

**TOWN OF CHARLOTTE
SELECTBOARD MEETINGS
January 12, 2009**

Approved March 9, 2009

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

OTHERS: Ellie Russell, David Miskell, Ruthie Hill, Robbie Stanley, Sue Smith, Chris McBride, Linda Radimer, Virginia Keyser, Jack Pilla, Liam Murphy, Dick St George, Trafton Crandall, Martha Keenan, Tim McCullough, David Waller, Chris Davis, Marty Illick, Jim Donovan, Bob Hyams, Robbie Stanley.

1. CALL TO ORDER

Mr. Russell called the Selectboard meeting to order at 6:30 p.m.

2. APPROVAL OF AGENDA

None.

3. PUBLIC DISCUSSION

None.

4. MINUTES: 12/22/208, 01/05/2009

Minutes were not available.

5. SIGNAGE FOR COVERED BRIDGES

MOTION by Mr. Ladue, seconded by Mr. Thornton, to request the Road Commissioner purchase and post signs specified in correspondence dated 12/29/08 from the Vermont Agency of Transportation to Charles Russell, Selectboard Chairman, regarding bridges 27, 28 and 29—and for the Selectboard to reply as appropriate.

VOTE: 5 ayes; motion carried.

The Town received notification in a letter dated 1/9/09 from the Chittenden County Metropolitan Planning Organization of the award of a Transportation Action Grant to the Town for the project Exploration of Alternative Transportation for CVU—part of the CVU Grad Challenge project of Rebecca Harcourt.

MOTION by Mr. Ladue, seconded by Ms. Cole, to review and approve the contract for project assistance with Local Motion subject to review by Town attorney.

VOTE: 5 ayes; motion carried.

6. DAVID WALLER – Application for a Highway Access Permit on Property Owned by Charles Allmon on Parcel 00027-5223 on Mount Philo Road

David Waller, applicant, explained a request for an agricultural road for a lot on the east side of Mount Philo Road. There were two lots for sale; one on each side of the road. The Charlotte Road Commissioner made a site visit to view sight distances (500' each way). A driveway base would be white limestone, which go up to a cedar grove. When logging

trucks and skidders use the road the white limestone would get covered with mud and that would minimize the visible white.

There were no further questions.

MOTION by Mr. Stone, seconded by Ms. Cole, to grant an application for a Highway Access Permit on property owned by Charles Allmon, Parcel 00027-5223, on the east side of Mount Philo Road as per the application, and to authorize the Charlotte Chair to sign the permit on behalf of the Town of Charlotte.

VOTE: 5 ayes; motion carried.

7. DONATIONS COMMITTEE – Presentation on Proposal for Town Donations

Virginia Keyser, Donations Committee representative, reviewed a Social Services Committee memo regarding recommendations for funding basic social service requests that help the community. Requests and recommendations came in \$10 under the FY08/09 budget.

Mr. Thornton asked if the Chittenden County Food Shelf would be granted \$200. Ms. Keyser replied that the Town has supported the Food Shelf in the past. A request has not been received, but the committee included it. Next year letters would be sent out for requests with a deadline so that the list could be brought before the Selectboard in October.

There was discussion regarding how many Charlotte towns' people are helped by organizations that receive donations (Howard Mental Health helped 72 people from Charlotte); a Board request that a representative from the Donations Committee attend the March Town Meeting to respond to any concerns/questions (Ms. Keyser would attend); and organizations that were not considered by the committee (the Lewis Creek Association for \$600, the Winooski Natural Resource Conservation Committee for \$500, the Vermont Trails and Greenways Council and NBR CDC). These may still be included by the Selectboard.

Marty Illick said that the Lewis Creek Association would forward a budget to the Board for the record. Projects are listed annually in the Town Report. The Association would make a presentation to the Board at a future Board meeting.

