

Brandon Select Board Meeting August 28, 2017

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

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

Others In Attendance: Dave Atherton, Lee Kahrs, Mike Frankiewicz, Jeff Stewart, Dick Kirby, Anna Scheck, Ethan Swift, Kathy Hopperstad, Sue Gage, Janet Coolidge, Anna Scheck, Chris Brickell, Constance Pell, Richard Baker, Ray Jobst

1. Call to order

The meeting was called to order by Seth Hopkins – Chair at 7:00PM.

Devon Fuller advised there would be a \$50.00 giveaway at the 2nd Select Board meeting of each month as part of the Even Better Brandon program that is promoting the Segment 6 project. The first winner of the \$50.00 was Sue Young Walsh.

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

Add Item 4a – Consider Purchase and Sales Order and 1061 Notice for the Town-owned Tax Property on North Birch Hill to Dan and Maria McDonough and Tax Property on Birch Hill Road to Joshua McDonough

Add Item 10 – Executive Session Pursuant to 1V.S.A. 313(a)(3) – The Appointment or Employment or Evaluation of a Public Officer or Employee to include the Town Manager

2. Approval of Minutes

a) August 14, 2017 – Select Board Meeting Minutes

Motion by Devon Fuller/Tracy Wyman to approve the Select Board minutes of August 14, 2017. **The motion passed unanimously.**

3. Town Manager's Report

Dave Atherton reported Segment 6 work continues on Rossiter Street and will move to Carver Street by the end of the week. Utility poles are being set on Franklin Street and Conant Square. Final plans for Bridge 114 have been received and recorded in the Town Office. The Plans are currently being reviewed by VTrans and it is planned to send this project out to bid this fall. The Churchill Road Bridge plans are still under review by Federal Lands. It is hoped to have this

project out to bid this fall. VTrans has advised that the Town will have funds in a PLH project that will provide an additional \$197,000.00 with no match required. The Champlain Street pump station generator and transfer switch have been installed. It is anticipated the pumps will arrive next week. It was discovered the roof on the pump station needs replacing and there is money in the project budget to cover the cost. The Carver Street dip and the apron on Lover's Lane have been paved. Grant funded work to stone line the ditches on Long Swamp Road and Birch Hill Road will be done. The Town has signed a contract with NEMRC to start the town-wide appraisal in July 2018. In the Recreation Department, the Solar Eclipse event was a great historic event. Thanks go out to Molly Kennedy of the Brandon Free Library for writing the grant to fund the event and collaborating with the Brandon Rec and the Brandon Area Toy Project. Thanks for assisting with the various activities during the event go out to Colleen, Bill and Shannon Wright, Kelly Connors McCullough, Patricia, Bonnie and Sophie Moore, Jason, Isaac and Phin Kennedy, Sue Campbell Danforth, Brittney and Bradley Danforth, Emily and Ethan Nelson and Kenny Cifone. Fall sports registration has begun. Boys and Girls U10/U12 soccer and middle school tackle football have begun practicing. Registration is open for U6/U8 Boys and Girls soccer, cross-country running, Brandon Rec Youth Theatre and fall cheerleading. The Rec Department is looking for a coach for U10 Boys' soccer. Anyone interested should contact Bill Moore. Flagship Cinema movie books are available for \$25.00. The Brandon Rec is collaborating with Middlebury and Pittsford Recs on a trip to a Celtics Game on December 15th. The Anthem Buddies program is available for the first 14 children to purchase tickets. Transportation will be via Premier bus. The ticket cost for the trip is \$92.00. The Brandon Rec Youth Theatre will be performing Junie B. Jones: Jingle Bells, Batman Smells on December 1st and 2nd at the Town Hall. Auditions will take place September 12th and 13th.

