

**CHARLOTTE SELECTBOARD  
MINUTES OF MEETING  
TOWN HALL  
MARCH 20, 2017**

**APPROVED**

**SELECTBOARD MEMBERS:** Lane Morrison, Chair; Carrie Spear, Matthew Krasnow, Fritz Tegatz, Frank W. Tenney.

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

**OTHERS:** Jim Dickerson, Mark Thom, Gerald Bouchard, Gatiea Gaujac, Roland Gaujac, Lisa Gaujac, Liam Murphy, David Cray, Judy Olson, Alison Wolverton, Adrian Wolverton, Sue Ligon, George Ligon, Robin Reid, Sue Smith, Dale Knowles, Vanessa Knowles, Jenny Cole, Maura Wygmans, James Dumont, David Miskell, Ellie Russell, Jonathan Fisher, Peter Trono, David Marshall, Monica Marshall, Donna Hudgin, Bill Stuono, Joan Weed, Dick Weed, Bob Sanders, Kate Aherns, King Milner, Laurie Moser, Janet Landrigen, Gary Landrigen, Chad Clark, Kim Clark, Patricia Cento, Carrie Fenn, Margaret Sharpe, Julia Gilbert, Patty Horsford, Per Hanson, Charlie Proutt, Eileen Schillig, Linda Samter, Stacy Graczka, Mary Pat Roche, Josh Flores, Robert Mack, John Hammer, Charlotte News; Dorothy Pellett, Burlington Free Press; and others.

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

**ITEMS TAKEN UP:**

- **PUBLIC HEARING:** A proposed amendment to the Land Use Regulations would allow an existing “Event Facility” that has been operating since January 1, 2016 as an “Allowed by Right” use within the existing West Charlotte Village (WCV) zoning district, and it would reduce the maximum allowed noise performance standard for such a facility.

**CALL TO ORDER**

Mr. Morrison, Chair, called the meeting to order at 7:00 p.m.

**PUBLIC HEARING: A proposed amendment to the Land Use Regulations would allow an existing “Event Facility” that has been operating since January 1, 2016 as an “Allowed by Right” use within the existing West Charlotte Village (WCV) zoning district, and it would reduce the maximum allowed noise performance standard for such a facility.**

Mr. Morrison reviewed ground rules and a procedure for hearing testimony regarding a proposed petition amendment to the Land Use Regulations related to ‘event facilities’ in the West Charlotte Village district.

Mr. Morrison said that the Selectboard informational packet includes a copy of the petition, a Planning Commission report, a summary letter from Lisa and Roland Gaujac, dated March 15, 2017, a summary letter from Alison Wolverton, and copies of the

appropriate Land Use Regulations. As per state statute, the Selectboard will entertain four options as follows:

1. Approve the petition as written for an Australian ballot vote
2. Amend the petition by the Selectboard, hold a public hearing, and then submit for an Australian ballot vote
3. Take no action
4. Approve a motion to pass the petition back to the Planning Commission to craft amendment language, hold a Planning Commission public hearing, hold a Selectboard public hearing, and then submit for an Australian ballot vote

Mr. Krasnow read the proposed Amendment to the Town of Charlotte Land Use Regulations, including proposed Amendment A, B, and C into the record.

#### PUBLIC COMMENTS

Mr. Morrison opened the floor for public comments.

Mr. Murphy, attorney representing Lisa and Roland Gaujac, explained that the purpose of the petition is to try and minimize the number of lawsuits that the Gaujac's have been subjected to over the last decade. The purpose is to clear up any misunderstanding of the petition language. The intent of the petition is to approve an "event facility" in the West Charlotte Village district, and to authorize the use of the Old Lantern over the last 50 years. Current Town zoning does not contain a definition of an "event facility". This has been recognized in two recent ZBA decisions: one is the Edgewater Center, LLC, event facility application and has led to a series of lawsuits related to permitted uses. The ZBA said that an "event barn" is not listed in the use, it is similar to a community center, such as a restaurant, snack bar, retail store, cultural facility, or private club, and therefore, it is indistinct of what uses are permitted at the Old Lantern. The ordinances do not define what permitted uses are. At the Old Lantern the Gaujac's are fighting lawsuits. The petition was never an attempt to exempt changes in the facility's structure or use. The intent is to define the use, not the buildings, said Mr. Murphy.

