

**TOWN OF SHELBURNE
SELECTBOARD
MINUTES OF MEETING
February 13, 2018**

MEMBERS PRESENT: Gary von Stange (Chair); Jerry Storey, Colleen Parker, Josh Dein, Jaime Heins.
ADMINISTRATION: Peter Frankenburg, Finance Director; Dean Pierce, Planning Director.
OTHERS PRESENT: Sign-in sheet on file in town office.

1. CALL TO ORDER

Chair Gary von Stange called the meeting to order at 7 PM and noted Peter Frankenburg is standing in for Joe Colangelo who just welcomed a new baby boy into his family.

2. APPROVE AGENDA

MOTION by Jaime Heins, SECOND by Jerry Storey, to approve the agenda as presented. VOTING: unanimous (4-0)[Colleen Parker not present for vote]; motion carried.

3. APPROVE MINUTES

January 23, 2018

MOTION by Jaime Heins, SECOND by Josh Dein, to approve the minutes of 1/23/18 with the amendment in Item 4 (Public Comment) to change “bond vote” to “budget vote”. VOTING: 3 ayes, one abstention (Gary von Stange)[Colleen Parker not present for vote]; motion carried.

4. CITIZEN PARTICIPATION & PUBLIC COMMENT

Gail Albert mentioned reports of snow dumping on property adjacent to Teddy Bear very close to McCabe Brook which is an impaired waterway. Peter Frankenburg said staff will follow up on the matter. Gail Albert asked that the information be conveyed to the Shelburne Natural Resources Committee.

Dr. Steven Metz asked how the recipient of the Colleen Haag Award is chosen (i.e. the nominations and the criteria). Gary von Stange said potential candidates are discussed in Executive Session prior to a vote by the Selectboard on the recipient. Josh Dein said the Selectboard has not yet received any of the nominations sent to the Town Manager.

There were no further public comments at this time.

5. PUBLIC HEARING: 2nd Reading of Amendments to Traffic Ordinance

Gary von Stange read the amendment to the Speed Limit Ordinance per Section 147-1.6 of the town charter to reduce the speed limit to 25 mph on Falls Road from Route 7 to Church Street, to 30 mph on Falls Road from Church Street to Marsett Road, to 30 mph on Falls Road from Marsett Road to Thompson Road, and to 30 mph on Marsett Road from Route 7 to Falls Road. The public hearing was opened at 7:08 PM.

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

COMMENTS

Gary von Stange recognized the effort by many town residents and town staff to reduce the speed limit and address safety in the village core and increase vitality in the village. The action is a departure from the standard to reduce the speed limit relative to the 85th percentile.

Jerry Storey also recognized the individuals who worked on the initiative that will be a model other neighborhoods can follow going forward.

Gary von Stange read an email, dated 2/9/18, from Roger Dickinson, Lamoureux & Dickinson Consulting Engineers, regarding examination of existing traffic and geometric condition on Falls Road and Marsett Road as part of the December 2016 review of Shelburne's Village Plan update, and the professional opinion that the speed limits as proposed on Falls Road and Marsett Road are appropriate given the built residential character of the area and the volume and speed of vehicular traffic as well as the presence of pedestrians and bicycles, the existing roadway and shoulder widths, and the grade and horizontal curvature along portions of roadway segments. Gary von Stange also read an email, dated 2/9/18, from Al Fortin, Shelburne Police, regarding increased number of complaints of speeding and crosswalk violations on Falls Road and Marsett Road, and the efforts by the police to address both issues.

Jeff McBride, resident, said the group worked hard to lower the speed limit which will improve safety. The group will now focus on additional physical built environment changes to reinforce the reduction in the speed limit.

Linda Riehl, Falls Road, expressed appreciation for the work done to make the road safer for people and pets.

Jim White, Hillside Terrace, thanked everyone who championed the work. Mr. White read from the 2017 report from the National Conference of State Legislatures regarding small reductions of speed meaning the difference between life and death for pedestrians. Accidents at 23 mph have a 23% death risk. Risk increases to 25% at 32 mph and 50% at 42 mph. The reduction in speed limit will make a difference.

There were no further comments.

