

**TOWN OF CHARLOTTE
SELECTBOARD
FEBRUARY 8, 2006**

APPROVED

MEMBERS PRESENT: Ellie Russell, Chairperson; Jenny Cole, Charles Russell, Ed Stone, Frank Thornton.

ADMINISTRATION: Dean Bloch, Selectboard Assistant.

OTHERS: Martha Perkins, Nancy Wood, Andrew Thurber.

1. CALL TO ORDER

Ms. Russell called the meeting to order at 4:30 p.m.

2. NEXT MEETING

- 02/13/2006 Regular Selectboard meeting – School Board and Budgets
- 02/16/2006 Joint Meeting - Planning Commission/Selectboard Planning Regulations and Town Plan

3. MAPPING OF ANCIENT ROADS

Mr. Russell said he had a potential conflict of interest. A surveyed Class IV road went through his property. He wouldn't argue for or against adding Class IV roads to the State Highway Town Map, but questioned if the VLCT step was necessary.

It was the consensus of the Selectboard members that Mr. Russell should contribute to the discussion.

Ms. Russell read a Vermont League of Cities and Towns letter, dated 02/10/2006, that suggested that towns file Class IV roads on the State Town Highway Map with the State Highway Mileage reports due Friday, 02/10/2006. Ms. Russell reviewed proposed Legislation that would require town to place Class IV roads on the state map, which would alert the state that the towns have evidence that the roads exist. Mr. Thornton clarified that if the roads were on the state highway map then the roads were identified as town roads. Under the present law those roads are still town roads.

Ms. Wood said that the state is proposing a Legislative bill 701. There has been discussion and it is clear some of these roads are surveyed and there is evidence where some of the roads go. Not all of the roads can be traced on the landscape or were continuous. There are bits and pieces until you can't tell where a road was. For the Town to move ahead and declare that these are Class IV roads would adversely affect properties. The Board should not take any action without notifying the landowners, stated Ms. Wood. Ms. Russell explained that putting the roads on the state map doesn't mean anything because no action is taken. It is just showing that the Town knows the roads exist. Ms. Wood rebutted that it would declare that these are Class IV roads. Mr. Thornton pointed out that the roads are physically there. They are identifiable in the landscape and are in the Town records.

Ms. Wood said that towns have up to year 2013 to identify the roads, which means that people would have time to conduct surveys. The difference is that 701 defines that some of the old roads are "unidentified corridors without public access". Mr. Thornton reiterated that all of the old roads are in the Town records. If you as a property owner, or your lawyer, didn't do an adequate title search when you purchased the property then you wouldn't know there was a Town right-of-way through your property. A town road is not an encumbrance on a deed/title and lawyers don't look for it. The roads are Class IV roads already, said Mr. Thornton. Ms. Wood said when she lived in the old Schremerhorn house she knew the driveway was a part of an old road. On Andrew Thurber's land the road can be traced back to the 1800's in the records, but there is no physical indication there is a road there today. (Mr. Thurber's) surveyor questioned if there was evidence of a road. He said if there was then he would go research it. Every town says they want to use the old roads as town trails. If that's the case, then the Trail's Committee should map them out and link them into the Town trail system. Ms. Russell explained that turning the roads into trails would involve the same process. Public hearings, working with landowners and surveying where the roads are would be done. We envision we would identify roads to retain for trails in collaboration with the Trail Committee. For some other roads we would go through the process for discontinuance, such as the Tavern Road.

Ms. Wood asked what the law was in 1787 and 1800's to discontinue a road. Mr. Thornton replied they were laying out the roads, not discontinuing them. Vermont law gives the Selectboard the power to open or close a public road. In 1787 this was a wilderness. Every farmer wanted a road to get produce to Lake Champlain. As a point of interest the Town did not lay out Route 7, Spear Street, or Mt. Philo Road. They were stagecoach routes. Many roads were abandoned over the years. The process involves holding a hearing, walking the road and declaring it "thrown up".

Ms. Wood said that you are saying that you have every record of every road in Charlotte. Mr. Thornton explained that he has compiled a list of roads from the beginning up to 1950. The roads are shown on a Town map as well as the "thrown up" roads (shown as dotted lines).

A copy of a Town road map was brought out and various roads were discussed. Mr. Thornton and Mr. Russell pointed out several of the Class IV roads.

Ms. Wood asked how the roads could be put on a State Highway map when we don't know exactly where they are, and expressed concern that VLCT was pre-empting the public process.

Mr. Thornton reiterated that when a town lays out a road it is a right-of-way. The town does not own the real estate underneath the right-of-way. The state defines all town roads as a three-rod road. For example, Spear Street is a five-rod road and is actually wider than Route 7 at 99' wide. Ms. Wood asked if the property owner owns the land then why does the Town need Tavern Road for a trail. The property owner could allow a trail easement that might be better located. Mr. Thornton pointed out that if the Town wants the right-

of-way for a trail and the state passes the proposed Legislation, then the right-of-way goes away unless it is on the State Highway map.

Mr. Russell stated he didn't think that anything would happen on Friday. If a road exists now the Legislature can't pass a law to make them go away. Mr. Thornton asked what was the problem with putting the roads on the state map now. Ms. Russell said the Town is simply alerting landowners that a road is there and we are going through a process to identify it.

Ms. Cole suggested submitting a written list with a description of the general location of the roads versus putting them on a map (by Friday). If we are not certain exactly where they go it might make sense to wait, do the research, and survey the roads before putting them on a map. Mr. Thornton stated that he knows where the roads go. He has walked most of the old roads and can find them. For the last ten years he has made presentations for the Historic Preservation Committee. The Selectboard needs to look after the best interests of the Town, not the individual landowners. The towns have until 2013 to positively identify where the roads are. If a right-of-way didn't exist then the Town would have to go through the process of laying out a right-of-way, said Mr. Thornton. Ms. Wood asked why a town would go through the process of laying out a new road. Mr. Thornton explained that currently there are limited west-east routes to Hinesburg. If the Hinesburg Road gets cut off then you would need to detour three to six additional miles. At one time there were several west-east roads to Hinesburg, but they were abandoned. With the Class IV roads we are only talking about a legal right-of-way.

