

**TOWN OF CHARLOTTE
SELECTBOARD MEETINGS
NOVEMBER 26, 2007**

APPROVED

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

OTHERS: David Miskell, Linda Hamilton, Robbie Stanley, Eleanor Russell, Robin Reid, Dorothy Pellett, Matthew Krasnow, Carrie Spear, Terry Harris, Andrew Thurber, Gary Pittman, Jeff McDonald, Frank Tenney, Emily Allegretta, Mark Allegretta, Brooke Scatchard, Woody Keppel, Janie Cohen, Dina Townsend, Helen Toor, Robert Chutter, Walter Gates, Lee Minkler, Kay Gault, Mary Perkins, Mary Chenney, Gretchen Morse.

NOTE: the agenda was heard out of order, but appears in the warned order for continuity.

1. CALL TO ORDER

Ms. Russell called the meeting to order at 7:01 p.m.

2. ADJUSTMENT TO THE AGENDA

None.

3. PUBLIC DISCUSSION

None.

4. APPROVAL OF MINUTES

MOTION by Ms. Cole, seconded by Mr. Stone, to approve the minutes of 11/19/2007 as written with the following corrections/additions:

Page 2, 5th paragraph, change the word "seepage" to "flow";

Page 5, 3rd paragraph, change to read "...State Police Quarterly Report to the Citizen Advisory Board...";

Page 6, 5^h paragraph, 1st sentence, add to end of sentence "...regarding an appointment letter."; in the Motion change to read "...the normal 3 hours per week."

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

5. APPOINTMENTS

MOTION by Ms. Cole, seconded by Mr. Stone, to appoint Dina Townsend to the Recreation Commission to complete the term of Gregg Beldock, expiring in 2009.

DISCUSSION:

Robin Reid noted that Mr. Beldock's term has already expired. There may have been a few five-year terms, but they were changed to three-year terms. Mr. Russell suggested that staff research the length of terms. Mr. Ladue said that Mr. Beldock had resigned and his term went from 2006 to 2009.

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

MOTION by Ms. Cole, seconded by Mr. Stone, to appoint Bill Fraser-Harris to the Recreation Commission to complete the term of Wooksang Roh, expiring in 2009. VOTE: 4 ayes, 1 absent (Mr. Thornton); motion carried.

6. MEANDER STREET – DISCUSSION OF ADDING THE ROAD TO THE TOWN HIGHWAY MAP

Mr. Russell opened the floor for discussion noting that an informal hearing process regarding the Town's ancient roads had begun one year ago. This was not a formal hearing, stated Mr. Russell.

Mr. Russell handed out copies of a Site Plot of the Harris (based on Town records) survey regarding a probable layout of Meander Street, and a copy of the A. Johnson deed that included a public access easement and map. The purpose of the easement handout was to clarify that the Town had an access on the A Johnson land, which was described in writing as "non-motorized pedestrian/recreation use" and "maintenance of one footpath" within a 100' buffer from Lewis Creek.

There were no audience questions regarding the easement language as stated in the A Johnson deed.

A Town topographic map showing a possible route of Meander Street, and a second map showing property lines along Lewis Creek was handed out.

Mark Allegretta, resident, said that the process to identify a Meander Street route has gone on for a year and he appreciated how complex and challenging the issue was. Ancient roads were a Town asset, as are the Town's woodlands. Since the last meeting he was prompted to look at his deed to see if there was any mention of Meander Street crossing his property. He researched the Town records back to the original land grant (Lot 12) and there was no mention of it on his land. There clearly was intent to put a road there, but legally there was no conveyance by any of the land owners.

Mr. Allegretta asked what the next steps were regarding the consultant's role (Mr. Harris). Mr. Russell explained that the next step for the consultant was to go on the ground and see if there was any evidence of the road.

Mr. Russell asked if the survey done mentioned the old creek road. Mr. Allegretta said that in his research there was no mention of Coits Road or Dugway Road. Mary Chenney said that alludes to the fact that roads weren't properly, or legally laid out. They were usually located along property lines going from one farm to the next, said Ms. Chenney. Mr. Russell said that Roscoe Road was determined as the old creek road. Dugway Road was where the topographic map shows where a side of hill was dug away to create the road. Mr. Russell pointed out Coits Road on the map. Town records say it was a road and there is some evidence that Meander Street was built.

There was lengthy discussion regarding the subdivision of (Mr. Allegretta's) parcel over time; the Coit parcel that was created in the original division of the land grant; a question

if Meander Street had been thrown up at some point (there was no record to support the suggestion); and if a jog in the proposed Meander Street route across the creek and back was right, or not. Mr. Russell said a question was if the Town should hire Harris to go out to find the road on the ground. There was a trace of it against the existing roads and the two ends of Meander Street were pinned at the two bridges.

