

## **Brandon Select Board Meeting February 8, 2021**

**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, Butch Shaw, Bill Moore, Chris Brickell, Allie Breyer, Bernie Carr, Lindsey Berk, Lee Kahrs, Deb Bratton, Ralph Ethier, Robert Foley, Barry Varian, Jan Coolidge, Mei Mei Brown, Joel MacClaren, Allie Walter

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 **The motion passed unanimously.**

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

**a) Select Board Meeting – January 25, 2021**

**Motion** by Tracy Wyman/Brian Coolidge to approve the minutes of the January 25<sup>th</sup> Select Board meeting. **The motion passed unanimously.**

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

Dave Atherton provided a report for the week of January 25<sup>th</sup> and February 1<sup>st</sup>, 2021.

. The EVSE charger stations are now active and online through ChargePoint in the Conant Square Parking Lot. Per our grant we will be offering free charging for one year.

. VTrans has offered re-submission of last year's Class 2 Highway Structures grant. Mr. Atherton has re-applied for funding for the replacement of the structure known as Bridge #6 on Arnold District Road.

. VTrans is also accepting Class 2 Highway paving grants again this year. Mr. Atherton has submitted an application for shim and overlay on 1.35 miles of Arnold District Road. This section of the road starts on the north end of Bridge #6 and ends at the town line. Quotes are currently being obtained from pavers for this project.

. Mr. Atherton has been working with Hazard Mitigation on the buyout for 389 Newton Road. We have submitted all of the required paperwork (so far) to FEMA to proceed. We have secured the additional 25% match through Two Rivers Ottauquechee Regional Commission to make this a zero cost to the landowner.

. Mr. Atherton attended another meeting with Hazard Mitigation and the Army Corp of Engineers as the next steps in creating a Flood Loss Avoidance Study. We are still in the fact gathering stage to show the history of our flood losses and mitigation efforts. They chose Brandon because of all the flood work the town has been doing over the last few years.

### ***Rec News:***

Bill Moore reported there are some modifications to sports and have moved on to Phase 3 and are looking for a way to provide a middle season for the sports. For the first time, we have let someone use the town hall.

Tim Guiles asked about the swamp land and whether the sale went through. Dave Atherton does not have an answer on this yet. The legal counsel for Vermont Fish and Wildlife has contacted the Town's attorney to request more lenient language on the purchase and sales agreement. The Nature Conservancy was a middleman for Fish and Wildlife and it looks like Nature Conservancy has stepped out and it would be state-owned land and would be a payment in lieu of taxes. Mr. Atherton will advise the Select Board once he has heard back from them. Mr. Guiles also asked about the town hall walkway and how it came out with the Friends of the Town Hall. Mr. Atherton reported he spoke to Dennis Marden and noted it has worked out okay.

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

Tim Guiles requested an addition to the next meeting's agenda regarding a noise ordinance. He noted this has been a discussion of the Planning Commission and there have been some thoughts developed around this subject and he would like to discuss this at the Select Board level. Doug Bailey was not in favor of a noise ordinance as he read in the Planning Commission minutes as it would be hard to enforce. Mr. Bailey thought trying to have a limitation on shooting guns in the entire Town of Brandon would be something the general population would not be in favor of and he does not think that infringing on people's rights should go that far. Mr. Bailey advised he would be opposed to this and noted he has an area on his property where guns are shot. His neighbors also shoot and hunt and pay taxes on land in the Basin to be able to do this. Mr. Bailey was not sure how to enforce the car noise and if it can't be enforced, it should not be included. Tracy Wyman echoed Mr. Bailey's comments but does not have an issue with discussing it at the next meeting. Allie Breyer stated there are a lot of people in Town that have issues with noise and there needs to be consideration about not just guns, but loud music being played at all hours of the day. She is aware the Police Chief has had to deal with a lot of noise issues and cannot do anything about them at this point. There are cars that make a lot of noise and disrupt local business and she wants this taken into consideration, as it is a huge issue with a lot of people she

knows. Dave Atherton stated with the series of events that have happened, he suggested this be a joint discussion with the Planning Commission, Select Board and Police Department. He noted it gets tricky when infringing on people's rights and suggested the Boards should tread lightly and cautiously on this topic.

