

Selectboard Meeting Minutes

Monday, July 13, 2020 at 7 pm via Zoom conference call

Present: Denise Wheeler (Chair), John Brabant (Vice Chair), Rose Pelchuck (Member), Sharon Winn Fannon (Member), Clif Emmons (Member), ORCA Media, Katie Lane-Karnas (Recording Secretary), Alfred Larrabee (Road Commissioner), Sandra Ferver (Town Treasurer), Naomi Reid, Michael Fullerton, Sage Kennedy, Betsy P, Pam DeAndrea, Jay Copping (Health Officer), Brooke Dingledine, Craig Line

1. Call to Order: Denise Wheeler called the meeting to order at 7:02 pm.
2. Public Comment: None.
3. Review, Additions/Changes to Agenda: None.
4. Solar Powered Radar Signs: These lights have been considered for use in Calais for years, and a project stalled after a person supporting the Town's work left his position. The Operations Manager suggested solar powered permanently installed radar lights for East Calais be paid for out of the Highway budget (there is \$3,000 in the current fiscal year sign line item; the Operations Manager was not in attendance at this meeting). Three signs would cost \$8500; the universal mounting bracket costs \$125, shipping \$175. The Chair researched all possible grant opportunities and couldn't find one (Woodbury paid for theirs out of their town highway budget). Installing signs on Route 14 would require a state permit; no permit is needed for town right of ways. Additional locations in Town were considered. Residents have contacted the Board many times about speeding in Town; Board members agreed that it would be good to be able to move signs among locations. The signs are mounted on brackets that get driven directly into the ground. The school board may want to purchase a sign that could be used near the school.

Sharon Winn Fannon made a motion that the Board purchase one moveable sign and the universal mounting bracket (including materials needed for the Road Commissioner to move the sign back and forth at two locations in East Calais).

Sage Kennedy suggested that East Calais be the first village to have a radar sign installed, due to safety concerns. John Brabant commented that two would be needed (one for each direction) on Route 14. The Town would need to apply for the state permit before purchasing. Sharon Winn Fannon noted that her motion was budget-driven, as we are a few weeks into the fiscal year and should be cautious given the price tag. The Road Commissioner explained it would take a few guys a couple hours to install; he considered that anchors could be installed at multiple locations for ease of moving it around (if they are staked after snowfall). He added that spending money to get the Sheriff in Calais more often may be more effective than radar signs. Craig Line suggested contacting Montpelier City Works to inquire about the brand and price of their new sign near the coop. John Brabant noted that the sign at the bottom of County Road in Montpelier has effected more change than policing would. Clif Emmons proposed a

friendly amendment that the Board vote to approve with the caveat that the Operations Manager is asked to call the City of Montpelier to inquire about the price of their sign. Denise Wheeler seconded the motion with the friendly amendment; following brief discussion, she withdrew her second with the friendly amendment; Sharon Winn Fannon also withdrew her motion. The Board noted the importance of a sign on Route 14 in East Calais, and decided to ask the Operations Manager to further investigate cost options and return to the Board with that information and the area of the Highway budget he intends to use.

