

## **Brandon Select Board Meeting January 23, 2023**

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

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

**Others in Attendance:** Dave Atherton, Neil Silins, Bill Moore, Steve Bissette, Marielle Blaise, Linda Grace, Bernie Carr, Jack Schneider, Sandy Mayo, Jim Emerson, George Fjeld, Carol Fjeld, Cecil Reniche-Smith, Steve Bissette, Claire Babyak-Schick, Mike Schick, Judy Bunde, Sue Gage, Helyn Anderson, Thomas Kilpeck, Kevin Waldie

**Others In Attendance Via Zoom:** Bruce Jenson, Adam Murach, Will Duane, Patricia Welch, Joan Ballen, Susan Johnson, Bruce Jenson, Jan Coolidge, Chris Brickell

### **1. Call to order**

The meeting was called to order by Seth Hopkins, Chair at 7:08PM.

#### ***a) Agenda Adoption***

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

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

#### ***A: Approval of Minutes***

#### ***a) Select Board Meeting Minutes – January 9, 2023***

**Motion** by Tracy Wyman/Brian Coolidge to approve January 9, 2023 Select Board minutes. **The motion passed unanimously.**

### **3. Town Manager Report**

The Town was awarded the By-Laws Modernization grant. This grant opportunity was provided by the Department of Housing and Community Development. This funding will allow the Planning Commission to utilize the Rutland Regional Planning Commission in re-writing the zoning by-laws to promote healthy growth in Brandon.

The Town received FEMA approval for the new Local Hazard Mitigation Plan on January 13<sup>th</sup>. This was the final step in the update process.

Wastewater Plant Update: Naylor and Breen is still working on the third clarifier structure. The slab and walls have been poured. They should be stripping forms off the walls in the next day or two and starting to form up the walls of the sludge pumping vault (that is attached to the clarifier). Other than that, the electricians are still picking away at whatever sitework and selective demo that they can. It sounds more definite that the project will shut down for the summer while they wait for electrical equipment, but more details will be received at the monthly meeting.

The North Street Bridge Replacement RFP submittals for engineering services were due on January 19<sup>th</sup>. Mr. Atherton will be reviewing the three bids received and selecting an engineering firm by the end of the week.

### **Recreation Department News:**

2023 Brandon Idol kicked off on January 14<sup>th</sup>. A triumphant return of a wildly popular event. The next installment of this competition is the Country Music night on February 18<sup>th</sup>.

The Table Tennis at the Town Hall is moving (in anticipation of the big library move in March) to Otter Valley North Campus starting Thursday the 26<sup>th</sup>. Same times and same cast of characters!

Thursday nights in February and March, the town hall (upstairs) will host a disc golf putting league. Commissioner Marty Fjeld is a great advocate for this growing sport and will play host to the adults that will be working on their short game to prepare for the spring season.

Little Otters Youth Wrestling regular season kicks off with a mandatory parents' meeting at Otter Valley on Tuesday, January 24<sup>th</sup> at 6:30PM. Our K – 6<sup>th</sup> grade feeder program is a collaboration with the school and Parents of Wrestling booster group.

Monday marks the start of Sensei Wade's winter Aikido session for adults and kids at the Town Hall.

All program registration information is available at [Brandonrec.com](http://Brandonrec.com).

Presented to the Brandon Area Chamber of Commerce was a report detailing economic development goals and potentials that exist within the town. Our collaboration, particularly with the executive director (Bernie Carr) has been successful in encouraging growth and business support. An informal division of labor has been employed via referrals to each of our services by the others.

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

Tracy Wyman noticed from the Fire District meeting that the Fire Department is part of the Town budget. Sue Gage advised the Fire Department has its own budget and there is a tax for the Fire Department based on their budget with the tax rate listed as Municipal, Fire, and School. Mr. Wyman noted the Fire District does their own water bills but the Fire Department is voted on

by all taxpayers and asked why the Fire Department's budget is not voted by Australian ballot like the School budget. Ms. Gage advised their Prudential Board would have to put that question out to the voters in order to go to Australian ballot. Mr. Wyman stated from the article in The Reporter, it sounds like in years past it could be just a handful of people voting on it. Ms. Gage suggested people should go to the Prudential Board and express the concern they are not getting the full attention of the voters. Ms. Gage noted the Fire Department is a non-profit, but the Fire District is a separate municipality. Bill Moore stated that had been discussed at some of the Fire Department meetings but concerned citizens would need to approach the Prudential Board.

