

**CHARLOTTE SELECTBOARD
MINUTES OF MEETING
TOWN HALL
JANUARY 13, 2014**

Approved

SELECTBOARD MEMBERS: Charles Russell, Chair; Lane Morrison, Ellie Russell, Winslow Ladue. John Owen.

ADMINISTRATION: Dean Bloch, Town Administrator.

OTHERS: Michael Abram, Vince Crockenberg, Fritz Tegatz, Susan Smith, Dorothy Pellett, Jenny Cole, Ed Sulva, Patrice Machavern, Mary Mead, Nancy Wood, Sharron Balaban, Claudia Mucklow, Jill Lowrey, Peter Trono, Alan Hughes, Betsi Oliver, David Miskell, Michael McGinnis, Barbara McGinnis, David McNally, Robert Mack, Mary Mead, Moe Harvey, Jenny Cole, Bonnie Christie, John Hughes, Chris Davis, Jon Davis, Peter Carreio, Charlie Pratt, Eileen Schilling, Owen Arnold, John Hammer, Charlotte News; Heather McKim, Charlotte Citizen; and others.

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

ITEMS TAKEN UP:

- **Budget work-session**
- **Michael and Barbara McGinnis; hearing to review a Highway Access Permit application to create a new driveway on Higbee Road to serve a proposed building lot –action item**
- **Vermont Department of Corrections – Agreement for Community Service Work (for work at the Charlotte Park and Wildlife refuge) – action item**
- **CVFRS – Memorandum of Agreement – action item**
- **LED/LCD Flat Panel Display for Town Hall – action item**
- **Warning for Town Meeting 2014 – discussion only**
- **Richard Tenney d/b/a Tenney Enterprises – application to renew a Second Class Liquor License and Tobacco License – action item**
- **Roland’s Place Inc.- application to renew a First Class Restaurant/Bar License – action item**
- **PBM Acquisition, LLC d/b/a Point Bay Marina – application to renew a Second Class Liquor License – action item**
- **Letter of Agreement for Computer Assisted Mass Appraisal cost Table Services – action item**
- **Recreation Program – action item**

5:00 p.m. SITE VISIT: Higbee Road for Highway Access Permit application submitted by Michael and Barbara McGinnis

CALL TO ORDER

Mr. Russell, Chair, called the meeting to order at 6:00 p.m.

BUDGET WORK-SESSION

The Selectboard reviewed a draft budget. Following discussion the Selectboard scheduled a continued work session on the draft budget on Tuesday, 01/14/2014, at 7:30 p.m.

ADJUSTMENTS TO AGENDA.

Add: Check payment to Cromwell for the new Ambulance action item.

PUBLIC COMMENT

None.

MINUTES: December 16, January 6

MOTION by Mr. Owen, seconded by Ms. Russell, to approve the December 16, 2013 Selectboard minutes as written.

VOTE: 5 ayes; motion carried.

MOTION by Mr. Ladue, seconded by Ms. Russell, to approve the January 6, 2014 Selectboard minutes as written,

VOTE: 4 ayes, 1 abstention (Mr. Owen); motion carried.

MICHAEL AND BARBARA MCGINNIS; HEARING TO REVIEW A HIGHWAY ACCESS PERMIT APPLICATION TO CREATE A NEW DRIVEWAY ON HIGBEE ROAD TO SERVE A PROPOSED BUILDING LOT –action item

MOTION by Mr. Ladue, seconded by Mr. Owen, to approve a Highway Access Permit, HAP13-14, request by Michael and Barbara McGinnis to create a new driveway on Higbee Road to serve a proposed building lot, pending culvert recommendations by the Charlotte Road Commissioner.

DISCUSSION:

Ms. Russell expressed concern regarding the west sight distance of 250'. The road was posted at 35 mph and a 300' sight distance was the standard. However, Higbee Road was not a high speed road, said Ms. Russell.

Mr. Bloch reported that the Road Commissioner recommended a 2' x 30' culvert.

AMENDMENT to the Motion by Mr. Ladue, seconded by Mr. Owen, that a 2' X 30' culvert be installed as per the Charlotte Road Commissioner.

VOTE: 5 ayes; motion carried.

VERMONT DEPARTMENT OF CORRECTIONS – AGREEMENT FOR COMMUNITY SERVICE WORK (for work at the Charlotte Park and Wildlife Refuge) – action item

Mr. Russell briefly reviewed that a proposed agreement between the Charlotte Park and Wildlife Refuge committee and the Vermont Department of Corrections for a community service work crew had been discussed at a previous Selectboard meeting. No action was taken due to questions related to liability, said Mr. Russell.

