*A VIDEO RECORDING OF THE MEETING IN ITS ENTIRETY IS AVAILABLE THROUGH VERMONTCAM.ORG. THE WRITTEN MINUTES ARE A SYNOPSIS OF THE DISCUSSION AT THE MEETING. MOTIONS ARE AS STATED BY THE MOTION MAKER. MINUTES SUBJECT TO CORRECTION BY THE SHELBURNE SELECTBOARD. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE BOARD.*

# TOWN OF SHELBURNE
# SELECTBOARD
# MINUTES OF MEETING
# May 10, 2016

**MEMBERS PRESENT:** Gary von Stange (Chairman); Colleen Parker, John Kerr, Jerry Storey, Josh Dein.

**ADMINISTRATION:** Joe Colangelo, Town Manager; Peter Frankenburg, Finance Director; Dean Pierce, Planning Director; Chris Robinson, Water Quality Superintendent.

**OTHERS PRESENT:** MaryAnne Hamilton, Jaime Heins, Ann Hogan, Joan Lenes, Jessica Brumsted, Marla Handy, Jeremy Matosky, Andrew Mills, Jim Pease, Tom Moreau, Tom DiPietro, Michael Abrams, Heather McKim (Shelburne News).

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## 1. CALL TO ORDER

Chairman von Stange called the meeting to order at 7 PM.

## 2. APPROVAL OF AGENDA

Delete:

- Solar Siting Ordinance, 2nd Reading
- Executive Session, Vermont Railways v Town of Shelburne

Add:

- Liquor License approval (as Item 17.a)
- Waste Water Allocation (as Item 17.b)
- Petition for Re-Determination of Taxes to Department of Property Valuation

**MOTION by Colleen Parker, SECOND by John Kerr, to approve the agenda as amended.**

**<u>DISCUSSION</u>: Josh Dein asked why the Executive Session on Vermont Railways is not worthwhile. Gary von Stange stated there is an agenda item to provide an update on the case and an Executive Session can be proposed at that time.**

**VOTING: unanimous (5-0); motion carried.**

## 3. APPROVAL OF MINUTES

*April 26, 2016*

**MOTION by Colleen Parker, SECOND by Jerry Storey, to approve the 4/26/16 minutes with the addition of the motion to adjourn made by Colleen Parker and seconded by Jerry Story and voted unanimously.**

**<u>DISCUSSION</u>: Josh Dein noted the vote on the approval of the minutes at the 4/26/16 meeting (Item #3) should reflect 3 ayes and 2 nays (Dein, Storey). Jerry Storey said he could not recall his vote at that time so will abstain from voting on the approval of the April 26, 2016 minutes. There were no further comments.**

**VOTING: 3 ayes, one nay (Josh Dein), one abstention (Jerry Storey); motion carried.**

*May 1, 2016*
Action postponed to research the proper procedure to follow when the quorum present at the start of the meeting is not present when the meeting concluded.

## 4. CITIZEN PARTICIPATION & PUBLIC COMMENT

Gail Albert thanked Joan Lenes for her years of service in the state legislature.

## 5. SELECTBOARD COMMENTS

- Josh Dein echoed thanks to Joan Lenes for being such a conscientious, accessible, and responsible state representative.
- John Kerr also expressed appreciation to Rep. Lenes for her service to the town.
- Jerry Storey stated the town is fortunate to have the commitment and energy given by Rep. Lenes. Mr. Storey also congratulated the organizers, sponsors, and participants for the opening of Little League season. The group that went to Cuba was recognized as well.
- Jerry Storey asked for an update on current legal expenses. Peter Frankenburg reported legal expenses to date are $206,000 of which $115,000 has been for the Vermont Railways case.

