

**CHARLOTTE SELECTBOARD
MINUTES OF MEETING
TOWN HALL
NOVEMBER 24, 2015**

APPROVED

SELECTBOARD MEMBERS: Lane Morrison, Chair; Carrie Spear, Fritz Tegatz, Matthew Krasnow. ABENT: Jacob Spell

OTHERS: Ms. Lydia Clemmons, Dr. Jack Clemmons, Dr. Lydia Clemmons, Peter Rosenfeld, Susan Ohanian, Julian Kulski, Christina Booher, Michael Yantachka, Chris Davis, Sylvia Knight, Robert Wright, M. C. Ohanian, Dorothy Pellett, Charlotte News, and others.

ITEMS TAKEN UP:

- Response to proposed Risk Management Program for long-term propane storage at the Charlotte Passing Siding

CALL TO ORDER

Mr. Morrison, Chair, called the meeting to order at 4:00 p.m.

RESPONSE TO PROPOSED RISK MANAGEMENT PROGRAM FOR LONG-TERM PROPANE STORAGE AT THE CHARLOTTE PASSING SIDING

Mr. Morrison briefly reviewed errors discovered in a Risk Management Program (RMP) document and that Vermont Railway was in violation of the program's terms and conditions. The Selectboard would review and endorse a letter in response drafted by Charlotte Fire Chief Chris Davis regarding the RMP document, explained Mr. Morrison.

Charlotte Fire Chief Davis reviewed contacts with David Wulfson, Vermont Rail Systems President, regarding the manner in which the Charlotte rail siding was being used as follows:

- Chief Davis contacted David Wulfson in September, 2015.
- October 13, 2015, he received a telephone call from David Wulfson regarding an Emergency Propane Response Plan, and that Wulfson said he would send a letter with contact numbers.
- Chief Davis received a letter October 28th, that was dated October 13th.
- November 5th, Chief Davis visited the rail siding and counted 40 propane tank cars labeled "non-odorized propane". The Selectboard was notified.
- Last week Chief Davis revisited the rail siding with a thermal imaging camera, and found that the propane tanks were full of product. He was told that the railroad does mark the tankers as non-odorized propane.

Chief Davis said that the RMP plan he received in the mail appeared to be a formula-type of 'plug-in the information' document.

Chief Davis explained that the EPA filed a plan to store up to 600,000 gallons of propane at the Charlotte siding, and that assumptions of the area impacted if one car ruptured were incorrect. The plan stated that ‘up to 20 tank cars maximum’ would be stored. There are twice as many. Concerns consisted of the quantity at the siding, and there was no mention of the VELCO high voltage substation within 200’ of the siding. The report also states, last page, that there was an ‘emergency plan’ in place, which says “This facility is included in the written community emergency response plan.” The storage of propane is not in the Town’s mitigation plan. The Charlotte Fire Department has steps in place to handle general rail incidents, such as brush fires along the tracks. There is no formal plan for propane leaks, or propane spills, said Chief Davis.

Chief Davis said a detailed emergency response plan was needed for the Charlotte Fire Department.

Chief Davis said that he had traded e-mails with Wulfson today. The rail road would remove 20 of the tank cars today. Now that the Town has their attention we should see if the Town, Fire Department, Vermont Rail Systems, and state could work together collaboratively on a plan. Wulfson has offered to meet with the Town. The points raised are still valid; November 5 – 24th there were still 40 tank cars there. He has done research and there have been issues with propane tank cars all around the U.S. For example, a Pennsylvania case took 4,000 gallons of water per minute for 24 hours to contain. Charlotte doesn’t have that water capacity, except 2 miles away at Lake Champlain, said Chief Davis.

Ms. Knight noted that most of the tank cars were located closer to Limerick Acres housing development. The rail road company was moving out tank cars today, said Ms. Knight.

There was discussion regarding a report written by a Texas firm for a Canadian conglomerate, and the closest EPA office was in Rutland; concerns that if these cars were removed they could be replaced again; a concern if empty propane tanks posed more of a danger versus full propane tank cars; and that the Fire Chief’s letter of response had properly focused on public safety issues.