Sue Gage stated each year there is a common level of appraisal and Brandon's is now at 84.5, which means the properties are undervalued by 15%. If the CLA goes under 85%, there can be a demand to do a reappraisal. In a normal year, there are around 16 towns however this year there are 167. Seth Hopkins stated there will likely be a reformulation as there are concerns about lack of professional appraisers having the ability to do that many. Ms. Gage noted due to the CLA, it will increase the education tax rate.

## **5. Shade Tree Preservation Plan Discussion with Tree Warden**

Seth Hopkins noted the Shade Tree Preservation plan provided by Neil Silins was in the Board packet for review. Mr. Silins stated he is awaiting the Select Board's action to either modify, approve, or disapprove the Plan. Tim Guiles questioned the section on the tree replacement policy that indicates an increase of the overall tree diversity is needed. Mr. Guiles suggested it seems a poorly worded specification and suggested the intent is for the tree to be appropriate for the site. Mr. Silins noted there is a larger standard for an appropriate tree, but there is also concern about Emerald ash borer that comes close to Brandon's border and the concern is not all trees be a different species but have a variety so that an issue will not wipe out all of them. Mr. Guiles also questioned the right of way, as he understands right of way extends into people's properties and people do not have 100% control over all area of their property. Mr. Guiles agreed with protecting shade trees but some people may not be aware of the right of way distances. Mr. Silins stated that would be an appendix as the Town has mostly 3-rod roads with a right of way 49.5 feet from the center line. He noted that it would be the responsibility of the Town to remove a tree that is in the right of way for any issues. Mr. Silins advised the implementation of the plan will be on a case-by-case basis and he would not be in favor of softening the language, noting part of this is in State statute and much comes from the state document. The only thing specifically stated is that one can't do changes without the tree warden or arborist discussion. Dave Atherton stated the Town has the right to maintain the area though the landowner still owns the land. Cecil Reniche-Smith stated from a legal standpoint, the ordinance has clearly defined rules and penalties and there is not language that is arbitrary to people. It is true that many people do not realize there is property the Town has authority over. Tracy Wyman asked what happens when a tree is 50% in the right of way. Mr. Atherton stated if there is a tree that may harm people in the right of way, the Town has the authority to act on it. Mr. Hopkins stated the draft plan refers to the Department of Public Works and asked if they or the utility groups have weighed in on the draft. It was noted they have not weighed in at this point. Mr. Silins stated the implementation has more significance in replacing trees and noted the Town has not done a good job of sequential planting and needs trees of various ages so that there are trees remaining when older trees have to be removed to avoid losing the canopies. Mr. Silins noted there are a few trees

on Park Street that are possibly in need of removing. With the shade tree inventory, it will give a listing of the diameters of the trees and the Town should be able to use that to determine where to plant and start populating, with possibly maple trees. Seth Hopkins also noted that he had suggested to Mr. Silins that an ordinance and plan could be used in tandem. Mr. Hopkins suggested the Board take this under advisement until it goes to GMP, VTrans and the Department of Public Works for their input as to how it fits with their operations. Mr. Guiles has talked with some people about trees in their property and it would be helpful to get the word out about the plan to clarify trees that are in the right of way. Mr. Atherton stated there are things that go on below the ground and keeping the right of ways clear is good. Most landowners who see a tree that needs to come down usually contact the Town to determine if it is the Town's responsibility. Mr. Guiles noted he is in support of a tree plan. Cecil Reniche-Smith asked if someone wants to plant a tree in the right of way, if they can plant one with the tree warden's permission and if one is planted without permission, is there a way to resolve this issue retrospectively. Mr. Silins stated if a tree is not posing a problem, it would not be a problem. The State is more concerned with people removing trees. Ms. Reniche-Smith suggested the word needs to get out to people about the right of way. Mr. Hopkins suggested anyone having thoughts on the plan should send comments to either the Tree Warden or Town Manager. He also requested the Tree Warden forward the plan to GMP, VTrans and Department of Public Works. Mr. Silins stated this is something new and is going to take a while for it to become second nature in Town.

## **6. Approve Warning for March 6, 2023 Town Meeting and March 7, 2023 Ballot**

Seth Hopkins advised the Town Clerk has prepared the warning for the Town Meeting on March 6<sup>th</sup> to hear the budget recommendation and the vote on Tuesday, March 7<sup>th</sup>. The election articles will be to elect the officers and the usual number of appropriation requests from service agencies.

