

PLEASE NOTE: REMOTE MEETING via ZOOM

Meeting ID (253 279 4161)
Dial: (929) 205 6099

**Brandon Select Board Meeting
May 10, 2021
7:00 p.m.**

The Brandon Select Board will meet Monday, May 10, 2021 at 7:00 p.m. expecting to consider the items noted on this agenda. Agendas shall be posted on the community bulletin board located at the Town Office at 49 Center Street and on the community bulletin board located at the Junction Store & Deli at 2265 Forest Dale Road. The Select Board reserves the right to add additional items, if necessary, at the beginning of the meeting.

- 1) Call to Order
 - a) Agenda Adoption
- 2) Approval of Minutes
 - a) Select Board Minutes – May 10, 2021
- 3) Town Manager's Report
- 4) Public Comment and Participation
- 5) Tree Committee Discussion
- 6) Consider Reinstating Interest and Penalty on Sewer and Taxes
- 7) Consider Ordinance for the Use of Town Parks and Recreational Areas
- 8) Consider Parks and Recreation Facility Use Waiver
- 9) Fiscal
 - a) Warrant – May 10, 2021– \$144,081.48
- 10) Executive Session

The appointment or employment or evaluation of a public officer or employee under the provisions of 1 V.S.A. § 313(a)(3) to include the Town Manager and the Chief of Police.
- 11) Adjournment

Brandon Select Board Meeting April 26, 2021

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

All in Attendance via Zoom.

Board Members In Attendance: Seth Hopkins, Tim Guiles, Mike Markowski, Tracy Wyman, Brian Coolidge – Attended During Executive Session

Others In Attendance: Dave Atherton, Barry Varian, Doug Bailey, Wayne Elliott, Judith Schneider, Chris Brickell, Bernie Carr, Butch Shaw, Brent Buehler, Mei Mei Brown, Lee Kahrs

1. Call to order

The meeting was called to order by Seth Hopkins - Chair at 7:01PM.

a) Agenda Adoption

Motion by Tracy Wyman/Tim Guiles to adopt the agenda, as posted. **The motion passed unanimously.**

2. Approval of Minutes

a) Select Board Audit Review Meeting – April 12, 2021

b) Select Board Meeting – April 12, 2021

Motion by Tracy Wyman/Tim Guiles to approve the minutes of the April 12th Select Board Audit Review Meeting and the April 12th Select Board Meeting. **The motion passed unanimously.**

3. Town Manager's Report

Dave Atherton provided a report for the weeks of April 12th and April 19th, 2021:

. The Segment Six sidewalk repairs/replacement started last week on Franklin Street. We are hoping to pour new sidewalk in that section this week (weather permitting).

. The Highway Department has been working on rebuilding the South Entrance to Estabrook Park to comply with VTrans standards. We will also be installing a gate that will remain closed unless there is an event happening at the Park.

. Mr. Atherton has been working on the new Parks Ordinance and has a first draft that he has sent to the Town's attorney for review. Rec Director Moore and Chief Brickell have had input

throughout the process. Mr. Atherton is hoping to have a draft for the Select Board's review at the next meeting.

. Lowell Landscaping was awarded the NRCS bioswale project on Pearl Street and in the Center Street parking lot. They are planning to complete the work in July.

. Mr. Atherton attended the Rutland Regional Planning Commission meeting on April 20th. There was discussion on the new 3-acre stormwater rule which we are already working on). The guest speaker was Senator Collamore. There was talk about how the ARPA funds are going to be distributed, which confirmed that there is no definite plan on how that is going to happen.

. Mr. Atherton has sent out a press release to the local newspapers about the recognition we have received from USDA on the WWTP upgrades.

Seth thanked Mr. Atherton for doing the press release and noted it was in the Rutland Herald.

Tim Guiles stated with the Revolving Loan Program, there is the question of whether the Town wants to participate in the WISPr program. Mr. Guiles researched this program and advised it is a way to get more federal money to do natural resource projects. The natural resource projects do not have to be in our community and the Agency of Natural Resources has a list of shelf-ready projects that are looking for money and any municipality has the ability to trigger the WISPr sponsorship. It seems like low hanging fruit that would not cost the Town anything. Wayne Elliott advised the State started this in 2018 and the project may not be located in the Town and the objective is to push the money to groups that do not have bond capacity. The program has been underutilized and Mr. Elliott has not had anyone choose to participate as it is a little more administrative burden on the community. They are running on a limited basis and they are potentially going to phase it out. Mr. Guiles noted the State does the matching of the projects between municipalities and organizations as they need to line up. If the Town says yes, all that would need to be done is to be willing to have our sponsorships available and if there are no projects that line up, the Town will do nothing. Mr. Elliott stated this project is unique in that the Town is using a USDA grant loan for the construction. You would generally check the box when asking for the construction funds and there may not be projects that align as this is more related to the engineering costs. Mr. Guiles stated the WISPr program indicates that projects can be anywhere in the State. Mr. Elliott advised the WISPr program is through the Clean Water SRS program. Butch Shaw stated he would like to obtain more information on this. Mr. Guiles will send the information he researched to Mr. Shaw. Mr. Guiles noted if agreeing to the sponsorship only indicates the Town would be placed on the list, he would like to see the Town do this. Mike Markowski stated if it is not going to cost the Town anything to do this, he would agree to it.

Motion by Tim Guiles/Mike Markowski to approve checking the box "yes" for the Water Infrastructure Water Program on the Clean Water Loan application. **The motion passed unanimously.**

Seth Hopkins advised Brian Coolidge posed the following two questions: 1) Is Casella going to be reseeded the grass areas where necessary and is there a timeframe for the work on Park Street

regarding the low manhole cover. Dave Atherton advised reseeding would be done and they will be doing a rebuild of the manhole and repaving around the area.

Doug Bailey asked whether the reseeding would include the Center Street Park due to poor quality grass. Mr. Atherton advised they will be determining what can be reseeded, however, there were events in the parks that trampled the grass and the Town will have to be putting seed down, too.