Ms. Cole reported that she had contacted the Department of Corrections and discussed who was responsible for providing liability insurance for the Corrections work crew. She also contacted the Vermont League of Cities and Towns. It could be possible for the Town to ask the individuals in the work crew to sign a 'hold harmless' form. The crew members would be considered the same as any volunteer that provided a service to the Town. E-mails with information were forwarded to the Town Administrator, said Ms. Cole.

Mr. Russell suggested that action on the topic be deferred until the 01/27/2014 Selectboard meeting.

CVFRS – MEMORANDUM OF AGREEMENT – action item

Mr. Russell briefly reviewed a draft Memorandum of Agreement, dated 01/13/2014. The draft was finalized, except for Sections 8 and 10.

MOTION by Mr. Ladue, seconded by Ms. Russell, to adopt a proposed Memorandum of Agreement between the Town of Charlotte and CVFRS, dated 01/13/2014.

DISCUSSION:

Mr. Morrison said that Section 8, a list of ownership of Capital Assets, may not exist. The history of the Fire and Rescue Corporation began in 1951. The Town has voted on various bond notes over the years on behalf of CVFRS. Ownership of the capital equipment was not clear, or addressed. Regarding the CVFRS building, the documents related to the 1998 renovation of an existing structure points to ownership by the CVFRS, rather than the Town. The deed of the lot was donated to the Corporation, said Mr. Morrison.

Mr. Russell clarified that the 1998 letter from the Town Attorney explained that a municipality could vote on a municipal bond for a facility not owned by the municipality. At this point it was easier to have Fire and Rescue own the building and equipment. Section 10 explains that if CVFRS was dissolved then the assets paid for by the Town would be returned to the Town. Section 8 would identify those assets, said Mr. Russell.

Mr. Morrison said that the recommendation was for Fire and Rescue to own all capital assets as per Section 8. Fire and Rescue would need to inventory all equipment with a value of \$5,000 or more, and all attachments were to be updated every year. An inventory schedule would include the item, value, and ownership – either the Town or CVFRS, said Mr. Morrison. Mr. Ladue suggested adding a column that indicated what funds were used to pay for each item.

Mr. Morrison explained that Section 10 outlined what happened in case of dissolution of CVFRS. All capital assets were to be paid to the Town in value, or transfer of the asset to the Town, said Mr. Morrison.

There was discussion regarding page 3, Section 4, of the MOA. Mr. Tegatz said that Fire and Rescue should not encumber, or loan equipment to neighboring services, for example. When the Town Attorney letter was read, paragraph 2, last page, it appeared that there was a question if CVFRRS was a qualified volunteer fire department in terms of issuing a bond on their behalf, said Mr. Tegatz.

Mr. Mack explained that in 1997-1998 during Town discussions, it was said that the building would be owned by the Town. There were 1991 documents and minutes of Selectboard meetings regarding the lease of equipment and the structure at \$1.00 per year, said Mr. Mack.

Mr. Tegatz suggested that Fire and Rescue should provide collateral if the Town was giving them title to the equipment. In page 3, Section 4, a sentence could be added that CVFRS ‘...couldn’t sell, barter, lease, or loan out equipment.’ In Section 10(a), 3rd sentence, the inventory of Town funded equipment was added. How often that inventory should be updated needed clarification, said Mr. Tegatz.

Mr. Russell said that the big ticket equipment was easy to trace. The smaller value items still needed to be addressed. Section 10(b)(ii) and (b)(iii), addresses how disputes would be resolved, said Mr. Russell. Mr. Ladue pointed out that the inventory includes everything since there were no cost thresholds.

(Alan) Hughes said that wording in Section 10, page 5, line 10, ‘...unexpired value...’ has no meaning. It should say ‘...present market value...’, said Mr. Hughes.

(Jon) Davis explained that he has served on the department since early 1980. The IRS denied tax exemption for the CVFRS Corporation in the 1980s and 1990s. CVFRS became incorporated for tax purposes. When the building was constructed it was understood that it was for Fire and Rescue, said Mr. Davis

Mr. Russell read a letter from Steve Stitzle that said that the building was for the purpose of providing fire and rescue services to the Town.

(Jon) Davis suggested changing the wording in Section 10 to read ‘... in the event of termination everything of value should be returned to the Town...’ to make people more comfortable.

