

**TOWN OF CHARLOTTE
SELECTBOARD MEETINGS
SEPTEMBER 24, 2007**

APPROVED

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

ADMINISTRATOR: Dean Bloch.

OTHERS: Stephen C Brooke, Ellie Russell, Carrie Spear, Raven Davis, Annemie Curlin, Mark Allegretta, Emily Allegretta, Gretchen Morse, Janie Cohen, Mary Cheney, Woody Gyfil, Andrew Thurber, Larry Hamilton, Mischul Brownstone, and others.

1. CALL TO ORDER

Mr. Russell called the meeting to order at 7:03 p.m.

2. ADJUSTMENT TO AGENDA

Added: Insurance Quote – Hickok and Boardman.

Delete: Thorp Barn

3. PUBLIC DISCUSSION

Stephen Brooke, resident, explained that he and Ed Stone have been discussing the Greenbush and Ferry roads intersection monument, and submitted an architectural plan for Board review. An option was to move the monument northward as shown on the plan drawing (a dotted line delineated the existing placement and four corners). The 5' square base of the monument weighed 3.5 tons, and the monument was 40" square and weighed 5.5 tons. Granite bollards could be used. The 5' setbacks would be maintained. The Road Commissioner has reviewed the drawings and expressed no concerns. There would be no impact to the existing parking at the Brick Store if the monument was moved.

Mr. Russell pointed out that people parked at the store where the proposed new position for the monument was. Mr. Ladue said that if the monument was moved to the south that would maintain proper distances.

Mr. Brooke said that the focus of the project was to maintain the scenic beauty of the intersection by rounding two corners (of the monument base) into one. That would pull back the western corner so it didn't jut out into Greenbush Road. An existing stop sign is just north of the south curb.

The Board said that they would like to have input from the plant lady. Mr. Brooke said the plant lady wanted to have the monument moved north as well.

5. MINUTES SEPTEMBER 10

Approval of the minutes of 09/10/2007 was deferred to the next meeting of the Board.

6. LARRY HAMILTON – Discussion Regarding Tree Warden Duties

Larry Hamilton, Charlotte resident and Tree Warden, read a written letter to the Board and reviewed three items related to the duties of a Tree Warden as follows:

- Jurisdiction of trees and shrubs in a public right-of-way, and a definition of a “shade” tree in the Shore line District defined as 4” in circumference.
- Violation of a brush hogging incident on Ferry Road (2 trees of 3-4” in diameter were cut in a public right-of-way).
- A tree warden’s authority as outlined by law to levy fines for violations.

Mr. Hamilton reviewed a brush hogging violation by Ms. Price on the Spear’s property.

Ms. Cole asked if Ms. Price had received the landowners’ permission to cut the trees and brush. Mr. Hamilton replied that Mr. Spear was in Florida. The Road Commissioner said that no permission was granted by the landowner. An image of the damage was e-mailed to the Selectboard for review. Some trees were left in the brush hogged area. It was proposed to replace the cut trees, which were within 25’ of the center line of the road. Mr. Hamilton said that Ms. Price had the work done without the permission of the Tree Warden or the municipality. Shrubs were not considered a “shade” tree, clarified Mr. Hamilton.

Mr. Brooke recalled that the Tree Warden had suggested that a contribution to the tree fund in lieu of a fine was an option. The situation remains, but the new neighbor won’t do any more brush hogging. The cut vegetation would fill in quickly.

Mr. Russell expressed concern that since the area was cleared then the landowner could continue to cut it every year to keep it open.

Mr. Ladue asked if there was a difference between cutting trees on town land versus private land within a town-owned right-of-way. Mr. Hamilton replied no. Mr. Ladue asked what the intrinsic value of a shade tree was. Mr. Hamilton replied that a shade tree provided habitat for wildlife, birds, beautification, and shade. A “tree-lined” avenue was a method of traffic calming.

