

# **Brandon Select Board Meeting March 9, 2015**

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

**In Attendance:** Devon Fuller, Doug Bailey, Ethan Swift, Dave Atherton, Seth Hopkins

**Also in Attendance:** Robin Bennett, Chris Brickell, Wayne Rausenberger, Kathleen Rausenberger, Richard Baker, Arlen Bloodworth, Steve Cjika, Blaine Cliver, Anthony Paduto, Lee Kahrs, Delores Furnari, Steve Bisette, Bernie Carr, Jim Leary, Doug Sawyer, Janet Coolidge, Judy Bunde

## **1. Call to order**

The meeting was called to order by Dave Atherton at 7:00PM.

**a) Agenda Adoption – Motion** by Doug Bailey/Devon Fuller to adopt the agenda as amended. **The motion passed unanimously – 4 to zero.**

. Under Town Office Project: add action items for Residential Displacement and Relocation Plan and the Municipal Policy Codes

. Under Consent Agenda: add Reorganization of the Board

. Remove last Executive Session for Personnel

## **2. Consent Agenda**

**a) Approval of Minutes – February 23, 2015 - Select Board**

**Motion** by Ethan Swift/Devon Fuller to approve the Select Board minutes of February 23, 2015. **The motion passed unanimously – 4 to zero.**

**b) Approval of Minutes – March 2, 2015 - Select Board**

**Motion** by Seth Hopkins/Doug Bailey to approve the Select Board minutes of March 2, 2015. **The motion passed with one abstention – Ethan Swift.**

**b2) Election of Select5 Board Officers (Chair - Vice-Chair – Clerk)**

**Motion** by Ethan Swift/Devon Fuller to nominate Doug Bailey as the Chairperson and Seth Hopkins as the Vice-Chair of the Brandon Select Board. **The motion passed unanimously – 4 to zero.**

**Motion** by Devon Fuller/Ethan Swift to nominate Dave Atherton as the Clerk of the Brandon Select Board. **The motion passed unanimously – 4 to zero.**

***c) Designation of Select Board as Other Statutory Bodies***

- a) As representative to Board of Liquor Control (Title 7, Section 166)***
- b) As representative to the Board of Health, (Title 18, Section 604)***
- c) As representative to the Board of Sewer Commissioners***
  - a. Board of Sewage System Commissioners (Title 24, Section 3506)***
  - b. Board of Sewage Disposal Commissioners (Title 24, Section 3614)***
- d) As representative to the Housing Board of Review (Title 24, Section 5005)***

**Motion** by Seth Hopkins/Devon Fuller, pursuant to the statutory requirements noted above, to appoint the Select Board members as the Brandon Board of Liquor Commissioners, the Brandon Board of Health, the Brandon Board of Sewer Commissioners (to include Sewage System and Disposal), and the Brandon Housing Review Board. **The motion passed unanimously – 4 to zero.**

***d) Establish Meeting Schedule, Time and Location***

**Motion** by Devon Fuller/Ethan Swift to maintain the current meeting schedule of every 2<sup>nd</sup> and 4<sup>th</sup> Mondays of the month for the Brandon Select Board at 7:00PM in the Brandon Town Hall, unless otherwise noted. **The motion passed unanimously – 4 to zero.**

***e) Adopt Meeting Rules and Procedures***

**Motion** by Ethan Swift/Dave Atherton to utilize Robert's Rules of Order modified for Small Boards as the operational preference for the Brandon Select Board meetings. **The motion passed unanimously – 4 to zero.**

***g) Designate Official Newspaper***

**Motion** by Seth Hopkins/Dave Atherton to appoint The Reporter as the designated official newspaper and to appoint the Rutland Daily Herald as the alternate newspaper. **The motion passed unanimously – 4 to zero.**

**3. Public Comments for Items not on the Agenda**

Wayne Rausenberger suggested switching the Public Comments section to be after the Town Manager's Report on future agendas as many times there are items that are covered in the Town Manager's Report that people might be questioning.

