

Brandon Select Board Meeting February 24, 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

Others In Attendance: Dave Atherton, Mike Frankiewicz, Brent Buehler, Chris Brickell, Allie Walter, Lee Kahrs, Bernie Carr, Bill Moore, Erynn Doaner, Andy Doaner, Ralph Ethier, Molly Kennedy, David Roberts, Steve Bissette, Jonathan Blake, Jeff Stewart

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

1. Call to order

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

2. Approval of Minutes

a) Select Board Meeting – February 10, 2020

Motion by Tracy Wyman/Doug Bailey to approve the minutes of the February 10th Select Board meeting. **The motion passed with one abstention – Brian Coolidge.**

3. Town Manager's Report

Dave Atherton provided a report for the weeks of February 10th and February 17th, 2020.

Segment 6:

Mr. Atherton has been working with Dubois & King and VTrans to come up with a solution to address and repair the sidewalk spalling.

Other happenings:

Wright Construction will be repairing the roof on the east side of the Town Hall on February 24th and 25th.

The bid opening for the Churchill Road culvert was held on Friday the 21st. Hutchins was the low bidder and a notice of award will be sent. This will be a summer project that will last about 2 weeks.

Mr. Atherton attended the Local Government Day in Montpelier on February 13th. While there he met with Representatives Jerome and Robert Fish from the Vermont Department of Public Service to discuss viable options for extending broadband service to Brandon and the possibility of fiber optic to the downtown area. Bill Moore and he will be reaching out to some of the fiber providers in the area to discuss further. It is hoped to get the schools on board with this project as well.

Mr. Atherton has been working with Devon at the RRPC to prepare the grant application for the parking area behind the former Mobil Station.

Letters have been sent to delinquent tax accounts that have not followed their agreed payment plan. Per our tax policy, the accounts are now due in full if they have not followed the payment plan.

Rec News:

. February Break camp ended. Thanks to Colleen Wright and Sue Danforth for teaching kids how to line dance and play cornhole. See you for April break.

. The Brandon Rec, via our affiliation with the Great Vermont State Cornhole Championship, organized a tournament as part of the Rutland Rec 2020 Winterfest. This was a great way to advertise our second year and 19 teams participated. For more information about the 2020 Championship being held on July 18th at the Brandon Inn, check out the cornholevt.com website.

. There is a NYC Spring Bus Trip planned for May 9th. This is a new trip that is being offered by the Brandon Rec and trip leader Colleen Wright will be leading the escape to New York. Register online at our new website, brandonvt.myrec.com.

. New England Wildlife encounters are back with 2 shows planned at the Brandon Town Hall on February 28th. At Noon and 6:30PM, this popular wildlife show features some opportunities for youth and adults to see some critters that they would not normally see in the woods around here. \$5 per person tickets are available at the door only.

. This past weekend the Brandon Town Hall hosted the inaugural Brandon Area Toy Project/Neshobe PTO Mom Prom. This fundraiser was attended by dozens of ladies who dressed up and got down to some fun 80's, 90's and 2000's music. Thanks to Mae's Place for providing adult beverage service.

Doug Bailey asked how many bids were received for the Churchill Road culvert project. Dave Atherton reported there were five or six bidders. Tracy Wyman asked the price difference was between the lowest and the next bid. Mr. Atherton advised the next bid was \$4,000 more and noted that because there are federal funds for the project, the Town has to accept the lowest bid, unless something is found wrong with the bid.

4. Public Comment and Participation

Bernie Carr reported the Brandon Chamber will be hosting a Candidates Night on Thursday beginning at 6:30PM for Seth Hopkins, Doug Bailey and Allie Walter, with Devon Fuller as moderator.

Bill Moore reported the OVUU Annual School Board meeting will be held this Wednesday starting at 6:30PM at OVUHS.

Brent Buehler questioned if the grants require the projects to be engineer-ready. Dave Atherton advised that the majority of the grants have a planning part to them, like the Park Street grant, but sometimes there is the need to be project ready.