Ms. Wood expressed concern that by putting the roads on a map then you are saying they are Class IV roads. I am suggesting that there is no need to act by Friday, stated Ms. Wood. Mr. Thornton reiterated that they are Class IV roads already. Mr. Russell said he believed there is little chance that towns would lose the roads on Friday. Mr. Thornton reiterated that the Selectboard is legally obligated to protect Town assets.

Mr. Thurber asked that you are saying you know where Tavern Road crosses Ferry Road. Mr. Thornton replied it crosses Ferry Road approximately where it crosses now. Mr. Thurber disagreed, and stated there was no evidence of where the road crosses. The 1787 survey doesn't match where the maps show it. The public needs to be involved in the process. Mr. Thurber submitted written questions to the Selectboard regarding the Class IV roads.

MOTION by Mr. Russell, seconded by Mr. Thornton, to submit surveys for Class IV highways not presently on the State Town Highway Map on the State Town Highway Map as per the Vermont League of Cities and Towns Legislative update.
DISCUSSION:

Ms. Russell said that Mr. Thurber's questions are legitimate and important. The Selectboard will address them. Mr. Thurber said that the Selectboard hasn't conveyed any answers to the Town (property owners), and (the Selectboard) is taking action. Mr. Thurber said he didn't feel it was right.

Mr. Thornton said that the use of the roads is in the Town Plan and they are Town assets. As Selectmen we have an obligation to protect public assets. The roads are a right-of-way. A right-of-way that goes through your property is a right-of-way for others to access property for hunting, or whatever.

Ms. Perkins said that by putting the roads on a map that makes them real. It can be a liability for the landowner. There's nothing wrong and everything right to notify all the landowners before it is on a semi-official map. Mr. Thornton said the roads would be drawn on a map and later surveyed. Mr. Russell clarified surveys are the governing language, not Mr. Thornton's map.

Mr. Stone explained that the discussion has brought up all the reasons why we should or should not map the roads (on Friday). He has thought about it a lot and can't figure out what we should do. Instead of jumping the gun because the VLCT says jump the gun we should take a list of the roads and hold a hearing on each road one at a time. Then put them on a map and send it to the state. The state says we have until 2013, but the VLCT says by Friday. Mr. Thornton said what you are proposing is the same thing spread over a three-year period. If the public likes it or not the roads exist.

Mr. Thornton explained what Class I, II, III, and IV roads were. The difference is that Class IV roads are unused. Unidentified corridors are identified in the Town records and people may not know about them.

Ms. Russell said say that we do nothing and in year 2011 someone says there is a road on your property and they prove it through the court that it is a road. Then what do you do, asked Ms. Russell. Ms. Wood stated that the Town would conduct a reasonable process. The Trail Committee can identify trails and funding sources. If some of these rights-of-way fit in with the Town trail system, then bring in the landowners. The process can start now and into the next two years. Ms. Russell said that is exactly what the Selectboard wants to do. Ms. Wood said if the Selectboard puts the roads on the state map by Friday then it is a declaration that there are Class IV roads through people's property.

Mr. Stone pointed out that the Planning Commission approved a subdivision on top of Colonel Williams Way. Houses were being built right on the road, so the Town had to throw up the road. Mr. Thurber came in with his site plan and the Town didn't say anything (about a Town road on the property), said Mr. Stone. Mr. Thornton said that the Planning Commission was given a copy of the road map and book, but they choose not to use them. Mr. Stone stated that was another issue - there was no continuity between Town boards. A public hearing should be held on each road and landowners noticed. An aye/nay vote should be taken on each road, said Mr. Stone. Mr. Thornton pointed out that is all we are trying to do. The VLCT is taking a conservative view.

Ed Stone said that Friday is the deadline for filing the Town mileage for state aid. If we decide in six months, or three years, regarding the Class IV roads then we are fine. Mr. Thornton said if we are notifying the state then all we're doing is notifying people that the roads are there.

Mr. Russell said we have Mr. Thornton's maps and book on the roads.

Ms. Wood said at the last Town Meeting the road issue was brought up for discussion, but Mr. Thornton said that they were roads - period. The process should have landowner involvement. Mr. Russell asked Ms. Wood if she believed that the roads were roads, or not. Ms. Wood replied yes. There is one through (Mr. Russell's) land, but she didn't believe they were all roads.

Mr. Thurber said that using the 1787 law he thinks it could be proven in court that they were roads. But he didn't think the 1787 law looks like today's law. Maybe it is relevant, but whether you can technically prove it is a road doesn't mean you should assert it without people's input. Mr. Thurber asked that the list of questions he submitted be entered into the record.

There was further discussion regarding what impact placing the Class IV roads on the State Highway Map by Friday would have; if the Town would consider putting funding into the budget for surveying; and the fact that the Town could abandon a Class IV road at anytime.

VOTE: 1 aye (Mr. Thornton), 4 nay; motion failed.

4. ADJOURNMENT

MOTION by Mr. Russell, seconded by Ms. Cole, to adjourn the meeting.

VOTE: 5 ayes; motion carried.

The meeting was adjourned at 5:53 p.m.

Respectfully submitted, Kathlyn Furr, Recording Secretary.

These minutes are subject to correction by the Charlotte Selectboard. Changes, if any, will be recorded in the minutes of the next meeting of the Board.