Ms. Wood said that in past votes regarding the sale of vehicles being replaced the proceeds would offset the cost of the new equipment. It should also include ‘...or would be put into the Capital Reserve fund...’ to clarify Town expectations, suggested Ms. Wood. Mr. Russell said that Section 4 says that CVFRS can’t sell equipment without Town approval.

Add to Section 4: "...the proceeds from the sale of vehicles being replaced would be used to offset the cost of the new equipment, or would be put into the Capital Reserve fund."

Mr. Mack asked where a non-profit would come up with cash to repay the Town as per Section 10(iii). Mr. Russell replied that if Fire and Rescue couldn't come up with the cash, then the item would be given to the Town.

Mr. Mack pointed out that the Town was providing the cash to pay for the item in the first place. Was it repaying the taxpayers for their own cash, asked Mr. Mack.

Mr. Mack asked why the taxpayers would pay \$180,000 for a vehicle, or a piece of equipment, and 5-6 years later CVFRS dissolved and that equipment was worth \$15,000-16,000.

Alan Hughes said with the agreement the Town was still funding the department every year. What if they went private and charged for services. For example, the Town of Canaan has a \$30,000 line item in its budget for a private fire department, which charges for its services, said Mr. Hughes.

Ms. Cole spoke in support of the draft MOA. Assets have a value, and if CVFRS was dissolved then the money was paid for a service provided. There were ways for Fire and Rescue to come up with funds, such as selling items. This discussion was bringing up a lot of 'what ifs', said Ms. Cole.

Ms. Wood said that the structure of Section 10 was confusing and too complicated. It was not clear what assets were being talked about. Should it be for things Town funded versus funded by the departments Special Funds, asked Ms. Wood. Mr. Russell replied yes. Section 10(i) included everything, and (ii) and (iii) clarified that, said Mr. Russell.

Ms. Mead said that she disagreed with Ms. Cole. The entire Town needed to talk about the MOA before anyone signs it, said Ms. Mead.

Jill Lowrey, speaking for a friend that could not attend, said that her friend had concerns regarding the MOA, and that the Town voters should be given the opportunity to vote on it at Town Meeting.

Mr. Mack said Section 10(ii) and (iii) would cause trouble in the future. Neither party can challenge the appraisal of the equipment. How would this be resolved, asked Mr. Mack. Mr. Russell explained that the section allowed for negotiations. Both parties would engage a mutually agreed upon appraiser, said Mr. Russell.

Mr. Trono asked if the agreement would take away someone's right of appeal of a decision made by a third party.

Mr. Carrein said that the last line could say ‘go into arbitration’ in Sections (ii) and (iii). Mr. Russell said that he would check with the Town Attorney regarding the proposed language.

Ms. Mucklow asked what the advantage was for the Town to give Fire and Rescue the assets.

Ms. Mead said that when the history of the 1956 construction of the first building was looked at you could come up with an opposite determination regarding ownership. The article at the Town Meeting said the Town was approving \$185,000 for the purchase of a new ambulance, which was taxpayer money, stated Ms. Mead. Mr. Russell pointed out that when the Reserve Fund was created via an article, the article language doesn’t say ‘equipment to be owned by the Town’. Ms. Mead stated that the Town should vote whether to give things to Fire and Rescue, or not.

Jon Davis said that CVFRS existed to serve the Town of Charlotte. Regarding Section 10(ii) and (iii), the departments were not planning on going private. The only goal was to provide fire and rescue service. Fire and Rescue members were Town residents too. CVFRS has no ability to come up with money to pay the Town for equipment, or the building. When CVFRS receive donations it doesn’t go into our pockets, it goes to providing services. If someone wants to sue the Town they sue the town, if want to sue Fire and Rescue then they sue Fire and Rescue. There was a fire wall between the two entities, said Mr. Hughes.

Ms. Cole explained that she served on Fire and Rescue squads from 1975-2000 and had an understanding of the relationship between the Town and Fire and Rescue. The MOA was not creating a new situation. She had a question of how to get information out to people regarding the MOA. Was this a role for the Citizen’s Advisory Board, asked Ms. Cole.

Mr. Mack said that most people in Town think the Town owns the equipment and building. They should have a vote on it. Who wrote the MOA, and where were the legal opinions so that the Town people could read the documents, asked Mr. Mack. Mr. Russell stated that Joe McLean wrote the MOA with input from the Corporate Board and Selectboard representatives. Both sides had legal advice, said Mr. Russell.

