

**Brandon Select Board Meeting
October 27, 2014**

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

In Attendance: Ethan Swift, Maria Ammatuna, Dave Atherton, Devon Fuller

Also in Attendance: Robin Bennett, Kathy Rausenberger, Wayne Rausenberger, Delores Furnari, Richard Baker, Doug Bailey, Allan Leavitt, Sue Gage, Denis Reisenweaver, Seth Hopkins, Tracy Wyman, Arlen Bloodworth, Janet Coolidge, Jeff Stewart, Lee Kahrs, Dick Kirby, Judy Bunde, Bernie Carr

1. Call to order

The meeting was called to order by Maria Ammatuna at 7:03PM.

a) Agenda Adoption – Motion Dave Atherton/Ethan Swift to adopt the agenda as amended.
The motion passed unanimously – 3 to zero.

The following modifications were made to the agenda:

- Internal Procedures for Approval of Expense Reports
- First Quarter Financial Report by Town Clerk
- Beaver Dam in Neshobe River
- Executive session to discuss Town Manager’s Performance Evaluation

2. Consent Agenda

a) Select Board Meeting Minutes – October 14, 2014

Motion by Devon Fuller/Dave Atherton to approve the minutes of the October 14, 2014 Select Board meeting. **The motion passed unanimously – 3 to zero.**

b) Special Select Board Meeting Minutes – October 20, 2014

Motion by Devon Fuller/Dave Atherton to approve the minutes of the October 20, 2014 Special Select Board meeting. **The motion passed unanimously – 3 to zero.**

3. Public Comments for Items not on the Agenda

Sue Gage reported that Brandon Cares will be hosting a forum on opiate addiction on November 6th @ 6PM and the public is invited to attend.

Allan Leavitt requested the Select Board consider a discussion of an appeal that he has with the Board of Civil Authority; noting the Select Board can give some consideration prior to the date of the appeal. Maria Ammatuna stated the normal channel for the Select Board is to review the appeal once it has gone to the state appraiser and those meeting notes are forwarded to the Select Board for consideration. Mr. Leavitt cited state statute and indicated the Select Board does have the authority to discuss the appeal and offer their decision to the state appraiser for approval. Sue Gage noted she is familiar with this statute and the Select Board can intervene when there is a grievance with a property owner. The VLCT does not recommend doing this, but rather letting it go to hearing. If the Select Board feels aggrieved by the decision of the BCA, the Select Board can come up with another decision. Devon Fuller asked if it is a recommendation or a decision and Ms. Gage indicated it would be making a settlement with the property owner. According to statute, there has to be some sort of approval because it is in an appeal to the state. Maria Ammatuna stated there is a potential conflict of interest on her part and there should be a motion to determine whether a settlement discussion should be held. Ms. Ammatuna recused herself from the discussion and voting and turned the meeting over to Dave Atherton.

Ethan Swift stated the Select Board has made it a point of not intervening in private property disputes due to liability issues, etc. His inclination is to let the process run its course. Dave Atherton agreed with Mr. Swift as the Board of Civil Authority has a job to do and the Select Board should not intervene with their process. Devon Fuller agreed that it is the job of the Board of Civil Authority and the process has been set in place and he does not want to set a precedent. It was agreed that Mr. Leavitt will proceed with the appeal process. The meeting was turned back to Ms. Ammatuna to chair.

Denis Reisenweaver questioned why the agenda item Old/Other Business was not added to the agenda as noted in the minutes of October 14th. Maria Ammatuna reported that an agenda item Old/Other Business is not acceptable under the new open meeting laws, which does not mean that old or other business is not allowed, rather it requires titling for transparency with items outlined as specific agenda items rather than a general agenda item. Mr. Reisenweaver questioned the status of the appropriations for Wheeler Road and Union Street and whether they are still available. Maria Ammatuna stated the money is still available and the Union Street project is being prepared to go out to bid to start in the spring. There are engineering discussions taking place with the Wheeler Road project.