Mr. Hamilton asked if the Selectboard would like to have remediation of the cut area, and if so, that would require the landowner to plant replacement trees.

7. MEANDER STREET – Continue Public Hearing to Add the Road to the Town Highway Map

Mr. Russell re-opened a Public Hearing to add Meander Street to the State Highway Map. Terry Harris, a consultant engaged to research the Town Records to identify the location of Meander Street, has submitted the results of the search. Harris has drawn a path (shown in red) of the road on a map. The main point was that the road was located between the two covered bridges.

Mark Allegretta, resident, asked how the information impacted the Board. Mr. Ladue explained that the red line in the map was a near approximation of where he had walked the land during a site visit. The line was coincidental to the slope and lay of the land

where a road would likely be laid out. An outcropping of limestone ledgemy be a geological feature that makes for a jog in the path of the road.

Mr. Allegretta asked if the map was a surveyor's view point formed from the Town records versus what is on the ground. A question was how the Board would view that information so that the expense of an on-ground survey was not necessary, asked Mr. Allegretta. Mr. Russell said that Harris laid the path of the road straight across Scott's Pond. Who knows where the river went in 1792. Harris also discovered that a portion of Roscoe Road was not surveyed.

Mr. Russell noted that an e-mail from Janey Cohen was received regarding concerns that the correct process for reviewing the road was followed.

Ms. Cole said that there had been concerns expressed by town residents that the town trails were not being used. There is a sign-in sheet at the Park. There were 401 visitors to date and not every one signs in.

Mr. Allegretta pointed out that for a year now no one from that area (of the road) wanted Meander Street as a trail. A few people cross country ski in the area. It would be a shame to cut a trail in this particular area because it is an undisturbed wooded wildlife habitat area.

Mary Cheney said that the red line (on the map) shows that Meander Street is not located on my property. My surveyor said the road does follow the creek, and the creek has changed it's location over time. Mr. Russell noted that the identified location of the road was on the south side of the creek.

Mr. Ladue pointed out that new information was submitted by Janey Cohen. He had contacted the Vermont League of Cities and Towns regarding definitions. He would like to review the new material before making a decision on the road. A question was should the Town retain the right-of-way for a future use in the long term view point.

Janey Cohen asked what good a future use would be. There is a good usable road (Lewis Creek Road) now. A second road would be a detriment. Mr. Ladue explained that value would be an easier access to walk through the woods. The value would grow as the Town evolves over the next 2-300 years. A question was should the Town give up a town asset. The difference between a road and right-of-way was that the town would retain the legal right-of-way, which is difference from use.

Ellie Russell pointed out that the discussion was about putting the road on a map, not what it would be used for.

Mr. Davis said if we are talking about preserving assets of the Town, then there should be conversation with the Conservation Committee. This is not an area to be messed with. It is one of the most premium wildlife sections in Town. Why would we possibly want to

open it up, asked Mr. Davis. Mr. Ladue replied that the Town values its open spaces. Let's hope that the same values would exist in Town 50 years from now.

An audience member said that in the past the A. Johnson land was to be subdivided into 13-lots. Following public discussion there were changes and one building lot remained with the rest of the area was to be left untouched, which identified the riparian zone along the creek.

Mr. Allegretta said that everyone says yes, trails are needed, but this is one last piece of unique land in Town.

Ms. Cole pointed out that people use the property currently for skiing and walking. Members of the audience have said that they cross-country ski on the (frozen) creek.

Mr. Allegretta said that people who canoe on the creek like the primitive look. If there was a trail, or a Class IV road, then it is an unknown for us. Could people then snowmobile, or use ATV's, on a Class IV road, asked Mr. Allegretta.

In response to a question, Mr. Ladue clarified that the Town owns the right-of-way of the road.

Gretchen Morse said that it was difficult to follow the discussion. Is there a process to the issue, and if so, I would like to debate the issue. There was no language in the Town Plan about opening up a trail on the property. I would like the Selectboard to respond to my letter.

