

**Brandon Select Board Meeting  
March 13, 2017**

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

**Board Members In Attendance:** Devon Fuller, Doug Bailey, Seth Hopkins, Tracy Wyman, Brian Coolidge

**Others In Attendance:** Dave Atherton, Bernie Carr, Richard Baker, Anna Scheck, Dick Kirby, Lee Kahrs, Brent Buehler, Jan Coolidge

**1. Call to order**

The meeting was called to order by Doug Bailey at 7:02PM.

**a) Agenda Adoption – Motion** by Devon Fuller/Seth Hopkins to adopt the agenda as amended. **The motion passed unanimously.**

Switch the agenda items to act on Item 3 prior to Item 2.

Additional warrant – Item 15(b) in the amount of \$740.00 for a Blanket Warrant for Route 7 Segment 6

**3. Designation of Select Board as Other Statutory Bodies**

- a) Board of Liquor Control (Title 7, Section 166)**
- b) Board of Health, (Title 18, Section 604)**
- c) Board of Sewer Commissioners**
  - A/K/A: Board of Sewage System Commissioners (Title 24, Section 3506)**
  - Board of Sewage Disposal Commissioners (Title 24, Section 3614)**
- d) Housing Board of Review (Title 24, Section 5005)**

**Motion** by Seth Hopkins/Devon Fuller to designate the Select Board as other statutory bodies as noted above. **The motion passed unanimously.**

The Select Board recessed to convene as the Board of Liquor Commissioners at 7:06PM.

The Select Board reconvened at 7:17PM.

**2. Election of Select Board Officers**

**a) Election of Chair**

**Motion** by Doug Bailey/Brian Coolidge to appoint Seth Hopkins as the Chairperson of the Brandon Select Board. **The motion passed unanimously.**

***b) Election of Vice-Chair***

**Motion** by Devon Fuller/Brian Coolidge to appoint Doug Bailey as the Vice-Chair of the Brandon Select Board. **The motion passed unanimously.**

***c) Election of Clerk***

**Motion** by Seth Hopkins/Doug Bailey to appoint Devon Fuller as the Clerk of the Brandon Select Board. **The motion passed unanimously.**

Doug Bailey stated it has been an honor and a privilege to be Board Chair for the last two years. Seth Hopkins thanked Mr. Bailey on behalf of the Board for his leadership, noting it has been enjoyable and productive.

**4. Establish Meeting Schedule, Time and Location**

***a) Second and Fourth Mondays***

***b) 7:00PM***

***c) Brandon Town Hall***

**Motion** by Devon Fuller/ Brian Coolidge 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. **The motion passed unanimously.**

**5. Adopt Meeting Rules and Procedures**

***a) Robert's Rules of Order for Small Boards***

**Motion** by Doug Bailey/Brian Coolidge 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.**

Seth Hopkins stated Robert's Rules for Small Boards allows the discussion before a motion on the floor.

**6. Designate Official Newspaper**

***a) Official – The Reporter***

***b) Alternate – The Rutland Herald***

**Motion** by Devon Fuller/Brian Coolidge to appoint The Reporter as the designated official newspaper and to appoint the Rutland Daily Herald as the alternate newspaper. **The motion passed unanimously.**

## **7. Approval of Minutes**

**a) Approval of Minutes – February 27, 2017 - Select Board Meeting**

**b) Approval of Minutes – February 27, 2017 - Select Board Hearing for BLUO Changes**

**Motion** by Devon Fuller/Brian Coolidge to approve the Select Board and Hearing Minutes of February 27, 2017. **The motion passed unanimously.**

Brent Buehler takes exception because from what he read in the February 27<sup>th</sup> minutes, the Town Manager did not inform the Select Board that a suit had been filed in Superior Court against the Town. Mr. Buehler asked why the Town Manager gave a report and did not provide this information to the Board as it portrays that the Conant Square owners are being delinquent and a condemnation notice was signed by Mr. Bailey that led the owners to file a suit in Superior Court. Devon Fuller stated the Select Board is currently acting on the approval of the minutes from the meeting and Mr. Buehler's comments should be discussed during the public session. Doug Bailey stated this item was not brought up at the meeting and cannot be dealt with during the approval of the minutes. Dave Atherton stated he had advised the Select Board Chair concerning the lawsuit that was filed and when the process proceeds with attorneys, it does not go out to the public. Mr. Atherton stated an agreement has been reached and it has been resolved. Mr. Buehler stated it was not resolved on February 27<sup>th</sup>. Seth Hopkins stated Mr. Buehler's point is taken and the minutes approval is to reflect the approval of the discussion at that meeting.

