

Brandon Select Board Meeting December 14, 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, Brian Coolidge, Doug Bailey, Tracy Wyman

Others In Attendance: Dave Atherton, Shari Vaccarella, Butch Shaw, Bill Moore, Brent Buehler, Chris Brickell, Stephanie Jerome, Bernie Carr, Jeff Biasuzzi, Sue Gage, Allie Breyer, Lee Kahrs

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

1. Call to order

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

2. Approval of Minutes

- a) Select Board Meeting – November 23, 2020*
- b) Select Board Budget Workshop – December 9, 2020*

Motion by Tracy Wyman/Tim Guiles to approve the minutes of the November 23rd Select Board meeting and the Select Board Budget Workshop of December 9th.. **The motion passed unanimously.**

3. Legislative Update

Stephanie Jerome stated one of the first bills to be presented in the Legislature is concerning town meeting in March and although about 1900 vaccines have arrived in Vermont, not everyone will be vaccinated by town meeting. The Legislature will determine how to make town meetings work and how the school budgets will be voted on. The meetings cannot be held in person and the Town could possibly do Australian ballot for those items usually voted from the floor. Butch Shaw stated for background, the Legislature enacted Act 162 that will give the Select Board the authority to do all voting by Australian ballot for town meeting, including budgets and school budgets, as well as other items. For those seats that are up for election, it will not be required to gather signatures for a petition but will be require a form sent to the town clerks indicating the intent to be a candidate. The bill gives the Secretary of State the ability to delay statutory deadlines for school boards and municipalities, but it has to be set in municipal charters and for schools in an article of agreement. This is the current law the Governor signed in October. The Legislature gave the Secretary of State the authority to send ballots for people that request them, but currently as a

general rule of thumb the towns cannot send them out to the general public. The cost will be born by the towns not the state if there is a change to allow mailing the Australian votes. It is complicated for the school districts as they are currently under the same guidelines as in the past and it will take an act of the Legislature. It is hoped there will be a bill before the Legislature by the second week of the session with regards to voting, however towns are allowed to mail ballots to those who request them, and it is the towns' responsibility to count the ballots. The Secretary of State is working on how to use the tabulators for both the towns and the schools' ballots. Ms. Jerome has reached out to all the town clerks in the district and has forwarded comments along to the committee who will be considering this item. Ms. Jerome sent Ms. Gage's comments and it was noted all of the school budgets have to be voted on during the same day and there will have to be some coordination between the town clerks and the school district. Ms. Jerome does not want to see the town bear the burden of mailing the ballots and it is hoped there may be more CARES funds obtained. Mr. Shaw stated requests for absentee ballots are currently in effect and how far that is expanded will be determined by late January. Ms. Gage stated the email she sent was also sent to all the town clerks in the school district and her concern was once the law passes in late January, there needs to be coordination as the school district has to have its elections on the same day and it is hoped there can be coordination between the towns. Ms. Gage noted Brandon is the regional spot for the towns in the school district. Seth Hopkins stated Brandon does the voting for candidates and budgets by Australian ballot, but the Select Board could choose to take the option to vote public questions that are usually voted on the floor during town meeting. Mr. Hopkins noted it is the intent to plan a zoom town meeting.

Motion by Tim Guiles/Tracy Wyman to vote the public questions pursuant to Act 162. **The motion passed unanimously.**

Stephanie Jerome suggested if there are any questions, the Select Board or town staff should feel free to reach out to the representatives for clarification. Ms. Jerome stated she did not see why there could not be a zoom meeting as the Secretary of State did indicate the informational meetings could proceed as normal via zoom. Brent Buehler noted concern with absentee ballots unless the budgets and information get out early. Ms. Gage stated there are deadlines for petitions which will not allow a lot of the information to get out early. Bill Moore questioned whether the town meeting could be moved earlier relative to the voting. Ms. Gage will review the statute but thought there is a little flexibility. Ms. Gage stated the Town could shift their meeting to a Saturday before town meeting according to statute, but she is not sure if it is more restrictive without researching. Mr. Shaw stated the Legislature is trying to figure out how they are going to meet but is looking like it will be remote again. There is some housekeeping work that needs to be done but the legislators are in a holding pattern to figure out how to work going forward. Ms. Jerome noted between now and when they are sworn in, they have two meetings a day and stated it has been busy getting prepared. Ms. Jerome reiterated if anyone has questions on any topics that are important to reach out to either representative.

4. Town Manager's Report

Dave Atherton provided a report for the weeks of November 30th and December 7th, 2020.

