

**TOWN OF CHARLOTTE
SELECTBOARD
APRIL 25, 2005**

APPROVED MINUTES 05/09/05

MEMBERS PRESENT: Eleanor Russell, Chairperson; Ed Stone, Jennifer Cole, Charles Russell, Francis Thornton (arrived 7:00 p.m.).

ADMINISTRATION: Dean Bloch.

OTHERS PRESENT: Tom Moreau, Clark W. Hinsdale Jr, Jack Wallace, Hugh Lewis Jr, Carrie Spear, David Miskell, Kate Lampton, Diana McCargo, Linda Foote, Jonathan Foote, Peter Swift, Happy Patrick, Mike Merrill, Nancy Merrill, Edd Merritt, Ray Lambert, Chad Lambert, Roger Lambert, Tom Mansfield, and others.

(NOTE: the Selectboard agenda was heard out of order but appears as warned to provide continuity.)

SITE VISIT: Jack and Joyce Wallace, Scott and Rowan Hardy; Spear Street Extension just east of White Birch Lane, for Access Permit (application HAP-05-02) and request to replace culvert under Spear Street. (6:00 p.m.)

1. CALL TO ORDER

Ms. Russell called the meeting to order at 6:45 p.m.

2. ADJUSTMENT TO AGENDA

None.

3. PUBLIC DISCUSSION

None.

4. APPROVAL OF MINUTES APRIL 11, 2005

A MOTION by Mr. Russell, seconded by Ms. Cole, to approve the minutes of 04/11/05 as written was withdrawn.

5. CHITTENDEN SOLID WASTE DISTRICT – Presentation for budget for FY06

Tom Moreau, Chittenden Solid Waste District General Manager (CSWD), explained budget changes that included a ten percent increase in expenses and an 11 percent increase in revenues. In an economy of scale CSWD was processing more material from Addison, Franklin, Chittenden, and Lamoille counties, which has resulted in a five-dollar decrease in TIP fees. Health insurance increases were an issue, said Mr. Moreau.

Mr. Moreau said that CSWD was closer to owning, designing and permitting a new landfill, which should save \$100 million over a 20-30 year life cycle of the landfill versus trucking material to Moretown and Coventry.

Mr. Stone asked who paid for the “Don’t Burn” and recycling advertisements. Mr. Moreau explained that the “Don’t Burn” campaign was a state program. The district was doing the recycling advertisements.

Ms. Russell asked if the combined recycling was working well. Mr. Moreau replied yes, the single stream pick up and new machinery has worked out very well. Collection costs referred to Burlington, which picks up their own recycling.

Mr. Russell asked if wet cardboard was an issue. Mr. Moreau explained that “wet” cardboard referred to chemically treated drink and freezer containers, which are treated to resist wetness. The weather is no problem with cardboard, however ice and snow mixed in with recyclables is a problem on the conveyor belt. The problem was solved by first dumping material on the floor to remove snow. There was mandatory recycling for residential homes, but businesses were not included. It is now cheaper for businesses to recycle and the district has provided bins, etc, in a “soft” sell approach.

Mr. Moreau said that the District was seeking passage of the proposed CSWD FY06 budget. If a member town votes negatively then the town would need to provide a written reason why. If a town didn't vote at all then it is an automatic yes vote.

MOTION by Ms. Cole, seconded by Mr. Thornton, to approve the proposed Chittenden Solid Waste District FY06 budget as presented.

VOTE: unanimous; motion carried.

Mr. Bloch noted that a CSWD Alternate representative was needed and expressed concern that an alternate might be out of the loop information-wise. Mr. Moreau explained that the Charlotte representative and alternate were never out of the loop. The District minutes of meetings were very informative and easy to read/understand.

5. RENEW LEASE (ONE YEAR) FOR MOBILE HOME ON THE BURNS PROPERTY

Ms. Russell reviewed a one-year mobile home lease located on the Burns property. The tenants were current on the one-year rental. The lease includes a penalty if payments were in arrears and there is requirement that a tenant must provide a \$300,000 insurance policy. Staff would ask for proof of insurance. A tenant was also required to maintain and plow.

MOTION by Mr. Russell, seconded by Mr. Thornton, to approve renewal of a one-year lease for a mobile home on the Burns property with John and Jody Wright for the year of 2005 at \$600 per month, to be paid the first of each month from April 1, 2005 to March 30, 2006.