Doug Sawyer stated it was clear at town meeting that the townspeople support the projects and improving infrastructure, but they will not tolerate unforced errors. Mr. Sawyer suggested reviewing all projects at every meeting whether there are changes or not to see what is going on and whether they are on track. Doug Bailey noted there has been discussion of having this document available at every meeting.

Richard Baker stated at the last meeting it was noted the Union Street RFP was ready, but he has not seen it advertised. Doug Bailey reported there is a draft of the RFP that required changes prior to sending it out. Robin Bennett advised the changes will be completed soon and it is the intent it will be ready to go out within the next 2 weeks. Mr. Bailey stated with the town meeting and the election, he is sure that it is 95% done and will be going out soon.

Dick Kirby asked if the new Zoning Officer is going to have the authority to carry out the duties. Dave Atherton stated there was an appointment about a month ago and there will be follow-ups on violations. Mr. Bailey noted this is something that will be worked on.

Kathy Rausenberger submitted a letter to the Select Board from the Friends of the Town Hall and requested the Board review and respond at the next Board meeting regarding the paving in front of the town hall. Doug Bailey suggested this is something that could be added to the Project Tracker list to assure that it is addressed. Ms. Rausenberger brought this to the Board's attention as she was advised by Jason Booth from A & E that the window of opportunity to have this done is one year.

Judy Bunde asked if there is a summary from the last Bridge 114 meeting that can be accessed. Robin Bennett will provide a summary of the meeting to Ms. Bunde. Richard Baker stated with a warned meeting, there should be minutes posted within 5 days.

Wayne Rausenberger asked about the tax sale timeline. Robin Bennett reported the process is still on track. There was a deadline of today for letters to be mailed from the attorney and Ms. Bennett will verify with the attorney this is still on track.

Lee Kahrs asked about the Revolving Loan Fund action from the March 2<sup>nd</sup> executive session. Doug Bailey stated the motion from the March 2<sup>nd</sup> executive session was to release the town's lien interest in the assets in the diner. The revolving loan was secured by the inventory of the diner and there was a first lien to the Middlebury National Bank in excess of \$16,000.00. The Revolving Loan was a second lien and there was a buyer for the equipment of \$10,000.00. The Town released the interest in the security of the loan, but did not release the debt of the Revolving Loan Fund of about \$48,000.00. It would be expected the assets will be sold and the restaurant can be reopened again. The Town would like this as an operating functional building. Dave Atherton stated the Town would rather release the interest than to see the restaurant closed for two years. It was noted the Revolving Loan Fund is not funded with taxpayers' money. Devon Fuller reiterated the Town has not forfeited the money that is owed, just the rights of the assets. If there are funds discovered from the bankruptcy proceedings, the Town would be eligible for reimbursement.

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

Robin Bennett reported as if March 6<sup>th</sup> the Town has collected \$358,375.70 or 49.6% of the delinquent taxes and \$175,601.45 or 44.6% of the outstanding delinquent sewer accounts. What is due for this year is about \$340,000.00 and there is about \$25,000.00 of delinquent sewer accounts. The sewer delinquencies will continue, but the Town has made a substantial dent from

