

Brandon Select Board Meeting July 27, 2020

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

All in Attendance via Zoom.

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

Others In Attendance: Dave Atherton, Bill Moore, Butch Shaw, Sue Gage, Allie Breyer, Justin M., Chris Brickell, Michael Shank, Lee Kahrs, Margaret Kahrs, Brent Buehler

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.**

4a – Reconsider Policy for Selling Town Assets

10a – Appropriations Request during COVID19

2. Approval of Minutes

a) Select Board Hearing Meeting – July 13, 2020

b) Select Board Meeting – July 13, 2020

Motion by Brian Coolidge/Seth Hopkins to approve the minutes of the July 13th Select Board hearing and Select Board meeting, as amended. **The motion passed with one abstention - Tracy Wyman.**

Add Brent Buehler to the List of Attendees of the Select Board meeting.

3. Town Manager's Report

Dave Atherton provided a report for the weeks of July 13th and July 20th, 2020.

Segment 6:

Bridge slab removal is done. Had an on-site meeting with John at Fuss and O'Neil to discuss safe removal of the concrete beam that runs along the Town Office and to determine if it provides any support to the office. There is a lot of rebar. The cofferdam has been constructed for the new construction of the middle pier. The middle pier was in very bad shape.

Park Street:

The sewer and water mainline connections were completed last week. Stormwater construction will start next week.

Other happenings:

The culvert installation on Churchill Road has been completed. We are working on the project closeout.

Had a video meeting with Aldrich & Elliot and the State to review the Preliminary Engineering Report on the upgrade recommendations at the WWTP. An electronic copy of the PER has been sent to the Select Board and Mr. Atherton would like to add this to a Sewer Commissioners meeting to go over.

The paving shim and overlay on Park Street Extension, Corona Street and paved portion of Country Club Road have been completed.

Mr. Atherton received 4 letters of interest for the open Assessor Assistant position and will be setting up interviews this week and did one interview last week. Mr. Atherton also noted the Town is starting to see campaign signs on town property and the Town is removing them.

Seth Hopkins stated the WWTP document was comprehensive and the Select Board appreciates the work that was done and hopes the engineer could review the document with the Sewer Commissioners in the near future. Mr. Atherton will confirm a meeting with the engineer.

Brent Buehler suggested it would be helpful to post a one-way sign for turning on to West Seminary Street coming from the south, as there is a lot of confusion in that area. Mr. Atherton noted even with the number of signs posted, people are still driving the wrong way.

4. Public Comment and Participation

Sue Gage thanked Judi Pulsifer and Jeanne Collins of the RNESU for allowing the Town to use Neshobe School as a polling place. This will be a drive-up vote for those who do not want to vote by absentee ballot. Currently Ms. Gage has received 870 absentee ballots. Mr. Hopkins thanked the Board of Civil Authorities for the work done for this vote.

