

**CHARLOTTE SELECTBOARD  
MINUTES OF MEETING  
TOWN HALL  
AUGUST 28, 2017**

**APPROVED**

**SELECTBOARD MEMBERS:** Lane Morrison, Chair; Frank W Tenney, Fritz Tegatz, Carrie Spear (arrived at 7:55 p.m.). **ABSENT:** Matthew Krasnow.

**ADMINISTRATION:** Dean Bloch, Town Administrator.

**OTHERS:** Scott Hardy, Sky Thurber, Betsy Tegatz, Anne Nadeau, Bill Stuono, Catherine Hughes, Marty Illick, Janet Morrison, Gerald Bouchard, Sue Smith, Robert Mack, Eliza Bedell, Patrice DeMarco, Kathy Gallagher, Joe Gallagher, Peter Demick, Linda Samter, Tom Hengelsberg, Jason Hackerman, Michael Bedell, Susanna Kahn, Peter Kahn, Peter Schubart, Gil Livingston, Siobhan Smith, Patti Casey, Cary Giguere, Stephen Kernan, Hans Ohanian, Susan Ohanian, Robert Smith, Taylor Harmely, Ken Picard, David Lagersted, Pat Lagersted, Susan Nostmand, Vera Simon-Nobes, Chris Patten, Jeff Kruger, George Schreck, Mona Schreck, Jeff Martin, Hylan Patton, John Smith, Bobby Young, Obediah Racker, Will Bown, Megan Browning, Jason Garvey, Jorden Blucher, Erin Kunek, Hannah Aitken, Julian Post, Peter Briggs, and others.

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

**5:00 PM Site visit—783 Mount Philo Road—for Highway Access Permit application**

**5:30 PM Site visit—Mount Philo Hops Farm, East Thompson’s Point Road and Route 7**

**AGENDA ITEMS:**

- 6:46 PM Scott Hardy—Request for Highway Access Permits (HAP-17-09 & HAP-17-10) at 783 Mount Philo Road for proposed subdivision
- 6:50 PM Anna Nadeau, Trustee, Mary Lighthall Trust—request for license agreement to install telecommunication facilities under Hills Point Road
- 6:55 PM Stipulation and Agreement for Docket # PVR 2016-14 with Clark W. Hinsdale, III
- 7:05 PM Mount Philo Hops Farm—discussion
- 8:30 PM Linda Radimer—request for “Wildlife Crossing” signs on town highways
- 8:40 PM Chittenden Unit for Special Investigations (“CUSI”) Intergovernmental Agreement (3 year agreement)
- 8:50 PM Budget review schedule

**CALL TO ORDER**

Mr. Morrison, Chair, called the meeting to order at 6:45 p.m.

**ADJUSTMENTS TO THE AGENDA**

None.

**SCOTT HARDY—REQUEST FOR HIGHWAY ACCESS PERMITS (HAP-17-09 & HAP-17-10) AT 783 MOUNT PHILO ROAD FOR PROPOSED SUBDIVISION**

Scott Hardy, applicant, reviewed a new application of a prior approval, which expired.

**MOTION** by Mr. Tegatz, seconded by Mr. Tenney, to approve a request by Scott Hardy for a Highway Access Permit, HAP-17-09 and HAP-17-10, located at 783 Mt Philo Road for a proposed subdivision.

**DISCUSSION:**

Mr. Bloch noted that the Charlotte Road Commissioner reported that the conditions have not changed. There are 700' sight distances in both directions.

**VOTE:** 3 ayes, absent (Mr. Krasnow, Ms. Spear); motion carried.

**ANNA NADEAU, TRUSTEE, MARY LIGHTHALL TRUST—REQUEST FOR LICENSE AGREEMENT TO INSTALL TELECOMMUNICATION FACILITIES UNDER HILLS POINT ROAD**

Anna Nadeau explained that in order to have Comcast service a cable needs to be run from a pole on the other side of the road, under the roadway and onto her property.

Mr. Bloch said that the license agreement gives the Town the right to relocate the cable location if necessary. The Road Commissioner recommends a 4' depth between the surface and cable, and 25' off the travel portion, said Mr. Bloch.

**MOTION** by Mr. Tegatz, seconded by Mr. Tenney, to approve a request by Anna Nadeau, Trustee of the Mary Lighthall Trust, for a License Agreement to install a telecommunication facility under Hills Point Road at 613 Hills Point Road, subject to conditions recommended by the Charlotte Road Commissioner.