Bernie Carr asked for an update on Midway and Dunkin Donuts. Mr. Atherton did not wish to speak for the business owner and suggested that they be contacted directly.

4. Public Comment and Participation

Tim Guiles stated a letter was sent affirming the transfer of some swamp land. Seth Hopkins advised the letter was addressed to the Select Board and he forwarded the letter to the Town Manager. There are five parcels and they want to donate them to the Nature Conservancy or Department of Wildlife. The Department of Wildlife is asking for a letter from the Select Board. Dave Atherton advised he talked with Joan Allen from Fish and Wildlife and asked if there is policy or practice required from Select Board for this. Ms. Allen indicated there is nothing required from the Department of Fish and Wildlife, but the Governor wants to assure that the Town is not opposed. Ms. Allen can use the official minutes from the meeting indicating whether the Select Board is opposed or not opposed.

Motion by Tim Guiles/Mike Markowski to write a letter indicating the Town is not opposed and supports the proposed transfer of lots referenced in the letter from Joan Allen dated April 16, 2021. **The motion passed unanimously.**

Brent Buehler asked, given the decision to maintain the State Noise Ordinance, if the ordinance could be included in the minutes as he was not able to locate it. Seth Hopkins advised it is within the State statute, Title 13 Chapter 19. Chief Brickell had provided some background information on this and suggested it would take the entire statute in its entirety. Seth Hopkins requested the Town Manager provide pages to add to the minutes of the meeting.

Brent Buehler requested the survey for High Pond Road and the letters relating to the subject be put in the public record. Seth Hopkins stated the clearing house document of letters and the survey will be made public. Tim Guiles will provide the collated letters to the Town Manager.

Doug Bailey stated there was a waiver of the Sign ordinance during Segment 6 and now that the project is done, Mr. Bailey requested the Select Board go back to the original Sign ordinance. He is offended by the signs in Center Street Park. Dave Atherton stated Segment 6 is not closed out yet and Mr. Hopkins noted the Select Board will revert back to the original Sign ordinance when the Segment 6 project has ended.

5. Approve Clean Water Loan Application

Seth Hopkins advised this is the application relating to the wastewater treatment plant that was previously amended in the meeting regarding the water sponsorship program.

Motion by Tim Guiles/Mike Markowski to approve the Clean Water Loan Application.

Wayne Elliott reported the majority of the project is through the USDA grant loan but the Town can't tap into that until a year from now. This is step two for the water design so that the Town qualifies for 50% subsidy and once the loan is approved it gives the Town a way to get paid for legal costs and is a bridge loan in the amount is \$300,000 that was approved as part of the bond. In addition to engineering there is allowance for permit fees and legal fees. The engineering documents will be completed to be ready for bidding. Seth Hopkins thanked all who have been involved in this project and appreciated receiving information that makes sense and all questions were answered in a forthright manner. Tim Guiles noted the total amount requested was blank on the document and Mr. Elliott advised that a revised document with the \$300,000 figure was sent to the Town Manager. Dave Atherton noted the Board's document for signature will have the figure included.

The motion passed unanimously.

6. Consider Grant Resolution for Library

Dave Atherton stated this is for the ACCD grant the library is getting. The Town has done a couple of similar resolutions before and the Board needs to resolve that they are still supporting the project. The Town is the pass through entity for the library's grant for structural renovations.

Motion by Tim Guiles/Tracy Wyman to approve the Grant Resolution for the Brandon Free Library as presented. **The motion passed unanimously.**

7. Consider Reinstating Interest and Penalty on Sewer and Taxes

Motion by Tracy Wyman/Mike Markowski to reinstate the interest and penalties on the sewer and taxes.

Seth Hopkins advised the Select Board had voted to suspend interest and penalty on sewer and taxes until the state of emergency has ended and some people may have made prioritizations based on that. The state of emergency will be coming to an end and he did not think the Town should change course at this time. Tracy Wyman stated it would not be reinstated until July. Butch Shaw advised the state of emergency and opening the state back up are two different things. The Governor may need to extend the state of emergency for another 30 days and right now, the Senate has asked the House to extend our state of emergency until January 1st. Mr. Shaw can't predict but this is predicated on the conditions of some of the legislation that is passed. Mike Markowski stated if something is not done now, the Town will lose leverage to do something later as there are more funds available with the federal funding coming into the State. Tracy Wyman stated people have received stimulus checks and he thinks the Town needs to get something started. Dave Atherton has been consistent with working to keep delinquent taxes low and the Town needs to get back on track. Mr. Shaw stated the Governor cannot require the

legislature to be in a state of emergency and they have to set their own. Mr. Shaw would not suggest the Town tie its state of emergency guideline with what the legislature is doing, rather with what the Governor is doing. Seth Hopkins asked if there is a rise in delinquencies and Mr. Atherton stated it is not going up population wise, but there are usually methods of dealing with inconsistencies. He thought when the state of emergency is lifted there are going to be people that have a lot to pay. There have been two rounds of the State paying off utility bills for people and Mr. Atherton thought that some people are going to be shocked when they go to pay taxes for two years. Brent Buehler knows landlords that have not received rent but their taxes, water and sewage is accumulating. Dave Atherton attended one of the conferences on water and sewer arrears and it was suggested they wanted every renter to call and set up something. Mr. Buehler stated they can't evict people and it creates a hardship on some of the landlords. He agreed with Mr. Hopkins that if the town's business signs are left up, the original state of emergency should be honored. Doug Bailey stated as a 30-year banker, he supports what Mr. Atherton and Mr. Wyman are saying as the further behind one gets, the harder it is to get caught up. Any landlord can meet with Dave Atherton and set up a payment plan. Tracy Wyman does not have a problem postponing the interest and penalties but the Town needs to do something about getting taxes paid. Tim Guiles stated we are talking about interest and penalties, but taxes are still due. Mr. Atherton stated the difficult thing is the Town is going to hold a tax sale when not collecting penalties and interest. Delinquent tax bills were sent out but the Town is not seeing people come in due to no interest and penalties. Tim Guiles asked if the threat of a tax sale is as coercive as interest and penalties. Mr. Atherton advised the only difference is interest and penalties don't go away and he thinks the idea during the pandemic was to not have interest and penalties. Mr. Atherton can do a tax sale at the end of the fiscal year even when interest and penalties have been waived as the Town has been doing tax sales every year but there is the imposing threat that the delinquent notice is sent and then 15 days later, the property is to be sent for tax sale. The Town has had success doing this annually and keeping delinquencies down. Mr. Atherton will advise the Select Board when he wants to do a tax sale.