Dave Atherton reported Representative Jerome had advised that she was unable to make this evenings' meeting.

Barry Varian stated there are new financial projections for the school district since the annual report was done. Due to the State yield increasing by \$500 from the original projection, the change in the school district's unified tax rate will go from 3.03% to a negative 2.6%. This is positive for the taxpayers and is due to the unexpected strength of the economy. The school district will be sending out a mailer to describe the changes prior to their annual meeting on February 24<sup>th</sup>.

Bill Moore stated there is more funding that will become available and he will be working with Bernie Carr, and their contacts at VEDA and the SBA to come up with a training webinar.

Butch Shaw provided an update regarding the pilot money that is funded in the budget, noting it is a moving target. It is an annual appropriation made by the legislature and they have not voted on the yield bill yet and the numbers could change depending on town meeting day. This is an estimated yield until the legislature gets the numbers from voting day. All money coming out of Montpelier is in a state of flux as it is not known day to day because of incoming federal funds. The State has an additional \$50 million to put into the Transportation fund and there is a proposal to double the Town Highway Class 2 funding this year. Bridge funding is up over \$5 million this year and there is a great deal of optimism that things will get back on track, but nothing has been voted on yet. Dave Atherton stated all this information is good to know. Seth Hopkins thanked Mr. Atherton for being proactive with applying for all grants that can be advantageous for Brandon.

Allie Breyer stated it is unfortunate that Margert Kahrs was let go as the ACO, as it is important to talk about animal rights. Ms. Breyer is trying to understand the role of the Department of Agriculture as it pertains to animal welfare as the ACO would be investigating some of the issues, but it does not appear to be the case. Seth Hopkins stated there is a significant difference between animals on farms and those that are not, and the Department of Agriculture has specific rules. In December, there was an animal welfare specialist sent to a property in Brandon and the determination was made by the specialist the animals were being kept according to Ag practices and were in good health with access to feed, water, and shelter. The Department took seriously the complaint and it respected the rights of the animal owner and is a good example of how it should work towards animal welfare in Brandon. Ms. Breyer stated she does not consider having a farm, but they have farm animals that they take care of. Mr. Hopkins stated the Department of Agriculture has an info graphic that is an appendix to the animal control ordinance. Tim Guiles stated there may be farm animals that someone has as pets, that would not be considered farm animals. Mr. Guiles suggested the ACO has a different role in all of these cases and is supposed to

work in harmony with the State. Ms. Breyer asked who does the regulating at the Department of Agriculture. Chief Brickell advised that he deals with the local representative, Darryl Kuehne, but notes that one can go to the website to talk with the State veterinarian. They have a definition of what is considered a farm and it is not necessarily the same definition as everyone else. The law requires the Police Department check first with the Agency of Agriculture as to whether it is an issue for them to deal with and the role he thought the ACO has is to work in harmony with the Agency of Agriculture and Police Department on complaints to determine who is to take the complaint. Dave Atherton stated the Town has not eliminated the ACO position and is moving forward in finding a replacement, with an interim person in that position currently. There is still an animal control ordinance and the Town will still work with the Department of Agriculture, Fish and Wildlife and the Police Department. The statutory law allows the Select Board to create what type of animal control ordinance they want for their town. Mr. Atherton noted this is not being taken lightly and they are still going to move forward with this job. Doug Bailey suggested it would be helpful if Mr. Atherton sent the form that shows what the definitions of farms are to Ms. Breyer. Mei Mei Brown asked about the animal control position as she would like assurance from the Board the Town will continue to have a strong ordinance. She would like to know the ACO is going to be a proactive position, as allowing the ACO to become reactive would be a huge step backwards in animal welfare. Seth Hopkins stated he wants a responsive ACO because he believes it is what is required and warranted. He does not believe there is a need for a proactive ACO to be making preemptive visits to properties with animals and he does not want an ACO driving around Town looking for problems and opening gates. Ms. Brown stated animals need help and she is concerned that a lot of human abuse starts with animal abuse and if we are not progressive we could be allowing people to go down the wrong path. Tim Guiles understood the concerns, but the ACO should be paying attention and if they observe abuse, they should initiate action. In developing the ordinance there is concern the Town does not want someone spending an overly large amount of effort sleuthing around for problems, if there is no cause. Similarly, the Town would not want the Police Department stopping people without cause and they are looking for a legitimate middle ground where there is an ACO that has a heightened awareness. Ms. Brown stated in hiring a new ACO, it is hoped that appropriate training is provided so they understand what is needed. Ms. Brown also noted there has been a noise ordinance in the BLUO but it has never been enforced and she stated the Town needs to have an enforceable noise ordinance.