**DISCUSSION:**

Mr. Tenney asked if the revocable trust should be a part of the motion. Mr. Morrison noted that there were two co-trustees. Ms. Nadeau said that the co-trustees are herself and her mother.

**AMENDMENT** by Mr. Tegatz, seconded by Mr. Tenney, to identify the pole as Pole #12, and to authorize the Charlotte Selectboard Chair to sign the License Agreement on behalf of the Town of Charlotte.

**VOTE:** 3 ayes, absent (Mr. Krasnow, Ms. Spear); motion carried.

**STIPULATION AND AGREEMENT FOR DOCKET # PVR 2016-14 WITH CLARK W. HINSDALE, III**

Betsy Tegatz, Charlotte Lister Chair, reviewed that a Current Use allocation shifts the value from \$520,000 to \$518,400 on a different part of the property. The Selectboard needs to sign the stipulation before Wednesday, August 30, 2017, when the hearing officer reviews the request, said Ms. Tegatz.

**MOTION by Mr. Tenney, seconded by Mr. Tegatz, to enter into a Stipulation and Agreement for Docket #PVR 2016-14 with Clark W. Hinsdale, III, as presented.  
VOTE: 3 ayes, absent (Mr. Krasnow, Ms. Spear); motion carried.**

Mr. Morrison, Mr. Tenney, and Mr. Tegatz signed the Stipulation and Agreement documents.

#### **PUBLIC COMMENT**

None.

#### **MOUNT PHILO HOPS FARM—DISCUSSION**

Mr. Morrison reviewed the process for taking testimony regarding the Mount Philo hops farm, which is a request by the farm neighbors on East Thompson's Point Road, Palmer Lane and Big Oak Lane. The Selectboard has no role in the issue. The Vermont Land Trust manages the use of the land, and has issued a letter that growing hops is an accepted agricultural practice. The Department of Agriculture has noted that a pesticide plan is not complete at this time. The purpose of the meeting is to identify the issues and concerns so that the technical persons can address those issues. There will be no negotiating or designing an agricultural plan, stated Mr. Morrison.

Peter Schubart, East Thompson's Point Road resident, asked the Selectboard if the hops farm is in conformance with the Town Plan and if the Board will engage the Town Attorney. Mr. Morrison stressed that the Selectboard will listen. No action will be taken, said Mr. Morrison.

Julian Post, hops farm representative, reviewed his educational qualifications and hops farming experiences, and narrated a power point presentation of hop farm operations in Michigan and Vermont, a site map created by Waite and Heidel, general growing practices, integrated pest management utilizing spraying, plant selection, plant location, disease forecasting, and beneficial insects.

Mr. Post said that a neighbor's have expressed a concern regarding pesticide use, which is not the focus of disease/pest management. He will follow the rules of the labels, stated Mr. Post.

Nick Cowles, Shelburne Orchard owner, said that he has a similar agricultural use as Julian Post. His orchard is surrounded by neighbors, he and his family live on the orchard property. His neighbors that had pesticide concerns have found them unfounded due to better practices. Everyone in the industry is doing better spraying practices. In the orchard he is able to time-spray for wind drift, spray when it is calm, or the middle of the night to protect ourselves and neighbors. Is a non-issue with his neighbors due to our integrity. He knows Julian; Julian has integrity. If there is no hops farm at that location then someone else could have an agricultural use there that may not be any better, said Mr. Cowles.

Linda Samter, 95 Big Oak Lane, said that she represents her and neighbors concerns as a group. She supports farming. Ms. Samter reviewed her Natural Resources educational qualifications from Cornell and UVM, and professional career experiences, and narrated a power point presentation outlining concerns and issues related to pesticide, fungicide uses, goals of the Town Plan, character of the neighborhood as mixed agricultural and residential, impacts to ground and surface water, conservation easements and natural resources, a site map of the hops farm, residential areas and abutting land uses, air blast spraying and spraying heights, and pesticide/herbicide drifting.

Erin Kunek, Big Oak Lane, reviewed her health care career qualifications, and read a written statement related to the impacts of pesticide use, health studies, and a correlation with pesticide exposure and human health into the record. A minimum 250' setback buffer is requested versus the required 50' setback, said Ms. Kunek.

There was lengthy discussion regarding the inadequacies of the current 50' setback requirements; studies supporting a minimum of a 250' setback; EPA and federal laws; pesticide label laws related to spray drift into sensitive areas; a suggestion to plant trees higher than the hops poles in 2-3 row densities to mineralize spray drift; concerns for ground water and well water pollution from pesticides/herbicides; and questions on how the hops farm will supply the large amount of water needs in an area where there are low water well yields.