Gretchen Morse, resident, said that before the Town paid a consultant for a ground survey, the fact that we can't establish a legal conveyance (in our land deeds) means that the road doesn't exist. I don't think that the Town wants to assert that they own a "road" through private property without a record. It is ambiguous to assume that there is a road, which hasn't been used in 100 years or more. Don't we need to know what question the Selectboard is asking, said Ms. Morse. Mr. Russell said the question is does the road exist, or not. The State of Vermont has laid out a process to recognize ancient roads. Meander Street was established in 1792 as per Town records.

Ms. Cheney said that as per the Vermont Constitution there has to be a legal conveyance by landowners to establish roads. Terry Harris, consultant, clarified that was not the process. Most early roads were created through petition to the Selectboard to open a highway from one point to another. The process evolved over time to hold site and public hearings. There weren't legal conveyances, but a travel way over someone's land – not a conveyance by the land owner. In Burlington, the records were provisions of dedications of early roads.

Mr. Van Cleve, resident, asked if the Selectboard had walked the land looking for evidence of Meander Street. Mr. Russell replied yes. Mr. Van Cleve asked if there was talk of re-establishing the road. Mr. Ladue replied that the first question was should the Town keep the right-of-way. Mr. Van Cleve asked if there was a proposal to use a part of the road. A second question was if the right-of-way should be maintained. As you go down the east end of Roscoe Road there are a number of small meadows. At the end of the second meadow there are two gulches. I have gone up the steep embankment of 20-30' and had to do it my hands and knees it is that steep. Secondly, on the left side of the creek is a steep embankment. You can walk along the creek only when the water is low enough. Heather Garvey (?) said that as a kid she tubed down the creek while her parents walked along a path through the meadows. I guess that was Meander Street. The creek bed has moved and reclaimed the path. There are practical impediments to reclaim the right-of-way.

Mr. Russell asked Terry Harris to review next steps, and the process used to survey a road from the ground.

Mr. Harris explained (to address Ms. Morse's concerns) that at this point it is unknown what is on the ground and what could be used for public use. I understand that a number of people have attempted to find some evidence of a road. If I continue to be involved I would try to find evidence of an ancient road, which would need to be done before snow cover.

Ms. Reid asked what the rush was. Mr. Russell explained that the state has set a deadline of February 2009 to have ancient roads added to the State Highway Map, after which the ancient roads would be “thrown up” automatically.

Ms. Cole asked that given the age of this ancient road, would it be difficult to determine what evidence of the road was from other uses around the creek. Mr. Harris replied that given the age of this ancient road it would be difficult to determine what was the road versus a skid road through the A Johnson land. I would try to determine what some of these other roads/paths are, and to interview people in the area. The process would be to investigate the area and report back to the Board. There was a 1792 description in the Town records and some of the courses were known, such as point A to B. Other courses appear to be non-sensical, or an error by a scribe into the land record. In the area of concern (Ms. Morse’s parcel) the lower bridge to the upper bridge are known. There is only one “peak” in the road. It is challenging to place an 18th century survey with as many courses (jigs and jogs) as this one. It is hard to establish the best fit (route of the road) and we would accept some variances.

Ms. Morse stated that the creek has shifted dramatically over time. What does the Board need to establish a right-of-way, asked Ms. Morse. Mr. Russell replied that the Town would look to a professional to determine the best route of the road, and if it was defensible in court if necessary.

Mr. Ladue asked (Ms. Morse) what right-of-way she was referring to. The term used by the state was “unidentified corridors”, clarified Mr. Ladue.

Janey Cohen, resident, thanked the Selectboard for responding to her letter. Retaining a trail was a different process from a highway. Mr. Russell said it was not clear that a survey was needed. Mr. Ladue said that he had contacted the AOT, Department of Highways, and asked if we needed a formal survey. They answered no, said Mr. Ladue. Mr. Russell said that the road could be downgraded to a trail.

Mr. Harris said that the Town could discontinue the road and then reclassify it as a Town trail. That would provide a right-of-way for the Town, but doesn’t require a survey.

Ms. Cohen asked who would maintain, or police the trail - does it fall to the landowners. Mr. Russell replied that normally, if it is a Class IV road, it would be the Town, if it is a trail then I don’t know. The A Johnson easement calls for a trail, said Mr. Russell. Mr. Ladue said that if the Town pursued identifying Meander Street, we could end up with two rights-of-way across the A Johnson land.

Mary Perkins asked if there was any reason it can’t be a trail. Mr. Russell replied that we are talking about a trail maintained by the Trails Committee. Mr. Ladue added that we are talking about a trail that could be used in the future.