## **5. Town Report and Town Meeting Discussion**

Seth Hopkins stated the town reports have been mailed, with the town and school district's information published in the same report. For town meeting, Bill Moore will facilitate a webinar practice, with the meeting webinar to be held on March 1<sup>st</sup>. Mr. Moore stated the access on the side of the public will be different in that the entire gallery will not be seen, but people will be able to ask questions. Mr. Moore advised he will have a tech person lined up for the webinar because he will be the moderator for the meeting. People will also be able to call in, similar to a conference call. Mr. Hopkins advised the Select Board will be doing a presentation on the budget during this meeting and Mr. Atherton has arranged for the engineers for the wastewater

improvement project to be present to provide a presentation. All voting will take place on Tuesday, March 2<sup>nd</sup> by Australian ballot.

## **6. Update on Board Vacancies**

Dave Atherton provided a letter of interest to the Board for the Planning Commission vacancy and advised he had received two additional letters over the weekend. He noted the plan was to gather interested letters and do the appointment at the next Select Board meeting. Mr. Atherton will provide all letters to the Select Board for review prior to the next meeting. Seth Hopkins requested Mr. Atherton provide a summary sheet of all positions and the people that have expressed interest in the specific positions. Mr. Hopkins expressed the Board's gratitude for those who have sent letters of interest in the positions. Dave Atherton thanked Allie Breyer and Lindsey Berk for posting the positions on their Facebook page.

## **7. Consider Board Policy on Filling Vacancies**

Seth Hopkins advised there is a policy for the Select Board's consideration on filling vacancies that has 7 steps and is based on previous conversations and what the statutes require the Select Board to do. Doug Bailey stated it appears to fall in line with what was discussed and he was in favor of adopting it. It was noted that prior discussion on policy adoption was a discussion of the policy at one Select Board meeting and voting at the next meeting. Mr. Wyman thought what was discussed is outlined very well and Mr. Coolidge also agreed it looked good. Mr. Hopkins requested Mr. Atherton to place this item on the next meeting agenda for ratification.

## **8. Approve Annual Financial Plan – Town Highways**

Dave Atherton advised that the Financial Plan and Road and Bridge Standards are annual requirements that enable the Town to apply for Class 2 Structures grants and other grants. The Financial Plan is based on the Town's budget and how much is estimated will be spent on Class 1, 2 and 3 roads. The Town has adopted the State's Road and Bridge Standards that provides more funding. The Certificate of Compliance for Road and Bridge Standards has been done in the past with the Regional Planning Commission with the bridge and culvert studies. One can view information on our bridges on the VTrans website. This is another thing that is done to keep a good rapport with VTrans.

**Motion** by Tracy Wyman/Doug Bailey to approve the Annual Financial Plan – Town Highways as presented. **The motion passed unanimously.**

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

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

Tim Guiles asked the Town Manager to confirm this information to the best of his knowledge. Dave Atherton started this is not something the Town has a lot of leeway with, as they have to build roads in accordance with the standards.