## 6. TOWN MANAGER'S REPORT

Joe Colangelo highlighted the following from the manager's report posted online:

- Underground borings were done and a water line installed at the Parade so the plantings at the Veterans Memorial can be watered.
- South tank maintenance continues seven days a week. Noisy work will not be done on weekends in consideration of nearby residents. [At the end of the meeting Jerry Storey made positive comment on the effort by the Town Manager to address the interests and concerns relative to the maintenance on the south water tank.]
- The town received a paving grant.
- Testimony from Sheriff Marcoux on the true cost of E-911 dispatch service is $300,000 per year per position. Currently, Shelburne is paid by the state $45,000 per year per position for two dispatchers. The payment by the state falls far short of the services provided.
- H.647 that was passed into law requires waste water operators to report an overflow incident within one hour of discovery which is unrealistic because pipe breaks happen at all hours in all weather and need to be resolved first and then a report can be filed. The law is a setup for criticism and failure.
- The town received funding for planning projects from the Regional Planning UPWP for Phase 2 Form Based Code, southern gateway pedestrian project (by Teddy Bear), and the Bay Road pedestrian and mobility study (switched from the village transportation study).

**7. PUBLIC HEARINGS: Food Truck Ordinance, Peddler's Ordinance, Three Year Waste Water Allocation Ordinance**

The public hearing was opened at 7:18 PM.

*Food Truck Ordinance*

**MOTION by Colleen Parker, SECOND by Jerry Storey, to read the Food Truck Ordinance by title. VOTING: unanimous (5-0); motion carried.**

Josh Dein stated he submitted proposed changes to the ordinance and felt it would be in the best interest of the Selectboard to review the comments and address potential unintended consequences of the ordinance. This is no urgency to pass the ordinance at this meeting.

Jerry Storey commented on the registry proposed by Mr. Dein that will enable users to have ready and timely access to vendors and relieves the burden on town staff to register vendors. Mr. Storey expressed hope there would be time to pursue the matter at some length. Mr. Storey mentioned the ordinance procedure itself should be looked at because legal review should be done before the First Reading, not later in the process.

It was noted the full board did not receive the comments on the ordinance from Mr. Dein prior to the meeting. There was discussion of being able to add the Food Truck Ordinance to an agenda in the near term since the meeting agendas are very full. Meetings have been running long. Gary von Stange pointed out the Food Truck Ordinance has been worked on by the Selectboard for months. There was a process in place to review the materials prior to the next meeting so it is not appropriate to come forward with substantive changes the day before the Selectboard meeting. Josh Dein stated the process of developing an ordinance is evolutionary, noting he made comments at both the First and Second Readings, and his changes are an attempt for the ordinance to provide benefit to the town without putting a burden on staff time. Mr. Dein said he was not aware there was a timeframe set for when items needed to be submitted. Mr. Dein said he just wanted to offer the community a better, more workable ordinance and get it right. If the Selectboard has so much work to do then it may be that more time is needed to do it.

*PUBLIC COMMENTS*

Kevin Clayton, Village Wine & Coffee, suggested the permit approval time be shortened to five days and parking in various places in the village center be considered "adjacent parking" to meet the requirement of the ordinance for parking. Mr. Clayton said he is in favor of the ordinance moving forward. Dean Pierce noted the timeframe for approval of the permit is a maximum and the language in the ordinance allows for asking about parking. If a food truck is an accent to an event then there should be adequate parking for that.

John Kerr suggested tabling action on the ordinance to allow for a more accurate assessment of the information submitted by Josh Dein. Mr. Dein explained he proposed language to separate the application process from the request for specific times and locations. Also, there are different versions of the ordinance posted on the website to

what is now in front of the Selectboard. Joe Colangelo confirmed the current version and all past versions of the ordinance are on the website. Joe Colangelo pointed out the ordinance needs to move forward in order for food trucks to operate this summer. The ordinance once adopted can be amended.

Gail Albert asked why food trucks cannot be in town unless there is an ordinance in place when there has not been an ordinance in the past. Dean Pierce explained there are many locations where having a food truck would be in violation of the zoning.

Jerry Storey commented it is a fair criticism of the timing of the materials submitted, but only three of the five board members have been working on the ordinance for a length of time. The town has existed without a food truck ordinance so it is not catastrophic if the ordinance is not passed right now. The time that is needed should be taken.

Ken Albert stated the ordinance needs to allow for parking someplace else in the village because there is limited space for "adjacent parking". The key is keeping the village vibrant.