Bernie Carr stated VTrans will be repaving Route 73 from the top of the Brandon Gap to Park Street and suggested the Town could potentially use the same contractor to do the top layer of Park Street. Mr. Carr asked if Route 73 and Champlain Street are Brandon's roads. Maria Ammatuna stated there are signs that indicate where the state highway ends. Devon Fuller agreed that the Town should piggyback on these types of projects, but this will be happening next summer and it would have to be put out to bid and there are no funds available. Mr. Carr suggested if the Town could possibly take down 2 to 3 feet of the surface with in-house staff doing as much as possible. Mr. Carr noted the Town can't be gun shy about sensible spending and if this project could be done for a much lesser price, he does not think people will object.

Mr. Fuller stated the Town has been trying to piggyback on Segment 6 and it is worth asking if this is possible. Ms. Ammatuna asked the Town Manager to find out when the last date a bond vote could be put up for the March election. If it is determined to be a critical process, this could potentially be put out for taxpayer vote in March. Mr. Carr questioned if the state would consider taking back Routes 73 and 7 and it was noted the state has advised they will not take them back.

Judy Bunde stated two years ago when there was a question of what would have to happen to get Park Street paved, it was considered a state road and would have to be done through the state. It was never mentioned the town owned this road and she asked if the Town of Brandon is responsible for the paving. Maria Ammatuna noted the Dept. of Public Works Director, prior to Mr. Sanderson, had advised the state owed the middle and the town owned the edges. Ms. Bunde stated it was her understanding the state owned the road. Devon Fuller will get in touch with Sam to determine what has been done, as it had been discussed getting this done during Segment 6. Richard Baker stated at the last Regional Transportation meeting they were given the projects in Rutland County and the new item added to the list is the reconstruction of Park Street from US Route 7 to Marble/High Streets. The plan is that it will be done by the contractor that will be doing Segment 6, but will not be part of the Segment 6 project. Anything that is going to be a state project has to be on the list. Mr. Baker advised the final report will be available at the December 4th meeting and he will provide a copy to the Select Board. A draft of the minutes will be provided to the Town Manager prior to the next Select Board meeting. Ms. Bunde stated it was assumed that it was a project the state would fund. Maria Ammatuna stated the Board is trying to uncover as much information as possible and she thanked Ms. Bunde for bringing this to the forefront. Mr. Carr noted the Regional Planning Commission had been formed due to the fact that all funds were being funneled through Chittenden County and he served on the Commission in the 1990's. The state wanted to be able to spend money where it was needed and everyone from the county sent a representative and a list of the most important projects were developed. Mr. Carr was under the assumption that anything on the list was state funded. Devon Fuller stated Ms. Bennett has been charged with finding out who is responsible for funding this project. Ms. Bunde requested the Park Street repaving project be added as a regular agenda item to assure that someone is following up. Maria Ammatuna noted there are other areas, such as Champlain Street and Route 7 near Brandon Lumber that also require this much attention. Ms. Bunde stated if the Park Street project is on the state's list, she would like to see it monitored more closely. The Board requested Mr. Baker provide updates to the Select Board after each Regional Transportation Committee meeting. Ethan Swift stated the point that Mr. Fuller made is a good one in that the state takes jurisdiction for just the travel portion and not the wide shoulders. He noted there is a concerted effort between the Agency of Natural Resources and the Agency of Transportation with a Green Street Project that will add beautification and help sustain longevity to the storm water system. This could allow for grants and there could be the possibility of the work being done with cobblestone or other types of road surface.

Allan Leavitt stated he received a letter from the Town Manager indicating nothing will be done with the vibration on Route 7 near Conant square until it is addressed by Segment 6. Mr. Leavitt

requested the Select Board officially confirm this statement. Ms. Ammatuna stated the Town was advised that it is not possible to do anything with the edges and plates until Segment 6 begins. Mr. Leavitt would like it to be a decision of the Select Board that the problem is not going to be addressed until Segment 6 begins. Maria Ammatuna stated as the Select Board Chair, it is her understanding that the advice given from VHB has been that there is nothing that can be done until the construction with regard to vibration.