where it started. Dave Atherton asked what plan is in place for future tax sales after June 30<sup>th</sup> of this year. Robin Bennett advised the process will start after May 15<sup>th</sup>, which is when the accounts become delinquent. The actual tax sale process will be mid-June, if everything runs smoothly. Seth Hopkins noted that during the last meeting, the Town Manager had indicated the Board may want to show a different way of reporting the sewer accounts. Robin Bennett stated she will keep the amounts separate to be able to show how far the Town has come on past delinquencies. Ms. Bennett stated there will always be delinquent accounts and this will be an ongoing process, but it should not get to the level that it was at. Doug Bailey stated the aggressive action in collecting the delinquent taxes and proceeding with some tax sales will show the other delinquent people that they need to catch up their accounts. Ms. Bennett reported the auditors completed the field work and will have a draft ready by March 31<sup>st</sup>. Ms. Bennett wished to thank those who voted for the town budget and participated in the process. Ms. Bennett advised there is an upcoming spring Select Board Institute to be held March 21<sup>st</sup> and a VERI Community Forum is scheduled for April 6<sup>th</sup>. Seth Hopkins questioned the status of the Economic Development Report. Robin Bennett reported the Town will have a draft of the EDSP by April 10<sup>th</sup> and a Stabilization Policy by March 27<sup>th</sup>. Mr. Hopkins requested a status on the Town Charter. Ms. Bennett will email the attorney to provide the results of the straw poll and advise that it is the intent to proceed. Mr. Hopkins noted the townspeople were very supportive of pursuing the local option tax and it will have to come before the voters for approval. Dave Atherton reported in reviewing the statute, Title 24A of the Charter Towns, there is no recognition of Brandon having a charter. Mr. Atherton stated the Town will need to review other alternatives to get this charter for the local option tax. Ms. Bennett reported the Town will send reminder letters around April 1<sup>st</sup> to provide a balance of what people owe for this year. Sue Gage has discussed trying a couple of different options to aid in collections. The supplemental tax has created some issues this year and they need to work through this. Mr. Carr noted that with sewer delinquencies, there are often delinquencies in water as well and suggested working together with the Water Department. Robin Bennett noted the Town can go to tax sale on the sewer accounts. Dave Atherton stated the Town can also put sewer liens on properties to resolve delinquent sewer accounts. Ms. Bennett noted the taxes and sewers accounts have been broken out in phases so that the Town is handling like accounts the same. Today was the deadline for the registered letters to be mailed. It was noted that the lienholders will often pay the taxes. It is scheduled for the notices to be sent to the papers on March 16<sup>th</sup> and the tax sales are scheduled to commence April 20<sup>th</sup>. Ms. Bennett stated for those who are delinquent, they could also be delinquent for this year and it is the goal to get them caught up within a specific timeframe. This is taken into account when coming up with payment arrangements. Ms. Bennett stated some people will make a lump sum payment and then a payment arrangement is determined. The Select Board will aggressively go after delinquent accounts going forward. Devon Fuller stated in the past, the Town would wait five years before taking someone to tax sale and going forward the Town is now going to handle delinquencies immediately. If the current year's taxes are paid prior to May 15<sup>th</sup>, interest is paid on past quarters, if they are not paid quarterly.

## **6. Town Office Project**

Robin Bennett reported the Community Development Agency requires approval by the Select Board for the Residential Displacement and Relocation Plan and the Municipal Policy Codes. Seth Hopkins suggested items that require approval by the Board be provided prior to the

meeting. Devon Fuller noted it would have been preferable to have the documents prior to the meeting, however, without action it will hold up the CDBG grant for the town office. Mr. Fuller advised the Municipal Policy provides the government assurance that the Town of Brandon will not discriminate against people that work for the Town and the Housing policy is pretty much the same. They also want to make sure there is a drug-free work zone in force. The Residential Displacement and Relocation Plan outlines that if the Town were to tear down an apartment house where several people reside, they would want the Town to construct a building that would provide housing for the same number of people. He does not imagine that anyone would object to the documents as they are all nondiscriminatory policies. The documents are required even though they do not relate to the town office project. Dave Atherton noted anything added to the information packet should be included in the packet that goes on line.

**Motion** by Seth Hopkins/Dave Atherton to accept the MP-1Policy and the Residential Displacement and Relocation Plan. **The motion passed unanimously – 4 to zero.**

Robin Bennett reported there will be a Governor's photo opportunity to be held on Wednesday at noon at the State House in Montpelier relating to the grants that have been awarded. The Community Development Group has asked for one or two representatives to attend from Brandon. Robin Bennett will be attending and extended an invitation for a Board member to attend. Doug Bailey and Ethan Swift will plan to attend with Ms. Bennett. Dave Atherton suggested placing floorplans of the proposed town office project in the town office windows, as they are looking bad. Bernie Carr stated there is also the Brandon logo that could also be put in one of the windows. Mr. Atherton suggested getting rid of the Irene-related items and move forward with something more positive. Robin Bennett reported the environmental review is still pending and feedback was received this morning. She has been in contact with Steve LaRosa who did the environmental work and he advised it should not take long to turn this around. Devon Fuller stated Mr. Black is very optimistic of the time lines. The environmental review has to go to the state and the Town is at their mercy as to how quickly the state can return it. Blaine Cliver stated the Historic Preservation Group turned their part around within 2 weeks. Robin Bennett stated they reviewed the environmental application separate from the grant application that was approved and returned it with the comments. It will be turned around in the next couple of days. Doug Bailey stated knowing all the positive feedback that was given at the town meeting; he would like to be in the town office by foliage.