**MOTION by Josh Dein, SECOND by Jerry Storey, to table the Food Truck Ordinance to allow further review.**

**DISCUSSION: Gary von Stange noted the motion does not include a date. There were no further comments.**

**VOTING: 2 ayes, 3 nays (Gary von Stange, Colleen Parker, John Kerr); motion did not carry.**

There were no further comments.

**MOTION by Colleen Parker, SECOND by John Kerr, to close the public hearing on the Food Truck Ordinance. VOTING: unanimous (5-0); motion carried.**

The public hearing on the Food Truck Ordinance was closed at 7:56 PM.

**MOTION by Colleen Parker, SECOND by John Kerr, to approve the Food Truck Ordinance as presented. VOTING: 3 ayes, 2 nays (Josh Dein, Jerry Storey); motion carried.**

Gary von Stange said he is in favor of addressing all additional comments on the ordinance at a later date, but this needs to be done in a timely manner.

*Peddler's Ordinance*

The public hearing on the Peddler's Ordinance was opened at 7:57 PM.

**MOTION by Colleen Parker, SECOND by Jerry Storey, to read the Peddler's Ordinance by title. VOTING: unanimous (5-0); motion carried.**

There were no comments on the ordinance.

**MOTION by Colleen Parker, SECOND by Jerry Storey, to close the public hearing on the Peddler's Ordinance. VOTING: unanimous (5-0); motion carried.**

The public hearing on the Peddler's Ordinance was closed at 7:58 PM.

**MOTION by Colleen Parker, SECOND by John Kerr, to approve the Peddler's Ordinance as presented. VOTING: unanimous (5-0); motion carried.**

*Three Year Waste Water Allocation Ordinance*
**MOTION by Colleen Parker, SECOND by Jerry Storey, to read the Three Year Waste Water Ordinance by title. VOTING: unanimous (5-0); motion carried.**

The public hearing was opened at 8 PM. There were no comments.

**MOTION by Colleen Parker, SECOND by Jerry Storey, to close the public hearing on the Three Year Waste Water Ordinance. VOTING: unanimous (5-0); motion carried.**

The public hearing on the Three Year Waste Water Ordinance was closed at 8:01 PM.

**MOTION by Colleen Parker, SECOND by Jerry Storey, to approve the Three Year Waste Water Ordinance as presented. VOTING: unanimous (5-0); motion carried.**

**8. ANNUAL CBC REPORT TO SELECTBOARD: Planning Commission**
Planning Commission Chair, Jaime Heins, reviewed the responses to the questions in the report, highlighting the following:

- Planning commissions in the state must follow the statutory mission.
- Shelburne's Planning Commission has diversity of professions and areas of town where members reside in the membership.
- The appointment process works well as is.
- Accomplishments by the Planning Commission include Form Based Code, zoning items (mobile homes, restaurant parking, signage at rec fields, development density), discussion of future zoning items (lighting, PUD buffer, solar siting ordinance), presentations and discussion of wetlands, affordable housing, and renewable energy, a housing subcommittee was created, and a business survey was done.
- Top priorities for the Planning Commission are storm water management and planning, connected infrastructure for livability and quality of life, and growth in the Rural District.
- Budget: if less money is available then defer opportunity for matching funds for grants; if more money available then hire a part-time enforcement officer, do a storm water analysis, do mapping for telecommunications and solar sites, and offer training and education opportunities.

Colleen Parker suggested meeting with the Paths Committee to discuss walkability. Jaime Heins said the Planning Commission has met with the committee and will continue to meet to discuss actionable items and thinking about building places differently, not just for roads.

Josh Dein asked if people interested in serving on the Planning Commission talk to the Chair prior to being interviewed by the Selectboard. Jaime Heins confirmed this is encouraged and does occur now.

