

**TOWN OF SHELBURNE
BOARD OF CIVIL AUTHORITY
MINUTES OF MEETING
July 13, 2020**

DRAFT

***Meeting by teleconference.**

MEMBERS PRESENT: Tom Little (Chair); Nancy Baker, David Webster, Jennifer Leopold, Bill Deming, Lee Suskin, Randy Rowland, Mike Donohue, Peter Gadue, Cate Cross, Mary Kehoe, Joan Lenes, Laura Gannon-Murakami, Mike Ashooh.
ADMINISTRATION: Diana Vachon, Town Clerk; Ted Nelson, Town Assessor.
OTHERS PRESENT: Alex and Megan Webb.

[Note: Minutes reflect the order of the published agenda.]

1. CALL TO ORDER

Chair Tom Little called the teleconference meeting to order at 7:05 PM.

2. REVIEW OF AGENDA

There were no changes to the agenda.

3. PUBLIC COMMENTS

None.

4. DISCLOSE CONFLICTS OF INTEREST

None.

5. MINUTES

February 10, 2020

MOTION by Nancy Baker, **SECOND** by Pete Gadue, to approve the minutes of 2/10/20 with the following correction(s)/clarification(s):

- **Item #6. Revisions to BCA Rules and Procedures – rewrite the sentence beginning “Nancy Baker suggested looking at examples...” to read: “Nancy Baker suggested the BCA consider a short one or two page handout about the rules for members of the public and interested parties.”**

VOTING: all ayes except three abstentions (Laura Gannon-Murakami, Mike Ashooh, Joan Lenes); motion carried.

6. INITIAL HEARING ON TAX GRIEVANCE APPEAL: SHELBURNE FARMS, 1674 NORTHGATE ROAD, PARCEL ID #354.1674

Chair Little explained the BCA can hold an initial hearing on the tax appeal and then schedule a final hearing at a later date. Tax Assessor Nelson will do an introduction of the property and describe the issues being raised on appeal, and the appellant can make a statement. The BCA will then schedule a hearing and a site inspection.

For conflict of interest purposes, the BCA members disclosed any relationship with the appellant that would require recusal. It was noted that without knowing at this time who is involved in the appeal makes it difficult to determine potential conflict of interest. Most or all members of the BCA disclosed having memberships at Shelburne Farms and being supporters of the facilities. Lee Suskin disclosed he is the campaign treasurer for Representative Kate Webb. Bill Deming disclosed his tenant works at Shelburne Farms, he is a friend to a member of the Shelburne Farms board, and he helped negotiate a tax problem with Shelburne Farms while on the Selectboard years ago. Randy Rowland said he lives on the Farm and is a friend of Alex and Megan Webb so he will recuse himself from the hearing. Chair Little will gather more information on legal issues (conflict of interest) so the BCA is prepared for the appeal hearing.

Overview by Tax Assessor

Ted Nelson explained the issue with the property on Shelburne Farms known as the “treehouse” and whether the property is tax exempt and meets the “fly fishing test” based on a Vermont Supreme Court decision on a fly-fishing museum in Manchester, VT being exempt under Vermont state statute. The town feels the Shelburne Farms property is taxable with an assessment slightly greater than \$500,000.

Overview by Appellant (or representative)

Alec Webb, representing Shelburne Farms, said there is no dispute on the assessment, but there is dispute on whether the property is tax exempt. Prior to December 2019 when Shelburne Farms ~~retained~~ obtained the title, the property was privately owned. The property is now part of Shelburne Farms and used as guest facilities for individuals involved in educational activities. The appellant feels the property is tax exempt.

Nancy Baker asked if the appeal is appropriate based on ownership at the time of the Grand List since the job of the BCA is to establish fair market value and not make a legal decision. Chair Little explained the case is similar to the Waldorf School’s use of the former Morgan Horse property that was handled by the BCA.

An appeal hearing on the Shelburne Farms property will be scheduled at the end of August or early September.

Site Inspection

Chair Little said the property owner can do a video survey of the property under appeal to be viewed by the BCA. It is suggested a follow up hearing be done then the decision on the site visit can be made. The follow up hearing will be scheduled to provide enough time for the BCA to receive and review the appropriate information prior to the hearing.

Assessor Nelson asked about the presence of the Town Attorney at the hearing, noting a legal opinion from the Town Attorney has been received on the case. Lee Suskin agreed clarification is needed on whether the Town Attorney is representing the Assessor, BCA, or Selectboard, and the weight given the opinion from the Town Attorney versus the appellant. Chair Little said he will get an opinion on who is the Town Attorney’s client in this context.

