

**TOWN OF CHARLOTTE  
SELECTBOARD  
MINUTES OF MEETING  
MAY 23, 2005**

**APPROVED MINUTES 06/23/05**

**MEMBERS PRESENT:** Eleanor Russell, Chairperson; Ed Stone, Francis Thornton, Charles Russell.

**MEMBERS ABSENT:** Jennifer Cole

**ADMINISTRATION:** Dean Bloch, Selectboard Assistant.

**OTHERS PRESENT:** Scott Jaunick, Lynn Jaunick, Leandor Vazquez, Amy Vazquez, Jane Pecor, Roger Lambert, Matt Lambert, Chad Lambert, Peter Swift, Diane McCargo, Brooke Scatchard, David Miskell, Kate Lampton, Gary Franklin, John Hammer, Andrew Thurber, Robert Mack Jr, and others.

(NOTE: the agenda was heard out of order, but appears in order for continuity)

**1. CALL TO ORDER**

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

**2. ADJUSTMENT TO AGENDA**

None.

**3. PUBLIC DISCUSSION**

None.

**4. APPROVAL OF MINUTES may 9, 2005**

**A MOTION by Charles Russell, seconded by Ed Stone, to approve the minutes of 04/11/05 as written, with corrections:**

**Page 3, delete last sentence from the second paragraph from the bottom.**

**Page 5, correct a typo "...to through" to read: "...go through...";**

**Page 6 #8, bid explanation: replace "Ellie Russell" with "Ed Stone"; globally correct the name "Hoskins);**

**Page 8, 1<sup>st</sup> paragraph, last sentence; delete "A man..."; delete the words "...wouldn't be paved.";**

**Page 9, correct the amount of "\$15" to read "\$1500"; and change the sentence regarding the VHCB decision to read: "CHVB has requested continued Town reports regarding affordable housing projects, such as the Titus Farm, which has been approved."; D) change to read: "...reviewed and approved town policies."; strike the last paragraph.**

**VOTE: 4 ayes, 1 absent (Jennifer Cole); motion carried.**

**4. JEAN PECOR – REQUEST TO AMEND GRANT OF DEVELOPMENT RIGHTS**

Jane Pecor explained a request to amend a grant of development rights to allow an addition for run-in shelters in the building envelope. A pony shed was an addition to a

run-in shed. The Land Trust had no problem with the request for an additional shed. There were three existing sheds and two more were allowed.

Ellie Russell said that an outside riding ring, which can't be covered, needed to be amended also.

**MOTION by Charles Russell, seconded by Ed Stone, to approve amendments to the improvements in a Conservation Restriction for the Jean Pecor property, Green Bush Road, and to authorize the Charlotte Chairperson to sign the document on behalf of the Town.**

**VOTE: 4 ayes, 1 absent (Jennifer Cole); motion carried.**

**5. CHAMPLAIN VALLEY COHOUSING- REQUEST TO NAME A PRIVATE ROAD: WINDING LANE**

Charles Russell pointed out that the proposed Winding Lane road name could be confused with similar Charlotte road names, such as Windswept or Windy Ridge.

It was suggested that the Champlain Valley Co-housing agency submit a list of alternate road names for Town review (including the Highway, Fire and Rescue departments).

**6. PERRY SUBDIVISION – AMEND OPEN SPACE AGREEMENT TO CLARIFY THAT RESIDENTIAL USE OF THE EXISTING DWELLING ON LOT 1 IS ALLOWED**

Leandro Vazquez explained a proposal to purchase Lot 1 of the Perry subdivision, and to clarify language for the purpose of living in an existing farmhouse while building a new house on Lot 3. (A Site Plan was submitted.) Scott Jaunich said that excluding existing farm building(s) and the farmhouse was an oversight on the original approval. The amendment would establish residential use and an accessory building use.

Charles Russell read conditions of the Perry subdivision related to zoning bylaws and land use regulations.

