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

Board Members In Attendance: Seth Hopkins, Tim Guiles, Doug Bailey, Tracy Wyman, Brian Coolidge (arrived towards end of meeting)

Others In Attendance: Dave Atherton, Mike Frankiewicz, Brent Buehler, Chris Brickell, Allie Walter, Lee Kahrs, Bernie Carr, Bill Moore, Richard Russ, Barry Varian, Erynn Doaner, Andy Doaner, Ralph Ethier

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

1. Call to order

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

Addition of 7a – Discussion of BLSG Report in the Town Report

2. Approval of Minutes

a) Select Board Meeting – January 27, 2020

Motion by Tim Guiles/Tracy Wyman to approve the minutes of the January 27th Select Board meeting, as amended. **The motion passed with one abstention – Doug Bailey.**

Page 7 – Item 7: Town Farm Road Traffic Study – a correction to the average speed from 29 mph to 24 mph and a correction to the 2 accidents on the unpaved portion of the road, not the paved portion. The motion relating to the discussion failed 1 to 4, not 1 to 3.

3. Town Manager's Report

Dave Atherton provided a report for the weeks of January 27th and February 4th, 2020.

Segment 6:

Hand railings were installed in the downtown area last week.

Other happenings:

Dave Atherton has drafted a plan for the Town Hall sidewalk roof and will have a construction cost soon. A draft was submitted for the Select Board's information.

Wright Construction will also be repairing the damaged roof on the east side of the Town Hall that covers the old stairwell entrance to the basement. There is a sizable hole in the roof that has ruined a section of the plywood sheathing and the roof shingles. It is hoped to be done for around \$2,000.00, or less.

Mr. Atherton met with Devon Neary at the RRPC to complete a site visit at the municipal parking area behind the Mobil Station. The Town is going to submit a Transportation Grant to VTrans for the construction of the parking area. This grant will cover 50% of the cost if it is awarded. They have looked at doing more storm water mitigation and better lighting. There was discussion of including 24-hour surveillance and a bus stop to make this a Park & Ride friendly area. There is more funding available for storm water mitigation. A rough draft has been developed to submit the proposal.

Mr. Atherton attended the RRPC TAC meeting on 1/30/20. Discussed the Class 1 highway priority list for Rutland County. It was nice to see that all of our Class 1 highway projects are finally off the list.

The Town will have a contractor/engineer preconstruction meeting on March 10th for the Park Street project. There will be a public meeting scheduled soon to discuss the project timeline.

Rec News:

. The new Brandon Rec website is up online. This software is a major upgrade and has a better user interface as well as the ability to use it as the main site for news, calendar and activity listing. Check it out brandonvt.myrec.com.

. The 2020 Middlebury Snow Bowl registrations will be the first of our youth programming that will use our new site. This collaboration with Pittsford Rec has our kids headed to the mountain on a school bus with ski or riding lessons and a half-day pass on the first 4 Sundays in March.

. The town hall was rocking on Saturday night. The Grift always entertains but the real buzz was the up and coming teen band openers, SweetSphinx, featuring a host of talented musicians from 05733. Keep an eye out for them! They will also be playing at the Distillery this Friday.

. February 15th will mark the first of the themed Brandon Idol concerts. For only \$5 admission, you can hear these performers sing country tunes with our live house band. Along with a feature guest performer and a group number, this is a great way to spend a wintry Saturday night. The adult beverages are provided by Mae's and a local AAU team will have concessions. See you there!

. A shout out to the Brandon Area Toy Project and the Neshobe PTO for partnering to host the first “Mom Prom” at the town hall on February 22nd. This is a “Ladies Only” event from 8 – 10PM, before the doors open up for guys. Dressing up and dancing like senior year classmates, the tickets for this and all Brandon Rec events are available online at our new website!

. A February break camp will be hosted at the town hall featuring our Camp Director, Ms. Colleen Wright. From 9AM – 1PM Monday thru Friday, these 5 to 13-year-olds will be line dancing, playing cornhole, watching movies, singing as well as producing some pretty sweet crafts! Drop-ins encouraged!

. As basketball ends, our sights turn towards spring sports. Currently the Rec is looking for volunteer baseball and lacrosse coaches. Please contact your Rec Director with any interest.