5. Curb Cut Request (Markinson, 2020-03): The Board considered the curb cut request by Thorin Markison #2020-03 on County Rd. (The applicant was not in attendance.) Clif Emmons explained that the area is being remodeled and it appears a drive would be added to bring the entrance to a newly remodeled area. The Road Commissioner said he had not had enough time to do a site visit, but from the drawing, the driveway is requesting being moved a little way to the south; sight distance requirement is met; no culvert is needed. Clif Emmons expressed concerns about the 425 foot requirement for sight distance (when the speed limit is 50 mph); the application lists only 300 feet in one direction. The Board asked the Road Commissioner to do a site visit with two Board members before the Board votes on the curb cut.
6. Town ROW Request (Fullerton/Wilder, #2020-01): Michael Fullerton (applicant) explained that a temporary ramp is needed to move equipment down into the yard for 2-3 weeks beginning July 20. The Road Commissioner and Operations Manager met with the applicant and discussed what would be needed for alerting the traveling public (the contractor is responsible for and agreed to providing the necessary safety devices and signage). John Brabant moved and Clif Emmons seconded to approve the Fullerton/Wilder temporary work in Town ROW application #2020-01 in N. Calais, to be signed by members by Wednesday 7/15. The motion was voted and passed unanimously.
7. Town Road and Conservation Practices Planning: At a previous meeting, Sharon Winn Fannon reported a concern from a citizen raised about trees dying due to road maintenance practice, which was confirmed by the Conservation Commission. Sharon Winn Fannon expressed the value of a clear statement from the Selectboard that road maintenance practices in Calais consider the environmental health of the trees and vegetation on the side of the road as a priority as much as reasonably possible while maintaining safe and passable roads. The Town has historically approached this issue through a Roads Committee; the Board discussed setting a clear directive of the Conservation Commission working with the Highway department for this goal and possibly reconvening the Roads Committee. The group discussed the road standards created years ago by the Roads Committee and considered the possibility to compare and re-adopt the Calais standard, to the extent that they are not in conflict and augment the state standards. This would be an effort to incorporate the issues Calais holds near and dear. Pam DeAndrea reminded that the State does now have the Municipal Roads General Permit and a local standard would need to meet the requirements. The Town would need to learn to what extent those road standards speak to the specific question of the impact of road maintenance practices on tree health and death. Sharon Winn Fannon explained that she looked at trees all over Town, of many ages, that are dying at roadsides. The Road Commissioner inquired about specifics on trees: where the trees are, why the trees are dying, and what the stated connection is between roads and tree health. John Brabant suggested the Town take a field trip with a state tree expert and learn about the calcium chloride effect on

trees. Calcium chloride is applied 1-2 times per summer and never in winter in Calais (paved roads have it applied 3-4 times per day in winter). The Chair wondered if there is a forester resource who can consult around Calais roadsides (perhaps folks who helped develop the ash tree inventory) and understand the science behind what is impacting trees on roadsides. Resources could be Forest Parks and Rec (Pam DeAndrea will make a contact here); Sharon Winn Fannon will communicate with the county forester (Dan Singleton), or the two Town Foresters (Drew Lamb and Neal Maker) and Stephanie Kaplan on the conservation commission.

8. Treasurer Update: The Town Treasurer summarized that the year ended with an unaudited fund balance of \$379,676 which is over the opening fund balance by more than \$68,000. We were under budget in expenses by a little, but revenues were nicely in excess of what was budgeted and anticipated. Highway also ended on a high note; expenses were over budget, but grant revenues made up the difference and more. Roughly \$4600 was rolled over into the Capital Equipment Fund (currently slightly over \$30,000). A \$40,000 lease payment will be paid out of this Fund in January. The difference between the balance of the fund and the lease payment will be an unbudgeted FY21 Highway expense. The Treasurer asked the Board to consider if the Highway Equipment Fund continues to be used for lease payments; perhaps there should be an expense line item in the Highway budget to reliably fund it..

The group discussed working on a practice that would allow signing documents digitally from home such as an Adobe license. Clif Emmons will research the options.

The group planned to meet at 6:30 pm on Monday July 27 to set the budget and tax rate.

The Town Treasurer noted that FEMA expenses for COVID relief (\$3300 threshold has been met) may now be submitted for reimbursement if the Board wishes. The Board anticipates having additional expenses associated with use of the Town Hall during COVID and will wait to submit FEMA reimbursements.