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

Dave Atherton reported all deeds have been signed and recorded for Parcel 6091 (4 Conant Square) for Segment 6. The Town has received the right of way clearance from the Federal Highway Administration and the authorization and approval to advertise bids from VTrans. The project went out to bid on March 10<sup>th</sup>. Utility poles have been set on Franklin Street and Green Mountain Power will move lines in the next couple of weeks. More box sections will be installed this week on the overflow culvert and they will tie those all in and backfill. VTrans has approved the temporary easements for the Churchill Road Bridge. Mr. Atherton will be contacting the two landowners this week for signatures. Plans are to send this out to bid soon. VTrans may have a couple of changes. In the Rec Department, the recreation basketball season has ended and thanks go out to all the volunteer coaches; Katrina Ducharme, Lance Laraway, Chrysty Palmer, Heather LaPorte, Keith Wetmore, Fred Pockette, Oren Rhodes, Katie Murray, Lance Chicoine, Adam Calvin, Shauna Lee, Melissa Bassette, Calli Thomas, Brian Thomas and Ben Gaboriualt. Thanks also to Stephanie Kellogg, owner of Cattails Restaurant for spearheading a fundraiser that raised \$4,000.00 for basketball uniforms. On March 18<sup>th</sup> there will be a Bow Thayer concert at the Town Hall that will feature Foley Brothers/Neshobe River Winery. Tickets

are on sale at Carr's Florist and the Town Office. That same evening the Brandon Fire Department will be hosting a fundraising dance at the American Legion. Baseball sign-ups are out and includes the Budget Committee's request for a non-resident fee. Mr. Moore has met with Maria Mayer at the Vermont Parks Department concerning the summer camp at Branbury Beach. More details to follow on this program.

Doug Bailey questioned if the placement of the poles was the cause of the water main break and it was confirmed that it was the reason, but it has been repaired. Mr. Bailey questioned what the out of town fee was for the Rec Department, but it was not known at that time.

Devon Fuller stated now that all parcels have been completed and approval has been received to go out to bid, Mr. Fuller extended a thank you to Dave Atherton and Daryl Burlett as it has been a project that has been sitting dormant for years and they have been able to turn it around and get it out to bid. Mr. Fuller asked when the overflow project would jump the road and Mr. Atherton advised that the boxes were set today, but the timeframe is not known. Doug Bailey stated in talking with Markowski, they are at a point where elevation has to change so that piece has to be constructed. Mr. Bailey asked if there was a rough end date for Route 7 and was advised that May 1<sup>st</sup> is the anticipated date. Mr. Fuller questioned if the Churchill Bridge project is also anticipated for the summer of 2017 and Mr. Atherton confirmed that it is planned for this summer.

Seth Hopkins stated since no one has left the meeting after the agenda was adopted, Mr. Hopkins requested the addition of an executive session to discuss a pending or probable civil litigation in accordance with Title 1 VSA(313)(a)(1), with the session to include the Select Board and the Town Manager.

**Motion** by Devon Fuller/Doug Bailey to amend the agenda to include an executive session regarding a pending or probable civil litigation. **The motion passed unanimously.**

## **9. Comments for Items Not on the Agenda**

Bernie Carr asked what type the Churchill Bridge would be. Dave Atherton reported it will be a single lane new bridge that will be wide enough for an emergency vehicle. Mr. Atherton has met with the Forest Service and landowners to go over the project to discuss parking that will be located on the Forest Service property. The Town will only have to do the bridge and the Forest Service will handle the remainder of the project. Dave Atherton stated it is like the Union Street Sidewalk project where there was a grant that had been applied for, but the project had changed through the years. The Irene storm had pushed the project out and the Town has to either pay back the grant or complete the project.

Jan Coolidge commended the Select Board on the annual meeting and the slideshow, noting the extra effort paid off.