The action on the motion was a tie vote and failed.

8. Consider Posting Notice to Bid on Town Lots 6-1-23 and 6-1-32

Motion by Tracy Wyman/Seth Hopkins to authorize the Town Manager to post Notice of Bid announcements for Town Lots 6-1-23 and 6-1-32 with a minimum bid of \$250 per parcel.

Dave Atherton stated these are the town lots that were posted last fall that the Nature Conservancy was going to acquire and then backed out of the sale. Mr. Atherton thought the minimum bid should be raised from \$100 to \$250 as it would be in the best interest of the Town to maximize the yield for the parcels when selling them.

Motion by Tracy Wyman/Seth Hopkins to amend the original motion to include a minimum bid of \$250.00. **The motion passed unanimously.**

The original motion passed unanimously.

9. Fiscal

a) General Fund Warrant – April 26, 2021 - \$173,900.47

Motion by Tracy Wyman/Tim Guiles to approve the warrants of April 26, 2021 in the amount of \$173,900.47. **The motion passed – Mike Markowski recused.**

Tim Guiles noted that Tracy Wyman would recuse himself in the past during the Segment 6 project when he might have business relating to the warrants and noted he wasn't sure if Mike Markowski should do the same for Markowski Excavation warrants. Mr. Markowski stated he is a regular employee for Markowski and he is not involved in the business or has a financial investment but he does not have a problem recusing himself. Dave Atherton reported the Town does buy gravel from Markowski and uses their dump area and it is not a requirement that Mr. Markowski has to recuse himself. Seth Hopkins stated Mr. Markowski has offered to recuse himself at this point but noted there are other options. Mr. Hopkins now discloses relationships when discussing items during the Liquor Commission meetings rather than recusing himself.

The Select Board recessed at 8:04PM.

The Select Board returned to session at 8:08PM.

Motion by Tracy Wyman/Seth Hopkins to find that the premature general public knowledge of the negotiation strategies with the NEBPA will clearly place the Town at a substantial disadvantage. **The motion passed unanimously.**

Motion by Tracy Wyman/Tim Guiles to enter into executive session at 8:10PM under the provisions of 1 V.S.A. 313(a)(1) to discuss the current collective bargaining agreement with the NEBPA, with the session to include the Town Manager Dave Atherton and Policy Chief Brickell. **The motion passed unanimously.**

10. Executive Session

The Board came out of executive session at 8:36PM.

There were no actions required.

11. Adjournment

Motion by Tracy Wyman/Tim Guiles to adjourn the Select Board meeting at 8:36PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant
Recording Secretary

Town of Brandon Noise Ordinance

Authority under Title 24

vsa 1971(a)

2291(14)

2291(15)

VT Statutes vs. Town Ordinance

- T13 vsa 1026 Disorderly conduct
 - (a) A person is guilty of disorderly conduct if he or she, with intent to cause public inconvenience or annoyance, or recklessly creates a risk thereof:
 - (1) engages in fighting or in violent, tumultuous, or threatening behavior;
 - (2) **makes unreasonable noise;**
 - (3) in a public place, uses abusive or obscene language;
 - (4) without lawful authority, disturbs any lawful assembly or meeting of persons; or
 - (5) obstructs vehicular or pedestrian traffic.
 - (b) A person who is convicted of disorderly conduct shall be imprisoned for not more than 60 days or fined not more than \$500.00, or both. A person who is convicted of a second or subsequent offense under this section shall be imprisoned for not more than 120 days or fined not more than \$1,000.00, or both. (Amended 1971, No. 222 (Adj. Sess.), § 5, eff. April 5, 1972; 2013, No. 150 (Adj. Sess.), § 3.)

VT Statutes continued

- Noise in the Nighttime
- Title 13 vsa 1022
- A person who, between sunset and sunrise, disturbs and breaks the public peace by firing guns, blowing horns, or other unnecessary and offensive noise shall be fined not more than \$50.00. However, this section shall not prevent a person employing workers, for the purpose of giving notice to his or her employees, from ringing bells or using whistles or gongs of such size and weight, in such manner, and at such hours as the select board members of the town, the aldermen of the city, or the trustees of the village may prescribe in writing.

VT Statutes continued

- Safety Zone; Shooting Prohibited
- Title 10 vsa 4710
- (a) A person may on land owned or occupied by him or her and within 500 feet of any occupied dwelling house, residence, or other building or camp occupied by human beings, or any barn, stable, or other building used in connection therewith, maintain posters furnished by the Department of Fish and Wildlife not less than 12 inches wide and 18 inches high containing the words "safety zone, shooting prohibited." An area bounded by such posters placed at each corner, and not more than 200 feet apart on the boundaries shall be considered enclosed land for the purpose of this section and is hereby defined as a "safety zone." Without advance permission of the owner or occupant, a person shall not discharge a firearm within or take a wild animal that is within a "safety zone" as defined herein.
- (b) Any person who violates a provision of this section shall be fined \$50.00. (Added 1967, No. 40, §§ 1, 2, eff. March 16, 1967; amended 1983, No. 158 (Adj. Sess.), eff. April 13, 1984; 1991, No. 13, § 5.)
- Typically enforced by Fish & Wildlife