Dean Bloch reviewed that the farmhouse on Lot 1 was currently a two-family residence. The amendment should include language so that the applicant could change use to a single-family use. The house was permitted as a two-family. The Town Attorney would submit specific language and authorize the Chair to sign the document as a duly authorized Town agent.

**MOTION by Charles Russell, seconded by Frank Thornton, to amend the Agricultural and Open Space Land Agreement, dated 02/11/00, Exhibit A, Land Record Vol. 109, page 436-442, Perry property, located Route 7, Lot 1, subject to review by the Town Attorney.**

**VOTE: 4 ayes, 1 absent (Jennifer Cole); motion carried.**

**7. HIGBEE ROAD – APPROVE PREPARATION OF APPLICATION FOR A CONDITIONAL USE DETERMINATION PERMIT FOR WETLANDS IMPACT**

Ellie Russell reported that a wetland was discovered in the proposed Higbee Road. A Conditional Use Determination was needed.

Dean Bloch reviewed findings of a site walk two weeks ago regarding the best route for relocation of the proposed road. Dean Bloch handed out copies of a Lamoureux and Dickinson estimate of \$2,700 for a Wetland Study and \$300 for a permit application.

There was brief discussion regarding delineation of a Class III wetland versus a Class II wetland (differences in vegetation and hydro-soils); approval to apply for a Conditional Use permit; if a Town map showed where the proposed road route (the route was staked out on the property); visual impacts related to active agricultural use; and an application that would address functions of a wetland and values of that wetland.

**MOTION by Charles Russell, seconded by Ed Stone, to accept the proposed Lamoureux and Dickinson estimate for an additional \$2,700 on the current contract to submit a Conditional Use Determination Permit to the Agency of Natural Resources as presented.**

**DISCUSSION:**

**Frank Thornton commented that the Town shouldn't spend money for a road needed by a private individual. The road has existed for 200 years. Ed Stone said that the change was necessary for safety. The amount spent to get a better Town road was small.**

**VOTE: 3 ayes, 1 nay (Frank Thornton), 1 absent (Jennifer Cole); motion carried.**

**8. TOWN'S PARTICIPATION IN APPEALS OF LAND USE DECISIONS TO ENVIRONMENTAL COURT**

Dean Bloch reviewed two appeals to the Environmental Court. One was for a ZBA decision and the other was for a Planning Commission decision. The adjoining neighbors filed the appeals. The Town may not be interested as a participant, but would file an appearance to monitor the appeals.

There was brief discussion regarding the septic rights of a neighbor who feels he has rights and the developer who doesn't think that the neighbor does.

**MOTION by Frank Thornton, seconded by Charles Russell, to authorize the Town Attorney to file a Motion to Monitor the appeal cases of Richard Pete V. Robert Bloch and John Bevan V. Harvey/Simms.**

**VOTE: 3 ayes, 1 nay (Ed Stone), 1 absent (Jennifer Cole); motion carried.**

**9. IMPOSITION OF FINE FOR TREE CUTTING ON THOMPSON'S POINT**

Ellie Russell reviewed an illegal tree cutting on Thompson's Point. The person was ordered to replace the cut trees. The Zoning Administrator was notified that eight cedar trees were planted at a cost of \$1,015. The Town has an option to impose a fine.

There was discussion regarding legal fees incurred by the Town (the Zoning Administration carried out town duties and no costs were incurred); and a fine amount that could be levied.

**MOTION by Frank Thornton, seconded by Ed Stone, to assess a fine of \$985 for illegally cutting trees by Nina and Jason Bacon as presented.**

**VOTE: 4 ayes, 1 absent (Jennifer Cole); motion carried.**

**10. CORRECTION TO WILLIAM POWERS' THOMPSON'S POINT LEASE PAYMENT**

Ellie Russell reviewed an assessment for a Thompson's Point lease to William Powers. The Town Assessor agreed that the Powers assessment was higher than a neighbors' with a similar lot.