Mr. Foster said it sounds like everything was already given away and the MOA just clarifies it. What was the benefit of putting the MOA in place. The Town should have ownership and Fire and Rescue do the maintenance, said Mr. Foster. Mr. Russell replied that liability was one benefit.

Ms. Balaban stated that the issue should be brought before the voters at Town Meeting. The taxpayers paid for the equipment and think they owned it, said Ms. Balaban.

Ms. Christie said that she only cared that Fire and Rescue showed up in a crisis, and asked the Town Auditors if they had budget oversight.

Mr. Trono expressed concern that as a Town Auditor he asked the Corporation for information, but there weren't many things that an auditor could bring up to the Corporation because it was a private corporation. Town Auditor's couldn't question or audit the Fire and Rescue books as long as they stay within their budgeted amount, explained Mr. Trono.

Ms. Wood said that as an auditor, she feels like they have failed the Town. She has reviewed audits back to 2000. The Town has hired private auditors and has elected auditors. Questions were raised every year regarding why we don't have an inventory of Town assets and an inventory of Fire and Rescue assets. In the 2006 Town Report, page 54, it was noted that the Town of Charlotte says the Fire and Rescue building belongs to CVFRS and vehicles belong to CVFRS, except for two, which belonged to the Town. The 2004 pumper and Heavy Rescue truck show up as Town owned in the Town Report. The CVFRS property didn't appear in the Grand List for years. As the Town Auditors we should have known that. The property was finally put in the Grand List on Friday. If over the last 10 years this inventory had been done then we wouldn't be in this muddle now, stated Ms. Wood.

(Chris) Davis said that as the representatives worked through the MOA he was surprised to read Joe McLean's opinion. It was during David Schremmerhorn's service on the department that he created a Capital Reserve fund to inventory assets. Currently, items worth more than \$5,000 have been inventoried. At the last big audit we tried to give as good an assessment of items valued at \$2,000 and greater than \$5,000. Regarding issues related to a flow of information, we try to give as honest an answer as possible, said Mr. Davis.

Mr. Trono said that he had questioned the CVFRS decision to pay for stripes on the new ambulance. (Chris) Davis replied that the striping was reflected tape as per required by federal law. Nothing was being hidden thanks to Ed Sulva and Patrice Machavern, said Mr. Davis.

Ms. Mead questioned the openness of fire and Rescue to send monthly financial statements to the Town Hall as requested. She asked Patrice, and she sends me to Ellie Russell. She asks Ellie and Ellie sends her to Ed and Ed sends her to the Corporation. There were issues and excuses, and it creates a non-transparent feeling, said Ms. Mead.

Ms. Russell explained that there were two kinds of reports – one was a detailed transaction report and the second was a monthly financial report. She was told that the detailed transaction report included personally identifiable material and was not available, said Ms. Russell. Ms. Mead stated that when she was doing the Fire and Rescue books she did patient billing and that did not include personal identifiable material.

Ms. Balaban said that she called Patrice and Meg for information when she was researching CVFRS benefit information. Patrice refused to provide the information. Meg didn't return her calls, said Ms. Balaban. (Chris) Davis said that Fire and Rescue modeled their benefit plan on the Town's plan He would see that Sharron got the information.

Mr. Mack asked if all the Batchelder audit items listed in the Management Letter had been addressed. Mr. Sulva replied that all items have been addressed and would appear in the Town Report narrative.

Mr. Mack suggested that the Selectboard get a detailed inventory as per the auditor's Management Letter.

ADD to Page 4, Financial Statements, definitions of financial statements by item.

Mr. Ladue and Ms. Russell withdrew their motion in order to make suggested changes to the MOA for further discussion at the 01/27/2014 Selectboard meeting.

CROMWELL AMBULANCE PAYMENT

Mr. Morrison explained that at the January 6, 2014 meeting, the Selectboard approved a motion to pay Fire and Rescue direct for the final ambulance payment due January 21. It was recommended by the Town Clerk/Treasurer to reconsider the vote and that the Town pay Cromwell directly via wire transfer, said Mr. Morrison.

MOTION by Mr. Morrison, seconded by Mr. Ladue, to reverse a January 6, 2014 motion to pay a check to CVFRS for a final payment for the new ambulance, and that the Town of Charlotte would pay Cromwell directly.

VOTE: 5 ayes; motion carried.

LED/LCD FLAT PANEL DISPLAY FOR TOWN HALL – action item

Mr. Morrison reviewed a proposal for a 70" flat screen display for the amount of \$3,000. He was still working on getting alternate bids, said Mr. Morrison.