Ms. Perkins asked if there was a right-of-way, what did that mean. Mr. Ladue said that it would be placed on an official Town map and as a trail. The Town would maintain it, simply stated.

Linda Hamilton, Conservation Commission representative, said that it makes the most sense for the Selectboard to step back from Meander Street and start fresh. Use a screening process to look at all the Class IV roads and classify how they differ, how Town buildout affects the need for retaining a road, and identify the easiest ones first. Do a second screening determined by the community which ones were important to see what comes out. I hope the Board would let go (of Meander Street) and start over again.

Mr. Russell said that the Board already weeded out roads that we are looking at. Ms. Hamilton said that the public doesn't know the criteria used to identify those roads. There is a lot of angst, stated Ms. Hamilton. Mr. Russell said that the Board picked Meander Street because that seemed the easiest one to start with. The public already has public access through the A Johnson property.

Ms. Cole asked if there was an area in Town that should be looked at first.

Mr. Russell said we have Terry Harris, consultant, here. A question was if he should go on the road, or not. Ms. Cole asked if there was any benefit to having Mr. Harris go on the ground to find portions of Meander Street. For example, the jog to the north. We have Roscoe Road to the A Johnson property. There is no reason to have a second right-of-way on the A Johnson property, said Ms. Cole.

Mr. Harris said that what I expect to find versus what I do find may be different. There has been sporadic uses (of the roads) in the area. It might be important to fix a portion of the road, and by not going on the A Johnson property I could miss a vital part of evident on the A Johnson property. Regarding a formal survey, there are many different pieces to the process. A survey is one part/piece of the process. There is an understanding with Mr. Russell that it is a step-by-step process. We could find there is, or is not, a public right-of-way. To say at what point it becomes a formal survey would suggest a next step for some on-site investigation of at least one-half a day.

Mr. Russell asked what (Mr. Harris) would need to legally go on a person's property. Mr. Harris said I like to proceed by keeping the process informal as long as possible and without any special notice. I would contact landowners directly during an investigation.

Mr. Stone stated he didn't want to proceed any further. When the February 2009 date comes then the ancient roads are gone. The Trails Committee wants \$30,000 for a portion of this trail and \$15000 for a portion of another trail. It is a disgrace, said Mr. Stone.

Ms. Cole said that it might be helpful to have more information. After seeing that there is an access on the A Johnson property it seems to make sense to establish some way to negotiate with landowners. If it is an ancient road already then we should know where it goes, or not.

Ms. Cheney said if he finds there is some evidence of a road, then would you go through a legal process, and at what cost. Mr. Ladue replied that it sounds like that there an ancient road. It depends on what is found on the ground, which would help to clarify a probable route. I have walked the road, Brooks (Scatchard) has walked it and there is evidence that there is “a” road. To place a right-of-way on an official map doesn’t require a formal survey.

Holly Toor, resident, said that she is hearing that we are going down this path only because we can. Let’s spend money and do research. When some people say that it doesn’t cross their land do we really need this, asked Ms. Toor. Mr. Russell replied that it goes to fact that it is a Town asset. There is a need to preserve our Town assets. It may be 100 years from now that we make use of these assets.

Ms. Cohen said she understands that landowners get noticed regarding a survey in state statutes. If (Ms. Morse and Ms. Cheney) need a formal conveyance, then it looks like the Town needs to prove a right-of-way has to be conveyed to the Town by a landowner, or predecessor.

Mr. Russell explained that the Town has grant money to perform an on ground look. Mr. Harris reiterated that he could do an on ground survey in one-half day to a full day, with a follow up discussion with landowners for \$800 with a report to the Town.

MOTION by Ms. Cole, seconded by Mr. Ladue, to approve an expenditure of up to \$800 for Terry Harris to go on Lewis Creek properties to investigate further evidence of Meander Street.

VOTE: 3 ayes, 1 nay (Mr. Stone), 1 absent (Mr. Thornton); motion carried.

7. BUDGET REVIEW

LISTERS

Kay Gault, Lister, explained a 7.2 percent increase in the Lister’s budget. The biggest increase was 300 percent for a computer software license paid to the state. Ms. Gault explained that the Apex IV software allowed the listers to sketch footprints of structures.

The Board thanked Ms. Gault for her report.

SENIOR CENTER

Robert Chutter and Walter Gates, Senior Center representatives, explained a proposed budget increase from \$60,000 to \$61,500, which represented a 3 percent increase in salaries. Revenues more or less equaled program expenses.

Mr. Stone suggested adding money in the budget for an emergency generator. A grant application would require a town match, which could be a budget line item, or a separate Town Meeting article.

Mr. Gates explained that the Senior Center has an estimate of \$6,000 to paint the building. Mr. Stone asked that a firm quote be brought before the Board for discussion. Three bids were a normal process and should be local Charlotte firms if possible.