Segment 6:

A sewer line connect had to be made on Champlain Street. This was not shown on the plans, however, it is within the project limits. We had to replace a crosswalk control on the Park Street/Franklin Street intersection.

The project will shut down on December 18th and resume on April 15, 2021 to mill, pave and line stripe the work area on West Seminary Street. Sidewalk repairs/replacement will also commence on April 15th, 2021. The final project end date is May 31, 2021.

Other happenings:

Dave Atherton started employee evaluations this week and hope to have them completed by Christmas.

Mr. Atherton attended a Local Roads meeting via Zoom on 12/2/2020 to discuss highway department plans due to Covid-19. The discussion was centered around what departments have planned in case their crew is exposed to the virus. It was informative but basically mirrored the plan we have had in place since March.

As a reminder, the next budget meeting is Tuesday, December 15th at 6:00PM.

Mr. Atherton questioned if the Select Board wished to hold the December 28th meeting as in the past it has been eliminated with actions taken either at the first meeting in January or at one of the Budget meetings. It was the consensus of the Board to cancel the second regular Select Board meeting for December.

Motion by Seth Hopkins/Doug Bailey to omit the second Select Board meeting of December. **The motion passed unanimously.**

Rec Department News:

The Brandon Rec has teamed up with the Brandon Area Chamber of Commerce and The Reporter to sponsor and expand the holiday decorating competition, "Get Lit Brandon". More prize categories including a Best Lit Street! Judging occurs on December 20th.

The Brandon Area Toy Project with help from the Brandon Rec, Brandon Free Public Library and the Brandon Area Chamber of Commerce are hosting a "Reverse Parade" on December 20th from 5PM to 6PM. Folks who want to experience the inaugural holiday celebration should travel down High Street and on to Park Street and exit the parade route through Lot A. All kinds of displays, both temporary lots and houses along the route will be so cheery.

The Brandon Rec and Brandon Public library are partnering on two endeavors to break the COVID blues. Thanks to a partnership with Olivia's Croutons, a monthly baking competition will commence with the first challenge: Get Stuffed! What can you do with stuffing? Register and pick up the supplies on December 18th. Judging will be visual for now with the winner's recipe being promoted by Olivia's! And quiz night is back, on Zoom. The resumption of this

pub style trivia game was an early pandemic adjustment that became a weekly distraction for folks locked down. December 19th we will have 12 teams participating and starting after the New Year, weekly on Saturdays for the winter. Register your team online!

Our youth sports season is awaiting direction from the Scott Administration and once we have been given the green light, we will work with the school to bring back basketball and cheerleading.

4. Zoning Administrator's Report

Seth Hopkins thanked Jeff Biasuzzi for the report that was submitted. Mr. Biasuzzi reported the level of permit activity for the fiscal year ending in June was higher than the past two years. The pattern of permit activities is consistent, and the pandemic and stimulus money may have helped in the increase in number of permits. Another highlight is the owner of the old high school has been busy working with an architectural firm to prepare for permit activity for residential apartments that will make an advantage for housing in Brandon. Mr. Biasuzzi has not had to go to task on the river corridor rules, but there have been some inquiries about Briggs Lane and Mill Lane that would impact the river corridor. Mr. Biasuzzi stated an interesting thing is the focus on farm animal permits which is unique to Brandon from other towns in Rutland County and is something the Planning Commission has discussed with him. There is room for improvement on this item and more of a hot button is noise issues. The Planning Commission meeting focused on upgrading noise regulations and they will continue that focus in the coming meetings. The Committee has not had to oppose any projects relating to the Enhanced Energy plan. Mr. Biasuzzi stated it is commendable that Brandon has a full Planning Commission. Tim Guiles noted the DRB is missing a regular member and an alternate and suggested anything that could be done to encourage people to participate on this board would be appreciated. With regard to zoning violations, Mr. Biasuzzi noted some are old, and some are ongoing. There has been some progress on the old ones. Two issues that have come up that are on Mr. Biasuzzi's radar is camper occupancy as Brandon allows a camper to be occupied at a residency for 21 days and there have been issues with campers being an option for housing. He has had to address those issues and there have also been some issues with signs. He has had discussions with the property owners that have signs out of compliance. Another issue that has come up is the two square foot open signs in the windows that are seen in a number of downtown businesses as there are rules that indicate no neon illumination. He noted perhaps the Planning Commission may do some tweaking and make a consideration to change that. The current rules are clear that they are not supposed to be in the windows. Mr. Biasuzzi would also like clarification on the soft banners on the buildings, as he does not have opposition for leaving them, however, there is nothing in the BLUO as it was an amendment by the Select Board due to the road construction. Dave Atherton stated the banners were done when there was marketing money for Segment 6 and they are allowed to remain until the end of Segment 6, which will be May 31st. The businesses needed to market through construction and the Select Board waived some rules on banners and once Segment 6 is done, the banners are done. Mr. Biasuzzi asked for suggestions for keeping them as they are in good taste, but the merchants need some guidance on them. Seth Hopkins stated his view is to be as lenient as possible through Segment 6, but there will need to be action from the Planning Commission regarding the sign ordinance