## **7. Segment 6/Bridge 114 Project/Overflow Culvert**

Robin Bennett received the RFQ for the Overflow Project and asked the Board to review it and advise if there are any concerns. They would like to move as soon as possible and it is a formality in order to get it designed.

With Bridge 114, Ms. Bennett was looking for the Board's input on how they would like CLD to move forward on the design so that they can focus on what the Town would like to do. Wayne Rausenberger presented two drawings that were done in 2002 by Nancy Leary. After the meeting with CLD, it was determined that this would be what the Town would be able to get. It will be a single span and there will not be a pier in the middle. Mr. Rausenberger stated it would also be nice to have flagpoles and the light standards included. The second drawing provided

information on the curbing and sidewalk. It was noted it would be nice to do a granite curb and stamped concrete instead of a standing concrete sidewalk. Seth Hopkins supports the single span sidewalk and an iron railing instead of a concrete railing, which was discussed at the meeting. Blaine Cliver noted the iron railing provides a view of the river. At the last meeting with CLD, there was a discussion of an approach railing that would be 25 to 36 feet long leading up to the bridge. With putting a sidewalk and a rail on the river side, it would alleviate the approach rails. It was also suggested lighting could be put underneath the bridge for viewing the river. Devon Fuller was in favor of the drawings and the single span slab is the most cost effective bridge. He would also like to see a black steel handrail to provide a more historical look. Ethan Swift was also in agreement with the design work that has been done. Dave Atherton and Seth Hopkins were also in support of the design. Doug Bailey requested Robin Bennett pass this information to the state to move forward with this design. Ms. Bennett noted that CLD's recommendation was to construct a single span bridge and replacement of the retaining walls. Blaine Cliver stated the design is within the budget and VTrans should be agreeable to this recommendation. Mr. Fuller noted he is also in agreement with lights underneath.

Ethan Swift questioned the status of the Segment 6 waiver evaluations. Robin Bennett reported there will be a conference call with VHB to go over the forms to use. They have forms and will go through the steps that the Town needs to do. Delores Furnari was under the impression the state did this work. Robin Bennett stated the Town is working with VHB to try to pinpoint exactly what they want and it may be a combination of VHB and the Town getting these out. Dave Atherton is concerned there may be problems with two different people doing the waiver evaluations. Ms. Bennett stated the waiver evaluations are based on the appraisals. Richard Baker noted he did the waiver evaluations during the time that he was the interim Town Manager. Doug Bailey asked if there is a drawing the town has used and Ms. Bennett advised the drawing shows how much land will be affected, which includes around 150 properties. Dave Atherton noted the waivers were supposed to be done November of last year and Mr. Swift stated negotiations with the landowners should have begun a couple of days ago. It was noted this process should be included in the project timeline. Ms. Bennett stated there is about one-third that are easy to do, one-third that are moderately difficult and one-third that will be difficult. Ms. Bennett advised the Town reached out to VSE, but they were unable to help. VHB will be able to help but it will cost the Town. Ms. Furnari stated the last time the state did the construction from the high school to the fire station; they had provided a ledger and the town had changed all the information. It was noted this is different because the Town owns this section of the road. Mr. Bailey stated this has to become one of the most important projects. Mr. Fuller questioned whether a para-legal could do the job and Ms. Bennett stated there is money in the Right of Way portion of the project to hire someone. Ms. Bennett will be talking with VHB tomorrow and will advise the Board. Blaine Cliver suggested getting rid of VHB. Mr. Cliver also noted that during the redesign of Segment 6, there were ballards along the edge of the park and there was discussion of using marble hitching posts. Right now there is a barrier between parked cars and the people in the park; however the new design will not have that. From a safety point, this is something that should be added back in and Mr. Cliver is unsure why anyone would have an objection to it.