Mr. Russell said that the process regarding ancient roads was an open and transparent process. This is the first reading regarding adding Meander Street to the State Highway Map.

Woody Keppel explained that he lived in the woods, which was a very private property. He walks along the creek everyday. He was a peaceful person and felt he has a duty to protect those woods. Mr. Keppel expressed concern that the Town could take the property, which was threatening. If this was a road in ancient times then why did they put in the Lewis Creek Road.

Ms. Cohen explained three issues outlined in her letter to the Board:

- Asked the letter be attached to the minutes of the meeting.
- Asked that the Board respond to Andrew Thurber's correspondence.
- Asked that the Board respond to the Conservation Committee's letter.

Mr. Ladue reviewed that the Ancient Roads process as outlined in state statutes is different than what you outlined in your letter.

Ms. Russell reiterated that the confusion relates to "potential use" versus the legal question in front of us, which was discontinuance of the road, or add it to the State

Highway Map to preserve a Town asset. This Board is sensitive to protect the land and preserve wildlife habitat. It is an open process. It is in the Town Plan. A question is do we retain a Town asset.

Mischul Brownstone, resident, said that in 1983 the Town paid money to conserve the rights to that land. In that process we said it wouldn't be a road, destination, or trail. We should talk to the people that served on the Selectboard at that time. We should have thrown up the road back then, stated Mr. Brownstone. Mr. Russell pointed out that two of the current Board members were on the Board during that process. There is a 100' right-of-way along the creek, which is a public access (A. Johnson land). Mr. Brownstone stated that the intention of the buffer was as a riparian buffer not for public use. The Board should research the process from that time. Mr. Russell asked if the point of the A. Johnson land agreement was to preserve it and not have people use the land. Mr. Brownstone replied no. Mr. Hamilton clarified there was a 100' buffer with no logging allowed. The public would have access, but not as a thoroughfare.

Mr. Brooke said that the Town owns the right-of-way. There was a project to identify all Town land and put it on a map. For example, the public has a right-of-way down to the big pier at the Ferry dock, and the Town owns three piers at Thompson's Point Road. Regarding Ms. Morse's point on the public process, there should be a town-wide survey of all Town parcels.

Ms. Morse said the Town Plan is important to Charlotte and it has taken a lot of time to write one. There were many town meetings on the Town Plan. We never heard of an ancient road in this area. We have Lewis Creek Road, which is designated as a scenic road. In the Harris report there are words, such as "ambiguous" and "undefined".

Mr. Brownstone said that the area residents all walk the land. We appreciate it, and it is posting "no hunting." We don't want it on a map, stated Mr. Brownstone. Mr. Ladue reiterated that was use and we should have a conversation on use.

Mr. Allegretta reiterated that potential mountain biking, ATV, and snowmobile use is concern. If it is a Class IV road that would encumber our land and it would have an impact when we want to sell. Mr. Ladue clarified that it is a legal Town right-of-way versus an instrument of use. Use makes sense for a walking trail. This is a Town owned property that is open with very little use.

Mr. Ladue noted that the Trails Committee created a list of all ancient roads. The process per state statutes is to warn people of ancient roads. To get the roads accepted on the State Highway Map there are dates that must be met, and certain tests must be met.

Mr. Hamilton suggested that the landowners and Trails Committee meet to discuss alternate locations (of the road). Some of the portion of the road overlays the 100' buffer zone. We would want to keep it out of the buffer.

Ms. Cheney read the minutes of a 2004 Conservation Committee meeting, and asked how do get the road off her property as posted on the Town map and off Brooke's website. It doesn't start in my yard.

Ms. Davis asked how the Trails Committee picked the ancient roads and what criteria was used. Emily Allegretta replied that the Trails Committee created a list of roads in 2004. An evaluation was applied that included "connection value", present condition, etc.

MOTION by Mr. Ladue , seconded by Ms. Cole, to continue the Public Hearing regarding Meander Street to Monday, October 22 at 7:30 p.m.