thereafter. Bernie Carr stated all merchants were told the banners were through Segment 6 and have to be removed after Segment 6 is completed. Mr. Biasuzzi stated this is a good solution to the situation. Doug Bailey stated it is not a sign, but he noticed an open flag stuck into a tree that was planted and noted someone should talk to the business about this situation. Mr. Atherton noted he will speak to the business concerning this item. Mr. Biasuzzi stated the Planning Commission discussed the use of a town newsletter or a section of the town website to discuss current issues and he encouraged that option. Mr. Biasuzzi stated Brandon's Sign Ordinance was consolidated and he has some suggestions for tweaks to the BLUO for the current rules. Mr. Biasuzzi reported he will be coming in on Tuesday all day and probably Wednesday mornings, with flexibility to stay Wednesday afternoon. He has developed a new fee schedule that is simpler and is more direct and readable. The biggest change that is proposed for zoning fees is the zoning review for compliance relating to requests from attorneys to go through the properties to attest that there is compliance. He has done some commercial reviews in other towns that have taken two days. The proposed fee schedule includes the rate for the base zoning fee and required zoning fee and does not include the \$5.00 state increase for recording fees. Mr. Biasuzzi noted the Brandon fee schedule is actually a reduction due to the increase in the state's fee.

Motion by Tim Guiles/Tracy Wyman to approve the new Zoning Fee format as presented and recommended by the Zoning Administrator. **The motion passed unanimously.**

Brent Buehler asked if a builder pays for the attorney's fee to check for compliance and do penalties from the Town apply. Jeff Biasuzzi advised attorneys want to search titles a couple of days before closing and if there is an unpermitted structure or use, there is not a window of opportunity to fix it. In many cases, the easiest solution is to get the permit in place to not delay the transfer unless there is clear malice, however, if a violation is egregious, it delays the transaction. Mr. Biasuzzi noted this is not a common occurrence and if the violation is by malice, they are subject to zoning violations if they do not rectify the situation. Mr. Biasuzzi noted he is more concerned with commercial properties.

Seth Hopkins asked if this will be the Zoning Administrator's report for the Annual Report. Mr. Biasuzzi advised he will take context as the opening paragraph and will provide information on the types of permits and a couple of highlights. He thought the Planning Commission and Energy Committee will submit their own report.

Tim Guiles asked if some of the enforcement actions are tentative. Mr. Biasuzzi reported they are clear zoning issues, and some are perpetual where there has been discussion with the property owners and after several conversations there has not been action. He has one business tenant and a person that is operating an unpermitted business where he has been discussing these for about a year. Mr. Biasuzzi advised these issues will be ratcheted to a timeline where there will be a formal violation. Mr. Guiles stated there was discussion that a noise ordinance could be a stand-alone ordinance and asked if that requires attention by the Select Board. Mr. Biasuzzi stated this is for the Planning Commission to submit suggestions to the Select Board. If they feel the document they will draft is to be included in the current ordinance, they will proceed with the statutory process that will include public hearings and a revised BLUO submitted to the Select Board. This item is currently being reviewed by the

Planning Commission. Mr. Hopkins suggested the summary report provided by the Zoning Administrator include the information about the change in office hours. Mr. Biasuzzi advised he sent to the town clerks where he works an update on changes to his office hours. He likes to ask the town clerks and other town staff if the times are acceptable and if there is no objection, there will be time to get the information out for the annual report.

5. Public Comment and Participation

Bill Moore reported the Otter Creek Communication District is now 13 towns strong and are currently doing a feasibility study and it has been suggested to move forward with this project. They will submit an annual report. Mr. Moore provided the following link that is an outreach tool for this program: <https://outreach.occud.org>. Mr. Moore advised a final website is being developed and there will be a mailer going out to 25,000 addresses in Rutland county.