Mr. Murphy said as per Section 5.5 of the ordinances, with the exception of agriculture, forestry, single and two-family dwellings; all other applications would undergo site plan approval. If the Old Lantern were to expand then it would have to go through site plan and conditional use reviews. A second issue regarding 'to exclude changes in the buildings, change in use' – it was a discussion at the January Planning Commission hearing, and the Planning Commission brought it up. He said that it was not the intent and he suggested language that the Selectboard could impose language to modify the petition language to clarify the use of that facility as an allowed use, and that site plan and conditional use would apply to any structure, or parcel not used for an event facility. There was a question regarding why draft as an "allowed use" versus "permitted use/conditional use". The Old Lantern has operated for 50 years and is a grandfathered pre-existing use. If the Gaujac's must apply for permitted use/conditional use, then that would bring another lawsuit. He drafted language to allow a pre-existing event facility. The petition is narrow language. Regarding a question of spot zoning – this is not spot zoning. He has submitted a memo to the Selectboard in reply to this issue. The Supreme

Court says if the Town votes that the Old Lantern is a community benefit, then it isn't spot zoning. In January it was recognized that there are misunderstandings and that better language could be used, which he has suggested. Regarding the decibel level issue, current zoning, Performance Standards, allows for up to 70 dBA at the property line for any use. The Gaujac's are willing to use a lower dBA to 65 dBA for an event facility in the West Charlotte Village district. They are not asking for anything special. The Planning Commission asked for additional language on how to measure dBA levels. How you measure dBA can be addressed now or later, said Mr. Murphy.

Mr. Murphy said that the Gaujac's would work with the Town to change the language of the proposed petition. The Selectboard can make changes, or send it back to the Planning Commission, then back to the Selectboard for another hearing, and then to a Town vote. Let the Town decide if they want to support the Old Lantern, said Mr. Murphy.

Lisa Gaujac, part owner of the Old Lantern with her husband Roland, said that people supporting the Old Lantern are confused regarding the petition language. Currently we have no say, and there is no description in the Town regulations or the Town Plan for the Old Lantern. If we go through zoning and permitting for upgrades to comply with health codes, then the Town would shut us down. Residents aren't required to have state approved sprinkler systems, commercial kitchens and ancillary systems. Residents aren't required to have lights out, or music stopped at 11:00 p.m., or everyone off property by midnight that has been imposed on us. She is only looking for some presence in the Town regulations. The Old Lantern was built in 1960. Zoning was first adopted in 1965. The Old Lantern was given a non-conforming grandfathered use, but it is not in the Town's ordinance, or Town Plan language. The Old Lantern pays money to the state and local government. The Old Lantern employs 50 Vermont residents and brings in revenue to the state and Town in the form of taxes and property taxes. The Old Lantern supports non profits in the area and has been active in the community since she purchased the Old Lantern. This last lawsuit has cost her \$50,000. She spent \$1,700 on a sound engineer and has paid thousands of dollars in consultants, stated Ms. Gaujac.

Jenny Cole, resident, asked a question to Liam Murphy. What is the difference between what is proposed and adding a conditional use for the facility in the West Charlotte Village, and other appropriate facilities in Town, and a definition for "event facility", asked Ms. Cole. Mr. Murphy replied that there are five Conditional Use criteria, including traffic, character of the neighborhood, landscaping, Town Plan, and renewal energy. The neighbors next to the Old Lantern moved in and say the Old Lantern shouldn't be located in a residential neighborhood even though it is preexisting. There is an issue where people have moved in and tried to shut down existing farms, orchards, etc. The petition is meant to address just the West Charlotte Village district, said Mr. Murphy.

David Cray, resident, said it is a moral problem. A question is if the Old Lantern is shut down then what do you do with a big empty hulk on Greenbush Road. There have been a lot of changes in Charlotte over the last 50 years. People move in recently and see room for changes as only one issue. Can there be a guarantee for the future of the Old Lantern. The Old Lantern does a lot of good for non-profits and social services like his. In his

case, the Church has held its last consecutive 13 Christmas masses at the Old Lantern where more people can attend than at the church. It is a \$5,000 gift/donation in kind to Our Lady of Mount Carmel church. Mr. Cray spoke in favor of the Old Lantern.

Maura Wygmans, neighbor to the Old Lantern, read a written statement into record, and said that the current owners of the Old Lantern have a false narrative. She is not against the facility. She wants the Old Lantern to follow the Town regulations and zoning. The suggested 65 dBA would be more appropriate than 70 dBA. In 2004, she approached Dean Bloch regarding the Town performance standards. She recorded noise levels over a 9-month period, and submitted the data to the Town. Jeannine McCrumb, Town Planner, also recorded over 70 dBA at Old Lantern. The Town has Performance Standards and rules. When she moved into the neighborhood she thought she was protected. Regarding the court issues, lawsuits over the last 10 years result from the (Gaujac's) own actions. It is unfair to call them lawsuits when anyone can appeal decisions in Environmental Court. The (Gaujac's) sued her and it cost her \$25,000. It was unjust, said Ms. Wygmans.