Concerns and Issues

- Enforcing the statute results in a criminal arrest of the offender.
- Law enforcement must witness the violation in order to arrest
- If not witnessed, court action can still take place with a written sworn statement from the witness.
- Prosecutor must be willing to prosecute
- Judge must find probable cause
- Fines are typically minimal if not suspended, and go to the state
- Potential of witness to have to testify in a court hearing

Town ordinance

- Pros: Offender can be written a civil complaint if witnessed
- Offender can be written a civil complaint if unwitnessed by law enforcement, providing a witness provides a statement
- Conviction of civil violation results in no criminal arrest record
- Fine can be reasonable with an increase for continued infractions
- No court appearance required by the accused if not contested

Town Ordinance continued

- Cons: Offender can contest ticket and take it to court, resulting in officer testifying and appearing in court. (a cost to the town of more than the ticket)
- If offense unwitnessed by law enforcement, but written based on witness statement, witness and law enforcement will have to testify and appear in court
- Police will receive more complaints related to noise from the public, and be expected to enforce the ordinance as written
- If the ticket is not paid, there is no negative impact to the offender unless specifically addressed in the ordinance

Town Ordinance continued

- Cons:
- Minor disputes will result in people wanting police to resolve neighbor issues
- Ordinance must be legally adopted and meet judicial bureau standards

Concerns

- Definitions must be clearly defined
- Continual or subsequent offenses must be addressed
- Discretion- left to police to decide appropriate action, or strict guidance by ordinance?
- Are we infringing on property rights of all owners based on a vocal minority of complaints?
- Are we allowing Brandon to be depicted as uncaring and unwelcoming as has been suggested, or are we respecting people's rights?
- If you determine decibel levels will be used to constitute violations, equipment will be required, and should be utilized at the location of the complainant, not where the noise originates from.
- If a minor is the cause of the violation, specific language to address intent, and responsibility for a minor must be addressed.
- Tenants, and / or landlords of property must also be addressed.

Final Thoughts

- Brandon PD is your avenue to address these concerns, but not to author or decide if an ordinance is needed
- Public hearings were held by the select board for input from the community, to determine if an ordinance is needed.
- The police department is happy to engage in those conversations once you have determined if an ordinance is needed, and if not, what we have done thus far to address concerns
- Needed discussion on what the select board and public expect for enforcement if an ordinance is enacted
- Perhaps an online public survey by only Brandon residents (survey monkey) to get a real representation of public input (for those who do not like to voice opinions in public)
- All other towns who were listed as having ordinances (links provided) were contacted by me, almost no enforcement action is taken, and voluntary compliance has worked with police involvement.
- More discussion is needed where citizens can ask questions specific to how violations are handled.
- I would urge the select board not to rush their decision, and be as thoughtful and thorough as possible when crafting

Town Manager Report for the week of April 26th and May 3rd, 2021

- The Segment Six sidewalk repairs/replacement continue on Franklin Street and Conant Square. West Seminary Street has been milled and will be repaved on May 10th.
- Shawn and I have been working on the MRGP list with the RRPC to determine which road segments we will be completing with the \$20,000 grant we received. This program identifies road segments that need work on drainage and runoff.
- The Subgrant Agreement for the 389 Newton Road property buyout has been reviewed and signed. Next step will be soliciting quotes from appraisers and title work.
- We have received the Class 2 Highway structures grant for the Arnold District Road Culvert. I will be meeting with the engineers to discuss next steps.
- Attended the 4/29/21 Rutland Region Transportation Council meeting. There was further discussion on state highway project rankings as well as VTrans Bike & Ped grants.
- Attended the 4/28/21 RRPC Emergency Management “Hot Topic” meeting. The discussion was on debris management after a disaster.

Rec. Dept. News

- Safety day is back! Thanks to a generous sponsorship from OMYA and our fantastic safety volunteers and professionals, we will be hosting our annual Safety Day and Bike Rodeo at the Brandon Fire Department on May 15th. Chief Kilpeck and our volunteers will play host to the Brandon Rec, Brandon PD and Brandon Rescue. The Neshobe PTO will be helping us to properly size and fit these FREE OMYA sponsored bike helmets for area youth of all ages. Hotdog grilling by the Brandon Area Toy Project, Bike Mechanic station manned by Members of the newly formed BABA (Brandon Area Bicycle Association) and Dan Boyce. All around safety guru, Debbie Boyce will be manning a riding safety course. Join us 10am – 1 pm!
- Our Estabrook Archery course sold out! We will be offering another course later in the summer.
- The Jack McKernon Drive-in at Estabrook Park collaboration with the Paramount Theater will be opening up on May 28 with a private celebration for OVUHS seniors with a movie and fireworks! The regular public drive in schedule will be up soon. We are working to select movies for the June and Mid July showings. Stay tuned.
- Our Summer Rec programming will be announced at the Safety Day. Some new exciting camps will be happening around getting youth back outside. Fishing, Writing, Outdoor Musical, Writing Workshops, Trail Building are among some of the offerings. We recently submitted a grant proposal to underwrite most of the costs of these camps in an effort to access ARPA funds to make it accessible for all. Grant notification is May 26th.

Other items will be covered in the agenda.

- Organize and supervise safety patrols. 16 V.S.A. § 1482.
- Initiate eminent domain proceedings 16 V.S.A. § 560.

The board of school directors may provide early education programs as well as instruction to pupils who have completed secondary education. It may also discontinue or relocate use of facilities. See the Vermont School Boards Association's *Handbook for New and Not So New School Board Members* for more information.

Constable. Unless it has voted to appoint a constable, the town must elect a first constable and may vote to elect a second constable. 17 V.S.A. §§ 2646(7), 2651a. The constable is a law enforcement officer, as defined by § 54(c)(6) of the Vermont Rules of Criminal Procedure, and as such has the authority to arrest, and has powers of search and seizure within the town. 24 V.S.A. § 1931. A constable may also serve criminal or civil process. 12 V.S.A. § 691. He or she may:

- Destroy unlicensed dogs, following the requirements of 20 V.S.A. §§ 3621-3623.
- Kill injured deer. 10 V.S.A. § 4749.
- Assist the health officer in the discharge of his or her duties. 18 V.S.A. § 617.
- Serve as a district court officer. 24 V.S.A. § 296.
- Remove disorderly persons from town meeting. 17 V.S.A. § 2659.