9. Woodchipper Budget Item: The Town Treasurer asked the Board to clarify if the \$25,000 would be left in the budget for the woodchipper, as the FY21 tax rate will soon be set. The chipper amount was for a loan with roughly \$7,000 coming out of the FY21 budget. Removing it would reduce the budget voted at Town Meeting by about \$7K (about a third of a penny on the tax rate—saving a \$200,000 assessed home about \$7 in taxes per year). John Brabant commented that following a tip from Doug Lilley he spoke with the Operations Manager at WEC (Brent Lilley) regarding hiring a chipper service to save money. He found this option is not available to the Town and is part of the WEC operations; in fact, Brent put it bluntly as John Brabant was talking to Doug Lilley, “This is not an option for you.” The Board decided to leave the budgeted amount for the woodchipper, as voted at Town Meeting Day, in the FY 21 budget and directed Greg Pelchuck to investigate options (up to a \$25,000 loan; the Capital Equipment Fund allows no wiggle room, and this amount must include transport).
10. Delinquent Tax Collector Update: The DTC noted that the issues surrounding delinquencies this year seem less daunting than previous years. There are three taxpayers whose delinquencies raise questions; she doubts they will go to tax sale, but may end up being collected by the attorney. Others are on payment plans or have committed to paying by August. They missed the June 30 deadline; August 15 is the date to have the bill paid, and no amounts will slide beyond November 15. This practice has been effective in keeping

delinquent taxes to a bare minimum. The DTC noted that delinquent 2019 taxes are just a bit in excess of \$32,000, and she noted this is a positive end to FY2020. Parcels sent to tax sale resulted in one being paid in full in the eleventh hour; one went to tax sale and proceeds are being held during the redemption period (this same situation happened with the same parcel two years ago).

11. Auditing Services Contract: The audit is scheduled to occur on July 23 and 24, during which the office will be closed to public business. The cost of engagement has been budgeted for FY 21; the contract is the same as in previous years. (The Board has already been offered the audit for FY21 but needs to engage the company to continue to be a customer.) Rose Pelchuck made a motion to approve the Sullivan, Powers & Co. letter of engagement for auditing services for the FY21 as described by the Town Treasurer. Denise Wheeler seconded the motion and it passed unanimously.

Consideration of Public Meetings and Events at the Town Hall During C19 Pandemic : Jay Copping, Town Health Officer, noted that the state lab is not testing swimming holes this year in the COVID situation.

Jay addressed the question, “Do we open the Town Hall?” In his work in health care, the general consensus is to maintain technological meetings rather than in-person. VLCT encourages town offices to be open to serve the needs of the residents as long as we have in place signage at the office, the option to schedule by appointments, limiting the number of people, masks, etc. Significant concerns in opening a public building is the need to limit to 50% occupancy and getting everyone to comply with distancing and masking, as well as disinfecting and cleaning afterwards. There are a lot of difficulties to doing this; many in the medical community feel we should limit in person meetings until we are able to better manage situations with the people that attend. By and large, most local government meetings in the Central Vt. area are using video and phone meetings (no one has opened to in-person). Denise referred to a chart prepared by CVRPC that indicates no towns in our area are holding in-person meetings. Additionally, Denise has done extensive research and review of on-line resources including CDC and ACCD guidelines and attending State level conference call briefings. The medical community and doctors Jay has spoken with lately feel opening up is a bad idea and we should maintain the positive health benefit our community currently has. Jay acknowledged the concern we will face this fall by both flu strains and COVID. In person meetings would require people to sign in to any meeting with name and contact information so they can be traced back; the temperature measurement is being discussed but is still subject to change. He added that as community members desire to use the Hall, it’s important to communicate that what is being done is in their best interest and they can still conduct Town business as we have been for the last few months, including welcoming any members of the public to video and phone meetings. The Board planned to invite the Town Health Officer back in August to continue to collaborate and revisit the situation at that point. A few weeks ago when the governor started lessening the restrictions the Board was starting to see some in-person meetings happening but are taking a step back from that and recognizing they now have very clear direction from the governor and the Health Officer. The Board sees it as important to be leaders and set a precedent for the community by reducing the risk to the community and vulnerable populations during this pandemic. John Brabant commented he feels the Board could still safely meet with tech solutions in place, but agrees the most important leadership role is to set a precedent for other Town boards/committees/commissions and to keep the

community from being put at risk and avoid any potential future liability to the Town as noted by VLCT our insurance provider.