4a – Reconsider Policy for Selling Town Assets

Tracy Wyman stated after the last couple of weeks with the 44 Prospect Street property, he does not believe the policy is effective. Two people put offers in and removed them because of the policy. Mr. Wyman thinks the Board should review it and either rewrite it or go back to the original policy. If a sale similar to the 44 Prospect Street property is done, it should be put out to a sealed bid with a minimum set. If there are still offers, Mr. Wyman would like to move on with this sale, but review the policy after as he did not think it worked the way people thought it was going to work. Tim Guiles stated he originally proposed the policy and authored it and thought the policy is working the way it is supposed to work, but the problem was implementation. The intent was that things are transparent, and some people have come into the process late and there is not a specified process for bids. The Board is trying to maximize the things the Town is selling, and he did not agree with a sealed bid and starting at a minimum offer. Mr. Wyman had a problem in that at the last meeting, there were two offers of \$30,000 and \$20,000 and because of the policy, both offers were withdrawn. Dave Atherton is concerned with the implementation as the reason this was fast tracked was due to the interest expressed prior to even placing it in the paper. The Select Board came up with a minimum price of \$29,000 and an offer larger than that was put in. The concern he has is the way it is working; the first bidders are never going to have a chance and he does not think that is fair either. Mr. Atherton does not think that it works properly and showing peoples' offers has angered people and he thought a sealed bid process with a deadline and a minimum bid would be the best solution. Brian Coolidge thought the old policy worked fine. Brent Buehler stated there was confusion with the notification and asked why people withdrew their offers. Mr. Atherton advised one withdrew because of the length of the process and the second person was angry that everyone knew what their offer was. Mr. Wyman understands getting the best price out of an asset, but he would want items put out for a sealed bid. Mr. Guiles stated a sealed bid would not allow for a bidding process of back and forth in determining how much people are willing to pay for an item. Mr. Atherton noted concern over the length of time for the process. Mr. Guiles noted this is perhaps the only time the Town will be selling actual real estate that has a value. Mr. Atherton stated when swamp lots are up for sale or the Town has tax sales, the purpose is to get the properties back on the tax books. The Dinn property had an estate opened and the property has been vacant since 2012, but the taxes still accrue. The Town is following a statutory process and he wants to get the properties back on the tax list. Mr. Guiles suggested if there is property that requires a broker relationship, it might be appropriate to hire a realtor. Mr. Wyman stated the Town is only allowed to sell properties in a tax sale for what is owed in taxes. Mr. Atherton stated something needs to change as it has been difficult with this process and was not fair to the first bidders. Bill Moore noted there are organizations that do auctions for municipalities, but there is a fee for this service. Mr. Moore stated the school district sells items through the sealed bid process.

Motion by Brian Coolidge/Tracy Wyman to rescind the current policy and have a policy to establish a minimum bid and a sealed bid process. **The motion failed - two "yes" votes and two "no" votes.**

Mr. Wyman agreed that swamp lots could not be handled the same nor could tax sale lots. Mr. Coolidge thought the policy needs to be rescinded.

Sue Gage stated swamp lots could be included. If someone comes forward with a swamp lot that is for sale; anyone interested could be provided the initial bid for the swamp lot and others would be provided the opportunity to bid on it. Dave Atherton stated at this point, it is going to be a lengthy process and suggested putting all the towns' properties that are for sale in the paper and obtain bids for them. Tim Guiles stated the Board should have a policy and suggested someone could write a new policy and bring it before the Board for a vote.

Seth Hopkins stated the Board would be open to considering a new policy if one was drafted. Tracy Wyman will draft a new policy for the Board to consider.

Mr. Hopkins wished to clarify for the record that someone was expecting to bid at the last meeting and Mr. Hopkins was clear with that person that their bid was going to be announced and held over to the next meeting. Mr. Hopkins had talked to the person both privately and publicly.

5. Appointments

Ralph Ethier submitted a request to be appointed to the 3-year position on the DRB.

Motion by Tracy Wyman/Tim Guiles to approve the appointment of Ralph Ethier to the DRB for a 3-year term ending in 2023. **The motion passed unanimously.**

6. Consider Tax Rate for FY 2020/2021

Sue Gage stated the municipal tax rate is \$.7899, the voted appropriations rate is \$.0788, the Brandon Fire District tax rate is \$.0834 and the municipal agreement rate is \$.0064 for a total municipal tax rate of \$.9584, which is less than last year. The Homestead education tax rate is \$1.3479 and the Non-Residential tax rate is \$1.5763. Seth Hopkins thanked Sue Gage and Tim Guiles for their review of the tax rates for accuracy.

Motion by Tim Guiles/Seth Hopkins to adopt the tax rates as stated. **The motion passed unanimously.**

7. Consider Offers on 44 Prospect Street

Dave Atherton reported he received two more offers today for the 44 Prospect Street property: \$23,500 from Barbara Sprague and \$27,500 from Brent Buehler.

Motion by Tim Guiles/Tracy Wyman to accept the high bid of \$27,500 from Brent Buehler for the 44 Prospect Street property. **The motion passed unanimously.**

Seth Hopkins thanked Mr. Atherton for going through the process and thanked Mr. Buehler for his offer. Mr. Atherton will contact the attorney tomorrow to obtain the documents for the sale.

