

**TOWN OF CHARLOTTE
SELECTBOARD MEETINGS
SEPTEMBER 8, 2008**

APPROVED

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

ADMINISTRATION: Dean Bloch.

OTHERS: John Hammer, Jason Garvey, Elisabeth Garvey, Gary Pittman, Andrew Thurber, Kate Lampton, Steve Clark, Elizabeth Clark, Bid Spear, Helena Spear, Gary Farnsworth, Kim Farnsworth, Taylor Farnsworth, John Sharrow, Susan Horsford, Elaine Sharrow, Richard Weed, David Tanzer, Lucas Adler, Norman Bohn, Steve Ohanian, Pete Carleton, Patty McMullen, Charles Ferreria, Moe Harvey, Ray Murphy, Martha Perkins, Eleanor Russell, Stephen Brooks, Robbie Stanley, Joseph Aube, Dorothy Pellett, Dorrice Hammer, Dottie Waller, Lisa Kiley, Molly Shaker, A J. Heinghley, Nancy Sabin, Hugh Lewis Jr., G Bouchard, Jason Ward, Clem Baker, Wayne Clark, Sky Thurber, Tony Cairns, and others.

5:00 p.m. Site Examination: Baldwin Road (Class IV portion) to consider discontinuance.

1. CALL TO ORDER

Mr. Russell called the Selectboard meeting to order at 7:00 p.m.

2. APPROVAL OF AGENDA

None

3. PUBLIC DISCUSSION

Moe Harvey, resident, requested the Board to lower the fees for a boundary adjustment application. Mr. Harvey stated that he started the process in June prior to adoption of the new \$600 fee versus \$400. Town staff had explained that a \$50 fee was charged at the time of the application. Tom Mansfield said that a \$400 fee would apply before July 1st and \$500 after that date. I found out that the fee was \$500 in July versus \$50. Tom said to leave the check blank and the Planning Commission would tell me what the fee would be.

Mr. Russell suggested that the Board invite Mr. Mansfield to a future Board meeting for a discussion of fees. The process for a boundary line adjustment is outlined in the bylaws.

Stephen Brooks, resident asked to have a discussion regarding tree cutting in the Route 7 view corridor on a future Board agenda.

Mr. Brooks asked for the status of a sewage issue on the east side of Greenbush Road across from the old Earl Burns house.

Ray Murphy, resident, explained that he was seeking approval to name an existing driveway off Route 7 that serviced two homes Rabbit Hill Road. An issue was E911 legislation as adopted by the Town of Charlotte. Having a road sign on the driveway would alert drivers coming south on Route 7 down the hill that there was a driveway there and that might cut down on the number of

accidents. Chris Davis, Fire Dept. Chief, said yes regarding the name, said Mr. Murphy. Ms. Cole noted that there is no requirement for a road name for developments of less than three homes on a single driveway. Mr. Russell clarified that it was determined (see 08/11/2008 meeting) that Mr. Murphy could name the driveway if he received permission from his neighbors.

MOTION by Ms. Cole, seconded by Mr. Ladue, to approve the name of Rabbit Hill Road and whatever address number was assigned as the official address for the home of Ray Murphy.

DISCUSSION:

Mr. Thornton spoke against the road naming.

Marty Illick pointed out that the request was not a warned action item on the agenda. Mr. Russell said that the request would be added to the next Board meeting agenda. The Motion was withdrawn.

4. MINUTES: JULY 28, AUGUST 11, AUGUST 13 and AUGUST 25

Approval of minutes was deferred.

5. APPROVE LETTER TO VERMONT FOREST, PARKS AND RECREATION REGARDING FOREST LEGACY PROGRAM'S ASSESSMENT OF NEED

Mr. Russell briefly reviewed a request to approve a letter from the Board supporting a Forest Legacy Program Assessment of Need. The grant money is not available in Charlotte because Charlotte did not have forest land identified on the state forest legacy map.

MOTION by Ms. Cole, seconded by Mr. Ladue, to approve a letter to the Vermont Forest, Parks and Recreation Department, Linda Henzel, Agency of Natural Resources, regarding the Forest Legacy Program's Assessment of Need program.