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

MOTION by Jerry Storey, SECOND by Josh Dein, to amend the Shelburne Speed Limit Ordinance as proposed below and sign the amended ordinance:

- Reduce the speed limit to 25 mph on Falls Road from Route 7 to Church Street;
- Reduce the speed limit to 30 mph on Falls Road from Church Street to Marsett Road;
- Reduce the speed limit to 30 mph on Falls Road from Marsett Road to Thompson Road;
- Reduce the speed limit to 30 mph on Marsett Road from Route 7 to Falls Road.

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

The Selectboard signed the document(s).

6. TREE CITY USA APPLICATION

Gail Henderson King and members of the Tree Advisory Committee in attendance explained the application for Shelburne's designation as "Tree City USA" and gave a presentation on the value and benefit of trees in the town as well as the benefits of the Tree City USA designation. The town meets the four standards required to apply for the designation. The application due date is 2/15/18.

Hope Johnson read a statement from Treebeard in support of national recognition of Shelburne as "Tree City USA" and words of appreciation for the advocacy by Gary von Stange for the Tree Advisory Committee while on the Selectboard.

Josh Dein encouraged residents to attend the workshops on trees that are offered.

MOTION by Josh Dein, SECOND by Colleen Parker, to approve the application for Tree City USA designation as requested by the Tree Advisory Committee.

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

7. CONTINUED REVIEW OF UPDATES TO PERSONNEL POLICY

Jerry Storey expressed hope the Selectboard can complete review of Sections 1-6 of the Personnel Policy and address Sections 7-15 so the document can be adopted at the next meeting. Questions on the definition of conflict of interest, personal interest, and financial interest can be deferred until the Ethics Ordinance is revised. The Social Media policy should be free standing and further discussion is needed on how fraud with the Town Clerk is handled since the position is elected (i.e. handled by the Town Manager or the Selectboard).

Josh Dein noted the following concerns:

- The language in the policy may not meet the guidance of the National Labor Relations Board. VLCT cautioned with regard to personnel policies that contain reference to 'just cause' for dismissal, there are types of conduct that warrant dismissal that are somewhat problematic.
- The section on fraud does not address fraud by the Town Clerk.
- Conflict of interest needs to be coordinated with the Ethics Ordinance. This can be done when the Ethics Committee completes revisions.

- Regarding workplace recordings, the National Labor Relations Board says there cannot be a blanket ban on workplace recording.

Josh Dein observed eight of his comments on the sections are missing. Mr. Dein will forward a copy of all his comments to the Selectboard.

Gary von Stange pointed out the Selectboard is the only body that can change the ordinance and any changes must go through the same process as adoption which takes time. There is question whether changes to the Personnel Policy should defer to the Town Manager rather than the Selectboard since personnel report to the Town Manager.

The Selectboard will forward comments on the Personnel Policy to the Town Manager so the final document can be prepared for adoption at the next meeting.

8. VCDP GRANT ON BEHALF OF SHELBURNEWOOD COOPERATIVE

Jeremiah Ward with the Cooperative Development Institute that works on converting mobile home parks to home ownership explained the grant application to hire an engineer to study potential configuration of the expansion of manufactured modular housing (29 housing sites) on 14 acres on the east side of Shelburnewood Mobile Home Park to preserve the high quality of life, cooperative culture and affordable housing that exists now. Shelburnewood Co-op has first option to shape the development of the parcel. If nothing is done with the land then Pomerleau Real Estate will take over the development. The town is being asked to sponsor the application. The Co-op will pay the 25% match. There is a network of non-profits for financing. Use of the grant funds will be contingent upon getting approval from Pomerleau Real Estate of an extension of the development timeline. There have been discussions with Champlain Housing Trust regarding ingress/egress from Harrington Village.

Jerry Storey asked about navigating income eligibility if the town is the sponsor. Jeremiah Ward said the grant is limited to the site. There is an income survey requirement. Jerry Storey asked about access via the shopping center. Jeremiah Ward said the engineer could look at this option. There are cost considerations though.