8. Consider Animal Control Ordinance

Motion by Seth Hopkins/Tracy Wyman to approve the Animal Control Ordinance that was vetted by the Town's Attorney and to include the 8 recommendations Mr. Hopkins and Mr. Guiles included on the cover memo of the Animal Control ordinance. **The motion passed unanimously.**

Mr. Hopkins read the 8 recommendations:

1. The Select Board adopt the draft Animal Control ordinance as presented at the July 13th hearing. This draft is based on the VLCT model Animal Control ordinance for municipalities.
2. The "flow chart" and "farm size" infographics be attached to the Animal Control ordinance as Appendix A and Appendix B respectfully.
3. The Board find no further action need be taken for Brandon's Animal Control Officer to discharge the duties of a Humane Officer as set forth in Vermont law. Per VT Statute Title: Crimes and Criminal Procedure, Chapter 8: Humane and Proper Treatment of Animals, Subchapter 1: Cruelty to Animals 351(4): an Animal Control Officer appointed by the legislative body of a municipality" is designated as a "Humane Officer". Also, in that same subchapter 354(b): "Any Humane Officer.... may enforce this chapter". The Board appointed Margaret Kahrs as Brandon's Animal Control Officer on January 27, 2020.
4. The Animal Control Officer pursue training for Vermont Animal Control Officers and Vermont Humane Officers, enrolling in such courses as soon as they become available. The cost of such training and reasonable expenses to be borne by the Town upon submission of successful course completion to the Town Manager.
5. The Animal Control Officer be directed to work at all times in collaboration with the Brandon Police Department, to whom she will address all questions of application of law and process. Any animal complaints referred to the ACO by BPD, and those generated by the ACO will be documented using the Brandon Police Department record keeping system.
6. The Animal Control Officer be provided, as she has already partially been, the equipment required to enforce the Town's ordinance, such equipment to be pre-approved by the Town Manager and to be returned to the Town in serviceable condition at the conclusion of her tenure. This does not include equipment required to be a pound keeper for which service the Town works with the Rutland County Humane Society.
7. The Animal Control Officer be provided with physical copies of the following, and be required to attest to her responsibility for and understanding the contents thereof in a signed statement returned to the Board (a) the Brandon Animal Control ordinance including the Appendices; (b) the complete text of Chapter 8 of Title 13 VSA: Humane & Proper Treatment of Animals, and (c) VLCTs' Big Book of Woof.
8. The Animal Control Officer, Town Manager, Chief of Police, and any others designated by the Board meet either in person or by electronic means to conduct an orientation to (a) Brandon's community value of compliance being our primary goal in all matters of municipal code/ordinance enforcement and (b) the level of responsiveness the Select Board desires of the Animal Control Officer.

Seth Hopkins thanked all who participated in the process as there have been many investing time and this is an issue that the community cares about and the Board values the communities' input.