When no tax collector is elected, the first constable becomes the collector of state, county, town and town school district taxes. 24 V.S.A. § 1529.

Vermont law requires a basic training course of a minimum of forty-five hours for a part-time law enforcement officer. The definition of "part-time law enforcement officer" specifically includes "a constable who exercises law enforcement powers." 20 V.S.A. § 2358. However, section (d) of that section states that the basic training is optional for any elected official. Notwithstanding these sections of Title 20 of the statutes, a town may vote (a) to prohibit constables from exercising any law enforcement authority or (b) to prohibit constables from exercising any law enforcement authority without having successfully completed a course of training under Chapter 151 of Title 20. 24 V.S.A. § 1936a. The jurisdiction of a constable is limited to the boundaries of his or her town or city.

Tree Warden. The selectboard shall appoint a tree warden from among the legally qualified voters of the town. 24 V.S.A. § 871. The office of tree warden has been viewed as an archaic office, but is developing new relevance in the late twentieth century. Shade and ornamental trees within the limits of public rights of way are under the control of the tree warden. The tree warden may plan and implement a town shade tree preservation program for the purpose of shading and beautifying public ways and places by planting new trees and shrubs; by maintaining the health, appearance and safety of existing trees through feeding, pruning and protecting them from noxious insect pests and diseases; and by removing diseased, dying or dead trees which create a hazard to public safety or threaten the effectiveness of disease or insect control programs. 24 V.S.A. § 2502. A municipality may appropriate a sum of money to be expended by the tree warden or, if one is not appointed, by the selectboard. 24 V.S.A. § 2503.

The tree warden may not remove trees when the owner or lessee of abutting real estate annually controls all insect pests or tree diseases on trees within the limits of a highway or place abutting such real estate. The tree warden shall enforce all laws relating to public shade trees and may prescribe rules and regulations for the planting, protection, care and removal of public shade trees pursuant to the ordinance adoption procedure in 24 V.S.A. Chapter 59. The tree warden may enter into agreements with the owners of land adjoining or facing public ways and places for the purpose of encouraging and carrying out a community-wide shade tree planting and preservation program. Only the tree warden, deputy tree warden or someone with his or her permission may cut a public shade tree. Healthy public shade trees in the residential part of a residential neighborhood shall not be felled without a public hearing by the tree warden. The tree warden may request from the Commissioner of Agriculture recommendations for control of suspected infestations, may implement recommended control measures, and may enter private land to implement these control measures. 24 V.S.A. §§ 2504-2511.

Planning Commission. A planning commission may have not less than three nor more than nine voting members. At least a majority of the members must be residents of the municipality. The selectpersons of a “rural town” or two elected or appointed officials of an “urban municipality” shall be non-voting ex officio members. An energy coordinator may also be a non-voting ex officio member. 24 V.S.A. § 4322. Planning commissioners are appointed by the selectboard unless the municipality votes to elect them to terms of between one and four years. 24 V.S.A. § 4323.

Following are the powers and duties of planning commissions as specified in 24 V.S.A. § 4325. Any planning commission created under 24 V.S.A. Chapter 117 may:

1. Prepare a municipal plan and amendments thereof for consideration by the legislative body and review amendments thereof initiated by others as set forth in 24 V.S.A. Chapter 117, Subchapter 5.
2. Prepare and present to the legislative body proposed bylaws and make recommendations to the legislative body on proposed amendments to such bylaws as set forth in 24 V.S.A. Chapter 117, Subchapter 6.
3. Administer bylaws adopted under 24 V.S.A. Chapter 117, Subchapter 6, unless a development review board has been created.
4. Undertake studies and make recommendations on matters of land development, urban renewal, transportation, economic and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy, the development of renewable energy resources and wetland protection.
5. Prepare and present to the legislative body recommended building, plumbing, fire, electrical, housing, and related codes and enforcement procedures, and construction specifications for streets and related public improvements.
6. Prepare and present a recommended capital budget and program for a period of five years for action by the legislative body.
7. Hold public meetings.
8. Require from other departments and agencies of the municipality such available information as relates to the work of the planning commission.

Town of Brandon
An Ordinance for the Use of Town Parks and Recreational Areas

The Selectmen of the Town of Brandon, under the authority of 24 V.S.A, Chapter 61, Subchapter 11, Section 11, and such other Statutes as may be applicable, hereby adopt the following ordinance:

SECTION I, PURPOSE

To preserve and protect public property from willful or malicious destruction or defacement; to prevent theft of public property; and to deter the unapproved or illegal use of public property.

SECTION II, DEFINITIONS

Town Park means any one of the following:

1. Central Park
2. Kennedy Park
3. Green Park
4. West Seminary Park
5. Estabrook Park
6. Crescent Park

SECTION III, RESTRICTIONS

A person shall not enter on to a Town Park, or parking areas provided to facilitate public use of the park, during a period when it is closed to the public unless permitted to do so under provisions of Section IV of this ordinance.

All Town Parks shall be closed to the public at 10:00 p.m. and shall reopen at 6:00 a.m.

SECTION IV, SPECIAL EVENTS, ACTIVITIES and WAIVERS

A person seeking authority for a special event or group activity within a Town park when it is closed to public or during normal park hours shall file with the Town Manager an application containing:

- a) The name, address, email address and phone number of the applicant
- b) The hours, date and time of such use of Town park property
- c) The proposed location of the special event or activity
- d) The purpose of the special event or activity
- e) Applicants plan to insure public safety and damage prevention plan

Applications may be downloaded from the Town of Brandon website.