**9. CHANGES TO ZONING BYLAWS & TOWN PLAN and SET PUBLIC HEARING ON JUNE 14, 2016**

**MOTION by Colleen Parker, SECOND by Jerry Storey, to accept the changes to the zoning bylaws and town plan as presented and set a public hearing for June 14, 2016. VOTING: unanimous (5-0); motion carried.**

**10. INTER-MUNICIPAL SERVICES CONTRACT WITH CITY OF SOUTH BURLINGTON FOR FY2017 STORMWATER MANAGEMENT SERVICES**

Chris Robinson, Water Quality Superintendent, reviewed the list of tasks to be done by South Burlington under the guidance of Tom DiPietro, South Burlington Deputy Public Works Director. The tasks include updating and review of storm water infrastructure data, management plans and permits, doing inspections and cleanings, providing site plan review as needed and other assistance as needed. The insurance carriers for both towns have reviewed the document. Legal counsel is reviewing the contract. Joe Colangelo noted the task list are items the town is mandated to do, but currently is not doing because the town does not have the capability. Tom DiPietro confirmed his department has expertise in stormwater management and the arrangement will work well for both towns.

**MOTION by Colleen Parker, SECOND by Jerry Storey, to support the inter-municipal services contract with the City of South Burlington for FY2017 for a not to exceed amount of $50,000 and authorize the Town Manager to sign the agreement on behalf of the town.**

**<u>DISCUSSION</u>: Colleen Parker commented the retention ponds for South Village in South Burlington have made a difference with managing storm water flow onto adjacent property. There were no further comments.**

**VOTING: unanimous (5-0); motion carried.**

**11. PRESENTATION: Three Year Monroe Brook Storm Water Study**

Jeremy Matosky and Andrew Mills with Trudell Engineer updated the Selectboard on the Monroe Brook storm water study. The analysis of the 3,500 acre watershed is complete and best management practices were developed to reduce peak flows by 6.5% for a one year storm and increase ground recharge. The town now has to implement the improvements. Funding is an issue. At this time there are 30 identified projects to be done at a collective cost of $7,168,165. Shelburne has 16 years remaining on the 20 year time period allowed by the state to implement the storm water improvements. The town must maintain the improvements as well. Chris Robinson added there are other storm

water permits and obligations facing the town. The Lake Champlain TMDL requirements which have not yet been issued will add more storm water restrictions on the town.

Gail Albert mentioned a large development proposed in the Monroe Brook watershed where a significant number of trees will be removed. Jeremy Matosky stated all projects with over one acre in an impaired watershed must get an individual permit and must meet all standards and offset requirements from the state so the new development has a net zero impact on the watershed.

There was discussion of funding and acknowledgement the storm water regulations will be absolutely crushing to finance. Innovations relative to funding are being discussed around the state. The state Clean Water Fund is underfunded currently. Money from the property transfer tax goes into the Clean Water Fund. There is also the state revolving loan fund and the individual homeowner taking responsibility for drainage from their property. The over-arching goal is for the town to meet the attainment goals any way this can be accomplished. Reforestation, disconnecting runoff, rain barrels, are some suggested ideas.

Jim Pease, DEC, stated Shelburne has been proactive in some areas and raised its conscientiousness about storm water. The health of waterways and the water quality of the lake are the driving forces. Gary von Stange confirmed the town has been aware of the issues for many years. There has always been concern about funding.

There was agreement periodic updates on impaired watersheds and other stormwater related matters will be included on future Selectboard agendas.

**12. NESTI SWALE STORMWATER GRANT COMMUNITY CONCERNS MEETING**

Jim Pease, DEC, reviewed the gravel wetlands and ponds to manage stormwater drainage and erosion control by the Nesti property. The cost of the facilities is $333,000 which was covered by grants. The town must maintain the facilities. The project will help with the TMDL requirements for Lake Champlain.

**13. SECOND READING: Amendments to the Parking Ordinance**

**MOTION by Jerry Storey, SECOND by Colleen Parker, to read the Parking Ordinance by title. VOTING: unanimous (5-0); motion carried.**

There were no comments on the amendments to prohibit parking on the north side of Harbor Road from Turtle Lane to 687 Harbor Road.