Doug Bailey asked if the grant discussed with the RRPC would cover 50% towards paving. Mr. Atherton advised it could cover 50% of the project cost. If this could be done the same time as the Dunkin Donuts projects, it is hoped the paving could be continuous.

Seth Hopkins questioned what the east side of the town hall stairwell is used for and Mr. Atherton advised it is an emergency entrance.

Allie Walter noted the Greenways Committee has had discussions of the town parking lot and asked what the walkability will be from the lot, as it appears there will be only a driveway. Dave Atherton stated the Town has a right of way on the east side of Dunkin Donuts and the project is in the early stages of planning and these details are not known at this point.

Mike Frankiewicz asked if Town Farm Road is going to be repaved. Dave Atherton stated the project will require rebuilding to be done and it is not anticipated it will be done for a while. The shim and overlay paving this year will be done on Park Street Extension, Country Club Road North and Corona Street. If there are funds remaining, a couple of small jobs may be done. Mr. Frankiewicz noted the intersection of Newton Road and Town Farm Road has ice build-up that is hazardous. Mr. Frankiewicz also questioned where the geographical markers are that were in the park that noted longitude and latitude. Mr. Atherton reported the engineers have also looked for them, however, they are gone. It is thought they were removed before the park rebuild; however, they were not owned by the Town. Mr. Frankiewicz stated there was also a mile marker near the Congregational Church that was the marker from which everything was measured from Brandon. Mr. Atherton noted if it was a historical marker, it will have to be replaced.

4. Public Comment and Participation

Doug Bailey requested a discussion about the Select Board handling of either citizens’ suggestions or complaints as they come up. The way they have been handled in this past is to refer them to the Town Manager, as the Select Board does not solve problems on their own. Mr.

Bailey noted this is not a policy, but rather a procedure. Tim Guiles stated he replies to people so that they get a response and forwards comments to the Board. Mr. Guiles concurred that is how the Board operates. Seth Hopkins also concurred that he has a conversation once, after which people would be encouraged to come before the Board. The Select Board represents the entire town and can only act as a board. The Select Board is here to listen as a group and if there is something the Town Manager can act on; people are encouraged to contact Mr. Atherton directly. If there is a matter that someone wants the Select Board to address, the Board as a whole has to hear it. A single Select Board member cannot respond on behalf of the Board. Mr. Bailey stated if clubs or organizations are asking an opinion, individuals can give an opinion, but it is not the opinion of the Board. but any decisions have to come through the open meeting law. Mr. Guiles stated it is important for board members to talk with community members. He supports that no Selectman can speak for the Board, but he encouraged the Board members to get to know the issues and talk with people to explore ideas and solutions and encourage people to attend a meeting. Mr. Guiles stated the Select Board acts as a judicial, legislative and an executive branch. When the Board is operating in a judicial setting, it is important there are not discussions. When operating as a legislative body, he tells people they have to convince three Select Board members for support of something. Mr. Bailey noted concern that many times there is a problem and it is good to solve a problem, but the Select Board members do not have the authority to solve an issue as an individual. If there is a group that wants help and assistance, he agreed that talking with people is good, but there is a fine line where the Select Board members can express their opinions. Mr. Hopkins stated the Select Board members need to be aware of their role. Erynn Doaner questioned the deadline for putting an item on the Select Board's meeting agenda. Dave Atherton advised the Select Board meetings are the 2nd and 4th Mondays each month and the packets are completed the Friday before the meeting. Doug Bailey stated people can also bring something to a meeting for discussion during the Public Comment agenda item. Brent Buehler asked about an issue that might involve a lot of paper to be submitted to the Board. Seth Hopkins stated if a person assembles information and distributes it to the Select Board, it would be up to the Board what forum to address it. Mr. Hopkins noted there is an executive session tonight that involves material that was sent to the Board that involves an official. Mr. Buehler asked when the budget is scheduled to be mailed. Mr. Atherton advised the town reports will be mailed next Wednesday.

Lee Kahrs asked what the towns' financial responsibility was with the animal welfare case. Dave Atherton reported the Town had a financial obligation to assist with costs until the people that owned the animals surrendered them to the court. After that, it was up to the Rutland County Humane Society and Kinder Way Sanctuary. On January 31st, the Town was obligated to take care of the animals and on February 4th the owner surrendered them in court at which time the Rutland County Humane Society and the Kinder Way Sanctuary became financially obligated for the animals. Seth Hopkins noted he was heartened by the animal community as many people with no thought to the expense or inconvenience had taken the animals to their homes and farms and it speaks well of the people who are farmers who take care of animals. Doug Bailey advised that Kinder Way Sanctuary was in town today and are making arrangements to facilitate the animals.