The application shall be filed at least 15 days prior to the proposed special event or group activity. However, the Town Manager may waive this requirement if determined upon receipt of the application that the applicant has satisfied the requirements listed below:

- a) Submitted a complete and accurate application.
- b) Proposed a special event or group activity which is within the intent or purpose of this ordinance.
- c) Proposed adequate arrangements to insure the safety of the public and persons to be present at the special event or group activity.
- d) Proposed adequate plans to insure the prevention of damage to Town property.

SECTION V, ALCOHOL

- a) The consumption of alcohol is prohibited on all Town owned public property, including buildings, parks, playgrounds, etc., unless a Vermont Department of Liquor Control Caterers Permit has been approved by the Select Board or Town Clerk for a specific event or activity.
- b) The Caterer must follow all Liquor Control laws and regulations (what applies to a first or first and third class license also applies to the caterer's license).
- c) The Caterer must have a defined area for serving and consumption of alcohol with designated barriers.
- d) The Caterer must provide a sufficient number of employees for control purposes.
- e) The Recreation Department may request individuals to acknowledge and agree to an Assumption of Risk and Waiver of Liability for certain activities to allow participants to bring their own alcohol.

SECTION VI, PENALTIES

A person who violates a provision of this Ordinance or of any of its terms or conditions shall be guilty of a civil violation. Any person found guilty of a civil violation shall be fined \$500 for each violation. The waiver penalty for each offense shall be \$250.00.



DRAFT

PARKS AND RECREATION FACILITY USE

ACKNOWLEDGMENT OF RISKS

(Please Read Carefully!)

I understand and acknowledge that there are certain risks and dangers inherent and a part of my participation in _____ ("Program") through Brandon Parks and Recreation. I understand that as a result of these risks and dangers, inherent or otherwise, that I may be exposed to or could suffer injury, death or property damage as a result of participating in this activity. I understand that the Town of Brandon (herein after "Town" and that includes its agencies, departments, divisions, offices, officers, employees, and agents) is not furnishing alcohol to any individual, entity, and/or group, and that any alcohol consumed during the participation in _____ is at the risk of participants and spectators. I acknowledge that the Town does not condone the irresponsible use of alcoholic beverages. It shall be participants sole responsibility to monitor the use of alcoholic beverages by participants. Any alcohol consumed during the participation in _____ or brought to the event must have prior approval from the Town of Brandon pursuant to the Town of Brandon Ordinance for the Use of Town Parks and Recreational Areas.

By signing this form, I freely acknowledge that I am voluntarily electing to engage in _____ and I am voluntarily assuming any and all risks and dangers, inherent or otherwise, of participating in the Program. I also acknowledge that I can withdraw or cease participating at any time for any reason at my own decision.

I have read the entire Town of Brandon Ordinance for the Use of Town Parks and Recreation Areas and agree to abide by all the terms and conditions in the Ordinance without exception.

Waiver of Liability, Assumption of Risk, and Indemnity Agreement Waiver: In consideration of permission to use, today and on all future dates, the property, facilities, staff, equipment and services of the Town of Brandon, for myself, my heirs, personal representatives or assigns, I do hereby release, waive, discharge, and covenant not to sue the Town, from liability, from any and all claims, including negligence resulting in personal injury, accidents or illnesses (including death), and property loss arising from, but not limited to, participation in activities, observation, and use of facilities, premises, or equipment. I further recognize and acknowledge that any such claim is barred by the doctrine of sovereign immunity.

Assumption of Risks: This use of Town property, facilities, staff, equipment, and/or services carries with it certain inherent risks that cannot be eliminated regardless of the care taken to



avoid injuries. I hereby assert that my participation is voluntary and that I knowingly assume all such risks.

Indemnification and Hold Harmless: I also agree to INDEMNIFY AND HOLD the Town HARMLESS from any and all claims, demands, actions, suits, procedures, costs, expenses, damages and liabilities of any description, including attorney's fees brought as a result of my involvement at and to reimburse the Town for any such expenses incurred.

Severability: I agree that the foregoing waiver and assumption of risks agreement is intended to be as broad and inclusive as is permitted by the law of the State of Vermont and that if any portion thereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect.

Acknowledgment of Understanding: I have read this waiver of liability, assumption of risk, and indemnity agreement, fully understand its terms, and understand that I am giving up substantial rights, including my right to sue. I acknowledge that I am signing the agreement freely and voluntarily, and intend by my signature to be a complete and unconditional release of all liability to the greatest extent allowed by law.

If any portion of this agreement is deemed unenforceable, the remainder shall be given full force and effect.

I acknowledge that I have read, agree with, and understand the terms of this legal document and that I am signing it freely and that the terms of this contract state that I expressly assume all risk of damages, injury and/or death resulting in any way from any inherent risks of the program which I may participate in. If any portion of this agreement is determined to be unenforceable, then all other parts shall remain in full force and effect.

Participant's Name **(please print)**

Participant's Signature

Date Signed: _____

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All Invoices For Check Acct 01(10 General Fund) 05/10/21 To 05/10/21