## 8. FEMA Projects

Robin Bennett stated there is a recommendation regarding Kennedy Park that was based on recent conversations. What is being recommended is the “do nothing” option that would include repairing the pipe in the park and going as far as possible to the wall to allow televising to determine what has happened to the pipe. This was based on a conversation concerning what is happening in Segment 6 where the previous Town Manager had asked CLD to bring the sewer to Route 7, but it never happened. Seth Hopkins stated this should be called a “monitor and sample” option, as it is dependent on the Town determining a schedule to monitor the water quality to assure there is no public health risk. Ms. Bennett stated the cost will be in the reconstruction and the monitoring will not be a cost. There has been no evidence that anything is going into the river and if something was to happen, it would change the repair. Ethan Swift stated monitoring is being done and would need to occur bi-monthly at a minimum. Having read through the alternatives and understanding the route of this line, Mr. Swift is more convinced that Alternative 4 is the best approach. Dave Atherton stated the Board had previously decided to go with Alternative 4. Ethan Swift noted the Board had decided to table the discussion to obtain more information. Based on observations, there is nothing currently happening, but it does not mean that there isn't potential for something to happen and the Town would then have to come up with a fix. Mr. Swift thought it is best in terms of doing preventative maintenance to go with Alternative 3. Robin Bennett stated if the Town went with Alternative 4, it could keep the residual money, but the use for the funds would need to be identified. The concern with doing the repair is that it will be torn up during Segment 6. Dave Atherton stated this is money provided to fix this sewer issue and the funds need to go to this project to fix it right now. Ethan Swift stated there was question of how this will fit into the new overflow culvert and how to get the line across Route 7. Ms. Bennett stated it would fit with Segment 6, but not with the overflow. She feels comfortable with Alternative 4, as there has been no issue for 3 years. Devon Fuller expressed concern that there could be an issue when digging begins to repair the pipe. Ms. Bennett will confirm how the residual funds can be used and whether it could be used as a backup. Dave Atherton stated with the history of that block, having a pump station there would benefit this area, as there is a lot of wastewater coming out of the buildings. Mr. Fuller stated the grinding pump would help move sewer across the road until the culvert project is done. Mr. Swift was more inclination to go with Alternative 3 and noted that perhaps the successful bidder for the overflow design work could do this design concurrently, as a lot of the design work needs to overlap. Mr. Fuller was also more inclined to go with Alternative 3. Mr. Swift noted the Town could potentially be subject to fines if there is a problem.

**Motion** by Dave Atherton/Seth Hopkins to go with Alternative 3 of the Sewer Repair Alternatives for Kennedy Park. **The motion passed unanimously - 4 to zero.**

Robin Bennett stated she has had conversations with Mary Andes and it has been noted that Green Park is the project to push and a decision should be received by the beginning of April. As long as everything goes as planned and they approve the design, it will be able to go out to bid. VTrans has indicated this would be the best staging area to do construction on the bridge. Ms. Bennett recommended moving forward with the project as Segment 6 will have to replace anything that is disturbed.

Ms. Bennett reported Cobb Hill is still pending review by FEMA because the estimate was more money than originally expected, as the original budget was based on items that do not fit the standards. It is not expected there will be a problem, but it is still pending approval.

Ms. Bennett stated there has been no further information on the HMPG grant for Newton Road. Doug Sawyer questioned whether the RFP for Green Park could be developed if going to happen soon. Ms. Bennett stated it would be prudent to wait to get the feedback from FEMA since there is a retaining wall involved. Janet Coolidge asked why there has not been information in the minutes on the projects. It was requested Ms. Bennett include the project updates in the Town Manager's Report, rather to include them in the Project Tracker report. Doug Bailey stated the Board will determine the most efficient way to review the Tracker report to assure that everything is being done. Richard Baker suggested the Town Manager make some noise regarding the Newton Road project as there could potentially be problems this spring with flooding. A recommendation was made to send a letter signed by the Town Manager to the legislators regarding the Newton Road Project.