Josh Dein asked about the change in wetlands designation impacted the proposed lots. Jeremiah Ward said a couple of the housing sites on the east side may be impacted, but there is enough space to reconfigure the layout. Josh Dein asked if the site will be two large parcels with one operational entity. Jeremiah Ward said there is a zoning ramification for expanding manufactured housing and a zoning ramification for creating new housing on a separate parcel. Determining which choice could be part of the scope of work for the engineer. All will be part of the same co-op and leadership. Jamie Stannis, President of Shelburnewood Co-op, added whatever works best for everyone and is the least complicated will be done. Tracey Beaudin, Secretary of Shelburnewood Co-op said the residents are very excited about the expansion.

9. TOWN MEETING WARNING ARTICLES

No discussion or comments.

10. SELECTBOARD POLICY FOR LATE PROPERTY TAX PAYMENTS

The Selectboard discussed the policy that incorporated the comments received. Gary von Stange expressed concern some of the language is ambiguous, but a policy can be changed more easily than an ordinance.

Jerry Storey reviewed the footnote on timing of the review possibly conflicting with the town charter. The policy should assist staff with consistency of decision making and to help residents understand the appeal process.

Peter Frankenburg, Finance Director, noted the language referring to ‘evidence of past timely payment of taxes’ raises concern people will object to paying the penalty for late payment on that basis and the number of requests for waivers will increase. There is no doubt people will provide evidence of past payments in their appeal. Jerry Storey proposed removing the statement (Item 7) from the policy.

MOTION by Colleen Parker, SECOND by Josh Dein, to adopt the Late Property Tax Payment Policy with the amendment to remove Item 7 regarding evidence of past timely payments and renumbering the items accordingly.

DISCUSSION:

- **Linda Riehl, Falls Road, asked that the list of criteria be read. Jerry Storey summarized the criteria include being a member of the armed services and being deployed outside Vermont, unplanned relocation within the past 90 days, use of personal or family resources to effect timely payment, death in the family within the past six months, unexpected change in financial situation within the past six months of the due date, USPS or financial institution delay, or other extenuating circumstance(s) considered equivalent by the Selectboard.**
- **Gary von Stange reiterated his concern for some of the language, but will support the policy because staff is in favor of it.**

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

11. LIQUOR LICENSE REQUEST(S)

The hearing on the liquor license requests was opened at 8:31 PM and the list of establishments requesting liquor licenses was read (First Class License: Bangkok Minutes Thai Café, Buono Appetito, Chef Leu’s House, Inn at Shelburne Farms, La Villa, Shelburne Fieldhouse, Shelburne Tap House, Skinny Pancake – Shelburne, LLC; Second Class License: Green Pasture Meats, Kinney Drugs, Inc., Shelburne Meat Market, Walgreens; Outdoor Consumption Permit: Buono Appetito, La Villa). There were no announcements of conflict of interest by members of the Board of Liquor Control (i.e. selectboard).

MOTION by Colleen Parker, SECOND by Jerry Storey, to approve the liquor license requests en masse as read. VOTING: unanimous (5-0); motion carried.

12. CAPITAL EQUIPMENT NOTE: 2015 HIGHWAY TRUCK

Peter Frankenburg explained per past practice the town finances larger vehicles on one year notes renewed each year.

MOTION by Jerry Storey, SECOND by Jaime Heins, to approve the capital equipment note in the amount of \$40,000 with National Bank of Middlebury for a term of one year at an interest rate of 2.05% for the purchase of the 2015 highway truck. VOTING: unanimous (5-0); motion carried.

13. SHELBURNE 2018 CERTIFICATE OF HIGHWAY MILEAGE

Peter Frankenburg noted Harrington Avenue and a portion of South Park Road have been added to the total miles of town road.

MOTION by Josh Dein, SECOND by Colleen Parker, to approve Shelburne's 2018 Certificate of Highway Mileage. VOTING: unanimous (5-0); motion carried.

The Selectboard signed the certificate.

14. YEAR-TO-DATE FINANCIAL REPORT

Peter Frankenburg reported with 61% of the fiscal year complete the town is on track with revenues. There have not been any property tax appeals so property tax revenue should be on target for the year. Revenues are up in Planning & Zoning due to permits for the Wake Robin and Rice Woods projects. Operationally the town is in good shape. Highway is on track. There have been some snowstorms requiring salt purchase, but the contingency will handle any over-budget spending. The biggest variance is legal expenses (\$155,000 over budget). There are some offsets to mitigate the overage. The Finance Department will be working with department heads to ensure budgets are back on target by the end of the fiscal year.