The Board thanked Mr. Chutter and Mr. Gates for their report.

PLANNING & ZONING

Jeff McDonald, Planning Commission representative, reported that the Planning and Zoning departments were discussing an increase in Town fees. Advertising warned meetings in "Seven Days" has saved the Town money. Budgeted items included fire proof cabinets and equipment/furniture. There was a question if funds to scan Town records should be included in the budget.

Mr. Ladue suggested contacting the Secretary of State's office to determine how long town records should be kept. Use this year to plan a scanning schedule and next year to implement. Mr. Russell said that the Town Planner has contacted surrounding towns regarding a process.

There was brief discussion regarding a proposed Planning and Zoning budget that included \$10,000 for a ground water study, \$2,000 for an East Charlotte Village study, and a total increase of 10 percent, or \$15,000, to the budget. Increasing recording and permit fees would reduce that total.

Mr. McDonald reported that once the new Town Plan was passed, the next project would be zoning revisions. It was anticipated that outside consultants would be hired for the process.

The Board thanked Mr. McDonald for his report.

8. CLARK HINSDALE, III – REQUEST TO CONVEY OPEN SPACE AGREEMENT ON BIG OAK SUBDIVISION TO THE VERMONT LAND TRUST

David Miskell said that an open space agreement with the Vermont Land Trust superceded the agreement with the Town.

MOTION by Mr. Stone, seconded by Mr. Ladue, to approve a Quit Claim Deed (Open Space Agreement) for land owned by Clark and Suzanne Hinsdale, III, on Thompson's Point Road pending review by the Town Attorney, and to authorize the Selectboard Chairperson to sign the agreement on behalf of the Town of Charlotte.

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

9. LETTER FROM WILLIAM BENEDICT AND BARBARA McCLURE BENEDICT

Mr. Russell reviewed a letter from William Benedict, dated 11/14/2007, in response to a Zoning Administrator memo. A question was if the Selectboard should discuss the issue with the Benedict's before taking any further action. It seems to be a misunderstanding of what Mr. Mansfield did on behalf of the Benedict's.

Mr. Stone and Mr. Russell would contact the Benedicts.

(NOTE: the following discussion took part at a later time in the meeting.)

In response to an audience question, Mr. Russell explained that a deck built at the Gadue camp was done without a proper permit. The deck was removed and a patio was built instead. A patio does not require a permit. Mr. Benedict was not happy with the action taken by the Town. The Zoning Administrator wrote a memo regarding the Town's point of view. Mr. Mansfield worked with the Benedict's to cure the violation, said Mr. Russell.

Walter Gates, Ferry Road and Cedar Beach resident, explained that he was appearing as a full time resident and not as a Cedar Beach Board member and shareholder. The Selectboard owes a thank you to the Zoning Administrator and should support the enforcement action taken. A fine levied by the ZA against Gadue was not enforced by the Selectboard. I spoke to Mr. Mansfield and he said that it was up to the Selectboard to enforce the fine.

Mr. Russell explained that a fine of \$100 per day retro-active to May 1st is the maximum fine allowed. We needed an end date. There was a situation in the past where the Town pursued enforcement action regarding a violation and only recovered the legal costs. The Board has discussed a policy for fines several meetings ago.

Mr. Gates expressed concern that the Board was undercutting the ZA's authority if they didn't enforce an action.

Mr. Stone stated that this discussion should take place when the ZA was present, so that the ZA could make his own accurate statements. Mr. Gates pointed out that there were letters and documents in the Town files. The action related to Gadue says that the remedy must be completed by August 20th, or there would be a fine of \$100 per day retroactive to May 1st. Mr. Gates read an MOU, dated 02/01/2007, that the Benedict's have a problem with the ZA's decision process.

There was discussion regarding the Cedar Beach Association rules and regulations related to construction (Mr. Gates said that any construction required approval by the Cedar Beach Association that the application was supported by the association, and that an application would not receive support without approval of all the abutting camp owners.); Cedar Beach Annual meetings and Executive Committee meetings; and the fact that the abutting camp owners did not support the Gadue camp deck application unanimously on a vote of 4-3, but the Executive Committee did vote for approval.

Mr. Ladue asked if the actions addressed the concerns. Mr. Gates replied that a patio was built, which did not require a permit. That addressed the violation, whether it was right or not. Gadue is thumbing his nose at the Selectboard.

Frank Tenney, Zoning Board of Adjustment member, said that the ZA addressed the structure that was built. When it was torn down a patio was built and that addressed everyone's concerns.

10. BILL AND WARRANTS

The Selectboard signed Bills and Warrants as presented.

11. ADJOURNMENT

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

VOTE: unanimous; motion carried.

The meeting was adjourned at 9:15 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.