DISCUSSION:

Ms. Illick explained that the letter of support was to bring the topic into a public discussion. Ms. Illick read a draft Need Assessment letter related to the potential to add Charlotte's forest resources to the map boundary line.

Martha Perkins asked if there was a minimum acreage requirement. Ms. Illick replied, yes. The state worked to shrink the 200 acre forest patch size, and that immediately knocked Charlotte out.

VOTE: 5 ayes; motion carried.

6. APPROVE BRUSH-HOGGING AT CHARLOTTE PARK AND WILDLIFE REFUGE

Ms. Cole reviewed bids for brush-hogging at the Charlotte Park and Wildlife Refuge. It was recommended to award the bid to Dick Preston for \$60 per hour for two days for no more than \$1,200.

MOTION by Ms. Cole, seconded by Mr. Ladue, to approve a brush-hogging contract at Charlotte Park and Wildlife Refuge to Dick Preston for an amount not to exceed \$1,200.

DISCUSSION:

Mr. Brooks asked how the unmowed areas would be resolved if the cap was \$1,200. Ms. Cole replied that Jack Pella spoke to Mr. Preston regarding the areas that were mowed in the past. Other areas are now mowed during agricultural work (haying).

VOTE: 5 ayes; motion carried.

7. PUBLIC HEARING FOR DISCONTINUANCE OF BALDWIN ROAD (Class IV portion)

Mr. Russell reviewed that a site visit to the Class IV portion of Baldwin Road was conducted by the Board. The Town Attorney has forwarded the process for discontinuing a Class IV road and a draft Order of Discontinuance.

There was discussion regarding the process that included information on Baldwin Road as shown on the State Highway Map and mileage. Mr. Russell said that the roadway went to Monkton on the south end. The Commission of Forest, Parks and Recreation have sent a letter, and there is no reason not to throw up the road, said Mr. Russell. Mr. Thornton asked if Monkton has discontinued the road.

Ms. Sabin asked to see the map and road location.

Ms. Illick noted that there were many people that walked the road and it was well loved. Mr. Brooks said that the reason for throwing up the road is to allow the Garvey's to subdivide the property for development. It would make sense for the Garvey's to request this during the subdivision process before the Planning Commission. Mr. Bloch said that a Sketch Plan application for a two-lot subdivision has been submitted to the Planning Commission. A letter is in the Town file for the applicant to submit a discontinuance request to the Selectboard.

Mr. Ladue explained that during the site visit a house site was proposed on the east side of Baldwin Road and a proposed barn, or structure, on the west side. A need to throw up a road is only due to the nature of the subdivision of the lot, which can't cross a town right-of-way. Giving up a right-of-way for a future trail may compromise recreation needs. Elizabeth Garvey explained that we are purchasing 5 acres from Dale Garvey. The Class IV road divides the lot. The house site has to go in a certain spot within the 5 acres.

Ms. Sabin asked if the Garvey's would compensate the Town for loss of a three-rod road.

Mr. Stone stated that Monkton would throw up the road as well.

MOTION by Mr. Stone, seconded by Mr. Thornton, to close a public hearing regarding discontinuance of Baldwin Road, a Class IV roadway.

VOTE: 5 ayes; motion carried.

Mr. Russell noted that the Board would deliberate the issue later.

8. PUBLIC HEARING FOR AMENDMENT TO LAND USE REGULATIONS IN RESPONSE TO PETITION TO ALLOW RETAIL, REDUCE SETBACK FROM ROUTE 7, AND OTHER AMENDMENTS WITHIN THE VILLAGE COMMERCIAL DISTRICT

Mr. Russell reviewed Planning Commission recommendations related to Zoning Bylaws for the Commercial Village District for retail use as a Permitted Use and a Conditional Use on the west and east sides of Route 7, a requested reduction to a 100' setback on the east side, and size of retail space of 6,600 square feet as a conditional use in an existing area. The current state right-of-way is 80' from the Route 7 center line plus 30' of a no-build zone easement.

There was discussion regarding clarification of a 180' total setback as existing (Mr. Ladue explained that the Town changed the Town setback from 50' to 100' in 1995); a proposal to change the town setback from the current 100' to 20' or 30'; a resident request to have the setbacks shown in a graphic visual to clarify the request; and Planning Commission recommendations that retail space be limited to 3,500 square feet.