Sue Gage requested the Select Board considering adding one more article:

*Shall the Town of Brandon suspend the 8% penalty on unpaid property taxes for 30 days after the final property tax due date of May 15, thereby giving property owners a grace period should they overlook the May 15 deadline?*

Ms. Gage noted there are a number of people who never pay their taxes late and this year there were some that had to pay late and the penalty is a hefty amount of money. She noted the people who are not going to pay are the ones to be penalized. It is noted the penalty would only be the quarter. Seth Hopkins stated it would be the effect of creating another due date. Ms. Gage stated for most property owners, they take this seriously. Mr. Guiles noted that he would make the motion as the Town is looking for compliance rather than punishment.

**Motion** by Tim Guiles to add the additional Article to the warning. **The motion failed with no second.**

Mr. Hopkins did not think it is in the best interest of the Town for the voters to weigh in on the Town's finances. He does not think it is prudent for the Town and would have the effect of creating a second deadline. George Fjeld felt the date is the date and agreed it should remain the

same. Ms. Gage noted there are other towns that have graduated penalties and Brandon has a hard fast penalty from other towns.

Mr. Hopkins noted there will be an in-person town meeting in the town hall on March 6<sup>th</sup> that is informational only. Mr. Hopkins suggested doing a live broadcast for people to observe the meeting, as a zoom meeting would not allow people to participate in the meeting. Bill Moore confirmed a live feed would be available.

**Motion** by Tracy Wyman/Ralph Ethier to approve the March 6, 2023 Town Meeting and March 7, 2023 Ballot warning. **The motion passed unanimously.**

### **7. Consider Letter of Support for DFW Acquisition of Brandon Swamp Parcel**

Seth Hopkins stated this is a 30-acre parcel that is land locked with wet woods and wetlands and has no agricultural value. Joan Allen, Conservation Consultant and Will Duane, Vermont Fish and Wildlife Coordinator were present via zoom to discuss any questions or concerns about the acquisition. Mr. Duane advised he is the Land Acquisition Coordinator and is based out of Montpelier. The DFW has 130 acres of public ownership that is held in trust for the people in Vermont for habitat preservation and wildlife-based recreation like hunting and angling. They are under the umbrella of the Agency of Natural Resources. The department has a strategic acquisition project for preservation. Anyone wishing to speak to him can reach him at willduane@vermont.gov. This parcel is on the west side on the Sudbury line and is one parcel removed from the west line of the Town. When going out Route 73, it is on the right. Mr. Duane stated they receive authorization from the Governor and request a letter of support from the Town. This parcel is not owned by the Town and would be conveyed by the owners of the land.

**Motion** by Tim Guiles/Tracy Wyman to approve the writing of a letter of support for the DRW acquisition of the Brandon Swamp parcel. **The motion passed unanimously.**

### **8. Discuss letter received from Briggs Lane Resident**

Seth Hopkins stated there is a question of the status of Briggs Lane and the town maintenance. Linda Grace, owner of 3 Briggs Lane, stated the Town Highway Department had advised that Briggs Lane is a Class 4 road. She has researched documents about the Lane and there is a document that refers to a partnership between the property owners and the Town. Everything that she has in writing does not match what she is being told. Mr. Hopkins stated the Town Manager was involved with the right of ways for Segment 6. Mr. Atherton advised when the road was damaged by Irene, there are sewer lines on the road that need to be maintained. The Town paved some of it as this was a better value than constantly bringing stone in due to wash out. It is a Class 4 road due to the size and width, and the pitch cannot be changed. There is a right of way to work on the sewer line, but as far as he is aware, the Town has never done winter maintenance on the road, even when Kate Briggs owned it. The town trucks are too big to get down the road and similar to Mill Lane, there is not the ability to do winter maintenance. The agreement that was referred to is the right of way easements through the areas. Ms. Grace had a 2014 action report that indicates a partnership between the Town and property owner and asked where it indicates Briggs Lane is a Class 4 road. Mr. Atherton advised there is a certification through the

