

**TOWN OF SHELBURNE
SELECTBOARD
MINUTES OF SPECIAL MEETING
February 3, 2017**

MEMBERS PRESENT: Gary von Stange (Chairman); Colleen Parker, Josh Dein, John Kerr, Jerry Storey.
ADMINISTRATION: Joe Colangelo, Town Manager.
OTHERS PRESENT: See sign-in sheet from the meeting.

1. CALL TO ORDER

Chairman Gary von Stange called the special meeting to order at 7:05 PM.

2. APPROVE AGENDA

There were no changes to the agenda.

3. PUBLIC HEARING: Removal of Selectboard Member

Gary von Stange announced after the court hearing the attorney for the town and the attorney for Mr. Dein had a conversation on the matter.

4. DELIBERATIVE SESSION

MOTION by Colleen Parker, **SECOND** by John Kerr, to enter Executive Session to discuss removal of selectboard member, Josh Dein, and invite the Town Attorney and Mr. Dein's attorney to attend.

DISCUSSION: The following comments were made:

- Members of the public in attendance asked if there will be opportunity for public comment. Gary von Stange explained per Section 312.H of the Open Meeting Law quasi-judicial procedures provide there are no public comments.
- Gary von Stange noted Brian Monahan is the Town Attorney and Pietro Lynn is Mr. Dein's attorney. After the hearing today the two attorneys spoke to see if there was possible resolution so the town and parties do not have to go through the hearing.

There were no further comments.

VOTING: 4 ayes, one nay (Jerry Storey); motion carried.

Executive Session was convened at 7:10 PM and adjourned at 8:15 PM. The special meeting reconvened.

Gary von Stange reported after the discussion in Executive Session everyone on the board committed to working together in a way that is in the best interest of the town. As a result all agreed to consider entering into a settlement agreement to resolve the matter. A summary of the terms of the agreement should it be passed will be public and posted on the town website. The conversation in Executive Session was, per one member, the first in many positive steps for the board to repair and go forward in a positive way.

Terms of the agreement include:

- Mr. Dein does not admit any wrongdoing, but out of a desire to put this matter behind him and move forward in a positive and constructive manner he will immediately recuse himself from participating in any manner in the town litigation involving Vermont Railways, Inc. and Barrett Trucking, Inc. including but not limited to the federal court action either as a town official or in his personal capacity. This recusal includes that Mr. Dein will not participate in town Selectboard meetings, Executive Sessions, site visits and communications with anyone at Vermont Railway, Inc. or Barrett Trucking, Inc. or any subsidiary or related entities of either.
- The Selectboard and Mr. Dein agree to mutual general releases whereby Mr. Dein withdraws his ethics complaint and the board will not pursue an ethics complaint against Mr. Dein.
- The Selectboard and Mr. Dein commit to working together to serve the town's best interests and pursue a positive working relationship.
- All parties to this agreement agree and commit to abide by the laws of the State of Vermont with regard to their position on the board.
- All parties will pay their own attorney's fees.
- This agreement is a compromise to avoid litigation. Neither party admits any wrongdoing and no prior conduct up to the execution of this agreement may be used as the basis for any disciplinary action including removal proceedings.

Gary von Stange said after Executive Session he and Mr. Dein shook hands. The entire Selectboard wants to turn a negative into a positive.

Josh Dein agreed with the tenor of the comments and regrets this had to get to the point it did, but is happy there is a resolution that will help the town to move forward with minimal expense caused by this. Mr. Dein said he appreciates the efforts that the other board members have taken to get to this point.

Jerry Story observed it would not be difficult to comment looking backwards on how the board got to this point and whether that was in the best interest of the town. The more important sentiment is this is a very positive first step to the kind of future the community deserves and as their representatives the board should be busy putting into effect.

Colleen Parker assured the board members all took this very seriously and acted accordingly in best conscience. The members are all volunteers essentially and are here to do the best not just individually, but as a team. That was reaffirmed tonight.

John Kerr stated it is easy to prejudge and say the Selectboard knew what they would do with the public in attendance, but the board had no knowledge of what was going to happen and was in the same position as the public. What was witnessed was effective discussion and an agreement that is fair to both parties. The Selectboard did the best for the Town of Shelburne and did not act individually. There is no agenda for anyone on the

board. There is a commitment from all five members to work harder together to get to the best decisions for the town. Mr. Kerr said he does not gain anything personally by making a decision one way or another, but the town does and that is his interest. Mr. Kerr urged anyone who would like to speak with him to contact him.

MOTION by Colleen Parker, SECOND by Jerry Storey, to approve the settlement agreement.

DISCUSSION: Gail Albert thanked the board for taking the time to talk to each other and bring a better conclusion than the beginning. Persis Worrell asked if the board will withdraw their complaint against Mr. Dein. Gary von Stange said a complaint will not be filed. There were no further comments.

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

Gary von Stange thanked the attorneys who represented their clients zealously and to the best of their ability, but cared deeply about doing what was best for the town. This is a testament to their character. Josh Simons was also thanked for agreeing to assist if needed.

Jerry Storey thanked everyone for coming to the meeting.

Josh Dein thanked everyone for their support.

5. ADJOURNMENT

MOTION by Colleen Parker, SECOND by Jerry Storey, to adjourn the meeting.

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

The meeting was adjourned at 8:30 PM.

RecScty: MERiordan