DISCUSSION:

Mr. Ladue said that he would like to have time to respond to the Cohen letter and new information. He would be interested in hearing from Harris regarding his survey; for example, what is the "zone" and he if used meets and bounds from the Town records to lay out the roadway.

Mr. Russell said that Harris didn't peg the western end. Is it worth saving a road that goes through a pond and crosses a creek, asked Mr. Russell. Mr. Ladue asked if it was possible that the river has shifted in time. Ms. Morse said that the river has shifted its bed.

Ms. Russell commented that the Town retaining ownership doesn't mean you have to have the roadway in that particular location. You can adjust it, or relocate it.

There was further discussion regarding the legal location of Meander Street. Mr. Ladue explained that legally you must prove that it legally exists and provide a sketch map. Ms. Cheney said that she understood that if the road location was challenged then the Town must do a survey.

Friendly Amendment to the motion by Mr. Russell to continue the public hearing to November 26th to allow sufficient time for review of the documents and letters.

VOTE: 3 ayes; 2 absent (Mr. Stone, Mr. Thornton); motion carried.

8. SPEED ENFORCEMENT – CONTINUE CONTRACTING CHITTENDEN COUNTY SHERIFF

Mr. Russell reviewed a report on speed enforcement submitted by the Chittenden County Sheriff. The Board received a letter from a Greenbush Road resident in support of the speed enforcement, and a telephone call with a complaint.

Ms. Cole asked if the police were covering all the town roads versus just Greenbush Road.

Mr. Ladue asked if there was a road survey being done. Mr. Russell replied yes. Traffic counts were being recorded.

Mr. Ladue spoke in support of continuing speed monitoring for another two months and to add Charlotte/Hinesburg Road to the list.

MOTION by Ms. Cole, seconded by Mr. Ladue, to continue a Speed Enforcement contract with the Chittenden County Sheriff for another two months as presented. VOTE: 3 ayes; 2 absent (Mr. Stone, Mr. Thornton); motion carried.

9. DISCUSSION OF CONSTABLE DUTIES

Mr. Russell reviewed the qualifications of a potential candidate for constable. A question was should the constable be appointed with the same duties as Hugh Lewis, or limit the duties.

Andrew Thurber said if a constable would have jurisdiction regarding enforcement of cutting of trees in a Town right-of way. Mr. Ladue replied that the Tree Warden was in charge of that.

Ms. Cole spoke in support of limited powers and continued discussion.

Mr. Ladue said the Board should contact the Town Attorney, or the Vermont League of Cities and Towns.

10. PLOUFFE LAND LANDFILL – INSTALLATION OF STEEL RISERS AROUND MONITORING WELLS

MOTION by Mr. Ladue, seconded by Ms. Cole, to approve the installation of steel inter-locking risers around the monitoring wells at the Plouffe Lane landfill for an amount not to exceed \$630.00.

VOTE: 3 ayes; 2 absent (Mr. Stone, Mr. Thornton); motion carried.

11. SELECTBOARD UPDATES

- Gadhue zoning violations – the Gadhue's built beyond the permit and has since turned it into a patio. The Board took no action. Discussion would continue at the next meeting of the Board.
- Add to the next meeting agenda: the Tom Mansfield Memo regarding outstanding violations.
- A Ferry Road discussion referred to a path/sidewalk project on Ferry Road. The project would be added as a line item to the budget. A discussion regarding funding for the project would be added to the agenda of the next meeting of the Board.
- A Hickok and Boardman insurance quote would be reviewed.

12. BILLS AND WARRANTS

The Selectboard signed Bills and Warrants as presented.

13. ADJOURNMENT

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

VOTE: 3 ayes, 2 absent (Mr. Stone, Mr. Thornton); motion carried.

The meeting was adjourned at 9:30 p.m.

Respectfully submitted, Kathlyn L. 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.