Vendor	Invoice Date	Invoice Description Invoice Number	Account	Amount Paid	Check Number	Check Date
100015	ALLEN ENGINEERING & CHEMI	04/23/21 chlorine	20-5-55-50120	514.80	49602	05/10/21
		11152141101	Sodium Hypochlorite			
310590	AMERICAN WINDOW CLEANING	05/03/21 april windows	10-5-22-43100	50.00	49603	05/10/21
		6041	Town Office			
300541	ARC RUTLAND AREA	05/03/21 appropriation	10-5-25-70330	875.00	49604	05/10/21
		MAY 2021	ARC of Rutland			
100125	BARTOL, CURT R PH D	04/21/21 psychological evaluation	10-5-14-30130	25.00	49605	05/10/21
		APR2021	Service Contracts			
100655	BLSG INSECT CONTROL DISTR	05/03/21 appropriation	10-5-17-71800	10505.25	49606	05/10/21
		MAY 2021	Mosquito Control			
100245	BRANDON AREA CHAMBER OF C	05/03/21 appropriation	10-5-25-70140	250.00	49607	05/10/21
		MAY 2021	Chamber of Commerce			
100305	BRANDON AREA RESCUE SQUAD	05/03/21 appropriation	10-5-25-70130	7000.00	49608	05/10/21
		MAY 2021	Brandon Rescue Squad			
100255	BRANDON FIRE DISTRICT #1	05/03/21 appropriation	10-2-00-02136	71725.00	49609	05/10/21
		MAY 2021	Fire District Payable			
100275	BRANDON FREE PUBLIC LIBRA	05/03/21 appropriation	10-5-25-70470	7666.67	49610	05/10/21
		MAY 2021	Brandon Library			
100625	BRANDON INDEPENDENCE DAY	05/03/21 appropriation	10-5-25-70110	1500.00	49611	05/10/21
		MAY 2021	BIDCC -4th of July Com.			
100280	BRANDON LUMBER & MILLWORK	04/19/21 seal tape, bushings	20-5-55-43160	7.37	49612	05/10/21
		881607/3	Maint. Supplies - General			
100280	BRANDON LUMBER & MILLWORK	04/26/21 keys	10-5-18-30070	7.96	49612	05/10/21
		882636/3	Little League Expenses			
100280	BRANDON LUMBER & MILLWORK	05/03/21 keys	10-5-18-30070	9.95	49612	05/10/21
		883709/3	Little League Expenses			
100310	BRANDON SENIOR CITIZENS C	05/03/21 appropriation	10-5-25-70480	1125.00	49613	05/10/21
		MAY 2021	Senior Citizen Center			
301503	CHAMPLAIN VALLEY FUELS	04/28/21 diesel fuel	10-5-15-41130	270.13	49614	05/10/21
		482798	Fuel - Vehicles HW			
301503	CHAMPLAIN VALLEY FUELS	04/19/21 gasoline	10-5-14-41130	638.25	49615	05/10/21
		520695	Fuel - Vehicles			
301503	CHAMPLAIN VALLEY FUELS	04/27/21 diesel fuel	10-5-15-41130	359.82	49616	05/10/21
		521963	Fuel - Vehicles HW			
301503	CHAMPLAIN VALLEY FUELS	05/03/21 inspect/maint HW furnaces	10-5-22-43080	737.40	49617	05/10/21
		72242	Highway Bldg Maint			
310097	COMCAST	04/27/21 service: 05/04 - 06/03	10-5-14-42100	311.71	49618	05/10/21
		PD 04/27/21	PD Telephone Service			
310097	COMCAST	04/27/21 service: 05/04 - 06/03	10-5-10-42100	608.43	49619	05/10/21
		TO 04/27/21	Telephone Exp. Admin.			
310097	COMCAST	04/21/21 service: 04/28 - 05/27	20-5-55-42100	191.95	49620	05/10/21
		WW 04/21/21	Wastewater Telephone			
310177	COTT SYSTEMS, INC.	05/03/21 May host fee	10-5-13-30123	250.00	49621	05/10/21
		140029	Records Preservation			
100456	DUBOIS & KING INC	04/26/21 S6 CI Progress rpt # 92	46-5-50-61200	6905.05	49622	05/10/21
		421154	RT 7 C.I. - Construction			
100494	ENDYNE INC	04/23/21 testing	20-5-55-22120	25.00	49623	05/10/21
		368551	Testing			
100494	ENDYNE INC	04/23/21 testing	20-5-55-22120	100.00	49623	05/10/21
		368579	Testing			

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Vendor	Invoice Date	Invoice Description Invoice Number	Account	Amount Paid	Check Number	Check Date
100494	ENDYNE INC	04/30/21 testing 369516	20-5-55-22120 Testing	25.00	49623	05/10/21
100494	ENDYNE INC	04/30/21 testing 369517	20-5-55-22120 Testing	25.00	49623	05/10/21
100756	F W WEBB COMPANY	04/19/21 utility valves/Brookdale 71012570	20-5-55-43160 Maint. Supplies - General	67.04	49624	05/10/21
300187	FLORENCE CRUSHED STONE	04/23/21 gravel 229800	10-5-15-46140 Gravel	745.61	49625	05/10/21
310426	FYLES BROS., INC.	04/22/21 propane @ WW lab bldg 32972	20-5-55-42110 LP Gas - Bldgs	1015.27	49626	05/10/21
100650	GALLS LLC	04/12/21 name plate attachment 018119028	10-5-14-10320 Clothing Allowance	18.11	49627	05/10/21
100650	GALLS LLC	04/14/21 name bar 018141650	10-5-14-10320 Clothing Allowance	27.99	49627	05/10/21
300974	GRAPH-X INCORPORATED	04/22/21 Baseball uniforms 4434	10-5-18-30070 Little League Expenses	3080.00	49628	05/10/21
310239	GREEN MOUNTAIN BACKFLOW T	04/27/21 backflow device testing 310239	10-5-22-43100 Town Office	90.00	49629	05/10/21
310239	GREEN MOUNTAIN BACKFLOW T	04/27/21 backflow device testing 310239	20-5-55-42150 Outside Maint. - Bldgs	90.00	49629	05/10/21
310158	GREEN MOUNTAIN ELECTRIC S	04/12/21 fuses S3734618.001	20-5-55-43160 Maint. Supplies - General	96.99	49630	05/10/21
100725	GREEN MOUNTAIN GARAGE	04/21/21 fuel filters for mowers 166339	10-5-22-43120 Municipal Mowing-maint	8.88	49631	05/10/21
100725	GREEN MOUNTAIN GARAGE	04/28/21 inspection 166690	20-5-55-41180 Maintenance-Vehicles	50.00	49631	05/10/21
100725	GREEN MOUNTAIN GARAGE	04/28/21 spark plug 166692	20-5-55-41180 Maintenance-Vehicles	1.90	49631	05/10/21
100322	GREEN UP VERMONT	05/03/21 appropriation 2020 MAY 2021	10-5-17-71440 Green-Up Day	300.00	49632	05/10/21
300600	HOLLAND COMPANY INC	04/30/21 sodium aluminate 8694	20-5-55-50150 Sodium Aluminate	6249.36	49633	05/10/21
100792	HULBERT SUPPLY CO INC	04/16/21 tank to bowl kit X011004	10-5-22-43150 Town Hall Repair/Maint.	31.00	49634	05/10/21
301083	MVP SELECT CARE INC	05/03/21 April 2021 - HRA 2021-04	20-5-55-10218 HRA WW	5.00	49635	05/10/21
301083	MVP SELECT CARE INC	05/03/21 April 2021 - HRA 2021-04	10-5-22-10218 HRA	2.50	49635	05/10/21
301083	MVP SELECT CARE INC	05/03/21 April 2021 - HRA 2021-04	10-5-18-10218 HRA	2.50	49635	05/10/21
301083	MVP SELECT CARE INC	05/03/21 April 2021 - HRA 2021-04	10-5-14-10218 HRA PD	7.50	49635	05/10/21
301083	MVP SELECT CARE INC	05/03/21 April 2021 - HRA 2021-04	10-5-10-10218 HRA Admin	5.00	49635	05/10/21
301083	MVP SELECT CARE INC	05/03/21 April 2021 - HRA 2021-04	10-5-13-10218 HRA	5.00	49635	05/10/21
301083	MVP SELECT CARE INC	05/03/21 April 2021 - HRA 2021-04	10-5-15-10218 HRA HW	7.50	49635	05/10/21
310795	NATIONAL BUSINESS TECHNOL	04/26/21 service contract printers IN420690	10-5-10-30130 Service Contracts	38.35	49636	05/10/21

