MINUTES SUBJECT TO CORRECTION BY THE SHELBURNE BOARD OF CIVIL AUTHORITY. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE BOARD.

TOWN OF SHELBURNE
BOARD OF CIVIL AUTHORITY
MINUTES OF MEETING
September 6, 2016

APPROVED – 9/19/16

MEMBERS PRESENT: Tom Little (Chair); Laura Gannon-Murakami, Dennis Bowen, Marsett Ockert, Gary von Stange, Peter Gadue, Jerry Storey, John Kerr, Lee Suskin, Jennifer Leopold, David Webster, Nancy Baker, Colleen Haag (Clerk).

ADMINISTRATION: Ted Nelson, Town Assessor; Joe Colangelo, Town Manager.

OTHERS PRESENT: None.

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1. CALL TO ORDER
Chair Tom Little called the meeting to order at 7:03 PM.

2. PUBLIC COMMENT
None.

3. REVIEW/APPROVE MINUTES
August 1, 2016

MOTION by David Webster, SECOND by Pete Gadue, to approve the minutes of August 1, 2016 as written. VOTING: unanimous; motion carried.

4. APPEAL HEARING: Vermont Railway, Inc. appeal of Town Assessor's denial of tax exempt status for Parcel #2122087000
Chair Little reviewed his memo, dated 9/6/16, on the Ethics and Conflict of Interest Ordinance, noting any member who wants to recuse him or herself after reviewing the ordinance can do so. The following was reviewed:

- Article 11(a) concerning disclosure of any conflicts of interest, appearances of conflicts of interest or ex parte communications.
- Article 3 (a) (c) and (g) concerning the meaning of "conflict of interest", "appearance of a conflict of interest", and "ex parte communication".
- Article 12 concerning disclosure of ex parte communications in quasi-judicial proceedings.
- Article 13 concerning disqualification and recusal in quasi-judicial proceedings.
- Public statements showing pre-judgement of a matter pending before a quasi-judicial board.

David Webster asked about the shareholders of Vermont Railway. It was noted David Wulfson and another family member are shareholders, but there may be others.

Selectboard members, Gary von Stange, John Kerr, and Jerry Storey recused themselves from hearing the appeal to avoid the appearance of a conflict of interest due to the town's continuing litigation with Vermont Railway. Other members of the BCA disclosed interactions with the railroad case (mainly attending meetings out of curiosity or to ask

questions about the site) and all felt they could and would be unbiased in hearing and deciding the appeal. The BCA felt recusal was not necessary in these instances.

Appeal by Vermont Railway, Inc.
Submittals:

- Memo from Thomas Little, dated 9/6/16, to the BCA re: Ethics and Conflict of Interest Ordinance.
- Email from Vermont Rail Systems, dated 9/2/16, re: BCA Appeal by Vermont Railways, Inc. with attached appeal letter containing legal points and a copy of the Judge Session decision.
- Memo from Ted Nelson, Town Assessor, to Colleen Haag, Town Clerk, dated 8/30/16, re: Copies of Town Attorney letter dated August 10, 2016, Assessment Sheets, and "Land for Sale" Notice.

Chair Little noted Vermont Railway filed an appeal claiming that as of April 1, 2016 the subject property was exempt from town property taxes (municipal and school) under a provision of Title 32 (Vermont tax code) applicable to property used by a railroad to operate the railroad. Mr. Little noted in a recent exemption appeal (Waldorf School) the BCA sent an inspection committee to the property and would like to do so in this case even though the valuation does not seem to be contested.

Chair Little commented in the last 24 months in developing the BCA Rules of Procedure and hearing certain appeals the BCA discussed whether to close the record after a hearing or allow the record to stay open to address any questions the inspection committee may have and have the property owner present at a follow up hearing to answer questions. Historically, the BCA has held a single hearing to take testimony and then closed the record. Nancy Baker pointed out the BCA revised the rules and agreed the initial hearing is "it" for testimony.

Individuals present to give testimony on the appeal by Vermont Railway were sworn in.

Ted Nelson, Town Assessor stated the property under appeal is a 32.8 acre vacant parcel at 2087 Shelburne Road owned since December 2015 by Vermont Railway, Inc. with a value of $729,600 since 2008. A change notice to remove the house site and homestead values was sent to the property owner.

APPELLANT COMMENTS
The Appellant was not present in person or through any representatives. Chair Little stated that the Appellant appears to have chosen to stand on their appeal letter and attachments.

ASSESSOR COMMENTS
Ted Nelson stated the property owner, Vermont Railway, Inc., indicated the property at 2087 Shelburne Road is not taxable because of ownership by the railroad. The property was formerly owned by Northern Vermont Financial Corporation. The property was transferred to the current owner on 12/28/15. The property was inspected on April 1,

the Presidential election in some manner (perhaps handing out ballots) as a learning experience.

MOTION by Bud Ockert, SECOND by David Webster, to approve the slate of ballot clerks for the 8/9/16 primary election as presented. VOTING: unanimous; motion carried.

7. OTHER BUSINESS

BCA Rules of Procedure

Copies of the Rules of Procedure were provided to the members present. Available through the Secretary of State is the "Handbook on Property Tax Assessment Appeals" and a guide on abatements.

Results of Appeal of BCA Decision

Dennis Bowen suggested review of any appeals of BCA decisions would be a valuable learning experience for board members. There was mention of past cases that may be helpful for reference with the current appeal before the board.

8. ADJOURNMENT

MOTION by David Webster, SECOND by Bud Ockert, to adjourn the meeting. VOTING: unanimous; motion carried.

The meeting was adjourned at 7:23 PM.

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