Jim Dickerson, one of the original Old Lantern owners, d.b.a. Lantern Vision, LLC, said that he was one of the point persons of the original Burns project. He wants to remind everyone how the subdivision of the Old Lantern property occurred. There were two proposals: one was his and a second plan from Towns people who wanted more development. His plan was chosen 2-1 over the second proposal. Both plans included continued operation of the Old Lantern. With his plan the Town received a large parcel of land with septic, water sources, hiking trails and more. Peter Coleman got cancer and needed to sell. Two buyers came forward – Lisa and Roland Gaujac, and a group of Burlington investors. Both offered the full asking price. Lisa and Roland were perfect for the Old Lantern. Earl Burns chose him and his group to buy the Old Lantern, and wanted to see continued operation like he and Mary did. There must be common ground. The lawsuits are not necessary. Keep working for a Town vote. Keep the Old Lantern as versus a 5-story high-rise, stated Mr. Dickerson.

Bill Stuono, resident, said that he has a background in land use regulations, and suggested the Selectboard send the petition back to the Planning Commission to develop appropriate language. He would be interested in helping develop language, said Mr. Stuono.

Mr. Morrison suggested a compromise. Option 4 takes it back to the Planning Commission to develop amendment language to address the issues of "Allowed by Right", which the Selectboard needs to understand better. It appears to be too strong to grant, said Mr. Morrison.

Mr. Tegatz said that he agreed with Mr. Morrison. Having a right to continue might be defined better. He is a strong property rights person and definition is needed. Regarding language granting a 'right' makes it easier to make changes. We must make sure the changes comply with the rules. Mr. Tegatz supported sending the amendment back to Planning Commission.

Mr. Murphy asked that language be added to a motion that the Planning Commission addresses it in prompt manner. The Gaujac's wanted it on the March Town Meeting ballot and it didn't happen. He is not suggesting a particular number of days, just address it so we can deal with the issues and hope to get on the April 11<sup>th</sup> ballot, said Mr. Murphy.

Josh Flores, resident, said he is a neighbor of the Old Lantern on the Mack farm side. Look at the language. It can set a bad or good precedent. He has lived in his house a long time. This is not a knock on the Old Lantern, but no one lived on the property during the parties. He could drive down to the facility during parties and ask to have the music turned down, and they did. He doesn't suffer from the same noise as the other neighbors on the other side of the Old Lantern. In Shelburne the Old Econolodge/Harborplace, is going through much of the same issues. Harborplace still there. The Town can work through the issues with the appropriate language, said Mr. Flores.

Mr. Morrison said that whatever the Town does is precedent setting. We must look at the big picture and the potential of other facilities in Town. This can't be an isolated facility, said Mr. Morrison.

Mr. Tenney suggested working on a better definition. What is proposed is wide open and allows things inside and outside the structure. The Planning Commission should look at that, said Mr. Tenney. Mr. Morrison said that the issues are the property versus activities that can happen.

Ms. Wygmans said that she has looked at definitions for event facilities in surrounding towns. Hinesburg uses a 'function hall'. It says here 'banquet hall'. Look at nearby neighboring towns and what regulations already exist, suggested Ms. Wygmans.

Mr. Murphy explained that there is a Vermont ordinance where 'event facility' is defined. In purpose, it says "inside, outside". If you don't say 'inside, outside' then you would get someone who says 'you didn't say inside/outside so you can't go outside, or you can charge for meals, or can't charge for meals. The intent is to allow the 'use'; not as a broad term of an event facility. It is a building and a portion of a property is a different application. He thinks that is what is getting mixed up. Say "this is the use that the Old Lantern has been put to over the years." Where they can occur is a different question than the scope of the use, clarified Mr. Murphy.

In response to a comment by Mr. Tegatz regarding coming at a use definition backwards, Mr. Murphy explained that what the Planning Commission or Selectboard comes up with might be restrictive than what the Old Lantern can do under the existing use. That doesn't do anyone any good, said Mr. Murphy. Mr. Morrison said that he thought what Mr. Murphy came up with uses was good. It is the "where" that is different. Is it the 9-acre lot, suggested Mr. Morrison, the Planning Commission can define the "whereas".

Mr. Krasnow said the expertise in land use regulations is much appreciated. There are two separate issues. We are looking at a desire for more event facilities, and a

grandfathered non-conforming use put into the Land Use Regulations. They are very separate issues, stated Mr. Krasnow.

**MOTION by Mr. Tegatz, seconded by Mr. Tenney, to send the proposed petition amendment to the Land Use Regulations back to the Planning Commission for further defining and refining of language for an ‘event facility’ and language in the petition in a timely manner.**

**DISCUSSION:**

**Mr. Dumont asked to have the motion reread.**

**Mr. Wolverton asked if the petition is sent back to the Planning Commission, would the commission work out a category would that apply to all facilities, or just one. Mr. Morrison replied there are two issues: one is the grandfathered nature of the Old Lantern and the other is new event facilities. That is a challenge, said Mr. Morrison.**

**VOTE: 5 ayes; motion carried.**

Mr. Morrison thanked the public for input and comments.

**ADJOURNMENT**

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

**VOTE: 5 ayes; motion carried.**

The meeting was adjourned at 7:50 p.m.

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