Doug Bailey requested an update on the Newton Road project. Dave Atherton reported the President has declared Vermont for FEMA disaster relief. The Town will not be able to go through the State Emergency Fund. Mr. Atherton will have a meeting with FEMA and VTrans to discuss the project. The Town will be submitting for FEMA funding and it is hoped there will be a quick reimbursement. Mr. Bailey stated there was discussion of setting a meeting with Mr. Carbajal and asked if this meeting has been scheduled. Mr. Atherton advised the meeting has tentatively been set for September 18th. Ray Jobst asked if the engineer working on the Newton Road issue has proven credentials. Mr. Atherton advised this will be discussed during the September 18th meeting. Mr. Jobst questioned if the style of trees has been determined for the tree replacement for Segment 6. Mr. Atherton advised there was a tree plan completed by an arborist and is available for review at the Town Office. Ethan Swift stated there will be representatives from River Management at the September 18th meeting and noted that Mr. Carbajal has many years of experience as an engineer in this area.

4. Zoning Administrator's Report

Anna Scheck stated there has been a lull in applications, which is usual for this time of the year. Regarding violations, there is one property on Newton Road that she is working with and it is hoped by the end of fall the property will be complete. The Planning Commission met on August 7th. There was a discussion regarding the sign ordinance and there is consideration in starting from the 1999 version to do a rewrite. There was a discussion on Act 68 that relates to farm animals. Rental code payments in the amount of \$10,325.00 have been received. Ms. Scheck

advised that currently the Town has collected about 90% of the rental code payments and there are a few that she is having issues with contacting. Ms. Scheck is working with the real estate person on one of the properties where there had been a fire, but there has not been a confirmation on this property. Dave Atherton is working with VLCT on the Hazard Mitigation plan and Ms. Scheck is discussing the River Corridor plan with Barbara Pulling. Ms. Scheck stated the Regional Planning Commission will be reviewing the Brandon Town Plan regarding energy updates. Act 174 relates to energy and the Town Plan will require updating to be in compliance with the Regional Plan. Mr. Atherton advised that he took the old Hazard Mitigation plan, reviewed it and made some updates. He has sent a copy of the changes to the RRPC and they have everything that they need. Mr. Atherton advised that the River Corridor plan and the Hazard Mitigation plan need to be kept up to date to take advantage of additional funding.

a. Consider Purchase and Sales Order and 1061 Notice for the Town-owned Tax Property on North Birch Hill sold to Dan and Maria McDonough and Tax Property on Birch Hill Road to Joshua McDonough

Dave Atherton stated these are two tax sale properties that he would like the Board to consider approving. There have been offers made on both of the properties. If the Select Board approves the purchases, Mr. Atherton will place the 1061 notices in the paper and move forward with the purchases. The property on North Birch Hill is adjacent to Dan and Maria McDonough's house and an offer of \$2,500.00 has been submitted. There has been offer of \$1,200.00 by Joshua McDonough for a property on Birch Hill Road. It is Mr. Atherton's opinion that this is the best the Town can do and it will place the properties back on the tax roll. Doug Bailey asked how people find out about the properties and Mr. Atherton advised that the tax sales are advertised in the paper. Devon Fuller noted the value to the Town is to get the properties back on the tax roll.

Motion by Tracy Wyman/Doug Bailey to approve both Purchase and Sales Orders for 5.2 acres on Birch Hill Road to Joshua McDonough and 10.2 acres to Dan and Maria McDonough on North Birch Hill Road. **The motion passed unanimously.**

5. Comments for Items not on the Agenda

Seth Hopkins stated the Select Board received a request from VLCT to designate an official delegate to the Town Fair that will be held on October 4th. Mr. Hopkins noted Mr. Atherton will be attending the annual meeting and recommended that he be authorized as the official delegate.

Motion by Devon Fuller/Brian Coolidge to the authorize Dave Atherton as the voting delegate to the VLCT annual meeting. **The motion passed unanimously.**

Devon Fuller advised the Downtown Brandon Alliance is selling bricks for Central Park. They are available for purchase through the Downtown Brandon Alliance website. It is the goal to sell 1,000 bricks. The deadline is September 30th to purchase bricks for Central Park; however, bricks will also be sold for Crescent Park. Bernie Carr advised there is a link to purchase the bricks from the Brandon Chamber of Commerce website. The cost is \$35.00 each or three for \$100.00.

Janet Coolidge advised anyone interested in participating in the event, Brandon Has Talent should contact Dennis Marden.