5. Discuss Mill Lane Concern

Dave Atherton noted Jonathan Blake, a landowner on Mill Lane, was present to discuss a concern. Mr. Blake noted concern with the road that has become narrower with the construction on some of the buildings. Mr. Atherton reported he has reviewed this area with the Public Works Manager. Mr. Blake provided visuals of the area of concern. Over the 10 years that he has owned the property the area near the upper building is getting filled in more and more. The parking originally was only the Virginia Russell Mill House but is also now used by the Cooley's. With the recent apartment construction, there has been a retaining wall and set of stairs added to the area. Mr. Blake stated his personal plow truck can barely get down the road. The Town of Brandon had maintained the road for years and it had been agreed to have the Town stop the maintenance. Mr. Blake hopes to do something within the next year with the property and has spoken with the Zoning Administrator. He is concerned with the restricted driveway making it difficult to develop the six acres that he owns, as the encroachment has squeezed the road. Seth Hopkins asked if there is a survey of the property. Mr. Blake advised that his property starts at the bottom of the hill. When the Aubuchon block was renovated, they curved the road and it now washes out and drains to the left and creates a silt area at the bottom of the hill. His property has been surveyed and there are no disagreements with that, but the Mill Lane is not included on the survey. It was originally a 3-rod road as there had been houses there and the Town had maintained it years ago. Mr. Atherton reported it was 7 years ago when the Town decided not to maintain it in the winter. Mr. Atherton would have to pull the zoning files with regard to the retaining wall and stairs. The Town did meet with the owner of the Aubuchon building. Mr. Atherton noted there was definite concern and it was thought that some movement would be seen regarding this issue. Mr. Blake stated Naylor/Breen took over his property at the bottom of the hill for the construction without permission, however, Alpine did ask permission to park their vehicles on his property. Mr. Blake noted he has pictures of the construction staging area. Mr. Blake would like the road back to where it was when he bought the property. Seth Hopkins asked if there were permits issued and noted a center line will have to be established. It was the consensus of the Board to ask the Town Manager research this request. Mr. Blake advised his long-range view would be development of 900 to 1200 square foot houses, with the property having room for 10 to 12 houses. Mr. Hopkins noted the designated downtown is good for Brandon and this is one of the largest parcels that is not being used near the downtown. Mr. Blake will be speaking to Mr. Moore and Mr. Atherton about the river corridor. Mr. Atherton

advised that if the properties were recently surveyed, the road width should be able to be determined. Mr. Hopkins thanked Mr. Blake for bringing this to the Board's attention.

6. Revolving Loan Fund – Mae's Place

Bill Moore read the following letter:

"On February 12th, the Brandon Revolving Loan Fund Committee met to consider a loan request from Erynn and Andy Doaner, owners of the restaurant, Mae's Place.

The Doaners presented to the board their plan to move Mae's Place to another Brandon location, the building that once housed the Book and Leaf Bookstore. As successful borrowers of Brandon RLF monies who repaid their loan early, the loan committee reviewed the plans and heard a presentation before responding with a unanimous yes to their request.

The amount to be loaned is \$20,000. This amount represents about 25% of renovation and conversion costs. The terms would be a 3.0% interest rate as amortized as an 84-month loan with a balloon payment at 60 months secured by first security interest in all business assets of Mae's Place, including any and all equipment and particularly the new hood system being installed at the 10 Park Street location. As is customary with all RLF loans, personal Loan Guarantees will be signed by all of the principals of corporation.

Despite the past year of heavy construction directly in front of their business, Mae's had their most successful year to date. When faced with the proposition of moving (due to the building owner deciding to not renew the lease) the Doaners were committed to maintaining a breakfast/lunch restaurant in our town. These successful entrepreneurs have fully invested in our community and the committee felt that the community should continue to invest in them."

Motion by Tracy Wyman/Doug Bailey to approve the Revolving Loan Fund request of Erynn and Andy Doaner for Mae's Place. **The motion passed unanimously.**

7. Consider Brandon Free Library Request

Molly Kennedy, on behalf of the Brandon Free Library, requested the Town consider being a pass-through entity for Library for a block grant to do an accessibility project. Ms. Kennedy stated it is hoped to warn a public hearing about the project. The Library is exploring an accessibility grant to install a lift to the second and possibly third floor and an ADA bathroom and increase space for children and adult activities.

Motion by Tim Guiles/Tracy Wyman to approve to the Town serve as a pass-through entity for the Brandon Free Library for a block grant. **The motion passed unanimously.**

It was requested to hold a public hearing on March 23rd at 6PM prior to the Select Board meeting. Mr. Hopkins suggested Bill Moore could assist with coordinating the room for the hearing.

8. Consider Sale of Town Owned Property

Dave Atherton reported he was approached by John Reynolds, who has purchased a couple of small pieces of property from the Town in recent years, to purchase this piece of swamp property that has been held by the Town since 1939.

Motion by Tracy Wyman/Brian Coolidge to approve the sale of the town-owned swamp property to John Reynolds for \$100.00.