Brent Buehler did not realize the Planning Commission is rewriting the noise ordinance. Jeff Biasuzzi advised the simplest way to keep track of the Planning Commission is review of the minutes on the Town's website for all appropriate meetings on a month-to-month basis. Mr. Biasuzzi stated any proposed changes to be made would be presented to the Select Board for approval.

6. Town Manager Authority Regarding Appointed Officials

Seth Hopkins noted the following information on this subject was included in the Board's packet:

"24 VSA 37 § 1236 states "the [town] manager shall have authority and it shall be his or her duty:

... (2) To perform all duties now conferred by law upon the select board, except that he or she shall not ... make appointments to fill vacancies which the select board is now authorized by law to fill; but he or she shall, in all matters herein excepted, render the select board such assistance as it shall require. ..."

Full text of chapter 37: <https://legislature.vermont.gov/statutes/fullchapter/24/037>

Fellow Selectmen: In light of the "such assistance as it shall require" clause in (2) above, I suggest the Brandon Select board consider making an official finding of the italicized text below:

To successfully provide town services to the public, and to further the equitable and professional treatment of board-appointed officials, the select board requires the town manager to assist the board by providing supervision and evaluation of officials the board is required by statute to appoint, specifically the zoning officer, the animal control officer, and the rental code and health officer, similar to the supervision provided by the town manager to the other paid staff of the Town.

Reasoning: The three positions listed above are held by dedicated and valuable part-time, paid employees who cannot be effectively or efficiently overseen by a five-member volunteer board meeting twice a month. It is simply not fair to them. Our full-time professional town manager is

qualified and able to oversee them as he does the rest of the town staff (hired part-time and full-time employees) whom we do not appoint. We owe this to our appointees, so they have an alert, engaged, and responsive supervisor to ensure their success in their work. We also owe this to our community who rely on the services these appointees provide. Thank you for your consideration.

*Respectfully submitted,
Seth Hopkins”*

Motion by Seth Hopkins/Tim Guiles to request the assistance of the Town Manager for the supervision and evaluation of officials the Select Board is required by statute to appoint, specifically the Zoning Administrator, the Animal Control Officer, and the Rental Code and Health Officer, similar to the supervision provided by the Town Manager to the other paid staff of the Town. **The motion passed unanimously.**

Brent Buehler asked how the activities would be reported as in the past they were reported randomly. Seth Hopkins advised the Select Board established a policy for reports from committees, with most being either on an annual or semi-annual basis, unless the Board needs to be advised of something specific.

Dave Atherton does not have a problem with the departments reporting to the Board if there is a Department Head who wants to present to the Board, but he could also report out to the Select Board if they prefer. Tim Guiles stated in managing, they will be reporting activities to the Town Manager, with him being a conduit to the Board, but he is happy to allow them to come to the Select Board. Mr. Atherton noted that Jeff Biasuzzi and he meet frequently, but there has been some question as to who reports to who, and this will clarify that issue. Seth Hopkins noted this action will be helpful to the employees.

7. Town Report and Town Meeting Preparation

Seth Hopkins advised the Select Board is actively soliciting for photographs for the Town Report of town events or scenery, town employees in action, etc. A request was made three weeks ago for committees to submit their annual reports. He thanked the officers and staff that have submitted reports and for those who haven't submitted them, to please try to get the reports in within the coming days due to the warning deadline. Mr. Hopkins requested direction from the Town Manager concerning delinquent taxes for the Town Report. Mr. Atherton stated he has not been advised to proceed with any tax sales and he did not have a preference as to whether they were included. Tim Guiles thanked Mr. Atherton and noted the Derby annual report is being used as a model to rework the annual report. It was an observation that they noted their delinquent accounts in celebrating that they are getting smaller each year. Mr. Atherton is doing a great job in assisting to reduce the accounts and it was decided to not list the names. Mr. Guiles noted there are some people having specific hardships and for them to be exposed to public shaming is not helpful, and he is promoting the idea of modeling like Derby, where we list the total but not specific amounts. Mr. Atherton advised that since COVID-19 and all of the things that have gone on with taxes and unemployment, he has not been as aggressive with delinquent taxes. Seth Hopkins did not know the purpose for printing individual names and did not think it is a legitimate use of the town report. Brent Buehler noted he is in favor of not listing them and suggested if they are listed to note those