Ms. Samter stated that the neighbors will want well interference testing done by the hops farm. There are concerns of contamination running into Thorpe Brook and into the Lake, said Ms. Samter.

Mr. Post said that in response there are not many hops farms in New England, and suggested to look at apple orchards in Vermont for spraying and pesticide data. He has talked with Eric Bayard, CPS, who works with orchards and hops farms in the state. For example, Shelburne Orchards, Sunrise Orchards, Hackett Orchard, or Chapin Orchards. People have lived in close proximity to those orchards for many years, said Mr. Post.

Cary Giguere, Vermont State Pesticide Regulatory Program representative, and Patti Casey, Vermont State Ground Water Protection Coordinator, explained that a well base line study will happen, regarding buffers, 250' is not a standard buffer for an orchard, or corn field. NOFA requires a 50' buffer for row crop related to nutrient management. There are a few drift cases investigated per year, said Mr. Giguere.

Mr. Morrison said that a pesticide plan has not been done yet, and asked if the state requires one. Mr. Giguere replied that it is an individual farm management decision. State statutes govern state permits for activities, such as golf courses. They are required to submit a vegetative plan. The Department of Agriculture does not require a pesticide management plan; it is a nutrient plan, clarified Mr. Giguere.

Heather Darby, UVM Extension Professor and Agronomy Specialist, explained that farmers have to be licensed and must go through proper training for educational credits

for pesticide/fungicide management. It is administrated by the state with follow up enforcement. No one can just spray. Julian did the training and passed the training. A plan may not be required, said Ms. Darby.

In response to a 250' setback buffer request, Mr. Giguere said that the state has local field staff and he does enforce labels. A certified product must be used. He will get some information relative to toxicities for the neighbors, said Mr. Giguere.

Ms. Kunek said that chronic toxicity is not posted on labels, said Ms. Kunek. Mr. Giguere replied that there is a lot of interpretation of labels. Is it up to the state to decide what is a sensitive area, such as a school, or wells, said Mr. Giguere.

Patrice DeMarco, Palmer Lane resident, stated that a label says 'don't apply chemicals within 250' downwind.' The hops farm would be in violation of that label since there are homes within 60' of the boundary, said Ms. DeMarco. Ms. Samter read an EPA list of sensitive area standards related to pesticide drift. Mr. Giguere explained that the states are working with the EPA to create better spray drift language. The Spray Drift chair, Dave Scott, is in Burlington today. In Vermont those concerns are valid. Current Vermont law also allows a farmer to grow crops and use pesticides as he sees fit, said Mr. Giguere.

Peter Kahn, Palmer Lane resident, said that spray drift will exceed the 50' buffer and drift onto his land. What are the penalties, asked Mr. Kahn. Mr. Giguere said that he will send a penalty matrix to the Selectboard. There is a \$1,000 per count label violation assessment for private individuals. Counts add up quickly. On average a private individual penalty runs \$3,000-7,000, and a commercial violation averages \$10,000-15,000. It is similar to a driver's license penalty for repeat offenders; there are points against an applicator's license and they can lose their license, said Mr. Giguere.

Mr. Kahn said that he abuts the hops farm and he walks down his driveway every day. He has a well and pond on his property. What happens if he finds pesticides, asked Mr. Kahn. Mr. Giguere replied that Matt will investigate the first call. A driveway is not a sensitive site. A pond is, said Mr. Giguere.

Mr. Cowles explained that a farmer is on his tractor and can tell when the wind shifts by watching the wind tell-tales on the tractor. His home is on the orchard property, he has children and his wife has horses. He can control the sprays and not get any drift into the pastures, said Mr. Cowles.

Derrick Chase asked if the state will provide test kits. His house is 60' from the hops farm. Mr. Giguere replied that there are no testing kits. The state does place drift cards out and Matt has offered to do that. The drift cards are moisture and oil sensitive. Depending on the nature of a complaint an investigator can be on-site within minutes to hours to investigate. For a general complaint he could be there that day, or if it can wait it does. Hop fungicides are different from what an apple orchard uses. The cards are good for finding corn herbicides. The state will gather data for a water base line for surface and

ground water before any applications and will continue after applications. Drift cards indicate a 'yes/no', said Mr. Giguere.

Mr. Giguere said that he has legislative authority to investigate complaints. There are land regulations and permitting to site a house, and a commercial operation goes through ACT 250 permitting. Agriculture is exempt from ACT 250. Technology changes and there are different methods to control drift. Air blast sprayers are falling out of favor. Vegetative buffers do wonders and are better than fences, said Mr. Giguere.