**MOTION by Ed Stone, seconded by Frank Thornton, to refund \$165.40 in rent to William Powers for a Thompson's Point Lease payment as presented.**

**VOTE: 4 ayes, 1 absent (Jennifer Cole); motion carried.**

**11. AURORA FARMS LEASE- THOMPSON'S POINT**

Ed Stone reviewed an estimate to excavate and install a drainpipe at Aurora Farms to make the field more agriculturally useful.

Charles Russell suggested a five-year lease in place of a one-year lease.

**MOTION by Charles Russell, seconded by Ed Stone, to authorize the Charlotte Chairperson sign a one-year agricultural lease for the lease of Aurora Farm on Thompson's Point, including 25 acres of the Town Poor Farm.**

**VOTE: 3 ayes, 1 abstain (Frank Thornton), 1 absent (Jennifer Cole); motion carried.**

**12. INTERVIEWS FOR PLANNING COMMISSION VACANCY**

The Selectboard interviewed Robert Mack Jr and Andrew Thurber, candidates, for a Planning Commission vacancy and reviewed the candidates qualifications.

**MOTION by Frank Thornton, seconded by Ed Stone, to appoint Robert Mack Jr for one year to complete Al Moraska's term.**

**VOTE: 4 ayes, 1 absent (Jennifer Cole); motion carried.**

**13. RESTRICTIONS OF MOTOR VEICLES ON SPEAR GERVIA ROAD (aka Uncle Tom's Road)**

Ellie Russell reviewed a prior meeting discussion regarding a request to restrict motor vehicles on Spear Gervia Road.

Frank Thornton commented on a decision of the Board that changed Spear Gervia Road to a Town trail of the same width. If it was a Town trail then motor vehicles were

excluded. A Town trail was restricted to foot passage by state statute, said Frank Thornton.

Ellie Russell read a Selectboard decision to allow the McCargo's to put up a gate at their cost and that would indemnify the Town from liability. The Town could lock gate if it so chooses. The road/trail was a Town is a right-of-way.

There was lengthy discussion regarding potential restrictions to the right-of-way; if the road should be restricted, or not; a written request from Mr. Clark to restrict the McGuire-Pent Road at the same time; state statutes related to Class IV roads and town trails (a notice was received from the Secretary of State regarding trails, which implied that motorized vehicles can use trails); and a suggestion that the Lambert's could access their land from McGuire-Pent Road if the right-of-way was gated at the McCargo end. Roger Lambert stated he may build a house(s) at some point and would need to access the land with vehicles. Charles Russell said that there was no intent to restrict the landowner's use, just the general public's ability to use vehicles on the right-of-way.

Ellie Russell said that upgrading the road was not being discussed at this point. Frank Thornton said that all the issues should be addressed at the same time.

Ellie Russell read an October 1987 Selectboard determination regarding repairs to the road. Diane McCargo stated she had not seen a request/approval to upgrade the road. Roger Lambert said that when he purchased the property he contacted the Town Zoning Administrator and received verbal permission to add gravel to the roadway. Roger Lambert spoke against any restrictions to the road, and asked to add discussions regarding road upgrades to the Selectboard agenda. Any discussions involving the road would include all parties whose land abuts both Spear Gervia and McGuire-Pent roads.

Regarding a right-of-way to the Lambert land from Mr. Clark, Mr. Clark stated that there was no deeded right-of-way.

Ellie Russell reiterated that the Selectboard was not addressing road upgrades at this time. Locking a gate was the sole discretion of the Selectboard, said Ellie Russell. Diana McCargo said that (Jonathan) was in favor of gating it as long as he could access the road for agricultural uses.

Dean Bloch handed out license agreement copies to the Lambert's and McCargo's.

Mr. Clark stated the Town should leave the roads as is. Charles Russell explained that the road was downgraded to a trail so the town would not have to maintain the bridges or roadway.

Matt Lambert expressed concern that if public vehicle traffic was restricted that might impact (the Lambert's) ability to sell or develop their property. Ellie Russell said the Town could revoke the written agreement.