Mr. Buehler asked about the roof repair for the town hall, as the information was difficult to read. Mr. Atherton advised the information is very preliminary and more information will be provided once a cost estimate is done.

5. Appointments

a. BRAVO (Brandon Restorative Justice Program) Coordinator

Dave Atherton received a letter from Tim Guiles expressing interest in being the coordinator for BRAVO that was previously held by Art Doty. Doug Bailey noted the program needs to continue and it made sense to appoint Mr. Guiles as the coordinator. Tim Guiles recused himself from this discussion.

Motion by Tracy Wyman/Doug Bailey to appoint Tim Guiles as the Coordinator of BRAVO. **The motion passed with one abstention – Tim Guiles.**

b. Planning Commission – remainder of 3-year term ending June 30, 2022

Dave Atherton reported Ethan Nelson has resigned from the Planning Commission creating a vacancy on the Board. Mr. Atherton has received a letter of interest from Alison Walter to serve on the Board. Seth Hopkins stated when there is a vacancy, it is usually announced to provide people interested in the position. Mr. Hopkins advised the Planning Commission usually meets the first Monday of the month, however, due to town meeting, they will not be meeting until later next month. Tim Guiles thanked Ms. Walter for her letter of interest but thought that the position should be advertised first.

Motion by Tim Guiles/Tracy Wyman to table the appointment to the Brandon Planning Commission until the next Select Board meeting. **The motion failed with 2-no, 1-yes and 1 abstention.**

Motion by Tim Guiles to appoint Allison Walter to the Planning Commission. **The motion failed with no second.**

Motion by Seth Hopkins/Tracy Wyman to table the Planning Commission appointment until after town meeting. **The motion failed with 2-yes, 1-no and 1 abstention.**

Dave Atherton advised there have been a couple of instances when there was not a quorum for the Planning Commission. Mr. Guiles thought it was the Select Board's job to make an appointment due to the resignation. Mr. Bailey noted that he was abstaining due to the upcoming elections. Mr. Buehler questioned whether the position had been advertised and it was noted that it had not been advertised. Mr. Hopkins stated with the announcement of the vacancy this evening, it would provide notice as it has not been past practice to place a paid advertisement for these positions. Mr. Hopkins advised that if the motion does not pass with three votes, it can be reconsidered at the next meeting. Mr. Moore confirmed the item could be revisited at the next Select Board meeting as a fresh issue. Mr. Guiles and Mr. Bailey thanked Ms. Walter for submitting the letter of interest. Mr. Bailey thought that abstaining was the correct thing to do.

6. Approval of Certificate of No Appeal or Suit Pending

Dave Atherton advised the certificate has been received from the assessors indicating the Town has no appeals or suits pending.

Motion by Tim Guiles/Doug Bailey to approve the Certificate of No Appeal or Suit Pending as presented. **The motion passed unanimously.**

7. Approval of Policy on Consideration of State & Federal Matters

Seth Hopkins provided a draft of the policy for consideration, noting this was the first past at creating the policy. Mr. Hopkins stated there have been some towns geographically near Brandon that have taken position on matters that are outside the authority of a select board. He noted the Select Board's functions relate to finances, personnel and policy over the Town and will get into trouble when getting involved in amendments to the Constitution. Mr. Hopkins offered this as a policy to consider and advised it was not directed towards any controversial issue or policy. Doug Bailey suggested considering action on the policy at a subsequent meeting to provide the Board time to review and discuss it. Mr. Hopkins read the following:

***“Policy on Consideration of State &
Federal Matters
TOWN OF BRANDON, VERMONT***

A. PURPOSE

This policy expresses the sense of the selectboard (hereinafter, "board") regarding the propriety of board discussion, board-facilitated discussion by the public during board meetings, and board action related to matters over which the board is granted no authority in the Vermont Statutes.

B. BACKGROUND

Vermont municipalities and the officers thereof are granted those powers specified by the Legislature, and no other ("Dillon's Rule").