FRIENDLY AMENDMENT by Mr. Thornton, and to authorize the Selectboard Chairperson to sign the lease agreement on behalf of the Town of Charlotte.

VOTE: unanimous; motion carried.

6. APPOINT AUDITOR – ONE YEAR TERM

MOTION by Mr. Stone, seconded by Mr. Thornton, to appoint Nancy Wood as Auditor for a one-year term as presented.

VOTE: unanimous; motion carried.

7. JACK WALLACE AND JOYCE WALLACE, SCOTT AN ROWAN HARDY – HEARING FOR HIGHWAY ACCESS PERMIT APPLICATION (HAP-05-02); AND

REQUEST TO REPLACE 24" CULVERT UNDER SPEAR STREET WITH 36" CULVERT

Ms. Russell noted this was a continuation of a public hearing, and reviewed a brief history of the development. The Selectboard has looked at the site. Ms. Russell asked if there was any new information.

Jack Wallace, owner, explained there was no new information regarding the curb cut. A stake in road indicated the location of the proposed driveway access. The Charlotte Highway Department Chief signed off the application. A question was what width the entrance would need to be to meet Town requirements. A 30' culvert would be installed and road was a minimum of 18'.

There was discussion regarding the entrance, which was level, and the roadbed was crowned to drain off down to a ditch versus flowing across Spear Street. Mr. Wallace said that the culvert under the driveway would be 30' in length with a 24" diameter.

Mr. Russell asked the applicant if he had discussed a shared driveway with an adjoining neighbor to minimize the curb cuts on Spear Street. Mr. Bloch commented that the possibility of a shared driveway didn't come up in the Planning Commission meetings. Mr. Wallace explained that as per A-76 and V-71 there was more than 100' between curb cuts, which meets Town standards. At some point a shared access would be offered along the roadway as discussed at the final Planning Commission meeting.

Mr. Stone asked if there would be an association fee to cover maintenance and plowing, and if shared road would be complicated. Ms. Russell pointed out that was not a Selectboard issue.

Ms. Russell asked if the angle of the remaining driveway was re-designed for better access. Mr. Wallace replied yes, the driveway has been redesigned.

MOTION by Mr. Russell, seconded by Mr. Stone, to approve a Highway Access Permit application (HAP-05-02) request by Jack Wallace and Joyce Wallace, Scott and Rowan Hardy as presented.

VOTE: unanimous; motion carried.

Ms. Russell recommended that Mr. Wallace discuss shared access with the neighbor.

Ms. Russell reviewed a request for a replacement culvert under Spear Street east of the approved access.

Mr. Wallace reviewed information presented at a preliminary Planning Commission public hearing and additional engineering plans. A suggestion to monitor the water flow and volume for three years (how many times per year water would flow over the road) would be submitted. Mr. Lewis, Charlotte Highway Department, stated that water has never gone over the road. Water does fill up a pond located across the road from the development. (He) would not like to tear up the road, which was paved a few years ago. The applicant was directing water off to side of the driveway. Mr. Lewis suggested a five-year versus a three-year monitoring period.

Mr. Russell suggested placing funds for a future culvert in an escrow account. Ms. Russell asked if it was a Planning Commission issue. Mr. Bloch clarified that it would be the Selectboard to say: "if and when needed", and allowing work to be done in Spear Street.

There was lengthy discussion regarding the applicant engineers' calculations related to the current culvert diameter of 24" versus a proposed replacement 36" culvert (Mr. Wallace said that from his engineers point of view there would be no additional water through the current Spear Street culvert. As per Town regulations they have proved it would be neutral in terms of water flow.); a Town paving schedule rotation of 6-7 years (Mr. Lewis said Spear Street was paved three years ago); a suggestion to coincide a culvert replacement with the paving rotation; and two farm ponds located on the subject property, which were created 40-60 years ago. Mr. Wallace noted that the state has delineated the two ponds as Class 2 wetlands, which cannot be altered or used as fire ponds. A third pond would be dug as a storm water retention pond. Water would not be diverted to the pond across Spear Street.

Ms. Russell asked if the Spear Street culvert would be replaced if there were problems with water flows within a five-year period. Mr. Lewis replied yes, and suggested that Mr. Wallace pay for a 36" culvert now and then when it was needed the Town would put it in.

MOTION by Mr. Stone, to approve a request to replace a 24" culvert under Spear Street with a 36" culvert by Jack Wallace and Joyce Wallace, Scott and Rowan Hardy; applicants would prepay a 36" diameter 40' long culvert to be installed by the Town of Charlotte if and when it was determined a replacement culvert was needed; the price of the culvert would be determined now plus 20 percent.