that have set up a payment plan with the Town to come current. Mr. Hopkins stated this could be problematic as people sometimes fall out of payment plans and may only be a snapshot in time. Mr. Atherton advised we have had to get aggressive with the plans, as people will set a plan up and it stipulates you have to make monthly payments and stay current with the current taxes. Mr. Atherton noted there are a list of repeat offenders and the percentages are probably consistent with other towns in the state. Mr. Hopkins stated this is a change to an established practice of many years and the Select Board should discuss it. It was the consensus of the Select Board to not publish the list of delinquent taxpayers, or the delinquent water and sewer accounts. Mr. Hopkins advised that Mr. Buehler had sent the Board an email in the fall for improving the town report and they have reviewed those suggestions and suggestions from others, and he thinks people will be pleased with the report. The budget year designation in showing the two years can be done and in the department breakdown of personal and benefits, they are working on how the material can be presented that is less opaque. With regard to a capital improvement plan, that has not been included in a few years and likely will not be able to be put together for this year but is something that can be discussed to develop for coming years. Dave Atherton stated the problem with capital improvement plans is anytime an administration or board changes they do not work out so well. Tim Guiles suggested the capital improvement plan can be an aspirational plan to provide information to the public. Mr. Atherton stated one thing brought up is that people do not want the Town to hold on to their money if we are not using it. Mr. Buehler stated from attending the budget meetings, paving is a constant on the list of capital improvements. Mr. Atherton advised that item should be annual maintenance cost that should stay in the budget. Mr. Atherton noted there was a discussion of the 1% option tax and the way the charter was written it was for capital projects that would be approved by the Select Board. There has been discussion of the highway garage and that might be the start of a capital improvement plan. Mr. Buehler thanked the Board for considering his format changes. He stated marijuana retail sales are coming up and asked how the Town will address that. Mr. Hopkins noted he had talked to Mr. Atherton about an article of Middlebury deciding to put this item on the town ballot and Mr. Atherton will do research on what the towns can do. Butch Shaw stated it is an opt-in vote and the rules have not been developed yet and the Cannabis Control Board has not been created yet. He will do some checking, but it would be an option vote by the Town. Sue Gage believes because the Town has a dispensary, they can begin dealing directly with the public and can convert to recreational sales but may not require a vote from the Town. Mr. Shaw stated that is something that will need to be checked on, but he knows they are first in line for permits. Chris Brickell noted he would be happy to be in on the discussion and he has heard the Town will have to opt in and the zoning regulations need to be reviewed as the dispensary may need a different permit, but he would be happy to weigh in when the time is appropriate. Mr. Hopkins stated the Board has some interest in this subject and asked the Town Manager to provide more information at the January meeting.

8. Consider Certificate of Project Completion for the Bond Bank

Dave Atherton reported these are bond certificates for bonds relating to the various projects listed that the Town had taken out, noting some are old, like for the culvert for Bridge 114 and are not the bond with Casella for the project.

Motion by Doug Bailey/Tracy Wyman to sign the Certificate of Project Completion for the Vermont Municipal Bond Bank. **The motion passed unanimously.**

Sue Gage reported the Town has expended the bond bank funds and they would like the Town to do this paperwork. The older bond was the original borrowing for old paving projects and \$750,000 went to Segment 6. The new bond was for the three different projects and the Bond Bank requested the certificate be sent when the project is substantially completed.

9. Fiscal

a) *Warrant – December 14, 2020 - \$396,430.17*

b) *Route 7 Construction Warrant – December 14, 2020 - \$279,346.68*

Motion by Brian Coolidge/Tracy Wyman to approve the December 14th warrant in the amount of \$396,430.17 and the December 14th Route 7 Construction warrant in the amount of \$279,346.68. **The motion passed unanimously.**

Doug Bailey questioned whether the warrant for Markowski on Page 3 had offsetting funds. Mr. Atherton advised this is the final invoice that gets reimbursed through VTrans and the Clean Water grant. Mr. Bailey asked if there are offsetting funds for the Brandon Rec fundraiser on Page 4 for pizza kits. Mr. Moore reported there were offsetting funds for this warrant.

Motion by Tracy Wyman/Brian Coolidge to enter into executive session at 8:38PM to discuss the appointment or employment or evaluation of a public officer or employee under the provisions of 1 V.S.A. 313(a)(3) of the Vermont Statutes to include the Town Manager. **The motion passed unanimously.**

Seth Hopkins wished everyone season greetings and hope for a bright 2021.

10. Executive Session

The Board came out of Executive session at 9:00PM. There were no actions required.

12. Adjournment

Motion by Tracy Wyman/Tim Guiles to adjourn the Select Board meeting at 9:00PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant
Recording Secretary