Tim Guiles had concerns with the sale of the land due to its value. Mr. Guiles stated he had previously suggested the public should be advised when something comes up for sale to assure it is an open process. Secondly, he stated this piece of property is near Nature Conservancy land and he has received a letter from the Nature Conservancy indicating they may be interested in acquiring land for the Conservancy. Mr. Guiles has been advised that typical appraised values of swamp land from a data set is \$200 to \$300 per acre and \$100 seems quite a bit less than the value he ascertained. He would suggest letting people know that this is for sale to provide others the opportunity to make an offer. Dave Atherton stated the Nature Conservancy is a 501c3 and would not pay taxes going forward. When he became Town Manager, it was the intent to sell swamp lots to get them back on the tax books and the Town has seen no income from this property since 1939. There are two ways the Nature Conservancy deals with land ownership where they put it into current use and the Town receives taxes from the State and the other way is where the State owns the land and they do a PILOT (payment in lieu of taxes). Tracy Wyman advised that to put a parcel in current use, it has to be 25 acres and with regards to advertising, he has been aware that properties the Town owns as far as he knows are all are for sale and anyone can come into the town office and place an offer on a piece of town-owned property. Mr. Atherton advised that statute dictates once the Town receives an offer, it is noticed in the paper and if it is petitioned by 5% of the voters against the sale, it would not go through. Mr. Hopkins stated an offer is published when the 1061 notice is advertised and is run in the paper for three weeks, which is the process according to State statute. Mr. Guiles stated with this process 5% of the voters in Town would be required to overturn the sale, however, it should only be one person who wants to bid more to be acceptable. Mr. Hopkins asked whether someone could offer more money once the offer is accepted and Mr. Atherton stated once the offer is accepted it cannot be taken back. Mr. Bailey stated the taxes on the property would be minimal and it will cost the Town money to sell it for \$100. Mr. Guiles stated it would be likely the Nature Conservancy would pay more than that for the land and in speaking with other people in town, he is aware of more people that would pay more for the land. Brent Buehler suggested the neighboring property owners should be notified. Mr. Atherton noted the Town has not been actively marketing land for sale, however, there have been people that come to the Town and make offers on town-owned land that he has brought before the Board previously. Mr. Bailey suggested it might be better to put the word out the Town takes offers on these parcels. Bernie Carr suggested making a counteroffer to the person making the original offer.

Motion by Tracy Wyman/Brian Coolidge to accept the suggested offer, contingent upon the buyer paying for the notices and legal closing costs. **The motion passed – 4 to 1.**

Tim Guiles stated there are people willing to pay more for the land and if there is already that possibility, it seems unfair to not enable people to make an offer. Doug Bailey concurred that there are three adjoining landowners who might be willing to pay more and suggested sending a letter to the abutters, as the tax assessment on the parcel is going to be very low. Mr. Guiles appreciated the offer as it is serving a purpose in bringing it to the Town's attention, but it now raises the point there are people that are showing interest and the Board should follow this through as the Board's fiduciary responsibility. Wayne Rausenberger stated someone finally makes an offer after 80 years and now all of sudden people are saying they will pay more for it and suggested the Board is better off approving the sale. Mr. Guiles stated if this passes, he will offer \$100 for each of remaining three properties on the map.

A vote of the original motion was made.

The original motion failed 2 – 3.

Bernie Carr stated the State Treasurer advertises a listing of unclaimed funds and suggested the Town could post a listing in next year's Town Report of these parcels. Seth Hopkins stated the Town would be well served to notice what lands it owns. Mr. Atherton suggested the Board develop a policy relating to town-owned properties. Mr. Guiles will draft a policy option for the Board's consideration at the next meeting. Mike Frankiewicz noted there are some town-owned properties that have restrictions. Mr. Atherton noted there are deeds recorded with all of the town-owned properties that would have this information.

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

Motion by Seth Hopkins/Doug Bailey to approve Policy on Consideration of State & Federal Matters.

Tim Guiles stated this policy errs on the side of limiting debate and the Board already has the power that the policy intends to put forward and to further tighten them would shift the balance away from open discussion. Seth Hopkins stated the forum of the discussion is what the policy is directed for. It is not to limit discussion but is directed at the forum of the Select Board, which is a public body meeting in public, but not a meeting of the public. This is directed towards controlling the interest of the Select Board to be able to do its authorized duties and not let meetings run away. Mr. Hopkins stated making decisions on a case by case basis tends to lead the Board to criticism and having a policy that applies to all cases, is common sense and equitable treatment. Mr. Guiles likes the latitude of a case by case basis and worries the policy will constrict discussion. Mr. Hopkins stated this is a preventative policy, to avoid issues such as the Pittsford Gun Sanctuary issue. Mr. Guiles stated the Board has the robust capacity to handle that issue right now and the capacity to hear concerns and allow the community to speak and bring the discussion to a close. Mr. Hopkins advised the VLCT received a letter from the Attorney General that is telling the town to not do resolutions on items where the town has no authorization. Mr. Hopkins read the following excerpt from the letter: *"Laws enacted by the General Assembly, including those that regulate firearms, are the laws of our state. And while state and local officials generally are not responsible for enforcing federal law, the U. S. Constitution provides that federal law is the "supreme law of the land". State and federal laws*