DISCUSSION:

Mr. Lewis suggested setting a price and adding 20 percent to cover a future increase in price. Mr. Bloch asked if the Town could carry the funds for five years. Mr. Russell said the funds would go into the Town Highway budget.

Mr. Stone withdrew the motion.

MOTION by Mr. Russell, seconded by Mr. Thornton, to accept Jack Wallace and Joyce Wallace, Scott and Rowan Hardy paying for a future 36"diameter 40' long culvert to be installed under Spear Street in association with the Wallace-Hardy development; the amount plus 20 percent to be determined by contacting Redhed Construction.

DISUCSSION:

Ms. Cole expressed concern regarding potential water from the hill coming down to the pond on other side of Spear Street, which was now full. How would the developer address the volume of water coming down the hill, asked Ms. Cole. Mr. Wallace reiterated drainage calculations as per the engineers. Flows were calculated as per Town regulations for post-development and pre-development. Flows have been checked, and monitored. As far as water running across the street the Selectboard would have to accept by default that our engineers are designing the system correctly. That included water volume and speed. A 24" diameter culvert would have a higher velocity than a larger 36" diameter. Ms. Russell stated the issue was a Planning Commission issue.

VOTE: unanimous; motion carried.

8. WILLIAM PELKEY- REQUEST TO PLACE STATE BUSINESS DIRECTIONAL SIGN ON TOWN PROPERTY (Senior Center)

William Pelkey reviewed a request to place a state designed directional sign on the right side right-of-way on Ferry Road/Greenbush Road. There would be a sign on Route 7 as well.

There was discussion regarding an exact location of the proposed sign by the Senior Center (Mr. Russell noted that there were trees and a telephone pole in the proposed location); concern that a sign might interfere with a future walking path or with snow plowing. Ms. Cole asked if the applicant had asked for input from the Senior Center regarding the sign location. Mr. Pelkey replied no, the right-of-way was Town land, but he was willing to hold a discussion.

MOTION by Mr. Russell, seconded by Ms. Cole, to approve a request to place a State Business sign in the Town Highway right-of-way near the Senior Center, to be located no closer to the road than existing trees and utility pole and with approval from the Senior Center regarding an exact sign location.

VOTE: unanimous; motion carried.

9. REQUEST TO OPERATE FARM STAND IN TOWN HIGHWAY RIGHT-OF-WAY (Ferry Road, near Route 7)

Michael Merrill and Nancy Merrill, applicants, briefly reviewed past experiences in the farm stand business. Mr. Merrill explained a proposal for a small farm stand and temporary green house to be located on the northwest corner of Route 7/Ferry Road (near the old post office). There were no final plans at this time, but input from the Selectboard was sought. Mr. Merrill explained that the stand would be open 7 days per week from Mother's Day to Columbus Day. The Merrill's would grow the produce, or contract with other growers. The greenhouse would be unheated and house bedding plants and hanging baskets.

Ms. Russell asked if the proposal would include parking in the right-of-way. Tom Mansfield, Zoning Administrator, explained that the proposal would require a curb cut and there were concerns related to safety at the intersection.

Mr. Merrill said they operated a weekend only farm stand at Flea Market last summer. Mr. Russell pointed out the Flea Market was mandated to operate on the two-day weekends only.

Mr. Thornton expressed concern regarding potential traffic generation and parking on the right-of-way. Mr. Merrill said there were low lands at the site that would require fill to get parking off the roadway. Ms. Russell explained that a wetland delineation would be needed, and a determination of what was allowed, or not. Also, a highway access permit for a road cut would be required. Mr. Bloch commented that a Route 7 Town ortho-photo map might show what was wetland in the area.

Mr. Russell asked if the Town would consider opening the Flea Market to seven days a week. Mr. Stone suggested that Mr. Merrill contact Mary Connelly regarding access to electricity at the Flea Market site.

There was further discussion regarding the pros and cons of a proposed roadside stand on the Town right-of-way. Ms. Lampton, Conservation Commission representative, said that a site plan review was a Planning Commission issue. The Town has tried to keep the Route 7 corridor free of retail/commercial uses, and a farm stand/greenhouse was a retail use.

Mr. Hinsdale, resident, suggested contacting Carrie Spear regarding a location in East Charlotte. Mr. Thornton noted a site behind the creamy stand as well.