Mr. Russell explained that currently on the west side of Route 7 retail space was a permitted use for 3,500 square feet and up to 10,000 square feet versus 3,500 square feet on the east side of Route 7 in the Commercial Village District. Ms. Sabin pointed out that several businesses located on the west side, such as the old post office, had no land to expand to 10,000 square feet. Ms. Cole pointed out that retail use in the commercial district coming up Ferry Road was possible. A concern regarding retail use on the east side involved increased traffic and the dangerous intersection.

Ms. Russell said for the record, the Selectboard discussion was to have a different setback at the Spear gas station.

Gary Farnsworth reviewed 1995 land use regulations that were changed to limit retail use on the east side of route 7; a change in the setbacks to 100' added to the state setback of 80'; an agreement at the last Selectboard meeting for 6,600 square feet of retail space (the structures on the Spear lot currently had a total of 6,600 square feet); and topographic limitations to the exiting Spear lot that included a one acre pond at the back side of the lot. Contrary to published news stories, it was not true that a convenience store would replace the gas station. Mr. Spear was keeping his options open regarding a use. The state was working to make the Route 7 intersection safer. The Town Plan mentions that a safe pedestrian crossing on Route 7 should be explored, and it also mentions that a land owner has a right to the reasonable use of their property. We have worked with the Planning Commission and the Selectboard to work out a reasonable compromise.

Mr. Bloch clarified the Village Commercial District boundaries went to the Wild Flower Farm and Flea Market to the south.

Ms. Russell asked the Town to consider what was good for the Town in terms of the Town Plan regarding retail use on the east side, and expressed concern that if retail was allowed on the east side that more property owners could seek a retail use. There was a need for traffic studies and what is a profitable retail size. Ms. Russell reviewed accident statistics (EMS responses) at the Route 7 intersection from 2000-2008.

Ms. Russell read comments from Larry and Linda Hamilton on their behalf that opposed the proposed zoning changes.

Kate Lampton said that as a Charlotte citizen she wanted to say that she has concerns regarding the proposal. There is nothing in the zoning to preclude existing retail there. It is a three acre lot in a one acre zone. Land constraints are addressed in zoning. Each lot in the district could allow 6,600 square feet of retail use if the zoning language is changed. You must consider maximum build out. The Town should consider traffic flow, safety and keeping the Route 7 corridor open and non-commercialized. I have no opinion on the setback issue, stated Ms. Lampton.

Gerald Bouchard asked what zoning was in affect when the structures were built. Mr. Russell replied that what is there can't be taken away.

Tony Cairns explained that there is a gas station, creemie stand and a wholesale business currently. A contractor yard was added by Steve Denton, which was a change. Boat and car sales were put in. Denton will be relocating in the East Village and when he leaves the Spear's site will be vacant and empty. A new garage will not come in because people take their cars to a dealership. If the use was not changed to retail then the buildings would stay closed and weeds will grow in what is a gateway to Charlotte. Put the issue to a Town vote.

Jason Ward proposed that a solution was for Charlotte to purchase the site at a fair price.

Charlie Ferraro said he lives on the east side. He heard that it was a safety issue for people on the west side to access the east side, but what about east coming west. A business on the east side is a viable alternative.

Martha Perkins, community planner, said we need to see what would be on the Spear site if retail was allowed. Ms. Perkins showed a photograph of the Middlebury Maplefields gas/store. This might be proposed on Route 7 if it is rezoned and the Spear's sell the property. Does it mean someone else can re-zone further down on Route 7 as well, asked Ms. Perkins. Mr. Bloch replied that anyone could petition for a zoning change. Ms. Perkins asked Mr. Farnsworth if there was a deal with someone already. Mr. Farnsworth replied no.

Ms. Illick asked what the justification was for a 6,600 square foot retail space. There should be further research and preparation, which should include maximum build out and graphics. Mr. Russell reiterated that the 6,600 square foot proposal was the total existing square footage of what exists now.

Ms. Cole noted that the lot was 2.95 acres and there are three existing lots. One was on a slope and wooded. The Town was still gathering information.

Ms. Sabin read a portion of the Town Plan, and briefly reviewed a history of the property that started as a bingo hall for the benefit of the Town policeman. Now we are talking of taking away Spear's rights, or some future owner. How can one small building affect all of Charlotte from Shelburne to Ferrisburgh, asked Ms. Sabin.