8. GRANT APPLICATION TO VERMONT RECREATION TRAILS PROGRAM FOR WORK ON TRAILS AT THE CHARLOTTE PARK AND WILDLIFE REFUGE

Jack Pilla, Charlotte Park and Wildlife Refuge Oversight Committee Chair, explained a grant application to the Vermont Recreation Trails Program for funding to maintain trails at the Charlotte Park and Wildlife Refuge. If a grant is received, it would be used to pay for trail maintenance at the park. The application would include a scope of work for specific projects and cost estimates. A 20 percent town match was required, which would

come out of the park budget. Part of the match could be “in-kind” work by park volunteers.

Ms. Cole noted that the committee was working on the application at this time. The deadline for submission was 01/15/2009.

Mr. Pilla reported that conversations have been held with the Youth Conservation Corps regarding work on existing park trails for a one week period.

There was brief discussion regarding the type of trail work that could be addressed by the Youth Conservation Corps (grading of trails, water bars, etc).

MOTION by Mr. Ladue, seconded by Ms. Cole, to delegate authority for a grant application to the Vermont Recreation Trails Program for work on trails at the Charlotte Park and Wildlife Refuge to Charles Russell and Jenny Cole, and to authorize the Charlotte Selectboard Chair to sign the application on behalf of the Town of Charlotte.

VOTE: 5 ayes; motion carried.

9. TOWN PLAN PUBLIC HEARING

Mr. Russell said that the Board would have a First Hearing for the Town Plan.

Mr. Bloch said that comments received regarding proposed changes to the Town Plan focused on two points:

- Conservation Commission language regarding a Wildlife Habitat Map that replaces the word “critical” with “significant” (page 50).
- A Trail Committee draft of a Trails Vision Map and text under Chapter IV of the draft Town Plan.

Mr. Bloch reviewed a public hearing process by the Planning Commission and Selectboard. The Selectboard would hold two public hearings on a completed draft scheduled for 01/12/2009 and 01/29/2009.

Mr. Bloch handed out written comments received from Marty Illick and Jim Donovan for Board review regarding a proposed wildlife habitat map.

Mr. Russell opened the floor for public comment.

Ellie Russell, Planning Commission representative, stated that the Planning Commission fully supported the new wildlife map. Mr. Russell pointed out an issue was that a database that has been referenced has not been available previously and the Board hasn't reviewed the data yet.

Mr. Ladue asked if there is a paper file regarding major decisions between the previous map and the new proposed map. Mr. Hyams replied that there is a change in methodology between the two maps. A conservation binder would be the repository of

the paper files. Mr. Ladue said the map as presented is semi-quantitative. It appears to be based/designed somewhat to go with GIS maps used to produce the map id parcel numbers. The GIS data layer needs to be more user friendly to show a link. Every polygon has a reference and fields in the database has a reference, explained Mr. Ladue. Trafton Crandall said the Conservation Commission would get back to the Board regarding putting everything in one reference place.

There was further discussion regarding wildlife as described in the Town Plan and Land Use Regulations (Land Use Regulations wouldn't say significant or critical, but would point to the Town Plan); a South Burlington court case that would put the "onus" on a town to be specific; and that the Land Use Regulations and Town Plan work together.

Liam Murphy explained that the court case in South Burlington says that language, such as the word "protect" is too vague. It has nothing to do with wetlands, or wildlife habitat, the issue is what a town uses to prioritizing, for example, there are five impacts and a prioritizing list. Charlotte should talk with their Town Counsel.

Mr. Hyams said that the map does assign specific values of identified habitat in terms of why an area needs protection within a polygon (on the map).

Mr. Ladue read the last paragraph of the handout that says "...goals may be unenforceable..." Marty Illick explained that the Town Plan habitat map is up for discussion. It would inform and link to seven principals and more specific standards. Mr. Murphy interjected that that is a good goal. It is one step in a two step process. A concern is that both the plan and regulations should be developed together. It is a concern that the Town is adopting a plan that is inaccurate. For example, my house is in the middle of a stream according to the map. There is no overlapping of the town tax map (with individual parcels) with the proposed map to give the public the opportunity to look at how the proposed map would impact them.

Marty Keenan, resident, spoke in support of preserving wildlife habitat, but expressed concern regarding the map criteria applications and how that would be looked at by the Planning Commission during subdivision review. Mr. Russell asked if the Planning Commission thought on how they would use the wildlife habitat map. Mr. Donovan stated that only the map was changing, not how it would be used. The Planning Commission thinks the proposed map is better.