State for all the classifications of roads. As far as the VDAT report, this was suggestive information. Bill Moore noted the State designated 8 downtowns that were affected by Irene and brought in consultants that provided suggestions for the resiliency of the towns. Ms. Grace noted she is looking for confirmation and information. Mr. Atherton advised the Town owns the road as a Class 4 road, but due to the classification is not obligated to maintain it. The Town has to submit classifications to the State every year and there are maps that outline this information. Tim Guiles stated he had previously lived on a Class 4 road and his understanding is that a Class 4 road would have to be raised to a certain level before requesting a town take it over. Mr. Hopkins noted Class 4 is a public road, but it is built at a standard that makes maintenance unadvisable. Ms. Grace is concerned with the parking, particularly with snow, as there are people that sometimes park in the no parking areas and is wondering if this is part of her responsibility. It was noted that the no parking signs were put up by Kate Briggs, but the people who live in the building can park there. The other parking area down below the bookstore is for tenants and bookstore clients. Mr. Guiles stated a Class 4 road's maintenance is the responsibility of the people that live on that road. Mr. Hopkins advised information on this subject can be viewed at the town office.

## **9. Consider Proposal to Use ARPA Funds for Brandon Solar Project**

Jim Emerson, Chair of the BEC, provided a revised proposal for request to use a portion of the ARPA funding. There are details of where to put a solar project, such as the town landfill, Solarfest property, new maintenance garage or other areas. The proposal does not address the location, rather a description of the way to use the ARPA funds to save money for taxpayers every year, with the Government refunding 30% of the cost of a project when placing it on a brown field. The cost of the project is around \$300,000. Tracy Wyman questioned the 40 years of benefits and his main concern is about the decommissioning of the project. Mr. Wyman asked the Town Manager to research this subject. Mr. Wyman noted if the Town is going to put \$300,000 aside for this project, it will need a substantial amount for decommissioning. He does not have a problem with the solar but thinks the ARPA money would be better spent putting new windows in the town office. Dave Atherton advised the PUC website indicates an irrevocable line of credit would be required by an institution for decommissioning. The Town would be signing off on a 30-year credit note and Mr. Atherton did not know what the cost of the decommissioning would be. Mr. Emerson stated the BEC has talked with ACORN and they do allow for a decommissioning cost and they also noted that based on technology much of the materials are recyclable and the decommissioning amount is put in as a safety valve. Mr. Atherton stated the current Green Lantern solar project provides the Town 15% of the total output and it is not owned by the Town. The Town will have to look at what is going to be needed for decommissioning. Tim Guiles stated the 20-to-25-year guarantee is an overly conservative number and it is now predicted that solar system will last 40 to 50 years and it is going to be very profitable to make electricity with solar. Mr. Wyman's research has indicated 20 to 25 years and 6 to 10 years before there is a payback on the project and reiterated the decommissioning needs to be researched. Mr. Guiles stated this is one item that can be a benefit from the start. Sandy Mayo asked if this would be a town-owned solar project. Mr. Emerson advised it could be a town-owned or a community solar project. Mr. Guiles stated currently the Town gets solar credits from Green Lantern, but if they own the solar panels, the Town gets some of the power. Mr. Atherton also noted the Town leases the land and receives taxes from the