6. River Corridor Easement Discussion by Ethan Swift

Ethan Swift provided a presentation about river corridors (See Attachment). Mr. Swift works with the Agency of Natural Resources and works closely with the River Management Department. He thought it would be helpful to provide context on the Neshobe River and provide some historic and geologic information. Mr. Swift stated he was on the Select Board before tropical storm Irene and was involved when Irene came to Town. He noted there has been some great progress made in flood restoration work. He advised there were a series of significant water events that did millions of dollars of damage. There was a river assessment done that is specific to Vermont that took into account Vermont's climate. It was discovered that 75% of the rivers had been historically changed. It had been the mentality for many years to change the rivers and towns had been located in the most vulnerable places in the landscape. The Neshobe River watershed is in Goshen and is very steep and hilly terrain. It funnels the water towards Brandon. The channels have many large boulders and the material is carried by the streams during floodwaters. There is a change in boundary conditions in Forestdale around Furnace Road and there is no floodplain and many steep areas. The area near Newton Road is a fluvial fan and is the most dynamic area as the river is looking to deposit the materials coming down from the watershed. During Irene, there was much damage in the Forestdale and Brandon areas. The July 1st storm also did much damage to the Newton Road area. Near the Nop farm area, there was a berm made of huge boulders to try to keep the river from going into the farmland. Mr. Swift noted this area has repeat flood damage and provided photos of damage during floods in 1913, 1927 and 1938. Mr. Swift stated Brandon is not unique and there is repeat flood damage that happens throughout the state. Ray Jobst asked if the rate of flow has been calculated and Mr. Swift stated the engineer from DuBois & King was looking at the height of the new overflow culvert and the volume was at near capacity for the overflow culvert. Mr. Swift advised there is documented increased precipitation events in New England and this trend is continuing. There are more flooding and rain events and 50-year storms are becoming more like 20-year storms. Mr. Swift advised that many of the properties on Newton Road are in the flood hazard zone and some are in the river corridor for the floodway area. These properties are at a heightened risk where they are located. It would have been best to avoid encroachment and develop flood mitigation strategies, as this is a poor area to be developed. One good aspect of the July 1st storm was that it did not result in a channel full of sediment. The Town had paid an excavator to go in, excavate, and return channel capacity back to the river. By taking some of the pressure off upstream, some of the problems were alleviated.

Mr. Swift read the following excerpt from one of the river corridor easements that had been established:

“Purpose of this Easement: 1. Landowner and Holder acknowledge and agree that the purposes of the Easement are to allow the Neshobe River (the “river”) to re-establish its natural slope, meander pattern and access to natural floodplains in order to: a. reduce erosion hazards, b. provide flood inundation and fluvial erosion hazard mitigation benefits, c. improve water quality through hydrologic, sediment, and nutrient attenuation, d. conserve and enhance aquatic and

riparian wildlife habitat, and e. enhance ecological processes associated with the Protected Property now and in the future. 2. Landowner and Holder acknowledge and agree that it is their intent that this River Corridor Conservation Easement and the delineation of Protected Property, subject to the use and activity limitations set forth herein, will accomplish the above-recited benefits over time, and that, more specifically, the Purposes of this Easement are to carry out the above stated purposes as follows: a. To accommodate the anticipated equilibrium conditions and associated physical adjustment processes of the river. b. To minimize, to the extent consistent with I.1), above, future conflicts between the anticipated physical adjustment processes of the river and incompatible land use and channel management activities on the Protected Property.”