Following further discussion regarding zoning changes and uses, Ms. Cole pointed out that there were existing uses allowed on the Spear property now. A question is if retail should be added to the uses. The Town received information on a Ferrisburgh mini-mart that is 3,023 square feet. There could be mixed uses.

Several residents asked for visuals to see what could be put there. Mr. Cairns explained that 6,600 square feet existed on the property. The west side could have up to 10,000 square feet of retail. Mr. Spear has no buyer and the property is not sold so we can't tell what would be there. It may be a one two-story building with office space versus the two structures now.

In response to questions regarding square footage, Mr. Bloch clarified that up to 10,000 square feet could be put in of which 6,600 square feet could be retail. The Planning Commission recommended a traffic impact study to site plan review (Table 5.1). The Selectboard discussion pertained to retail and that was what was warned. Mr. Russell asked if it was OK to add a traffic impact study to the warning. Mr. Farnsworth asked (Mr. Bloch) if the application was in Site Plan Review. Mr. Bloch replied no.

Mr. Russell read criteria language related to character of the area affected and noted that there was strong language regarding no adverse impact on that corner.

John Hammer reviewed that the question was retail on the east or west side of Route 7. The center of the community was on the west side and has been since the 1700s. The 1995 Town Plan says to hold that corner as "Vermont" and to restrict commercial use. We need to think what type of retail is acceptable, and consider what will happen to commercial business, such as the Brick Store, if there was a convenience store at the east side. Everyone had a chance to see the 1995 Town Plan revisions, but they didn't come to meetings. The Spear lot could still be a garage, creemie stand, etc.

Several citizens spoke in support of the Spear family and their ability to sell the property.

MOTION by Mr. Thornton, seconded by Mr. Stone, to close the public hearing regarding an amendment to the Land Use Regulations in response to a petition to allow Retail, reduce setbacks from Route 7, and other amendments within the Village Commercial District.

VOTE: 5 ayes; motion carried.

9. EXTENSION OF LEASE ON THE SHALE PIT - Update

Junior Lewis, Charlotte Road Commissioner, reported that most of the through roads have been done, except Orchard Road. The FY 09/10 budget of \$150,000 would complete the project. The shale value is \$0.75 per yard to purchase, and \$3.35 per yard to blast. There is a savings on the trucking time. The lease of the shale pit ends July 2010. There was 4,000 yards of shale blasted last week.

Mr. Russell said a concern was that the shale at the end of the pit would be harder to extract. There seems no reason to extend the lease.

Mr. Ladue asked if we don't have the budget to use the shale could it be sold. Mr. Lewis replied yes. We are into an area that it is not worth blasting.

Mr. Russell reported on another matter as noted by Shelburne Police Chief Jim Warden regarding speed limit signs in town. Mr. Lewis explained that Greenbush, Ferry, and Mt Philo roads were posted, as well by the school.

10. APPROVE HEARING NOTICE FOR PAVING THE APRONS TO COVERED BRIDGES IN EAST CHARLOTTE

There was discussion regarding the 12' width of the covered bridges #28, 29 and 30 that prevent the Town grader (14' wide) from grading 20' of apron in front of each entrance of the bridges. If the aprons were paved then the road would shed water and prevent potholes.

MOTION by Mr. Ladue, seconded by Mr. Stone, to approve a notice of a Public Hearing to modify Scenic Roads, pending review by the Town Attorney and any changes by the Selectboard, for paving a 20' apron at the upper and lower Lewis Creek covered bridges.

DISCUSSION:

Ms. Illick asked the Board if they have reviewed state statutes regarding Scenic Road Designations, Section 3, Maintain and Reconstruction, for discussion. The Board should note what change in function is regarding the roads. The gravel road made the survey important in acceptance as a Scenic Road Designation. Was the paving proposal a safety issue, asked Ms. Illick. Mr. Russell explained that other reasons for paving would be to keep gravel from kicking onto the bridges and would keep them cleaner.

Mr. Russell read page 13, Surface, regarding "scenic dirt roads." Mr. Ladue said that "grade" in this instance means slope versus surface.