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

§ 872. The selectboard has no authority to speak for the Town on matters outside this remit. Such matters properly reside with state and federal elected officials and judges.

This policy is adopted at a time when no specific petition/motion/discussion is before the board, with a view to consider and enact a policy at a time when the board may fairly choose a dispassionate and impartial course. The board is likely to be presented with opportunities in the future to take positions on issues

of varying levels of controversy and having such a policy in place beforehand may helpfully inform the board's response upon future occasions.

Harmony is essential to efficient operation of the selectboard. Debate of controversial issues over which the board has no authority tends to undermine harmony as well as rob the board of the time it rightly devotes to matters under its purview: the efficient operation of the Town of Brandon through financial, personnel, and policy oversight.

C. POLICY

Therefore, it is the policy of the board that on matters including but not limited to the federal or state constitutions, law, or policy, which are not clearly relevant to the board's charges in statute:

- 1.the board will take neither action nor position*
- 2.the board will decline requests to consider petitions or deliberate thereon*
- 3.the board will not permit public debate to consume undue time at its meetings*

This resolution may be waived in any instance or rescinded in its entirety by majority board vote.”

Motion by Seth Hopkins/Doug Bailey to approve Consideration of State & Federal Matters policy for discussion purposes.

Tim Guiles stated he likes Dillon’s rule in the State that sticks to the matters that the Board can approve and noted the gun sanctuary movement is the most problematic element the policy could address. Mr. Guiles had two issues with making a policy as he thought that when there are issues extending beyond the Town that are State or Federal, the Board could have an opinion. A Select Board has a different amount of weight and an opinion could be important in moving a public issue, such as attracting businesses to the Town. The Board might also have a position about a State law that hurts Brandon’s interest and at the State level, an opinion from the Select Board could provide information. This does not imply the Select Board has authority, but it is not inappropriate to have an opinion to move public discourse. The public can ultimately vote the Select Board out of office if they don’t feel the Board is accurately serving. Mr. Hopkins stated attracting business or state law are things the Select Board can already do and would not be prohibited to do, as economic development is a municipal function. The Board has had difficulties with the way the State had handled some items that also fall under the Board’s supervision of the Town and the Board has advocated in the past about taxation at the legislative level. Mr. Guiles stated there are some cases where the Board doesn’t have authority but could have reason to have an opinion and this policy seems to err on the side of limiting debate. Mr. Guiles stated the Board already has a process to handle discussion. Mr. Hopkins thought public debate is appropriate and meeting attendees have a right to do that to a point where they start consuming too much time. The VLCT recommends that times are placed on each agenda item, however, Mr. Hopkins was not in favor of this option as it stifles debate though a number of boards do limit agenda items. Mr. Guiles stated the Board can’t act on items where they have no

authority, however, he felt it is a mistake to decline a request as it is erring on the side of cutting off conversation rather than encouraging it. The Board has a process to limit debate when it is consuming too much time. Doug Bailey stated the gun issue in Pittsford is what is bringing this forward, however, in the past there had been a discussion of the marijuana issue. He stated Vermont is not that large and thought the Town should follow the State, and not become a sanctuary town. Mr. Guiles noted the policy is really saying that we are a town that is following Dillon's rule. Mr. Hopkins noted it is specifying Dillon's rule further and he finds the need for it. The Board deals with finances, personnel and policies of the Town, but there are towns that have decided to enter into further discussions. Mr. Hopkins does not want to see the Board become divided and get caught in the middle of constituents who would be better served bringing their issues to the legislative branch. Bernie Carr stated the Town dealt with an issue like this, where Brandon did not believe that corporations were people and it was brought up at the town meeting and voted upon. He noted the will of the people can be heard in that manner. Mr. Hopkins stated this is only directed to the Select Board and the town meeting is superior to the Select Board. Mr. Carr stated it would be a non-binding resolution at the town meeting. Mr. Hopkins stated there is no superior body at town meeting, and it does not provide the Select Board to speak for them. Mr. Guiles believes that a certain amount of conflict can be healthy, and he is not sure he agrees that having a debate is harmful and supports his idea of nurturing discussion. Mr. Hopkins stated there are plenty of matters that can be discussed, and it is an unnecessary danger to open things up that the Select Board cannot resolve. Mr. Carr reiterated town meeting could be the area for the voice.