Mr. Swift noted where the State can; it establishes conservation easements, as this is the least expensive option. By establishing a conservation easement, the river can continue to go where it wants, will continue to move the sediment and will provide for long-term storage. The idea is to provide storage so the people who live downstream do not have significant flood damage. Devon Fuller stated downstream from the easement is Mr. Mohan’s land and that is a designated wetland. Mr. Fuller asked if there is a way to set up the river for a material dump upstream before it gets to Furnace Road. Mr. Swift stated there might be limited areas to get floodplain access, but one would have to excavate significant amounts of material. Mr. Fuller noted the Town has spent millions of dollars in repairs and asked if it would be less expensive to fund excavating upstream. Mr. Swift advised it would be a limited benefit and he was not sure if it would be worthwhile. The less expensive alternative would be to buy-out the property owners in harm’s way. Mr. Swift stated this is an area that will continue to see flood damage for years to come. In looking at the most sustainable solution, there are ways for people to flood-proof their homes, but trying to manage the river is not sustainable. Mr. Swift stated the Tubbs building used to be halfway in the channel and during Irene, the river flowed into the field and resulted in more damage downstream. They are looking at ways to take pressure off that area. It was questioned how much material a private property owner adjacent to the river can remove. It was noted that it would be 10 cubic yards annually with a permit. It was questioned if every homeowner took advantage of this option, would it make a significant difference. Mr. Swift stated it becomes a short-term solution, as in a moderate water event, those areas fill in quickly and that creates a temporary situation and does not provide additional channel capacity. Tracy Wyman asked how much work could be done in an easement area. Mr. Swift stated there is language that talks about uses that include doing improvements, but not limited to bank, berms and manipulating the river. Ray Jobst asked if the riverbank is the original or where nature has now created it. Mr. Swift advised that the riverbanks would be recorded in the deeds and in some cases, the deed moves with the river. One has to go back to the deed to determine the meets and bounds of the land ownership. Janet Coolidge asked if the tax evaluation changes if a property is in a conservation easement. Mr. Swift stated the property is taxed at a reduced rate and the land is taxed according to it being in conservation and not taxed according to developable land. Mr. Swift walked the river after the July 1st event and the flood shoots are still active. He stated it is functioning how it was intended to work. Mr. Swift stated the River Management people will be able to answer questions during the meeting on September 18th. He stated this is a troublesome area and will continue to see flooding for a long time to come.

7. Consider Newton Road Resolution

Seth Hopkins stated the resolution was signed but was never formally adopted by the Select Board. Devon Fuller stated it is important to adopt the resolution, but the Town is not able to control the river. The Select Board does want to encourage the State to help the residents of Newton Road the best they can.

Motion by Doug Bailey/Tracy Wyman to approve the Newton Road Resolution as presented. **The motion passed unanimously.**

8. Fiscal

a) Warrant – August 28, 2017 - \$2,149,579.38

Motion by Doug Bailey/Devon Fuller to approve the August 28, 2017 warrant in the amount of \$2,149,579.38. **The motion passed unanimously.**

b) Route 7 Construction Warrant – August 28, 2017 - \$183,580.05

Motion by Devon Fuller/Brian Coolidge to approve the August 28, 2017 Route 7 Construction warrant in the amount of \$183,580.05. **The motion passed with one abstention – Tracy Wyman.**

The Board recessed at 8:22PM.

Seth Hopkins recused himself during the Executive Session.

Motion by Doug Bailey/Tracy Wyman to find that premature general public knowledge of a pending civil matter will clearly place the Town of Brandon at a substantial disadvantage by discussing in open meeting. **The motion passed with one abstention – Seth Hopkins**

Motion by Doug Bailey/Tracy Wyman to enter into executive session at 8:30PM per 1VSA 313(a)(1) to discuss a pending or probable civil litigation or prosecution, to which the public body is or may be a party with the Town Manager and the Town's Legal Counsel in attendance. **The motion passed with one abstention – Seth Hopkins.**

9. Executive Session

Motion by Devon Fuller/Brian Coolidge to come out of Executive Session at 8:50PM. **The motion passed.** There were no actions required.

Motion by Tracy Wyman/Brian Coolidge to enter into executive session at 8:51PM pursuant to 1VSA 313(a)(3) regarding the appointment or employment or evaluation of a public officer or employee with the Town Manager in attendance. **The motion passed unanimously.**

10. Executive Session Pursuant to 1V.S.A. 313(a)(3) – The Appointment or Employment or Evaluation of a Public Officer or Employee

Motion by Devon Fuller/Brian Coolidge to come out of Executive Session at 9:01PM. **The motion passed unanimously.** There were no actions required.

11. Adjournment

Motion by Doug Bailey/Tracy Wyman to adjourn the Select Board meeting at 9:03PM. **The motion passed unanimously.**

Respectfully submitted,

Charlene Bryant
Recording Secretary