Ms. Booher, a resident living along the Ferry Road rail tracks, asked how many times would the Town need to police the rail siding, and does the EPA report state how long the tank cars could be stored at the siding.

Mr. Tegatz noted that the EPA report indicated that there were 30 EPA storage sites in Vermont. It would be good to know what violations and fines were assessed at any of those sites, said Mr. Tegatz.

Mr. Krasnow suggested that the Town needs to invest time, effort and money in legal options for actionable responses and informed choices. Litigation should be avoided and arbitration could be used, said Mr. Krasnow.

Dr. (Lydia) Clemmons said that the Town should cite the Town Mitigation Plan and add language that is in the Town Plan. She has sent the Town information regarding a 2001 Vermont Supreme Court ruling against Vermont Rail Systems related to federal preemptions. Public safety and public health is a cut off point and trumps federal preemptions. Vermont League of Cities and Towns created a one page summation on the issue, said Dr. Clemmons.

TASKS:

- Add Town Plan language.
- Seek information on when the tank cars would be removed versus an open ended “after the winter.”
- Amend the ending sentence to the letter of response to include “We look forward to scheduling a meeting with Vermont Rail Systems personnel at your convenience.”
- Revise the draft letter of response to consistently use the language of ‘pounds’ and ‘gallons’;
- Chief Davis to resend a final draft letter of response to the Town Administrator.
- Add: cc’s of the letter of response to Michael Yantachka, Chittenden County Representative; Lane Morrison, Charlotte Selectboard Chair, Fritz Tegatz, Carrie Spear, Matthew Krasnow and Jacob Spell, Selectboard members; Chittenden County Regional Planning Emergency Planning office; and the regional EPA office.
- Research the proper state officials who approved the EPA Plan and what other towns were named as rail siding storage sites and are in the same situation as Charlotte.
- Chief Davis would e-mail a final version of the letter to David Wulfson, and cc the Selectboard on that e-mail.

Mr. Yantachka asked who owned the products stored at the rail siding. Chief Davis replied that the owner/operator was All Plains Pipeline Company and the owner of the facility was Plains All American Pipeline, L.P., Midstream, Canada. Vermont Rail Systems was listed as the responsible party, emergency contact, and provider of the rules. Vermont Rail Systems leased the tracks from the State of Vermont. A Mr. Pluckett, Houston, TX, filed this plan, said Chief Davis.

Mr. Ohanian, resident, stated that as per federal rules, the goods moving on rail tracks must keep moving, and storage track must be leased. Mr. Morrison reiterated that Vermont Rail Systems leases the track from the State of Vermont that owns the rail systems in the state. Chief Davis explained that hazmat products using the rail can stay for 48 hours, not including holidays and weekends. A rail company has to have special permission to stay longer then the federal rules allow for storing winter propane. He didn’t know who approved the rail siding storage, said Chief Davis.

MOTION by Mr. Krasnow, seconded by Mr. Tegatz, to endorse and support the letter drafted by Charlotte Fire Chief and Charlotte Emergency Management Director Chris Davis in response to a letter sent by Vermont Rail Systems, dated

10/13/2015, regarding a Risk Management Program regarding a Risk Management Program: Charlotte Facility, and to direct the Town's legal council to research and prepare the legal options available to the Town of Charlotte for ensuring compliance of local, state and federal laws.

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

Chief Davis explained that concerns if a leak happened would evacuate one-half mile to one mile from the circle of the incident. Propane was heavier than air and would flow to low spots in concentrations. Butane behaves similar to propane. The circle of potential problems/risk areas was larger than the RMP stated. If an incident occurred, then electric power would be shut down for Charlotte, Shelburne and other surrounding towns. A concern was the VELCO substation, stated Chief Davis.

The Selectboard thanked Chief Davis for his hard work and the community for their input.

ADJOURNMENT

MOTION by Tegatz, seconded by Mr. Krasnow, to adjourn the meeting.

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

The meeting was adjourned at 4:56 p.m.

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