Michael Shank thanked for the Select Board for the recommendations. Mr. Shank asked if the Town is allowing the Humane Officer to enforce Section 851 in the 3rd recommendation that allows the ACO to put liens on each animal seized for all expenses incurred. If the Board accepts and moves forward with the ordinance, will the ACO be allowed to put a lien on each animal seized from a Hagerty farm type issue going forward. Seth Hopkins stated the Select Board is not allowing the ACO, but the Vermont Legislature allows the power of a Humane Officer. The Select Board recognizes because she is the ACO, she has Humane Officer authority with no required training. Mr. Shank asked if the ACO has the power to intervene when animal cruelty is present as VSA 354(b) is the humane and proper treatment of animals. Tim Guiles stated the Board is drawing attention to the statute that provides the ACO to enforce. If the State allows, the Town recognizes that the State allows for these powers. Mr. Hopkins requested to hear from the Police Chief as there is the authority of the ACO to enforce the chapter. Mr. Shank stated there is also the second item of why the liens have not happened in past seizures. Mr. Hopkins stated that matter of application is a different matter and the Select Board does not have the legal training to respond. There still exists the Agriculture exemption and he does not know that the ACO supersedes this exemption. Margaret Kahrs stated this has been a huge learning curve and she believes the Town has learned a lot in understanding what the State allows. Part of why it was executed differently is that there is a lot to digest and she would like to acknowledge that any movement that changes for the better, she applauds the Town for doing. She thanked the Town for caring enough to employ an ACO and noted the information about already being a Humane Officer is new information. Mr. Guiles stated this is because it does not require any legal training to understand that the ACO is designated a Humane Officer appointed by a municipality. Chief Brickell stated the statute is clear and the Town is giving the ACO the authority to act within the chapter. With regard to Mr. Shank's question, the ACO will be guided and there was not an ordinance in effect with the previous situation. Mr. Shank stated it looks like in Title 13, the latest update was 2017 and would have been in place with the last seizure. Mr. Shank wished to clarify the Select Board is recognizing the State is giving the ACO the following powers: seizure without a search warrant and liens which go above and beyond the ordinance, as everyone should all agree and be certain the ACO has the powers. Mr. Hopkins stated the Board does not want to interpret the Vermont statutes. Mr. Guiles stated what the Board is doing is supporting the Vermont law. Margaret Kahrs stated in all the conversations with the VLCT, if a municipality has an ACO and decides it is a dog catcher that is all they are going to do. The Town has said they have an ACO and want the ordinance and the State recognizes that a Humane Officer is appointed as an ACO and they are embracing the allowance of an ACO. Ms. Kahrs was explained that if she were to get humane officer training, and there wasn't something stated in the policies about an appointment, she would not be able to act as a humane agent in the municipality. Mr. Shank stated if Ms. Kahrs feels comfortable with the ordinance, he defers to her. He is heartened by the Board's support and the powers within the ordinance and if Ms. Kahrs feels empowered by it, he defers to her. He appreciated Mr. Guiles and Mr. Hopkin's work in this process to do what is necessary to protect animal welfare. Ms. Kahrs stated with the Town doing something like this and she recognizes it does not just empower her to walk on a property to take an animal. She appreciates the ability to work with the Police Department. Mr. Guiles noted part of this process will be working in cooperation with other town staff and a meeting will be held to discuss the process with the ACO. With this

ordinance, it will allow the ACO to work in accordance with Chapter 8 of the statutes. Ms. Kahrs noted the dog census has not been addressed and asked if the Town wants to proceed with it. Mr. Hopkins requested people weigh in on this subject prior to the meeting with the Town Manager, Police Chief and ACO. Mr. Hopkins stated he would like to see from the ACO program an ACO who is aware and responsive, but not intrusive which fits the community's desires. Mr. Guiles is grateful to have an ACO who is paying attention and sees things arising and this ordinance supports that, and he is also grateful in looking at compliance, rather than a lot of tickets being issued. He stated there will be discussion on how to use discretion and discussion. Tracy Wyman echoed what both Mr. Guiles and Mr. Hopkins said and appreciates the interest in the position. Chief Brickell appreciates having an ACO for complaints that should not be directed towards the law enforcement area. His concern is documentation, as everything the Police Department does requires documentation. He would also like the law applied equally, obtaining compliance, and knowing what the direction is, as there will be a lot of feedback from the community and there will be a need to know who to direct the feedback to. The ACO is not an employee of the Police Department and is an appointed position. Mr. Brickell will address general comments but needs to know where people are to go who have a conflict. Ms. Kahrs noted she has the same question. Mr. Hopkins stated the Select Board is not the appropriate forum and when the meeting is held with the ACO, Police Chief and Town Manager, there will be discussion of lines of communication, etc. Mr. Hopkins confirmed this draft ordinance was reviewed by the Town's attorney and noted the hearing process was valuable.