**14. PROPOSED FY17 CHITTENDEN SOLID WASTE DISTRICT BUDGET**

Tom Moreau, CSWD General Manager, reported the proposed CSWD budget of $9.6 million is up by $104,000 due to a 1.1% increase in expenses and a 5.2% increase in revenues. Increase in costs include hiring an additional maintenance person, salary& wage increases, more tonnage received at the recycling facility, and increased cost for trash and compost. Cost decreases include biosolids, printing and advertising, and the

search for a new General Manager. The Drop Off Centers will accept food waste (organics) at no additional cost because the cost to receive and compost the material is embedded in the budget. Markets are down for some recyclable materials, such as scrap metal. The Drop Off Center in Burlington will likely be relocated to Flynn Ave. The Drop Off Center in Hinesburg will also be relocated.

The Selectboard thanked Tom Moreau for his service to CSWD and the annual presentation of the budget.

**MOTION by Jerry Storey, SECOND by Colleen Parker, to approve the FY2017 CSWD budget as presented. VOTING: unanimous (5-0); motion carried.**

**15. EVIDENTIARY HEARING REPORT – Vermont Railways v Town of Shelburne**

Gary von Stange reported there were four days of testimony in Federal Court before Judge Sessions with expert and fact witnesses. One more day of testimony is scheduled. Possible finish date is May 17, 2016. The Judge ordered both parties to file post-trial memorandums (similar to proposed findings of fact and conclusion of law).

**16. PROPERTY TAX PENALTY AND INTEREST WAIVERS**

*322 Birch Road – owner deceased*

**MOTION by Colleen Parker, SECOND by Josh Dein, to waive the penalty charge in the amount of $90.43 for 322 Birch Road. VOTING: unanimous (5-0); motion carried.**

*420 Acorn Lane – owner in nursing home*

**MOTION by Colleen Parker, SECOND by Jerry Storey, to waive the penalty charge in the amount of $75.92 for 420 Acorn Lane. VOTING: unanimous (5-0); motion carried.**

*149 Davis Ave. – automatic payment information not received by town*

**MOTION by Josh Dein, SECOND by Colleen Parker, to approve the request to waive the penalty of $110.85 for 149 Davis Ave. VOTING: 0 ayes, 5 nays (Gary von Stange, Colleen Parker, John Kerr, Jerry Storey, Josh Dein); motion did not carry.**

*206 Green Hills Drive – financial hardship due to loss of spouse*

Peter Frankenburg advised the financial hardship issue should be handled by the Board of Abatement, not the Selectboard.

**MOTION by Colleen Parker, SECOND by John Kerr, to waive half the penalty in the amount of $26 for 206 Green Hills Drive. VOTING: 3 ayes, two nays (Gary von Stange, Jerry Storey); motion carried.**

**17.a APPROVE LIQUOR LICENSE**

*Shelburne Wine Sellers, LLC*

**MOTION by Colleen Parker, SECOND by Jerry Storey, to approve a Second Class liquor license for Shelburne Wine Sellers, LLC d/b/a Antica at 3762 Shelburne Road. VOTING: unanimous (5-0); motion carried.**

**17.b APPROVE WASTE WATER ALLOCATION**

*26 Fisher Place – 228.57 gpd*

**MOTION by Colleen Parker, SECOND by Jerry Storey, to approve waste water allocation of 228.57 gpd for 26 Fisher Place. VOTING: unanimous (5-0); motion carried.**

*Shelburne Green South – 5300 gpd*

**MOTION by Colleen Parker, SECOND by Jerry Storey, to approve waste water allocation of 5300 gpd for Shelburne Green South. VOTING: unanimous (5-0); motion carried.**

**18. PETITION FOR VERMONT DEPARTMENT OF TAXES DIVISION OF PROPERTY VALUATION**

**MOTION by Colleen Parker, SECOND by John Kerr, to authorize the Selectboard Chair to sign the Petition of Redetermination to the Vermont State Department of Taxes Division of Property Valuation. VOTING: unanimous (5-0); motion carried.**

**19. ADJOURNMENT**

**MOTION by Colleen Parker, SECOND by Jerry Storey, to adjourn the meeting. VOTIG: unanimous (5-0); motion carried.**

The meeting was adjourned at 10 PM.

Accepted,

On Behalf of the Selectboard