There was further discussion regarding the public process (the Planning Commission held two day time public hearings that included expert testimony); the Planning Commission was still trying to get a copy of the database and there really isn't one; a question on how habitat linkage on the map would be used; a question of where the source of information the new map is based on (Mr. Donovan said that that the new map shows why areas are listed, it is understandable why it is important and there is criteria); and an explanation that use of the database is a tool for the Planning Commission and is available to the public (it was noted that a user interface was not developed yet). Mr. Bloch has access to the data.

Mr. Stone suggested taking more time to develop and review the proposed Wildlife Habitat Map changes.

Mr. Murphy reiterated that there were two areas added on the new map to my property that included a Red Pine Plantation. The trees are 40 years old and not native. There is a stream added going through my house and my house is now in an aquatic zone. That is not so, my lawn can be mowed, etc.

Ms. Illick said one thing new is a list of principals of seven criteria. This is a first level interpretation using state GIS layers. Mr. Murphy pointed out the first word of each principal contains the words struck down by the court, such as “protect” or “maintain”. Mr. Murphy suggested language that says it is a “guide” for the Selectboard/Planning Commission “that development would unduly affect...” It should not be a regulatory document.

Christine McBride, resident, expressed a concern that there is a large linkage on my property. The Town would vote on adopting the map, and if so, would it become regulatory, asked Ms. McBride. Mr. McDonald said the map is not meant to be regulatory. The Town Plan and subdivision bylaws ask the Planning Commission to look at criteria – it is evolutionary.

Mr. Russell pointed out controlling language that development “...can’t have undue adverse impact...” A question is how to determine undue adverse impact on habitat. ACT 250 has a clear definition of “wildlife habitat” and read the section. Does the proposed map allow the Planning Commission to identify an “undue adverse impact on a specific wildlife species in a certain stage”, asked Mr. Russell. Mr. Donovan replied that the first test is: would it affect habitat, or not. A second test is: is it an “undue” impact. For example, if there is an identified (habitat) linkage would that link be cut by a development. The commission looks to see if there is a way to develop where a development wouldn’t fragment/cut linkages. Regarding the regulatory map concern, the new map is advisory, said Mr. Donovan. Mr. Ladue asked what is the law that is a triggering mechanism for determining a wetland. Mr. Murphy replied that the word “critical” is regulatory. In court the words “undue adverse affect are defined. It is a three part test. Mr. Murphy suggested eliminating the words “protect” and “maintain” because if it is adopted it becomes a “clear community standard” in the Town Plan. The language can be changed so it is advisory.

In response to a concern, Mr. Hyams said the polygons don’t match actual property lines when the new map is used. The Planning Commission would have to do on-site visits. Ms. Illick said the words are goals to get to standards. Mr. Crandall said Mr. Murphy is saying has merit. There should be one new “critical habitat map” that looks at two things: 1. New standards and how they are applied, 2. Looking at the revised map as information for the Planning Commission to utilize in a fair way.

Mr. Russell said a concern is if the map is not accurate then the Planning Commission could have a wildlife assessment done, which may not be necessary.

Ms. Keenan said if the map is a guide then it should have wording that it is a guideline and not regulatory. Mr. Russell suggested language that the map should be advisory to the landowner only to be used to identify wildlife habitat.

Following further discussion, Mr. Murphy submitted a copy of proposed language changes on a map copy for Board consideration.

In response to a question Mr. Donovan noted that no developments have been denied based on wildlife habitat, but plans have been modified.

Mr. Hyams suggested having the Town Attorney review the proposed map.

TOWN TRAILS MAP

David Miskell responded to comments by the Trails Committee regarding trail easement as a Greenbush Road goal. For example, an easement on Meg Berlin's land (former Baker land) crosses the railroad tracks. The committee should reconsider a prior proposed trail easement on the Patanude land. The Patanude property is in for subdivision review now. That trail would be a better way to go. Tony Perry had a "floating" trail (Pecor's now) that could connect across Able's land, pointed out Mr. Miskell.