Mr. Post said that he could place vegetative buffers in appropriate places. Susanna Kahn said that vegetative buffers would need to be 18' high. Could Mr. Post put in 18' high buffers, asked Ms. Kahn. Mr. Post replied yes; if the vegetation grows that high. He can't afford to buy 18' high trees, said Mr. Post.

Jim LeBerge, dairy farmer, suggested using a boom sprayer. The photographs display by Mr. Post show a huge drift with a side sprayer, pointed out Mr. LeBerge.

In response to a question regarding special precautions to take and what pesticides should not be used around bees, Mr. Giguere said that insecticides would have the biggest impact. He was not hearing that insecticides would be used on the hops. There are 76 active ingredients that are toxic to bees. He would research fungicides and if those would affect bees, said Mr. Giguere.

Ms. Darby said that hops are not a plant that bees visit. Bees may pass through a hop yard at any given time of day. The issues are drift. Not many insecticides are used on hops, and not spraying insecticides is a better practice. Beneficial organisms are used in growing hops. There was a study done that placed bee hives in an almond orchard in full bloom. Multiple insecticide sprays were used and the findings showed that there would be minimal impact to the bees, said Ms. Darby.

Mona Schreck, North Ferrisburgh farmer, said that she grows hops and bees do not land on hops. Local gardeners have roses and flowers and use sprays to control bugs. She has never seen any bugs on hops, which taste disgusting to bugs. Drift is controlled and will not affect bees, stated Ms. Schreck. Ms. Darby said that Mona made a good point. Regarding fungicides there is a lot done before applying fungicides. It is a risk to the farmer and family, and costs a lot of money. The first thing is to invest in disease free root stock if a farmer wants to be successful. A farmer wants to keep downy mildew out of a hop farm by purchasing a variety of resistant hops. If a disease does encroach then spray is used minimally. Older hops plants lose significant yield and then the farmer would pull them out, explained Ms. Darby.

Mr. Giguere thanked the assemblage for the invitation to attend and offered to continue in a civil open dialog. He will offer to go over relative toxicities with the property owner/farm manager and neighbors, said Mr. Giguere.

Mr. Briggs reviewed concerns and issues as stated. He did care about safety on the farm and in the neighborhood. They will hold themselves to a higher standard, and comply with the letter and spirit of the law. He puts his trust in Julian, and thanked Heather for her support of the hops farm. He will be transparent, although he can't answer all the complicated questions and concerns. Next spring is the earliest to have hops in the ground and there is the winter to plan. It may be true he is a New York businessman. His family had been farmers for generations. Today, 90 percent of farmers go out of business. This is creating jobs, said Mr. Briggs.

Ms. Samter reviewed that she heard that there will be good planning over the winter, and that distances are safe. She has also heard that 20-30 poles would put in this fall, and planting will take place next spring. Will you hold off on setting the poles, asked Ms. Samter. Mr. Briggs replied setting in the poles has not been decided yet. It is our risk at what point we will do each step, said Mr. Briggs.

Megan Browning, organic vegetable farmer, said that Governor Scott is concerned regarding a declining population in Vermont. Julian is a young farmer. The average age for a farmer is 55 year old and Vermont needs young farmers or we will lose farms in the nation, stated Ms. Browning.

Jorden Blucher said he was not against farming. It is about our families, health and not getting sick because a farm went in across the road, stated Mr. Blucher.

Mr. Chase said he has lived in Charlotte most of his life. He has a low yield well. When his well runs dry will Charlotte help get him potable water. When his well get contaminated will the Town adjust his taxes, or buy his property, asked Mr. Chase.

Greg Heidel, Waite and Heidel, said he has lived in North Ferrisburgh 40 years and believes that hydrogeology impacts on well quality will be low. A well is drilled in bedrock, is encased, and in Charlotte there is a 100' thick protective clay layer. Surface water and pesticides will not filter down through the clay layer. Regarding quantity of water, he is not sure the farm would draw from the two irrigation ponds in a normal precipitation period. If irrigation well is drilled to support the two ponds his firm would do testing of neighboring wells first. It is an evaluation to be determined. Water quality is safe due to the clay layers; a water balance study is being done. There is an 85-acre catchment area south of the pond and a 20-acre catchment area west of the pond, surface water sheds to ponds and the ponds will be full by spring. Each pond will hold 600,000 gallons of water. The estimate yield of the ponds in normal precipitation months was done using daily data from the Burlington weather station, and precipitation averages over 30 years, 1981-2010, was used to provide supplement water for dry years, explained Mr. Heidel.