Mr. Merrill thanked the Selectboard for their input.

10. RESTRICTION OF USE BY MOTORIZED WHEELED VEHICLES ON SPEAR GERVIA ROAD

Mr. Russell reported that he had contacted the Secretary of State's office for information regarding trails.

Ms. Russell reviewed that at the last Selectboard meeting the issue of a chain across Spear Gervia Road/Mt Philo Road by an adjoining landowner was brought forward. The Spear Gervia was a Town road, which was designated a trail in 1983.

Mr. Russell read definitions of town highways and designated trails. A question was does the Town have authority over the roadway, which it does.

Diana McCargo, adjoining landowner, said that they had bought the Tom Schermerhorn property in 1984. At issue was the private land along the road and the general public uses of the town trail. The public was using the road to access land for parties. They leave trash, fire pits, and tear up the road. Anyone can walk or ride on the trail, but general public access must stop. Ms. McCargo contacted the State and was told she could place a chain across the entrance without contacting the Town. She was now checking in with the Town. Ms. McCargo suggested trading the Spear Gervia right-of-way for a different access on the McGuire-Preut easement, and to discontinue the Town trail next to (her) property. Mr. Stone noted that was done at Mrs. Obe's house on the Old Carriage Road.

Jonathan Foote, resident and landowner, explained he used the access for agricultural purposes. Ms. McCargo said that Mr. Foote could continue to use the trail. It was just general vehicle traffic she wants to keep out; not the neighborhood landowners. Ms. McCargo suggested restricting the trail to vehicles except for landowners.

Roger Lambert, property owner, said the trail was the shortest way to his property. If he had to build a driveway off McGuire-Preut it would cost three times the expense.

There were suggestions that included changing Spear Gervia Road from a Class 4 to a private road, or upgrade the road.

Clark Hinsdale asked if the road had gone all the way through to Spear Street. If it went through the Bean Farm then he was one of the 'neighbors'. Mr. Thornton recalled that the old Spear Gervia Road did connect through to Spear Street until a bridge over a creek went out, after which the east end of the road was abandoned. The road now ends where the Lambert and Hinsdale properties meet.

There was discussion regarding uses of the different lots owned by parties for logging, farming, etc.; the McGuire-Preut trail, which was a recreational easement related to a development (Ms. McCargo said that the McGuire right-of-way was flat and was a better access); a suggestion that

the Selectboard research the road and plan a site visit; take additional testimony; the abutting land owner must remove the chain, and the differences between a town road and an easement.

Mr. Foote said that the public was driving on his land because of a washout on the trail, and asked if he could repair the resultant gully. Mr. Thornton said that the Selectboard did not have the authority to allow private individuals to maintain a town road. Further research was needed on how a town road relates to land owners. Mr. Lambert said that several years ago he got a verbal OK from the Zoning Administrator to place gravel in the road, but the State stopped the work. An ACT 250 permit was needed.

Mr. Hinsdale asked for a copy of a tax map with the trail and property lines shown, which should be circulated to adjoining landowners as well.

The Selectboard scheduled a site visit for May 9, 2005, time to be announced.

11. FIRE AND RESCUE BUDGET ADJUSTMENT

Ms. Russell reported that the Rescue Department was predicting spending over the budget by \$27,000 by the end of the fiscal year. Mr. Stone and I met with the Executive Committee for the Fire/Rescue departments. The committee has suggested using \$6,000 of administrative funds to reduce the shortfall, and has asked the Town for \$20,000.

MOTION by Mr. Russell, seconded by Mr. Stone, to grant \$20,000 extra funding for an estimated EMT payroll shortfall.

DISCUSSION:

Mr. Hinsdale asked if the Town was heading toward an all paid department versus a volunteer squad. Mr. Stone explained that 8-10 volunteers would be certified as EMT/s shortly. Mr. Russell explained the number of emergency response calls was lower than required for certification. It was difficult to get/keep certified EMT's as a result. Ms. Russell commented that the Fire Department had no issues/concerns.

VOTE: unanimous; motion carried.

12. LAND USE REGULATION – Discussion of process

Ms. Russell reviewed a draft of Land Use Regulation changes for the purposes of discussion, and handed out copies for Board input. An initial survey was updated regarding comments/responses received. Ms. Russell suggested that the Board divide into small groups to review specific sections.