Gary Franklin, Trails Committee Chairman, asked if the property owners had understood the ramifications (if the Town threw up the road) when they purchased the property. Dean Bloch noted that the Trails Committee has suggested that people could park and then walk in. Gary Franklin suggested making the road a private road.

Frank Thornton said that the Okemo decision states that a town could not land lock property owners. A provision could be written to allow the property owner's successors and assignees the right to use the roads.

It was suggested that the landowners come up with suggestions for a mutual agreement. The Selectboard would also continue to examine options and then would address the McGuire-Pent Road. Ellie Russell asked if there were any foot traffic concerns,.

David Miskell asked if the October 17,1987 Selectboard letter to the Lambert's was recorded in the Town records.

Roger Lambert noted that the road was relocated from between a house and barn toward a fence line.

Diana McCargo expressed concern regarding any upgrades of the road and potential impacts to their property.

Ellie Russell read a 05/16/05 ACT 250 jurisdictional opinion. Copies would be given to the McCargo's along with a copy of the Lambert letter. Landowners should contact Ed Stone or Charles Russell to set up a meeting.

Mr. Clark would forward a list of names that included abutters to the McGuire-Pent, Spear Gervia and Spear roads to Ed Stone.

#### **14. TRAILS COMMITTEE PLAN FOR PLOUFFE FARM ROAD TRAILHEAD**

Charles Russell noted that Gregg Beldock had requested that the Selectboard table discussion of a proposed trailhead plan for the Plouffe Farm Road.

Gary Franklin, Trails Committee Chairperson, reviewed plans for the trail as an anchor to other trails, which could be done via private licenses or other methods, a Vision Map that included the town dump property, and a proposed floating easement from the subdivision.

There was lengthy discussion regarding Plouffe Road (was a town owned property versus a town road); maintenance (by Gregg Beldock); public access for a proposed parking lot (suggested at the dump); and issues with property owners. Gary Franklin explained that deeds were researched and it has been identified that the Town could do what was best in the public interest without restricting the landowners in the back.

There was further discussion regarding gates at the former dump that were locked at 5:00 p.m. and monitoring of wells at the landfill (was monitoring needed or not); seeking

approval for a cost estimate for parking; and potential winter maintenance costs for recreational uses. The Plouffe Lane neighbors needed to be notified of discussions/concerns. A connection to Spear Street would be impacted if Beldock refused permission to use his trails. Town land would be differentiated from private land.

Staff would contact Randy Frantz and the CSWD.

For the June 27, 2005 Selectboard meeting the following was requested:

- An estimate for a gate/barrier
- Clean up of rusting equipment and drums
- Landscaping of the monitoring pipes at the landfill
- Fencing at the dump area.
- The Selectboard would schedule a Site Visit for 06/27/05

#### **15. SELECTBOARD UPDATE/CHAIR'S REPORT**

Ellie Russell reported on the following items:

- A CEDS letter was received regarding Agriculture and Forestry industry interests. (It was the consensus of the Selectboard to authorize the Charlotte Chairperson to sign the letter on behalf of the Town.)
- A note was received from Alice Lawrence, Town Party coordinator, seeking permission to move the archery area to the south side of the Town Hall for safety. (It was the consensus of the Selectboard to authorize the requested change.)
- The Fire/Rescue department budget may require another \$5,000 adjustment for the EMT budget.
- VLCT awards to individual who serve towns for more than 20 years was announced. The Chairperson would forward names for VLCT recognition.

#### **16. BILLS AND WARRANTS**

The Selectboard signed Bills and Warrants as presented.

The Selectboard signed Town Highway documents as presented.

#### **17. ADJOURNMENT**

**MOTION by Mr. Stone, seconded by Ed Stone, to adjourn the meeting.**

**VOTE: 4 ayes, 1 absent (Jennifer Cole); motion carried.**

The meeting was adjourned at 10:15 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.*