Ms. Illick reiterated that the survey notes Charlotte's dirt roads, especially near the bridges. I am not a professional road planner, but I did the survey. Putting a paved apron at the bridges is a big thing. When the old house was removed at the Sequin Bridge it was a big discussion regarding the historic impact. The Board must understand the cost and impact to the scenic designation if there was compromise to the scenic quality of the road.

Mr. Lewis said Moe Harvey brought up the paving. I'm only saying would be easier to grade.

Stephen Brooks asked if the Board or Road Commissioner would object to the use of alternate equipment to maintain the ends of the bridge. Mr. Lewis replied that he didn't see it as necessary, but didn't object to it. Pot holes slow people down at the bridges. People come flying down the hill then slide and hit the pot holes. The bridge has been damaged.

Ms. Illick suggested holding off having a public hearing, but continue a discussion. It needs more thought.

Ms. Cole suggested looking at other options. She looked at the Quinlan Bridge, which is paved on the north side, but not paved on the south side. It looks like it is treated in different ways.

Mr. Hammer said in the past there were problems with dirt and gravel carried onto the covered bridges. The longer the apron the longer there was for tires to slough off dirt. Mr. Ladue asked how often the bridges were cleaned.

Mr. Stone called the question.,

VOTE to call the question: 4 ayes, 1 nay (Ms. Cole); carried.

VOTE to set a date for a Public Hearing: 4 ayes, 1 abstention (Ms. Cole); motion carried.

11. CALEB KILEY – Approve Landscaping Plan for HAP-08-02

MOTION by Mr. Stone, seconded by Ms. Cole, to approve a landscaping plan for HAP-08-02.

DISCUSSION:

Mr. Thornton spoke against approving a landscaping plan. Board authority was only to approve an entrance to a public way.

Mr. Russell said that a paragraph regarding dying trees was removed.

Ms. Cole reported that a note from Jane Tingley-Aube to the Town Planner, dated 09/08/2008, was included in the file.

Mr. Russell suggested adding” 5’-6’ trees” to the permit.

AMENDMENT to add 5’ to 6’ trees to the permit.

Mr. Thornton reiterated that the Board should vacate the motion and make the approval only for the curb cut.

It was noted that water drainage and culverts were proposed, with water to drain to Mr. Kiley’s meadow.

VOTE: 4 ayes, 1 nay (Mr. Thornton); motion carried.

12. APPOINTMENT OF COMMUNITY CLEAN-UP COORDINATOR

There was discussion regarding a bill for clean-up that was approved by the CSWD, the CSWD administrative process, and funding from the previous fiscal year’s budget for clean up.

Mr. Brooks explained that the remaining amount of \$1,212.50 would be paid from FY08 money. The district office will write a check for the balance. Mr. Brooks said he would approach the Board much earlier in the process regarding potential clean-up projects.

Mr. Stone asked for clarification of the Community Clean-Up representative position. Mr. Hammer explained that it was a separate job from the CSWD representative. It was an annual appointment. Each town was allotted \$1,000 for clean-up. I saw Junior for whatever needed to be cleaned up.

Mr. Brooks said he could request a letter from CSWD that the balance has been paid. Mr. Russell asked that any request come before the full Board as a body versus individually.

13. WORKPLAN –Discuss High Priority Items for Future Selectboard Agenda

The Chairperson called a Deliberative Session to discuss Land Use Regulation Amendments.

The Board entered Deliberative Session at 10:10 p.m.

MOTION by Mr. Stone, seconded by Ms. Cole, to approve Amendments to the Land Use Regulations with the following:

- Set a 30' setback
- Approve 3,500 square feet of retail space
- Add a Traffic Impact Analysis Study

VOTE: 3 ayes, 2 nays (Mr. Ladue, Mr. Thornton); motion carried.

MOTION by Mr. Stone, seconded by Mr. Ladue, to set a public hearing regarding Amendments to the Land Use Regulations for October 2, 2008, at 5:00 p.m.

VOTE: 5 ayes; motion carried.

Further discussion of Workplan items was postponed.

14. BILL AND WARRANTS

The Selectboard signed Bills and Warrants as presented.

15. ADJOURNMENT

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

VOTE: 5 ayes; motion carried.

The meeting was adjourned at 11:05 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.