4. Town Manager's Report

Robin Bennett reported there will be an updated delinquent tax list posted to the website by month-end. As of October 24, there has been \$216,343.73 or 29.9% of the delinquent taxes collected and \$101,876.28 or 25.9% of the delinquent sewer accounts collected. This list has been turned over to the Town's attorney and the attorney will be giving them 30 days before the property will be scheduled to be sold. There are still 126 outstanding tax accounts and 138 sewer accounts. There have been 64 payment arrangements made. Maria Ammatuna asked if an auction of multiple properties will be done and Ms. Bennett noted there will be one scheduled day for an auction of all properties. Ms. Ammatuna questioned whether the accounts that had made payment plans but did not keep to the schedule would be sent to the attorney and Ms. Bennett confirmed those accounts would have been sent to the attorney also. It was requested to include a column noting those accounts at the attorney be added to the report. Bernie Carr asked if the delinquent water and sewer accounts would be handled together. Robin Bennett has reached out to the Water Department; however, to date they have not come to an agreement on working together. Ms. Ammatuna noted there has been inquiries as to whether the taxes can remain as they are if all of the delinquencies are collected. It was noted that the taxes are money that is owed to the town and is already accounted for. Sue Gage stated the town has a budget and when the payments do not come in to meet the budget, the fund balance is depleted and there is no fund balance that exists. If the delinquent taxes are collected, it would create a situation to rebuild the fund balance, as there is no sustainability at this time. Ms. Ammatuna noted that once the accounts have gone to legal, the ability to collect diminishes. Ms. Ammatuna requested the Town Manager research the percentage of collections received once the accounts have gone to the attorney. Ethan Swift stated currently there are no funds appropriated for the cost-share of the significant projects, such as the FEMA projects and the construction of the Wheeler Road Bridge, which is 25% match.

Ms. Bennett reported the draft of the Phase II Environmental Site Assessment has been received. Members of the Committee meet last week to assess the support for the Town's communication needs. The Committee will be discussing the revised project budget this week. The grant application is being wrapped up. The lead and asbestos testing was done with the results to be received in a week. Ethan Swift asked if this will satisfy all requirements for the site assessment and it was confirmed this would.

It was reported Glenna Pound will have all the necessary documents this week and once her work is complete, she will coordinate with the auditors to begin the audit.

Ms. Bennett advised regarding the state highway funds that they are received from the state for the general use of maintaining the Town roads and are not designated for specific purposes.

Ms. Bennett reported a revised Sexual Harassment policy will be provided to the Select Board at the next meeting.

Ms. Bennett advised that the Public Works Director and she will be working to submit the RFP's for the Wheeler Road Bridge and Union Street projects. The Cobb Hill culvert replacement recommendations were received today and the staff will review and present a report from A & E at the next Select Board meeting. It was noted the recommendations are for the engineering and not for the actual replacement and will include the design of the culvert.

The Town Office will be closed on November 11th in observance of Veteran's Day. Ms. Bennett provided the Board a proposed budget schedule. She advised there will be a special Select Board and Informational meeting scheduled for November 3rd. It was noted there are a number of individuals interested in participating on the Budget Committee.

The Budget Committee selection will be added to the agenda of the November 10th Select Board meeting. Maria Ammatuna stated there had been a suggestion by the prior Budget Committee to meet together with the Select Board during their budget meetings, rather than separately to avoid duplication of efforts. The budget schedule and format of the meetings will be discussed at the November 10th Select Board meeting. Ms. Ammatuna suggested the Town Manager be provided guidelines prior to her meetings with staff. Mr. Fuller confirmed this was done in the past and noted there may be known projects and suggested the Select Board hold a budget meeting prior to meeting with the Budget Committee for a review. Ms. Ammatuna noted there will need to be discussion of how the appropriations and intergovernmental will be handled. Robin Bennett recommended making this decision at the next meeting, as petitions will need to be done. Ms. Ammatuna stated there should be a more formal appropriation application process and there should also be discussion of the Town's annual report content and format. Ethan Swift stated when the Select Board had put together the capital improvement plan; it showed an inflated budget that caused angst and he suggested in an effort to avoid this issue it would be good to have the capital improvement plan sit separately from the budget to see what the priority issues are. Ms. Ammatuna requested Ms. Bennett provide the Sidewalk report developed by Mr. Sanderson and information on the roads and culverts. Ms. Ammatuna requested the former Budget Committee members provide suggested improvements on the process within the week so that Ms. Bennett can work on a model. The actuals to date, last year's unaudited balances, and salary sheets should also be included. Janet Coolidge stated it was suggested that a behind the scenes spreadsheet of all salaries be included to view different scenarios.