WARNING FOR TOWN MEETING 2014 – discussion only

Mr. Russell briefly reviewed a draft 2014 Town Meeting warning of 7 articles.

The following changes were proposed regarding Article 6:

- Remove the words "...first three months..."
- Change the word "spend" to read "borrow".
- Add the words "...for the next fiscal year."

RICHARD TENNEY D/B/A TENNEY ENTERPRISES – APPLICATION TO RENEW A SECOND CLASS LIQUOR LICENSE AND TOBACCO LICENSE – action item

MOTION by Mr. Ladue, seconded by Ms. Russell, to recess the regular meeting and convene as the Charlotte Liquor Control Board.

VOTE: 5 ayes; motion carried.

MOTION by Mr. Ladue, seconded by Mr. Owen, to renew a Second Class Liquor License and Tobacco License for Richard Tenney, d/b/a Tenney Enterprises.

VOTE: 5 ayes; motion carried.

ROLAND'S PLACE INC. - APPLICATION TO RENEW A FIRST CLASS RESTAURANT/BAR LICENSE – action item

MOTION by Mr. Ladue, seconded by Mr. Owen, to renew a First Class Restaurant/Bar License Roland's Place, Inc.

VOTE: 5 ayes; motion carried.

PBM ACQUISITION, LLC D/B/A POINT BAY MARINA – APPLICATION TO RENEW A SECOND CLASS LIQUOR LICENSE – action item

MOTION by Mr. Ladue, seconded by Mr. Morrison, to renew a Second Class Liquor License for PBM Acquisition, LLC, d/b/a Point Bay Marina.

VOTE: 5 ayes; motion carried.

MOTION by Mr. Morrison, seconded by Mr. Owen, to adjourn as the Charlotte Liquor Control Board and reconvene as the Charlotte Selectboard.

VOTE: 5 ayes; motion carried.

LETTER OF AGREEMENT FOR COMPUTER ASSISTED MASS APPRAISAL COST TABLE SERVICES – action item

MOTION by Mr. Ladue, seconded by Mr. Morrison, to approve a Letter of Agreement for Computer Assisted Mass Appraisal Cost Table Services for the amount of \$238.81 for a License that would expire 06/30/2014.

VOTE: 5 ayes; motion carried.

RECREATION PROGRAM – action item

(NOTE: the Selectboard entered Executive Session early in the meeting – see recorded times. A later motion to approve a letter related to a Recreation Program took place toward the end of the meeting.)

MOTION by Mr. Owen, seconded by Ms. Russell, to enter Executive Session for the purpose of discussing a non public document related to a new recreation program, where premature discussion would place the Town at a disadvantage, and to invite the Town Administrator to attend.

VOTE: 5 ayes; motion carried.

The Selectboard entered Executive Session at 7:15 p.m.

MOTION by Mr. Owen, seconded by Ms. Russell, to adjourn Executive Session and reconvene the regular meeting.

VOTE: 5 ayes; motion carried.

Executive Session was adjourned and the regular meeting reconvened at 7:20 p.m.

Mr. Russell reported that no action was taken in Executive Session.

MOTION by Mr. Ladue, seconded by Mr. Owen, to approve a letter related to a proposed Recreation Program.

VOTE: 5 ayes; motion carried.

COMMITTEE UPDATES

None.

SELECTBOARD UPDATES

None.

OTHER BUSINESS

Mr. Trono asked who could go into the Town Clerk's office and tell the Clerk how to do her job. State Statutes limited the Selectboard's power in that regard. One elected officer could not tell another elected officer how to do their jobs, said Mr. Trono.

Mr. Russell explained that as per state statutes the Town Treasurer had an obligation to pay invoices received. It was the Selectboard that signed off on warrants. It was correct that the Seelctboard couldn't tell the Town Clerk how to do her job, nor could she tell the Selectboard how to do their job. Everyone should cut each other slack, said Mr. Russell.

APPROVE WARRANTS TO PAY BILLS

MOTION by Mr. Owen, seconded by Mr. Ladue, to approve the monthly January Town appropriation for CVFRS in the amount of \$42,387.50.

VOTE: 5 ayes; motion carried.

The Selectboard signed warrants to pay bills.

ADJOURNMENT

MOTION by Mr. Owen, seconded by Mr. Ladue, to adjourn the meeting.

VOTE: 5 ayes; motion carried.

The meeting was adjourned at 9:14 p.m.

Minutes respectfully submitted, Kathlyn L. Furr, Recording Secretary.