Bill Moore reported he attended the Goshen Select Board meeting and they voted to join the Otter Creek Communication District. Seth Hopkins thanked Mr. Moore for his work on this idea as it is a new concept that the Legislature allowed, and Brandon and Goshen will collaborate to start this district. Mr. Moore stated this is to get the district established and other towns are eager to join. This will put Brandon in a better position for broad band expansion. Mr. Moore reported the Town's Wi-Fi connection has an access point on the side of the town hall and is an open network and there is one mounted on the town offices from VTel that is connected to fiber and has a 33-meg download. Both Wi-Fi's are up and running - Brandon VTel and Brandon Hotspot and is available up to the bank corner.

9. Consider Adding Payroll Warrant to Agenda

Seth Hopkins advised that Mr. Guiles had requested clarification of this item at the last meeting. Sue Gage found that the payroll warrant in small towns with one or two employees do go before the board, however, larger towns where there are a number of employees generally do not send the payroll warrants to the board due to privacy issues. Tim Guiles noted he had a discussion with Ms. Gage to determine what kind of public information people are able to see as this is money going out from the Town and was advised a towns person could request to see the payroll warrant however Ms. Gage would have to redact information that was private. Mr. Guiles was not interested in pursuing this subject any further. Mr. Hopkins stated there is not a desire to add payroll to the warrants and no action will be taken.

10. Consider BLUO Amendments on River Corridor & Flood Hazard Areas

Seth Hopkins noted the Select Board previously held a public hearing on this subject.

Motion by Tim Guiles/Tracy Wyman to adopt the BLUO amendments on the river corridor and flood hazard areas. **The motion passed unanimously.**

Seth Hopkins thanked the Planning Commission for the work that was done on this amendment.

10a – Appropriations Request during COVID19

Seth Hopkins advised there have been four inquiries concerning whether organizations will need to gather the usual signatures for appropriations. Mr. Hopkins noted there are some who have previously collected signatures and had taxpayer approval and some that have not successfully submitted their petitions for the appropriations. Mr. Hopkins suggested the organizations that previously collected signatures, submitted petitions, and had a successful vote do not have to go through the signature process that would provide a buy this year and would give them a 6th year on their petition.

Motion by Seth Hopkins/Tracy Wyman to approve a 6th year due to COVID19 of previously submitted appropriations that have had at least one-year approval within the last five years. **The motion passed unanimously.**

Mr. Hopkins stated he does not want a situation if the state of emergency ends in November and then organizations having to go out and get signatures quickly. There is another community service organization that has not had success in appearing on the ballot, and he is not in favor of waiving the process for those organizations. He does not think the Board should use a state of emergency as a fig leaf for those who were not approved to be on the ballot with the minimum number of signatures. Mr. Guiles supported the rational but questioned if it is legal for the Board to require an organization to gather signatures at this time. Mr. Wyman agreed that if an organization has not been able to get on the ballot in the past, it should not be a buy for them at this time. Sue Gage requested clarification for new organizations that are requesting an appropriation whether they will need to get signatures. Mr. Hopkins stated the consensus is that there should be some intermediate step and they should have to do something to ask for tax dollars. Ms. Gage will check with other Town Clerks in other towns as what the process will be in other towns. Butch Shaw stated this is a local decision and the question to answer is what would happen if we were not dealing with the COVID19 situation. Would the Board want to say that they will hear the requests and decide as a Board whether they will be put on the ballot or require the organization to collect signatures. Mr. Shaw could not tie this to the Governor's Emergency Declaration as it is a different situation. Ms. Gage stated 150 signatures would normally be required. This item was postponed to the next meeting.

11. Fiscal

- a) ***Warrant FY2019/2020– June 30, 2020 - \$111,720.98***
- b) ***Warrant FY2020/2021– July 27, 2020 - \$195,068.56***
- c) ***Route 7 Construction Warrant – July 27, 2020 - \$67,755.20***

Motion by Tracy Wyman/Tim Guiles to approve the June 30th FY19/20 warrant in the amount of \$111,720.98, the July 27th FY20/21 warrant in the amount of \$195,068.56 and the July 27th Route 7 Construction in the amount of \$67,755.20. **The motion passed unanimously.**

11. Adjournment

Motion by Tracy Wyman/Brian Coolidge to adjourn the Select Board meeting at 8:35PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant
Recording Secretary