Ms. Bennett reported the Police Chief, the Public Works Director and she will be doing a site visit as a follow-up on a complaint regarding access to Churchill Road. Mr. Atherton suggested reviewing the survey that had been completed three years ago as it appears the road is getting narrower and the town has to maintain the right of way.

5. Beaver Dam in Neshobe River

Maria Ammatuna received a call from a property owner regarding a significant beaver dam behind the Brown property on River Street that is causing a 12-inch increase in the river level. Ms. Ammatuna will provide the Town Manager with the contact information. Ethan Swift and Robin Bennett will review the area.

6. Select Board Clerk

Due to Mr. Cliver's departure from the Board, there was a requirement to appoint a new Select Board Clerk. Devon Fuller volunteered to be the Clerk of the Select Board.

Motion by Dave Atherton/Ethan Swift to appoint Devon Fuller as Clerk of the Brandon Select Board. **The motion passed unanimously – 3 to zero.**

7. FY14-15 Tax Anticipation Note

Sue Gage reported there is a requirement for the Select Board to approve and sign the FY14/15 Tax Anticipation note.

Motion by Dave Atherton/Ethan Swift to approve the FY14/15 Tax Anticipation note in the amount of \$504,907.00 at a fixed rate of 1.4% with the National Bank of Middlebury. **The motion passed unanimously – 3 to zero.**

8. Sales Tax

In the Board's packet for consideration was information on the Vermont statute 24 V.S.A. 138 concerning local tax options. Maria Ammatuna stated there is nowhere that a Select Board is mentioned and everything indicates it has to be a charter town. Jeff Stewart stated in reviewing the budget, it would be good to look at the income side and suggested a 1% local tax could possibly be instituted. He noted since the Town does not have a charter, there are qualifications that would have to be met. If the Town does not meet the qualifications, it could ask the legislature for a special legislation. It was noted the term Administrative Body would qualify the Select Board. This would require a town vote and the Select Board would have the option to determine how they want to apply the 1% tax. Devon Fuller stated Rutland and Middlebury both have a Local Option 1% tax. Dave Atherton noted the Town would be gaining 1% from people that do not live in Brandon and it would be in line with the additional tax in Middlebury and Rutland. Mr. Stewart noted the Town of Wilmington was in a similar situation as Brandon and had instituted the 1% local tax and it has significantly helped their town. Mr. Stewart will provide the Town Manager the information he has on this subject. Ms. Ammatuna requested Ms. Bennett also request information from the state. Ms. Bennett will obtain information on general sales tax and rooms/meals tax. Ethan Swift stated there are also other opportunities that could be pursued if the Town were to become a charter town.

9. Education Funding Reform Resolution

Robin Bennett stated there is a resolution for the Board's consideration that is a result of a forum held in South Burlington regarding a proposed Education Funding Reform. There were some minor modifications to the resolution as a result of a review by VLCT and communities are asked to consider this resolution. This is not a fix, but it will ask the legislature to review this subject. There have been 16 communities that have adopted the resolution. Devon Fuller opposed signing the resolution. He noted if the schools had to freeze their income they would have to decrease services. This is a two-year moratorium and it would allow the legislature two years to consider it and it would not solve the problem. Dave Atherton agreed with Mr. Fuller that the Town should not sign the resolution. Ethan Swift stated as of October 20th, 20 towns have signed the resolution, but he noted it does not address the problem with the educational property taxes. Mr. Fuller noted Neshobe spends less per pupil than other area schools and this supervisory union has consolidated busing, special services and food service and they are an exemplary supervisory union for the state to look at. The supervisory union's administration saw that consolidation was the best way to go and the district will get penalized for doing this work. Maria Ammatuna stated, as a former OV School Board member, this supervisory union tried to work with the state representatives to get a state-wide fuel contract and a state-wide teachers' contract. The Governor has given a buy to the Teachers' union that they did not have to go with the Obama Care, which keeps the costs high. She also note four years ago, there was a Challenge for Change that included a grant of \$19 million and this supervisory union was one of four, out of 63 districts that met the Challenge. This district was supposed to be awarded funds, but the Governor decided to utilize the funds elsewhere. She noted at that time OV had cut \$500,000.00 that resulted in the reduction of several positions.