7. CHANGES TO VOTER CHECKLIST

Town Clerk Vachon said there is a list of people who have moved out of town confirmed by a PTPR to show the property has been sold and the residents have moved, and a challenge list of people who sent the postcards mailed by the Secretary of State's Office for mail-in voting to the town. The next step is to challenge the people on the challenge list (via letter) and have the individuals confirm their residency status to remain on the checklist.

MOTION by Pete Gadue, SECOND by Mike Donohue, to direct the Town Clerk to proceed with action on the names on the challenge list as described. VOTING: unanimous; motion carried.

8. EARLY VOTER ABSENTEE BALLOTS

There was discussion of mail-in ballots received before the primary election. Town Clerk Vachon explained the process with absentee ballots (storage of ballots received before the election in the vault and the generation of a report to compare the checklist with the ballots in the vault), and tabulation of the ballots in the vote tabulator which occurs for all ballots received by the close of the polls at 7 PM on election day. The Town Clerk's Office will need assistance from the BCA and Justice of Peace officials to handle the ballots. CDC guidelines will be followed in the town offices and at the polls to ensure the space is safe for everyone. Voting safety will continue to be emphasized. There was suggestion to publish information on social media and in the newspaper about wearing masks and social distancing while voting. Also, a note should be made that frivolous write-in names on ballots create extra work for the people working the polls.

MOTION by David Webster, SECOND by Joan Lenes, to the extent the Town Clerk has the authority, to support Town Clerk Vachon in making a decision on the number of days prior to election day that early ballots can be run through the tabulator within the authority granted by the Secretary of State.

DISCUSSION:

- Lee Suskin suggested the Town Clerk work with members of the BCA to safely assist her and that the BCA make the commitment to assist. The BCA concurred.
- Nancy Baker added at least two Justices of Peace and a member from at least two different political parties should be present. The BCA concurred.
- Cate Cross suggested a video link be in place so the public can watch the tabulation remotely. The BCA concurred. Diane Vachon said she will try to organize a schedule with VCAM.

VOTING: unanimous; motion carried.

Nancy Baker expressed support for the Town Clerk in handling the voting and having individual members of the BCA post information on Front Porch Forum to help educate townspeople on how voting will be handled at the town offices and the polls. Nancy Baker volunteered to work with someone on a public announcement.

9. EARLY VOTING AND DEPOSIT IN VOTE TABULATOR

Town Clerk Vachon said some early voters who come to the town office want to put their ballot into the vote tabulator after voting. The tabulator must be monitored by someone.

MOTION by Lee Suskin, SECOND by Mary Kehoe, to authorize the Town Clerk to have discretion in letting people vote in the town office and put their ballot in the tabulator or in the absentee ballot envelope.

DISCUSSION:

- **Town Clerk Vachon clarified absentee ballots that are mailed in or dropped off are not put into the tabulator when received, but people who come into the town office to vote can either put their ballot into the tabulator after voting or put their ballot into an absentee envelope and give it to the Town Clerk.**

VOTING: unanimous; motion carried.

10. BALLOT CLERKS FOR THE AUGUST PRIMARY

Town Clerk Vachon reviewed the list of potential poll workers, noting a request has been posted on Front Porch Forum for workers. Any Shelburne resident who is a registered voter can work at the polls. Individuals less than 18 years old can work under supervision of a Justice of Peace. David Webster expressed concern about having a young person working in close proximity to a Justice of Peace in this time of COVID and social distancing.

Tom Little, Pete Gadue, Randy Rowland, David Webster, Laura Gannon-Murakami, Lee Suskin, and Jennifer Leopold volunteered to work the polls. Other potential pools of workers that were suggested included college students, friends, neighbors, family members.

MOTION by Pete Gadue, SECOND by Cate Cross, to approve the ballot clerks list circulated on 7/13/20 by Diana Vachon to be supplemented by others who agree to volunteer and who are duly sworn prior to duty. VOTING: unanimous; motion carried.

Chair Little mentioned past discussion of holding voting outside which was deemed too complicated so the polling place will be in the old gym with all the proper cleaning, ventilation, mask wearing, and social distancing in place (mask wearing will be required and spaces will be marked for social distancing). The Town Constable will be present to ensure people follow the requirements. Masks will be available for those who need one.

Cate Cross suggested the new community room at the library be used. Diane Vachon explained the space is not large enough for proper social distancing.

Nancy Baker asked about having separate voting sites for each district. Diane Vachon said there is not enough time to set this up and inform the public prior to the primary vote in August.

11. OTHER BUSINESS

None.

12. ADJOURNMENT

With no further business and without objection the meeting was adjourned at 8:57 PM.

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