The following Selectboard meeting dates were scheduled:

- Monday, May 2, at 7:30 p.m.
- Monday, May 16, at 7:30 p.m.
- Monday, May 23, regular Selectboard meeting.
- A May daytime meeting TBD.

There was discussion regarding issues that concerned Selectboard members and how to address those issues; a suggestion to vote Zoning Regulation changes at a general election versus a special "single item" vote (Ms. Lampton said that most people liked the proposed zoning changes, however there were one or two items that some people did not like); and word-smithing

zoning language to make the proposed changes easy to read and understand. Ms. Lampton suggested hiring someone to word smith the proposed changes if the Board was concerned about read-ability. Zoning language was interrelated, was like writing law and was technical, said Ms. Lampton.

Other suggestions included seeking input from the Zoning Administrator and Zoning Board of Adjustment Clerk, adding an Executive Summary (an overview of what was contained in the Zoning Regulations, and what were the changes, and a summer overview educational effort.

13. SELECTBOARD UPDATE/CHAIR'S REPORT: SPEED LIMIT STUDY; HIGBEE ROAD; SELECTBOARD'S MEETING SCHEDULE

a) SPEED LIMIT

Mr. Bloch explained that the CCMPO could do a speed limit study, but without enforcement speed limits were ineffective. Once a survey was completed and recommendations forwarded the Selectboard could set speed limits at 85 percent of an "averaged" speed driven calculation. A survey would be done this summer.

B) HIGBEE ROAD

Mr. Bloch reported that estimates/proposals from Landscape Designs were being held up while discussions regarding how the relocation of Higbee Road would occur. There was agreement that the Selectboard should go through the statutory research process of relocating a road. The process included public notification and input.

Ms. Russell read a letter regarding a "friendly" condemnation, and suggested getting an agreement, or formal arrangement, with Mr. Hinsdale prior to going through a legal process. Mr. Bloch pointed out that the Town would need to warn a public hearing. A question was should the Town proceed with a design before a hearing, said Mr. Bloch. Ms. Russell said to proceed with a landscape study.

Mr. Russell read state statutes regarding a legal process and the need for timing as per state statutes. The Board should schedule a meeting to decide where to locate a roadway and what the design was, conduct a site visit, check timing, and then schedule public hearings. The Town could enter an informal agreement with Mr. Hinsdale.

Ms. Russell read an e-mail from Mr. Hinsdale regarding a donation of land for Higbee Road. Mr. Hinsdale requested involving the Land Trust and Kate Lampton. Mr. Stone expressed concern regarding the word "aprons" mentioned in the e-mail. The discussion was for a four-way intersection. The Town should pay for paving, said Mr. Stone.

There was Board consensus regarding paving both sides of the proposed aprons, request that Mr. Hinsdale sign the e-mail, and move forward with a landscape design. Mr. Lewis, Road Foreman, said the Highway Department supported paving the Berry Farm side in June. Mr. Russell said that a state access permit was required for the east side. Mr. Lewis said paving the Higbee Road section could wait a year to allow the base to settle. The road was not on the Town Highway paving schedule for June. Mr. Russell suggested that the Town would pay for Higbee Road paving. Ms. Russell would research state statutes and craft a schedule.

c) SELECTBOARD MEETING SCHEDULE

Ms. Russell said that she would miss the second June meeting.

d) OTHER BUSINESS

Ms. Russell noted that a draft a letter regarding Comprehensive Economic Development Strategy (CEDS) notes that CEDS should include the importance of agriculture. Ms. Russell asked permission to sign and send out the letter.

It was the consensus of the Selectboard to have the Chairperson sign the letter and send it out.

The next meeting of the CEDS was scheduled May 10, 2005, Shelburne Town Center, 6:00 p.m to 7:00 p.m.

Ms. Russell announced that Peter Demick was appointed to the Cemetery Commission. Chris Davis reported that a \$62,000 Homeland Security grant was awarded. There was \$75,000 remaining from this year's grant. A list of equipment purchases was forwarded to the Selectboard for review. A VTrans Enhancement grant application process was starting. Projects could include sidewalks, transportation modes, and historic preservation of related transportation buildings/articles. An application document copy was in the Town Hall for review.

Ms. Cole reported that the Park Committee received a \$200 grant for the purchase of a tree to be planted on Arbor Day.

Mr. Miskell said that Clark Hinsdale III, had requested a site visit to walk the proposed Higbee Road.

14. ADJOURNMENT

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

VOTE: unanimous; motion carried.

The meeting was adjourned at 9:40 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.