Motion by Devon Fuller/Dave Atherton for the Brandon Select Board to decline to sign the Education Funding Reform Resolution. **The motion passed unanimously – 3 to zero.**

10. Town Office Project

Devon Fuller stated the project is moving along quite well and the goal is to have the CDBG-DR grant submitted by November 11th.

11. Segment 6/Bridge 114 Projects

Robin Bennett stated due to scheduling conflicts, the conference call will be taking place later this week. Briggs Lane is moving forward on design and she is working with the property owner to get the retainer wall information to CLD. The right of way plans are with CLD. They have received input regarding the design for the Mobil property. The Town has evaluation waivers that will be needed to connect and disconnect. Ms. Bennett is waiting for a sample mortgage release waiver and she has talked with Scott Robertson on this subject. The background work is

being done and there are a couple more parcels that need follow-up on the waiver and appraisal. CLD has indicated there may be some conflicts with utilities. With regard to the waterline, payment was issued at the last Board meeting and the Town has received approval regarding the amendments. With regard to Bridge 114, the Select Board approved the scope of work for CLD. Maria Ammatuna asked if an approval from the Select Board is required regarding Briggs Lane. Robin Bennett stated the approval will come under the FEMA projects. There was coordination between all parties as to what shall be done and how it relates to the Segment 6 project. Ms. Bennett reported the last things that need to be done will be the Whittaker property, the Mobil station and the car wash property. Briggs Lane has been resolved at this point and the design is nearly complete. Dave Atherton stated CLD could be more solid on their answers. Ethan Swift asked if the CLD contract has been cleared up relative to Bridge 114 and Ms. Bennett confirmed it has been resolved.

12. FEMA Projects

Robin Bennett stated A&E provided recommendations for Briggs Lane that included three options; with Option 2 using recycled asphalt as their commended option. Option 1 is temporary fix and has to be done every year and Option 3 has some large disadvantages and is the most costly. Option 2 could be completed in the early spring, as soon as the weather becomes appropriate. Maria Ammatuna questioned relative to engineering and scope of work, who is responsible and when is a warning anticipated. Ms. Bennett reported A&E is prepared to put a package together and send out to bid and this could be lined up as soon as it is appropriate to do and the scope of work is set. The cost for Option 2 will range between \$14,000.00 and \$18,000.00. It is hoped for the lower end of the price tag as FEMA has provided \$17,000.00. This funding is not based on a match. This would still be considered a Class 4 road. Ethan Swift stated there was confusion as to whether this was a town road. There is town property accessible at the bottom of Briggs Lane and there was a question of whether the town is the owner of Briggs Lane. Dave Atherton stated the Town does own the road and there are sewer lines that run underneath and it would not make sense for the Town to throw it up when there is town property at the end of the road. Maria Ammatuna asked if this project would bring it up to a Class 3 road and Ms. Bennett did not think that it would. Ethan Swift stated the Town is not required to maintain a Class 4 road. Devon Fuller stated it would be worth approaching the owner to see if she is interested in working with the Town to upgrade this road. Mr. Atherton stated the Town has infrastructure that needs to be maintained and the Town needs to keep the road. Ms. Bennett stated the project is to do both the sewer line and the road. Mr. Fuller asked if the quality of work could be included in the scope of work. Mr. Atherton stated the Town should obtain a warranty when the contractor is hired to do this work. Denis Reisenweaver stated asphalt was used at the Fire House and there are some problems, however, he also used this material for his driveway done and it has been a good surface. It was noted that Ms. Bennett could request information about the material.