## **9. Fiscal**

### ***a) General Fund Warrant – March 9, 2015 – \$64,043.07***

**Motion** by Devon Fuller/Ethan Swift to approve the warrants of March 9, 2015 in the amount of \$64,043.07. **The motion passed unanimously – 4 to zero.**

Ethan Swift asked about the invoice for Caterpillar Finance and Robin Bennett advised this is the payment for the loader, which is a lease/purchase agreement.

### ***b) Wastewater Fund Warrant – March 9, 2015 - \$6,462.07***

**Motion** by Devon Fuller/Dave Atherton to approve the Wastewater warrant of March 9, 2015 in the amount of \$6,462.07. **The motion passed unanimously – 4 to zero.**

Delores Furnari stated as the President of the Brandon Artist Guild, the Guild wishes to thank Ray Counter for the work he did to get the water running at the Guild.

**Motion** by Devon Fuller/Ethan Swift to recess the Select Board at 8:55PM to convene as the Board of Liquor Commissioners. **The motion passed unanimously – 4 to zero.**

The Select Board reconvened at 8:59PM.

**Motion** by Devon Fuller/Dave Atherton to enter into executive session at 9:05PM to discuss a grievance under the provision of Title 1 Section 313 (3)(a)(1) of the Vermont Statutes to include the Town Manager. **The motion passed unanimously – 4 to zero.**



**10. Executive Session – 1V.S.A. 313(a)(1) – Grievances**

**Motion** by Devon Fuller/Dave Atherton to come out of executive session at 9:19PM. **The motion passed unanimously – 4 to zero.** There was no action required.

**Motion** by Devon Fuller/Dave Atherton to enter into executive session at 9:20PM to discuss the negotiating or securing real estate purchase or lease options under the provision of Title 1 Section 313(a)(2) of the Vermont Statutes to include the Town Manager. **The motion passed unanimously – 4 to zero.**

**11. Executive Session – 1V.S.A. 213(a)(2) – Negotiating or Securing real Estate Purchase or Lease Options**

**Motion** by Devon Fuller/Seth Hopkins to come out of executive session at 9:35PM. **The motion passed unanimously – 4 to zero.** There were no actions required.

**Motion** by Devon Fuller/Seth Hopkins to enter into executive session at 9:37PM to discuss the employment of a public officer or employee under the provision of Title 1 Section 313 (3)(a)(3) of the Vermont Statutes. **The motion passed unanimously – 4 to zero.**

**12. Executive Session – 1V.S.A. 313(a)(3) – Employment of a Public Officer or Employee**

**Motion** by Devon Fuller/Seth Hopkins to come out of executive session at 9:49PM. **The motion passed unanimously – 4 to zero.**

**Motion** by Devon Fuller/Seth Hopkins to place the Town Manager on administrative leave, with an executive session to include her scheduled for Monday, March 16, 2015 at 9:00AM at the town hall downstairs meeting room. **The motion passed unanimously – 4 to zero.**

**Motion** by Devon Fuller/Seth Hopkins to enter into executive session at 9:50PM to discuss the employment of a public officer or employee under the provision of Title 1 Section 313 (3)(a)(3) of the Vermont Statutes. **The motion passed unanimously – 4 to zero.**

**13. Executive Session – 1V.S.A. 313(a)(3) – Employment of a Public Officer or Employee**

**Motion** by Devon Fuller/Seth Hopkins to come out of executive session at 9:55PM. **The motion passed unanimously – 4 to zero.**

**Motion** by Devon Fuller/Seth Hopkins to hire Daryl Burlett as the Public Works Director, with a probationary period to extend through June 30, 2015. **The motion passed unanimously – 4 to zero.**

#### **14. Adjournment**

**Motion** by Devon Fuller/Seth Hopkins to adjourn the Select Board meeting at 9:57PM. **The motion passed unanimously - 4 to zero.**

Respectfully submitted,

Charlene Bryant  
Recording Secretary