There was discussion on the following:

- Shift a destination point to the middle of property to bring the easement away from the railroad (Demeter Park).
- Page 93-94 Trail Vision Map - change the word "will" (page 94 last sentence) in "...actual trail locations will be designed..." to "may" and change "...will try to avoid impacts" to read "will try to minimize..."
- Add what the map is for.
- Page 17, #16 and 17, add "consistent with the Trails Map", and #16, add: "as envisioned in the Town's Trails Map".
- Note that Hill's Point Road and Lake Road Extension are public roads.
- #17, change to read "...and minimizing areas of high public value and minimizing negative impacts to land uses..."
- Page 106, #4, there was a question of what "best agricultural practices" meant – what is a definition.
- There was a question of public access to "Churchill Road Town Forest", and if a destination point should be added.
- Cross reference the official Town Map to the Trails Map.

MOTION by Mr. Stone, seconded by Mr. Thornton, to close the public hearing regarding the proposed Town Plan.

VOTE: 5 ayes; motion carried.

The sense of the Selectboard regarding the proposed Town Plan was that the wildlife map needs further refinement, the Board would review language submitted by Liam Murphy, craft language of what to preserve utilizing language from the South Burlington court case related to goals and standards, and consider a suggestion to make the wildlife map advisory versus regulatory for use by the Planning Commission. The matter would be added to a future Selectboard agenda. It was noted that the goals were already identified in the current Town Plan (page 8, #6). Changes to the Trails Map would be drafted by staff for Board review at a 2:30 p.m. meeting Wednesday, 01/14/2009.

10. LAND USE REGULATIONS

The Board reviewed the following proposed changes to the Land use Regulations:

- Size of accessory units related to a proposed 2,500 square foot area and concerns related to clustered developments. Mr. Bloch noted that a 1,500 square foot and 15' height limit for a PRD was a threshold for a conditional use. A conditional use would require an application before the ZBA. The consensus of the Board was for a 2,000 square foot footprint and a 25' height before triggering a conditional use permit town-wide.
- Section 4.11, Home Occupation, proposed language as written deletes the word "minor".
- Delete the word "significant" in the Wildlife Habitat Map reference as Map 6, in the Town Plan.

MOTION by Mr. Stone, seconded by Ms. Cole, to approve changes to the Land Use Regulations as amended and schedule a public hearing for 01/29/2009.

VOTE: 3 ayes, 1 abstention (Mr. Ladue), 1 nay (Mr. Thornton); motion carried.

11. ARTICLES FOR TOWN MEETING, 2009

FIRE RESCUE

Chris Davis, Richard St George and Tim McCullough, Fire and Rescue department representatives, reviewed proposed Capital Reserve Fund projections and assumptions. A proposed \$0.01.5 on the tax rate for 5 years would purchase a truck. The department would adjust the rate with Selectboard input every year.

Article V, add the amount \$0.01.5 for the Fire and Rescue department.

Article VI, leave as worded.

Article VII, leave the words "wastewater disposal", delete the words "water supply" and "and or heat distribution services". Add "explore".

12. FY2009-2010 BUDGET

Following a discussion the Board changed proposed Listers salaries as: Chair at \$15,382, and other Listers at \$6,000 and \$6,000.

13. DISCUSSION OF TOWN PLAN

Members decided to not meet in the coming week for the purpose of editing the Town Plan to get ready for another hearing in January and adoption in March, but to work with

the Conservation Commission and Planning Commission over the coming year to address the concerns that were raised at the hearing.

14. APPROVAL OF BILLS AND WARRANTS

The Board signed Bills and Warrants.

15. ADJOURNMENT and EXECUTIVE SESSION

MOTION by Mr. Stone, seconded by Mr. Ladue, to adjourn the meeting and to enter Executive Session for the purpose of discussing Legal Matters, and to invite the Selectboard Clerk to attend.

VOTE: 5 ayes; motion carried.

The meeting was adjourned and the Board entered Executive Session at 11:00 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.