Green Lantern project, and there is something in the plan indicating they would replace panels. Mr. Atherton noted decommissioning would have to be clarified as there is an upfront cost for this. Mr. Wyman stated if there was other town property that another vendor could place a solar project on, he would be in favor of that. Mr. Atherton advised he talked to Green Lantern about the landfill as there is a way to not interrupt the clay at the landfill but there is not 3-phase power in that area. Mr. Guiles noted Middlebury chose to do a solar project versus a Green Lantern model due to the sizable benefit. Mr. Emerson noted ACORN did the Bristol project and he could have that information available. Mr. Wyman stated the salvage value is not as much now and he would like to see the figures for the decommissioning costs. George Fjeld asked if a solar array could be big enough to sell back power to GMP for eventual decommissioning funds for the project and suggested also casting it as a solar array for customers to purchase. Mr. Emerson will get back to the Select Board on the cost of decommissioning, but the BEC would like the project on the table as a priority. Mike Shick stated as citizens we have been asked to conserve and a number of people have put up solar and he thinks the Town needs to make a commitment that it is also going to do its part. The towns could then possibly ask the state to take a larger role in sustainable energy. Mr. Shick noted the amount of money is not that much and the benefit could be considerably more than the cost. Mr. Hopkins suggested if it is a town-owned solar, due to the economics, it could be self-sufficient if the project was bonded. ARPA is a one-time, special case scenario for broad benefits to the community and most of the other needs do not fall within a bonding consideration. There was some consideration if it is not the optimal ARPA use, to consider a bond. Jan Coolidge asked what the balance is left unspent from the ARPA funds. Mr. Hopkins advised the Select Board had obligated around \$200,000 and the requests for funding are in the \$500,000 range, plus the solar request of \$300,000. There is \$1.1 million of ARPA funding and the Town has committed to some projects already for the Newton Road pump station, Arnold District culvert and to merge of Fire Districts 1 and 2. These were of a priority nature when there were more restrictions for the funding. Mr. Emerson noted concern about using ARPA funds for sewer and water. Mr. Hopkins advised when there were more restrictions for the funding, wastewater and water projects were promoted. Mr. Atherton advised these types of projects do benefit everyone in the town as when there are issues around the river, they involve fines from the State. Telecommunications, water, and sewer were specified ARPA uses and the U. S. Treasury then changed the regulations to facilitate getting ARPA funds into the community to spend on general items that are done to provide government services to Brandon. Mr. Emerson stated the idea is to benefit the maximum number of people. Mr. Hopkins stated the Town had stepped up to the plate for relief for businesses and tried to broaden the impact for the townspeople. Judy Bunde asked what happened to the idea of doing projects that the Town could not afford to do. Mr. Hopkins stated the Town's highway facility has been identified as a priority as it has safety and environmental issues and is still high on the list of what to do with the ARPA funds. ARPA funding is allowed as a grant match that can be the Town's share, which is the way the Brandon Library will be using the funding provided to them. While working through the budget this season, it was found that the 1% tax is coming in twice the original predictions, ARPA is a second funding, and the third item considered was the General Fund Reserve. Mr. Hopkins reported the Town's budget had not been fully expended and that amount has been put in the General Fund Reserve this year. There was \$100,000 taken to buy down the tax rate and another \$100,000 to pay off leases. Mr. Hopkins again thanked the Budget Committee for all the work on the budget and noted the ARPA funds are one of three sources that allows for discussions for supporting projects. Neil Silins stated with the

decommissioning of the solar panels, the new solar panel materials might be determined to be contaminants and suggested it makes much more sense for someone else to be responsible for the project as abatement would also increase the cost. Mr. Atherton stated the PUC does indicate a non-public array also requires a decommissioning plan.

Sue Gage wished to remind everyone that the Town's ballots will be mailed, but school ballots will not be mailed. One must request a school ballot from the Town Clerk or go to the polls to vote for the school. Jan Coolidge asked why the Town's ballots are mailed. Ms. Gage reported the Board had voted to mail ballots early in the pandemic and it is thought that it is helpful to increase voter participation. The cost to mail the ballots is about \$5,000, but it does increase voter participation and Ms. Gage is in favor of mailing the ballots. Seth Hopkins stated the Select Board could reconsider a change to this at another meeting, but this year's ballots will be mailed. Judi Bunde stated perhaps the Town is incurring the same cost as it would to process all individual requests for mail-in ballots due to the additional time it would cause.

## **10. FISCAL**

### ***a) Warrant – January 23, 2023 - \$174,507.62***

Motion by Brian Coolidge/Tracy Wyman to approve the warrant in the amount of \$174,507.62. **The motion passed unanimously.**

Tim Guiles questioned the cost for emergency care for the police dog. Dr. Fjeld reviewed the warrant and advised it was for a scratched eye. Sue Gage advised there is a pool of money from contributions made for the police dog and she will take funds from that pool at the end of the year to replace these funds.

Neil Silins noted there is spoon carving at the Town Hall on Sundays from 2:30 to 4:30PM.

Jim Emerson reported there is a Button Up program for landlords scheduled for February 25<sup>th</sup>.

The Select Board recessed at 8:50PM.

**Motion** by Tracy Wyman/Ralph Ethier to enter into executive session at 9:00PM for the appointment or employment or evaluation of a public officer or employee, to include the Town Manager per 1V.S.A(313)(3)(a)(3). **The motion passed unanimously.**

## **11. Executive Session**

The Town Manager left the executive session at 9:15PM.

The Select Board came out of Executive Session at 9:45PM.

The Select Board accepted Dave Atherton's resignation with sincere appreciation and gratitude for his dedication to the Town.



## **12. Adjournment**

**Motion** by Tracy Wyman/Ralph Ethier to adjourn the Select Board meeting at 9:45PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant  
Recording Secretary