12. Town Hall Renovation: The exterior painting will begin a week from today. The shade of white will be communicated from John and David to the contractor. First phase is lead abatement, then primer coat, then final coat. The lead abatement is an involved process with tarps, running water, containing dust, cleaning and proper disposal daily. It is best if people are not present. He will plan to break from his work for the Primary Election on August 11.
13. Consideration of Friends Management Agreement: The Friends group meets on a bi-weekly schedule and the revised document will be available at the next meeting. Artie and Scott are looking into the rental agreement and researching private insurance above and beyond the Town's Town Hall insurance.
14. Keypad Access to Hall: The keypad is being installed as described at the last meeting.
15. CVRPC Stormwater Project in East Calais: Pam DeAndrea submitted the grant for this project, and the Town got the award. CVRPC is going to manage the company awarded the job. There is an in-kind match of about \$1200 of in-kind time on both projects. The Highway department will need to take responsibility to keep track of those match hours. If the engineers need test pits done, the Road Commissioner and Operations Manager's participation with labor, equipment, and verbal coordination count toward the match. Pam will continue to check in on the project and coordinate timing with the Road Commissioner. Sharon Winn Fannon made a motion to approve the Memorandum of Agreement between CVRPC and Town of Calais for treatment of stormwater runoff at the E. Calais Post Office and Moscow Woods Road gully and authorize the Chair to sign it. Rose Pelchuck seconded and the motion passed unanimously.
16. Compliance with Open Meeting Law (OML): John Brabant explained that citizen Craig Line contacted the Board with a complaint about the Town's compliance with OML. The Design Advisory Board (DAB) evaluates any construction or changes to historic structures in the Kent's Corner Historic District. The DAB allegedly met without warning and without noticing the site visit and public meeting, not keeping minutes as required by law. John McCullough, DAB member, confirmed that the DAB has been meeting with a quorum without warnings and have not kept minutes. The longer history is that many of the Town boards had not been fully compliant with OML, the law that governs how Town government conduct themselves in terms of how they make themselves available to and responsive to the public. It has been an evolution in Calais in recent years about educating boards and commission members as to how the law operates and what the expectations are. The DAB has never taken into consideration the OML, not by any willful intent to evade the public discourse, but rather as a matter of historical practice. The Chair contacted the Town Attorney to confirm that any board does need to comply with the OML, and whether or not there are any situations in which they may be exempt. She identified the Selectboard's role as part of the evolving education process in Calais. Jim Barlow, Esq., (Town Attorney) issued an opinion that said in relevant part, that the DAB is a body subject to OML, and they need to notice their meetings. He doesn't believe it warrants starting the entire Design Review Board (DRB) process over. (There is an application pending before the DRB by Ancel/Reynes, and that process includes consideration and

evaluation of the DAB's report to them which is an advisory opinion about whether it comports with the guidelines about how projects are constructed or otherwise approved in the historic district.) The Town Attorney recommended,

“the DRB issue an interim decision directed to the DAB and copied to all interested persons stating to the effect that it has come to the DRB's attention that the DAB failed to warn its meeting and site visit on the Ancel application in accordance with the requirements of the OML.

Therefore, the DRB requests that the DAB hold a new, properly warned meeting to review the application, conduct a site visit, and issue new written comments to the DRB. Those new comments will be available to all interested persons as a public record. The DRB will review the DAB's new comments, and if the new comments are substantively different from the DAB's original comments, the DRB will reopen the Ancel hearing to receive testimony, etc. on the DAB's new comments. Otherwise, if the DAB comments are not substantively different, the DRB will issue a decision without reopening the hearing.”

The Chair noted that this is an opportunity to fix the issue. John Brabant considered the detailed future implications of defending a DRB decision premised on advisory opinions arrived at outside of what is required under OML. He suggested the Board follow the Town Attorney's advice and send the DAB back to follow the process of OML, strongly encouraged to perform their duties with an open mind and respect, to all community members.