Motion by Doug Bailey/Seth Hopkins to postpone this agenda item to the next meeting. **The motion passed unanimously.**

7a. Discussion of BLSG Report in Town Report

Tim Guiles reported that Salisbury has decided to remove one paragraph from the BLSG town report, and it has been approved by the BLSG. He noted there have been some problems with the public health message with regard to mosquito control. The State has advised the BLSG to not make health claims about it being a health program, as it is primarily a nuisance program not a health program. Seth Hopkins stated the adulticide program is a health program and the BLSG's focus is larvicide. Though they do truck-mounted spraying, it is not their primary focus. Mr. Guiles stated there is a State program in charge of monitoring health issues surrounding mosquitos and they have advised the BLSG to not claim health benefits from mosquito spraying. Mr. Guiles asked the Select Board to consider the same solution as Salisbury to remove one small paragraph that was approved by the BLSG. Dave Atherton stated Salisbury is voting to also get out of the BLSG. Mr. Atherton stated the Town has never changed anyone's reports that have been submitted, as the Town would be sabotaging someone else's words. If the BLSG comes to the Town to request a change, that would be different. Mr. Guiles stated as a Select Board member, if there is something false in the town report it is his duty to request it be fixed. In this case, the Town would not be changing the words, as the BLSG has agreed to allow Salisbury to remove the paragraph. Mr. Atherton does not want to change someone's writing without their permission and the BLSG should contact the Select Board. Mr. Guiles suggested the Town contact the BLSG to see if they would be agreeable. Bernie Carr advised this item can be brought up at town meeting and anyone that has something on the warning is usually in

attendance for discussion. This will help people to decide whether they want to vote for it or not. Mr. Carr stated there is a different situation with Salisbury and Brandon does not know how the BLSG feels about this. Seth Hopkins felt the Select Board would be overstepping its authority to make changes to reports that have been submitted to the town report and would hesitate to put the Select Board in the position of being the editor. Mr. Guiles suggested the Town check with the BLSG to see if they will authorize the change. Mr. Atherton will contact the BLSG to ask whether they would authorize the change. Doug Bailey suggested reaching out to the printer first to determine if it is too late to make the change. Mr. Atherton stated Mr. Carr's suggestion of discussing this at town meeting would be the most appropriate time. Bill Moore asked if it sets the precedent that the Town needs to go through everyone's report, as he worries the Town is not fact-checking everyone's report. Mr. Atherton suggested the full Select Board should be proofreading the town report going forward. Mr. Hopkins stated common sense dictates that whoever submits the report is providing the correct information, as it is not the Select Board's authority to fix reports, rather to accept the report and provide the information. The BLSG has to be accountable to the people and the Select Board would be caught in the middle to change a report that has been submitted by an entity. Tracy Wyman agreed the Select Board does not have the authority to change this.

8. Fiscal

a) Warrant – February 10, 2020 - \$110,265.47

Motion by Doug Bailey/Tracy Wyman to approve the February 10, 2020 warrant in the amount of \$110,265.47. **The motion passed.**

Doug Bailey questioned the Vermont Offender invoices and Mr. Atherton advised this is the vendor that supplies road signs. Tim Guiles questioned the invoice for psych evaluations and Mr. Atherton advised the evaluations are for new recruits for the Police Department.

b) Route 7 Construction Warrant – February 10, 2020 - \$36,699.07

Motion by Tracy Wyman/Doug Bailey to approve the February 10, 2020 Route 7 Construction warrant in the amount of \$36,699.07. **The motion passed unanimously.**

The Town Manager confirmed he has reviewed the warrants.

The Select Board recessed at 8:25PM.

The Select Board reconvened at 9:18PM.

Motion by Brian Coolidge/Tracy Wyman to enter into executive session regarding the appointment or reemployment or evaluation of a public officer or employee under the provisions of 1 V.S.A. 313(a)(3) with the session to include Dave Atherton and Bill Moore. **The motion passed unanimously.**

9. Executive Session

Bill Moore left the meeting at 9:27PM.

The Board came out of executive session at 9:36PM. There were no actions required.

11. Adjournment

Motion by Brian Coolidge/Tracy Wyman to adjourn the Select Board meeting at 9:36PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant
Recording Secretary