Mr. Briggs said the ponds were sized on estimates by Julian. Updated view of water availability and water usage is variable. He doesn't have all the inputs. It appears that the farm will have water available in normal years and in an abnormal year will have the ability to enlarge the ponds for a bigger buffer, said Mr. Briggs. Mr. Post said that the

hops will not die if they get less water than we want. The hops yields may be affected. The farm will not compromise people's wells, stated Mr. Post.

Mr. Demick, organic farmer abutting the hops farm, asked who designed the pond next to his property. Mr. Post replied the firm who dug the ponds. Mr. Demick said that there is a 100' long spillway onto his property. Keep the water off his property. Now you dug a ditch that the pond will spill over into and pesticide contamination will flow into Thorpe Brook and then the Lake, said Mr. Demick. Mr. Post said that the spillway water overflow will do down hill to the ditch and go into the Town ditch. The farm has not added any water into the system. The ditch next to your property is better than before, said Mr. Post.

Mr. Demick said that copper fungicides will kill every living thing. Mr. Post said that he is not planning on fungicides in the pond.

Gil Livingston, Vermont Land Trust, said that there has been a misinterpretation of the conservation easement, and read a state of purpose regarding a conservation easements into the record and that primarily, the Land Trust supports productive agricultural uses. Secondly, the purpose is to protect scenic vistas. There is a regulatory provision regarding construction of farm improvements, or the potential of division of the farm into units; not farm practices. Regarding the hoop house, any structural improvement requires some form of approval. The conservation easement is co-held by two agencies: the Department of Agriculture and the Vermont Housing Board. The primary stewardship sits with the Vermont Land Trust, said Mr. Livingston.

Mr. Morrison thanked all the participants for coming.

#### **LINDA RADIMER—REQUEST FOR “WILDLIFE CROSSING” SIGNS ON TOWN HIGHWAYS**

A request by Linda Radimer will be rescheduled for the next Selectboard agenda.

#### **CHITTENDEN UNIT FOR SPECIAL INVESTIGATIONS (“CUSI”) INTERGOVERNMENTAL AGREEMENT (3 YEAR AGREEMENT)**

Mr. Bloch reviewed that the Chittenden Unit for Special Investigations amount is a pro-rated cost split between towns based on population. Last year the cost to Charlotte was approved for \$5,700, and the cost this year is \$7,000. The Town budgets for one year. The agreement binds the Town to a payment for three years, which is reviewed by the Selectboard each year, said Mr. Bloch.

Mr. Tegatz said he was not in favor of an open ended amount. Section 6, 4<sup>th</sup> paragraph of the agreement did not include a payment schedule, pointed out Mr. Tegatz.

No action was taken.

#### **BUDGET REVIEW SCHEDULE**

Mr. Bloch reviewed a proposed FY19 budget review schedule starting with the September 11<sup>th</sup> Selectboard meeting. Mr. Morrison spoke in favor of the FY19 budget review schedule as drafted.

Mr. Tegatz said that CVFRS budget review is scheduled for September 25<sup>th</sup> and a quarterly financial report could be presented at that time as well.

Mr. Morrison asked staff to reconfirm the date and time with CVFRS.

### **SELECTBOARD UPDATES**

Mr. Tegatz reported that a new CVFRS Board has been elected.

Mr. Morrison reviewed a schedule of upcoming meeting as follows:

- August 29<sup>th</sup> at 2:30 p.m. – employee annual performance reviews
- August 30<sup>th</sup> at 7:00 p.m. – at the Library, proposed library addition discussion
- August 31<sup>st</sup>, at 1:15 p.m.- employee annual performance reviews
- September 11<sup>th</sup>, 7:00 p.m. – regular meeting

Ms. Spear said that she will not be present for the August 31<sup>st</sup> review.

### **MINUTES: August 14, 2017**

**MOTION by Mr. Tegatz, seconded by Mr. Tenney, to approve the Charlotte Selectboard minutes of August 14, 2017, as written with additions/corrections:**

- Globally correct the word “hops”
- Page 2, line 80 – change to read “...did not issue a notice of violation.”

**VOTE: 3 ayes, absent (Mr. Krasnow, Ms. Spear); motion carried.**

### **APPROVE WARRANTS TO PAY BILLS**

The Selectboard members reviewed and signed warrants to pay bills.

### **ADJOURNMENT**

**MOTION by Mr. Tegatz, seconded by Mr. Tenney, to adjourn the meeting.**

**VOTE: 4 ayes 1 absent (Mr. Krasnow); motion carried.**

The meeting was adjourned at 9:23 p.m.

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