The Board will revisit the guidelines for Town boards and clarify items related to process with these boards. Craig Line thanked John Brabant for his respect and understanding of the OML. He explained his multiple attempts to participate in the DAB process, and his understanding of OML from his participation on the Kellogg Hubbard Library Board. John Brabant underscored that every member of the Selectboard would have responded with the same seriousness and strength to enforce a transparent use of OML; the Board will create a written statement that all Town board members will receive yearly that defines the OML requirement.

Naomi Reid owns a home in the Kents Corner historic district and expressed her discomfort and experience of intimidation at the meeting. John Brabant responded that if any board member appointed by this Selectboard is intimidating anybody, every member of the Selectboard needs to know, and what happened is encouraged to be put in writing. The Chair noted that the meeting was recorded. Sage Kennedy described the site visit on Saturday as hostile, and as if every decision had been made. She thanked the Board for taking their comments at 9:40 on a Monday night. Brooke Dingedine commented that she is a practicing attorney in Vermont and that training is essential for people in these positions so they understand they wield the governing power in these situations, especially relevant during a pandemic. She identified that procedural safeguards are to protect the process for treating everyone equally, including what the purpose of the hearing is and the role of participants in the process. She spoke to the integrity of government and the role of the Selectboard in ensuring it. The Selectboard reiterated the need and their determination to educate Town board members about OML, especially in situations where there is not a guiding chair with professional experience. Sharon Winn Fannon noted that she has a conflict of interest on this matter, and will have more to say at the time the Selectboard engages in such education outreach. Rose Pelchuck commented that she feels horrible about the situation and appreciated it being brought to the Selectboard, and that what the process is going forward will be following the advice of the Town Attorney. The group appreciated the Chair putting the matter on the agenda at short notice.

17. Plan for Signing Orders: The group discussed best practice for increasing efficiency of signing orders during COVID. These orders impact a lot of different practices and things the Town Treasurer is working on; there is some sensitive information included in these documents. They require signature of at least three Board members. The Town Office would like to have some predictable timeframe around when they can expect the orders to be reviewed and signed. The auditor needs to see copies of invoices to match up with NEMRC entries, so not having the orders back in a timely manner creates a significant problem. The group considered keeping the orders in the lockbox, allowing Board members to open the box and sign the documents, locking them back securely. The Town Clerk is hesitant to have the Board utilize the lock box during the time of year when ballots are coming in. The Chair explained the challenge of trying to do a very thorough review in the parking lot; Sharon Winn Fannon agreed there needs to be an opportunity and process for truly reviewing each order and not just adding a signature. Members agreed the orders need to be available more often and that 24 hours is not enough time. The Chair will begin the orders and check with Board members at regularly scheduled meetings about which person will be next.
18. Review and approve minutes, warrants
- a) The Board reviewed the invoices and orders were processed for payment.
 - b) Approval of minutes was tabled for a subsequent meeting.
19. Other Business/Old Business/New Business: John Brabant made a motion to nominate Denise Wheeler as Chair and to nominate Sharon Winn Fannon as Vice Chair. Rose Pelchuck seconded the motion and it passed 5-0.
20. Executive Session for Personnel Matters: Sharon Winn Fannon made a motion to go into Executive Session at 10:07 pm per 1 V.S.A. subsection 313 (a) (3), personnel matters. The motion was seconded, voted on and carried 5-0. The Board resumed Regular Session at 10:25 pm. The Chair had nothing to report publicly.
21. Adjournment: Rose Pelchuck made a motion to adjourn at 10:25 pm. The motion was seconded, voted on and carried 5-0.

Date: 7/14/2020 Respectfully Submitted, Katie Lane-Karnas, Recording Secretary
Approved by the Selectboard at the 8/10/2020 meeting

Click on the link below to view documents associated with this agenda:
https://drive.google.com/open?id=1i6P3Fn1CKxKvStzoda9j4T_jV9Z4Byp6