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310795	NATIONAL BUSINESS TECHNOL	04/26/21 service contract copiers IN420691	10-5-10-30130 Service Contracts	90.00	49636	05/10/21
310595	OCCUPATIONAL HEALTH PARTN	04/22/21 Service Agreement - L 2 4222021	10-5-17-61160 Worker's Comp Insurance	2514.31	49637	05/10/21
310595	OCCUPATIONAL HEALTH PARTN	04/22/21 Service Agreement - L 2 4222021	20-5-55-61160 WW Workers Comp.	218.64	49637	05/10/21
310736	POCKETTE PEST CONTROL	05/04/21 pest control: Police Dept 16206	10-5-22-43090 PD Bldg Maint.	65.00	49638	05/10/21
310736	POCKETTE PEST CONTROL	05/04/21 pest control: Town Hall 16208	10-5-22-43150 Town Hall Repair/Maint.	40.00	49638	05/10/21
310736	POCKETTE PEST CONTROL	05/04/21 pest control: Town Office 16209	10-5-22-43100 Town Office	70.00	49638	05/10/21
310736	POCKETTE PEST CONTROL	05/04/21 pest control: storage 16210	10-5-18-20500 Storage Unit Supply/Maint	50.00	49638	05/10/21
310494	PRORIDER INC	04/28/21 Safety Day bike helmets 78295	10-5-18-40040 After School Activity	1015.00	49639	05/10/21
310842	RHR SMITH & COMPANY	04/30/21 FY 20-21-Audit field work 2021-442	10-5-10-22110 Auditors	2500.00	49640	05/10/21
100479	RSVP	05/03/21 appropriation MAY 2021	10-5-25-70150 RSVP	550.00	49641	05/10/21
300375	RUTLAND CITY	04/23/21 March sludge processing 28933SLUDG	20-5-55-50160 Sludge Disposal	4462.50	49642	05/10/21
100492	RUTLAND MENTAL HEALTH SER	05/03/21 appropriation MAY 2021	10-5-25-70210 Rutland Mental Health	1656.00	49643	05/10/21
100006	SOUTHWESTERN VT COUNCIL O	05/03/21 appropriation MAY 2021	10-5-25-70190 SW VT Council on Aging	600.00	49644	05/10/21
310133	STATE OF VERMONT	04/29/21 Stormwater Operating Fee MRGP 2021	10-5-15-20300 State Permits	1350.00	49645	05/10/21
	Permit # 8233-9040.A					
310921	STEARNS SERVICES LLC	04/30/21 Consult fee-PR March 1093	10-5-10-30130 Service Contracts	540.00	49646	05/10/21
310099	STEPHEN A DOUGLAS BIRTHPL	05/03/21 appropriation MAY 2021	10-5-25-70430 Stephen A. Douglas Inc.	625.00	49647	05/10/21
100682	USA BLUE BOOK	04/16/21 BOD bottles 576118	20-5-55-30120 Professional Supplies	54.90	49648	05/10/21
330348	VERIZON WIRELESS	04/22/21 service: Mar 23 - Apr 22 9878217727	10-5-14-20233 MDT/Aircards	240.06	49649	05/10/21
100317	VERMONT STATE TREASURER-D	05/03/21 fees Jan-April MAY 2021	10-2-00-02112 Dog Lic. Fees to State	1205.00	49650	05/10/21
100485	VNA & HOSPICE OF THE SOUT	05/03/21 appropriation MAY 2021	10-5-25-70200 RAVNA	2550.00	49651	05/10/21
310046	W.B. MASON CO INC	04/23/21 glass cleaner, Pine Sol 219685549	10-5-22-43180 Maint. Supplies Bldgs.	14.89	49652	05/10/21
310046	W.B. MASON CO INC	04/27/21 Clorox 219745042	10-5-22-43180 Maint. Supplies Bldgs.	14.94	49652	05/10/21

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Vendor	Invoice Date	Invoice Description Invoice Number	Account	Amount Paid	Check Number	Check Date
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Report Total

144081.48

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Selectboard

To the Treasurer of TOWN OF BRANDON, We Hereby certify
that there is due to the several persons whose names are
listed hereon the sum against each name and that there
are good and sufficient vouchers supporting the payments
aggregating \$ ***144,081.48
Let this be your order for the payments of these amounts.