are binding unless and until they are legislatively repealed or held unconstitutional or otherwise invalid by a court. Cities and towns cannot opt-out of compliance with state and federal law. Any resolution that purports to do so has no legal effect.” Doug Bailey noted concern with having meeting topics the Board has no authority to act on and is why he is in favor of the policy. Mr. Guiles stated Mr. Hopkins has the capacity to handle discussion and was concerned if a topic is brought forward, the Board could potentially limit debate due to the policy. Mr. Hopkins stated the Board is allowed to act on the oversight of the Town for such items as economic development, public health etc. and town governments can take the State law and go further with it. He stated more is allowed than the State, but not less. Mr. Atherton stated the topic of self-governance has been a challenge in Montpelier. Bill Moore, as a member of the public, likes the policy as it directs the public to where they should bring their action.

The motion passed – 4 to 1.

10. Fiscal

a) Approve Construction of Town Hall Sidewalk Roof

Dave Atherton reported he was bringing this item for the Board’s consideration due to the cost of the roof construction being \$28,150.00 which is above his spending limit. The Friends of the Town Hall will be contributing \$15,000.00 to the construction cost and they have approved the design. Mr. Atherton has sent all information about the project to Dennis Marden. Mr. Atherton noted there is a cost indicated for pre-primed pine that usually does not hold up as well and suggested adding \$1,000.00 to cover the cost of material that will not rot. It was confirmed there are funds available in the budget to do this project. Brent Buehler questioned if the falling snow will then fall on town property. Mr. Atherton advised that the adjoining neighbor is aware of the snow falling off the roof on to the sidewalk and was concerned about this situation.

Motion by Tim Guiles/Tracy Wyman to approve the construction of the town hall sidewalk roof not to exceed \$30,000.00. **The motion passed unanimously.**

b) Consider P.O. 60657 to G. Stone Motors for 2020 Ford F150 - \$35,324.00

Dave Atherton reported this is the police cruiser that had been previously approved for purchase about a year ago. Mr. Atherton confirmed the pricing is in accordance with State pricing.

Motion by Tracy Wyman/Brian Coolidge to approve the purchase to G. Stone Motors for a 2020 Ford F150. **The motion passed with one abstention – Tim Guiles.**

c) Warrant – February 24, 2020 - \$1,148,391.92

Motion by Brian Coolidge/Tracy Wyman to approve the February 24, 2020 warrant in the amount of \$1,148,391.92. **The motion passed unanimously.**

Doug Bailey questioned the warrants to Stone for a repair. Mr. Atherton reported it was for the truck that was damaged in January and there will be reimbursement from the insurance company, less the deductible amount.

d) Route 7 Construction Warrant – February 24, 2020 - \$43,528.37

Motion by Doug Bailey/Tracy Wyman to approve the February 24, 2020 Route 7 Construction warrant in the amount of \$43,528.37. **The motion passed unanimously.**

The Town Manager confirmed he has reviewed the warrants.

The Select Board recessed at 8:07PM.

The Select Board reconvened at 8:18PM.

Motion by Brian Coolidge/Tracy Wyman to enter into executive session at 8:18PM regarding the appointment or reemployment or evaluation of a public officer or employee under the provisions of 1 V.S.A. 313(a)(3). **The motion passed unanimously.**

11. Executive Session

The Board came out of executive session at 8:22PM.

12. Appointments

a) Planning Commission – Remainder of 3-year term ending June 30, 2022

Motion by Doug Bailey/Brian Coolidge to increase the Planning Commission to seven members. **The motion passed unanimously.**

Motion by Tim Guiles/Doug Bailey to appoint both applicants, Allie Walter and Ralph Ethier, to a one-year term on the Brandon Planning Commission. **The motion passed unanimously.**

b) Constable

Motion by Tracy Wyman/Brian Coolidge to appoint Chris Brickell as the Brandon Constable. **The motion passed unanimously.**

Motion by Tim Guiles/Seth Hopkins to enter into executive session at 8:32PM regarding the appointment or reemployment or evaluation of a public officer or employee under the provisions of 1 V.S.A. 313(a)(3). **The motion passed unanimously.**

13. Executive Session

The Board came out of executive session at 8:42PM. There were no actions required.

14. Adjournment

Motion by Brian Coolidge/Tracy Wyman to adjourn the Select Board meeting at 8:42PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant
Recording Secretary