COMMENTS

Dr. Metz asked that the overage in legal expenses be restated. Peter Frankenburg reiterated legal expenses are \$155,000 over budget.

15. PUBLIC COMMENTS (continued)

Dr. Metz again requested the criteria used to determine the recipient of the Colleen Haag Award and the sources to consider eligible candidates. Jaime Heins said the town website has a caption describing previous awards and examples of criteria. Also, there was an article in *Shelburne News* that tried to articulate the criteria. Josh Dein said it seems reasonable to develop some metrics and have discussion of criteria. Colleen Parker recalled the spirit of the award is to bestow on someone with a degree of volunteer work to the residents of Shelburne. Recommendations typically were verbally submitted to the Town Manager and through the newspaper and social media. Dr. Metz asked if it can be inferred that after discussion the criteria will be made public before the award is given. Jaime Heins confirmed that is a fair inference. Dr. Metz said time and service to the town should be criteria, and not necessarily volunteer work.

Linda Riehl said the article in the newspaper indicated the award will be given to a person whose actions exemplify the spirit of public service and shared time, talent, and energy for the betterment of the community, a person who inspires purpose and drives lasting solutions, a person who makes a difference.

Jerry Storey said the intent of the award was to commemorate Colleen Haag and what she did for the town in serving and bettering the community by activities outside the duties of her job as Town Clerk.

16. SELECTBOARD COMMENTS

None.

17. TOWN MANAGER'S REPORT

None.

18. EXECUTIVE SESSION

Legal Strategy Relative to Non-Court Ordered Mediation Session with Vermont Railways
Josh Dein recused himself.

MOTION by Jaime Heins, SECOND by Colleen Parker, to find that premature general knowledge of the Town of Shelburne litigation strategy with Vermont Railways, Inc. versus the Town of Shelburne relative to possible non-court ordered mediation between the two parties and the appeal filed in the Second Circuit Court would place the town at substantial disadvantage. VOTING: unanimous (4-0); motion carried.

MOTION by Jaime Heins, SECOND by Colleen Parker, to go into Executive Session and invite the Town Attorney via telephone and the Finance Director to attend to discuss Town of Shelburne litigation strategy with Vermont Railways, Inc. versus the Town of Shelburne relative to possible non-court ordered mediation between the two parties and the appeal filled in the Second Circuit Court. VOTING: unanimous (4-0); motion carried.

Legal Strategy Relative to Conservation Law Foundation Appeal
Josh Dein returned to the Selectboard.

MOTION by Jaime Heins, SECOND by Colleen Parker, to find that premature general knowledge of the Town of Shelburne legal strategy relative to the Conservation Law Foundation appeal of Shelburne's Waste Water Treatment Plant permits would place the town at substantial disadvantage. VOTING: unanimous (5-0); motion carried.

MOTION by Jaime Heins, SECOND by Colleen Parker, to go into Executive Session and invite the Town Attorney via telephone and the Finance Director to attend to discuss Town of Shelburne legal strategy relative to the Conservation Law

**Foundation appeal of Shelburne's Waste Water Treatment Plant permits.
VOTING: unanimous (5-0); motion carried.**

Personnel Matter: Town Clerk Performance Review & Candidates for the Colleen Haag Public Service Award

MOTION by Jaime Heins, SECOND by Colleen Parker, to go into Executive Session and invite the Finance Director to attend to discuss the performance review of the Town Clerk and review nominations for the Colleen Haag Public Service Award. VOTING: unanimous (5-0); motion carried.

Executive Session was convened at 8:55 PM.

MOTION by Colleen Parker, SECOND by Jaime Heins, to adjourn Executive Session and reconvene the regular meeting. VOTING: unanimous (5-0); motion carried.

Executive Session was adjourned and the regular meeting reconvened at 10:30 PM. There were no actionable decisions following Executive Session.

19. ADJOURNMENT

**MOTION by Jaime Heins, SECOND by Colleen Parker, to adjourn the meeting.
VOTING: unanimous (5-0); motion carried.**

The meeting was adjourned at 10:30 PM.

RecScty: MERiordan