Mr. Buehler stated he was surprised not to read that both deeds were waiting for return and warned for condemnation. Mr. Atherton received documents from the attorney and hoped that it would be closed out, but he also received a document regarding the court action. The court action will be dropped because of the actions of today. Mr. Buehler stated Mr. Atherton reneged on the agreement and he did not know what happened and why Mr. Bailey signed the condemnation notice. He talked about this at the February 13<sup>th</sup> meeting and is trying to understand the narratives, as they are not fully disclosed and are not transparent. Dave Atherton stated the Town tried negotiations for two years with the owners on the project and tried to come to terms a couple of times. Mr. Buehler was out of town a lot and there were things that could be done without getting attorneys involved. Once Mr. Buehler brought an attorney in, the Town had to bring their attorney in. He is not sure where it went wrong, but to call out that things were done incorrectly is not right. Mr. Buehler stated there was a quitclaim and a survey was attached that did not represent the agreement that they were willing to sign. Mr. Atherton stated what was recorded was initialed by Mr. Buehler and brought in by his attorney and there was no altering of documents. Mr. Atherton stated last Friday signed deeds were received and compensation was put in the attorneys trust account on Friday. Mr. Atherton stated the Town decided not to move forward with the triangle piece and gave that land back and still gave compensation and also gave up Route 7 right of way feet. Mr. Buehler stated it ended up the Town gave 1500 square feet of land and \$5,000.00, which was more than originally given.

Doug Bailey was unaware of the court action. Mr. Buehler stated it was filed the night of February 13<sup>th</sup> with the Superior Court for a declaratory judgement for the Town to honor the agreement. Mr. Buehler was disappointed the Select Board signed the condemnation document. He stated there is not transparency and he wanted it known that the owners were not difficult about this and he did not want his property stolen by the Town. Mr. Buehler stated as of this morning, a construction sign is on his property and it needs to be removed. Dave Atherton stated he would discuss this item with Markowski. Mr. Bailey stated he has received emails from Mr. Buehler and has always responded and he hoped that this issue could move forward in a better manner.

Devon Fuller objected to the constant bashing of the Town Manager and noted that Mr. Atherton does the best job that he can. He hoped that Mr. Buehler is happy with the extra compensation; extra land and the complaints now on record and Mr. Fuller hoped that the Town could move forward in getting this roadway finished to have a more viable downtown.

Sue Gage stated there is a library fundraiser at the Inn this weekend that will include a silent auction to help the library purchase a lift.

Richard Baker stated as the Chair of the Rutland Regional Transportation Council, he had Park Street placed on the priority listing for Rutland County. This has been on the list for two years and there will be further discussion at the April meeting and Mr. Baker suggested the Select Board address a letter to the Transportation Council on the importance of Park Street.

Seth Hopkins asked if it is premature to do something prior to the storm water results. Dave Atherton advised that the Town would be eligible for Class 2 Highway Funds next year, similar to the Union Street project, which could be up to \$200,000.00. Mr. Atherton stated if it is planned right, it could be done in conjunction with that portion of Segment 6 and could be done with the waterlines and sewer and a letter from the Select Board would not hurt.

## **10. Appointments**

### ***a) Tree Warden***

**Motion** by Devon Fuller/Tracy Wyman to appoint Wayne Kingsley as Tree Warden. **The motion passed unanimously.**

### ***b) Fence Viewers (3 members)***

**Motion** by Devon Fuller/Tracy Wyman to appoint Cindy Bell, John Reynolds and Todd Nielson as Fence Viewers. **The motion passed unanimously.**

### ***c) Inspector of Lumber, Shingles and Wood***

**Motion** by Tracy Wyman/Doug Bailey to appoint John Reynolds as Inspector of Lumber, Shingles and Wood. **The motion passed unanimously.**

### ***d) Weigher of Coal***

**Motion** by Doug Bailey/Tracy Wyman to appoint Lou Faivre as Weigher of Coal. **The motion passed unanimously.**

### ***e) BLSG Insect Control District (2 reps and 1 alternate)***

**Motion** by Tracy Wyman/Brian Coolidge to appoint Wayne Rausenberger as a Brandon Representative to the BLSG Insect Control District. **The motion passed unanimously.**

Dave Atherton advised that the District requires two representatives from Brandon. Dick Kirby volunteered to serve.

**Motion** by Doug Bailey/Brian Coolidge to appoint Dick Kirby as a Brandon Representative to the BLSG Insect Control District. **The motion passed unanimously.**

### ***f) Budget Committee (4 members)***

Dave Atherton also received a letter of interest from Bill Claussen regarding participation on the Budget Committee. Jan Coolidge stated there was a change in the law that indicates there is a limit to the number of participants on committees that serve the town.