Motion by Devon Fuller/Dave Atherton to accept the recommendation from A & E of Option 2 for the Briggs Lane repair. **The motion passed unanimously – 3 to zero.**

13. Fiscal

a) Postage Warrant – October 14, 2014 - \$1,000.00

Motion by Devon Fuller/Ethan Swift to approve the Postage warrant on October 14, 2014 in the amount of \$1,000.00. **The motion passed unanimously – 3 to zero.**

b) FY13/14 Warrant – October 14, 2014 - \$631.63

Motion by Ethan Swift/Dave Atherton to approve the FY13/14 warrant of October 14, 2014 in the amount of \$631.63. **The motion passed unanimously – 3 to zero.**

c) General Fund Warrant – October 27, 2014 - \$23,701.22

Motion by Devon Fuller/Ethan Swift to approve the General Fund warrant of October 27, 2014 in the amount of \$23,701.22. **The motion passed unanimously – 3 to zero.**

d) Wastewater Fund Warrant – October 27, 2014 - \$38,604.09

Motion by Ethan Swift/Dave Atherton to approve the Wastewater Fund warrant of October 27, 2014 in the amount of \$38,604.09. **The motion passed unanimously – 3 to zero.**

e) General Fund Bond Warrant – November 15, 2014 - \$203,129.84 and Wastewater Fund Bond Warrant - \$31,643.50

Motion by Devon Fuller/Ethan Swift to approve the November 15, 2014 General Fund Bond warrant in the amount of \$203,129.84 and the Wastewater Fund Bond Warrant in the amount of \$31,643.50. **The motion passed unanimously – 3 to zero.**

f. Approval for Expense Reports

This item was postponed to a subsequent meeting.

g. Quarterly Financial Statements

Sue Gage presented the Board a report of assets and liabilities that represents the Town's balance sheet. Ms. Gage has been working with Ms. Scheck to provide the Board with a quarterly report that will include a balance sheet, a budget vs. actual report and details. Dave Atherton suggested this information be provided to the Budget Committee. There was a recommendation to rename the line Select Board Revenue to Tax Revenue as it relates to the property tax revenue. Robin Bennett reported that at this time, it is expected the budget to be roughly at 25% and most lines are slightly lower than that. Inter-governmental and Recreation are cyclical spending and she is not concerned with any particular department's financials at this time.

Motion by Ethan Swift /Devon Fuller to recess the Brandon Select Board to convene as the Board of Liquor Commissioners at 9:15PM. **The motion passed unanimously – 3 to zero.**

The Select Board reconvened at 9:21PM.

Motion by Devon Fuller/Dave Atherton that the premature general public knowledge of the pending AFSCME Contract will clearly place the Town of Brandon at a substantial disadvantage by disclosing its negotiation strategy to include the Town Manager. **The motion passed unanimously – 3 to zero.**

Motion by Devon Fuller/Ethan Swift for the Select Board to enter into executive session at 9:24PM to discuss the Town of Brandon's Contract with AFSCME under the provision of Title 1, Section 313(a)(1) of the Vermont Statutes with the session to include the Town Manager. **The motion passed unanimously – 3 to zero.**

14. Executive Session

Motion by Ethan Swift/Dave Atherton to come out of executive session at 9:56PM. **The motion passed unanimously – 3 to zero.** There was no action required.

Motion by Devon Fuller/Dave Atherton to enter into executive session at 9:57PM to discuss the evaluation of an officer or employee. **The motion passed unanimously – 3 to zero.**

15. Executive Session

Motion by Ethan Swift/Dave Atherton to come out of executive session at 10:30PM. **The motion passed unanimously – 3 to zero.** There was no action required.

16. Adjournment

Motion by Devon Fuller/Dave Atherton to adjourn the Select Board meeting at 10:31PM. **The motion passed unanimously - 3 to zero.**

Respectfully submitted,

Charlene Bryant
Recording Secretary