## **10. Approve Certification of Compliance for Town Road and Bridge Standards and Network Inventory**

**Motion** by Tracy Wyman/Doug Bailey to approve the Certification of Compliance for Town Road and Bridge Standards and Network Inventory as presented. **The motion passed unanimously.**

## **11. Consider Use of Local Options Tax Funds for Route 7, Segment 6 Matching Funds**

Dave Atherton stated the town clerk is asking to transfer money from the Local Option Tax fund to pay for the Segment 6 matching funds. Seth Hopkins stated this is \$295,109 that the treasurer is asking to transfer from the Local Option Tax Fund and is the first time from its inception. Dave Atherton stated this is the last construction invoice that will be seen from Segment 6 and as far as construction, the sidewalk repairs will be done but that is not a cost to the Town. The project is still running a little under budget and there were some change orders that all leveled out and this is the end of the project. Mr. Hopkins stated as of June 30<sup>th</sup> the Fund had \$483,000 so it will not deplete the fund and is what the Fund was set aside for. It allows the Town to meet the grant match without going to the voters for an additional appropriation or a hike in the tax rate. This is the result of a lot of foresight and there was a lot of effort by the Town Manager, State Representatives and Select Board in creating this charter through the legislature to impose the 1% tax. It had not been previously allotted to a town like Brandon and had previously been reserved for the towns on the sending side of the education formula. The board and the town management have shown real restraint in not spending this fund except for Segment 6. Mr. Hopkins stated this is a great testimony for the community working together. Doug Bailey stated the work with the charter started around 2015 and its success is the reason that he feels comfortable in not running for office again. He is happy it worked out and the reality is that there is still a good amount of money to spend on other infrastructure. Mr. Bailey is pleased that there is money left over and that the Town Manager was able to keep the money situation in hand and not have to spend any of the fund. Dave Atherton noted the conversation of this fund was originated by Sue Gage. Mr. Hopkins wished to thank the merchants for their efforts through trying times in being the middleman to add the tax and remit it to the State. The Board has tried to help out the vendors with signage through the project and Bill Moore has done some huge economic development efforts to assist the local merchants. Mr. Hopkins noted this is a story that Brandon should be proud of for many years to come.

**Motion** by Doug Bailey/Seth Hopkins to approve the use of the Local Options Tax funds for the Route 7, Segment 6 matching funds in the amount of \$295,109.63. **The motion passed unanimously.**

Butch Shaw congratulated everyone for the work on this project. Mr. Shaw advised that the State has a book that lists all the projects in the State and Brandon's Segment 6 has been in the book since before 2006 and this will be the last time that they will see this project in the book and he congratulated everyone for getting through this project.

## **10. Fiscal**

- a) *Warrant – February 8, 2021 - \$80,341.39*
- b) *Route 7 Construction Warrant – February 8, 2021 - \$2,895.00*

**Motion** by Tracy Wyman/Brian Coolidge to approve the February 8<sup>th</sup> warrant in the amount of \$80,341.39 and the February 8<sup>th</sup> Route 7 Construction warrant in the amount of \$2,895.00. **The motion passed unanimously.**

Doug Bailey questioned if the two bills for fencing had offsetting funds. Bill Moore advised these expenses will be offset by the \$10,000 grant that the Town had received.

The Board recessed at 8:08PM.

Seth Hopkins thanked everyone for their attendance at this evening's meeting.

The Board reconvened at 8:11PM.

**Motion** by Tim Guiles/Doug Bailey to find that premature general public knowledge of a pending or probable civil litigation or prosecution, to which the public body is or may be a party will clearly place the Town at a substantial disadvantage. **The motion passed unanimously.**

**Motion** by Tim Guiles/Doug Bailey to enter into executive session at 8:12PM to discuss the pending or probable civil litigation or prosecution, under the provisions of 1 V.S.A. Section 313(a)(1), with the session to include the Town Manager. **The motion passed unanimously.**

## **11. Executive Session**

The Board came out of Executive session at 8:32PM.

There were no actions required.

## **12. Adjournment**

**Motion** by Tracy Wyman/Brian Coolidge to adjourn the Select Board meeting at 8:32PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant  
Recording Secretary