**Motion** by Doug Bailey/Tracy Wyman to postpone the Budget Committee appointments until further clarification. **The motion passed unanimously.**

***g) Rutland County Solid Waste District***

**Motion** by Doug Bailey/Tracy Wyman to appoint Gabe McGuigan as Brandon's Representative to the Rutland County Solid Waste District. **The motion passed unanimously.**

**11. Town Meeting Recap**

Doug Bailey stated the voter turnout was light. Mr. Bailey received comments from people regarding the town meeting being held at the town hall that visually they could see the presentation better than at the school and he did not receive any complaints. Devon Fuller stated the idea of having the voting and town meeting at the school provided the children the opportunity to see democracy in action. Tracy Wyman stated many people that he talked with indicated it was more difficult to get in the building for the town meeting and it was suggested to advertise that an elevator is available. It was asked if the voting at the town hall was better. Sue Gage stated the absentee ballots were about the same percentage. Ms. Gage thought there is accessibility issues with the town hall and suggested that long-term something needs to be done. There were many people that were happy with it and Ms. Gage stated the majority of the comments were positive. Bernie Carr stated there are some issues with the acoustics in the upstairs of the town hall and people speaking need to use a microphone. Ms. Gage also received many positive comments on having the town meeting in the town hall. Jan Coolidge stated when Route 7 goes through, there will be changes in the parking and perhaps it could be addressed at that time. Dave Atherton stated the parking would be more defined with the Route 7 project.

**12. Discussion of Proposed Fund Balance Policy**

Seth Hopkins requested comments from the Board on the one-page draft of the Fund Balance policy that Mr. Hopkins had drafted from the information provided by Sue Gage. The draft includes 20% as the goal and Ms. Gage noted there was a time when 25% was the percentage used. Devon Fuller stated the money the Town had was what saved the Town when Irene happened. Doug Bailey would not be opposed to up to 30% due to the expense of emergencies and the need for grant matches and it would make sense to have a significant amount of funds to take care of unforeseen issues. Ms. Gage stated it also saves the Town from borrowing money for tax anticipation that saves on interest being paid. She stated this year there are a lot of matching funds that will be required for grants and there would be issues with the Union Street Sidewalk project and the Churchill Bridge project without the funds. Mr. Bailey suggested changing the ceiling to 30% or \$900,000.00 and leave the floor at 15% or \$450,000.00. Ms. Gage stated if something were to happen, rather than using all of that, perhaps it could be staggered over a couple of budget years. Doug Bailey stated any further suggestions could be

provided to the Board Chair and the policy could be discussed and approved at the next meeting.

### **13. Tax Stabilization – Gold Star Feed & Grain**

Dave Atherton advised that Bill Moore was not available to provide information on this subject and suggested the item be postponed to a subsequent meeting.

**Motion** by Devon Fuller/Tracy Wyman to table Item 13 to the next meeting. **The motion passed unanimously.**

### **14. Road Posting**

**Motion** by Devon Fuller/Tracy Wyman to ratify the 2017 Road Posting as presented. **The motion passed unanimously.**

Doug Bailey questioned the criteria for placing a road on the posting, as there are some roads that are paved as well as dirt roads. Tracy Wyman stated if a road is posted, i.e. McConnell Road, the off roads like Basin Road do not require a posting also as they would be included. The idea is to have the large trucks stay on state highways and exceptions have to be approved through the Public Works Director.

### **15. Fiscal**

#### ***a) General Fund Warrant – March 13, 2017 - \$453,542.81***

**Motion** by Devon Fuller/Tracy Wyman to approve the warrants of March 13, 2017 in the amount of \$453,542.81. **The motion passed unanimously.**

#### ***b) Blanket Warrant for Route 7, Segment 6 – March 13, 2017 - \$740.00***

**Motion** by Doug Bailey/Tracy Wyman to approve the blanket warrant for Route 7, Segment 6 in the amount of \$740.00. **The motion passed unanimously.**

The Board recessed at 8:19PM.

The Board reconvened at 8:24PM.

**Motion** by Doug Bailey/Devon Fuller to find that premature general public knowledge of the Notice of Declaratory Judgment received from the owners of 4 Conant Square will clearly place the public body at a substantial disadvantage. **The motion passed unanimously.**

**Motion** by Doug Bailey/Devon Fuller to enter into executive session at 8:25PM to discuss a pending or probable civil litigation or prosecution, to which the public body is or may be a party



under the provision of Title 1 V.S.A. 313(3)(a)(1) to include the Town Manager. **The motion passed unanimously.**

**16. Executive Session – 1V.S.A. 313(a)(1) – Contracts, labor relations agreements with employees, arbitration, mediation, grievances, civil actions, or prosecutions by the state**

**Motion** by Doug Bailey/Devon Fuller to come out of executive session at 8:30PM. **The motion passed unanimously.**

There was no action required.

**17. Adjournment**

**Motion** by Doug Bailey/Tracy Wyman to adjourn the Select Board meeting at 8:31PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant  
Recording Secretary