

Selectboard Meeting Minutes

Monday, September 27, 2021 at 7 pm, Town Hall and via Zoom conference call

Present: Denise Wheeler (Chair), Sharon Winn Fannon (Vice Chair), John Brabant (Member), Clif Emmons (Member), Rick Kehne (Member), ORCA Media, Katie Lane-Karnas* (Recording Secretary), Clif Emmons, David Delcore*, Bill Powell, Jim Barlow, Esq.* (Town Attorney), Allyson Evans*, Grace Vinson*, Jan Ohlsson*, Lisa Wilson, James Duggan*, Toby Talbot (Operations Manager), Barbara Butler*, Nick Emlen

**Indicates attendance by Zoom video call*

1. Call to Order: Denise Wheeler called the meeting to order at 7:03 pm.
2. Public Comment: Clif Emmons announced that the annual Friends of the Town Hall meeting is this Thursday at 10 am; Zoom connection details are available on Front Porch Forum. The meeting will advise the public about the events of the past year, and elect board members.
3. Review, Additions/Changes to Agenda: None.
4. Review and Sign Warrants: The Board reviewed and approved processing of invoices and orders.
5. VT Community Development Program (VCDP) Grant for East Calais Community Trust (ECCT): Denise Wheeler and Marc Mihaly, members of the ECCT, recused themselves from the discussion. Sharon Winn Fannon explained the purpose of the grant award extension letter under consideration tonight is consistent with the original award and is in fact necessary if any pieces of the grant are not finished. John Brabant made a motion to make a six-month extension to the VCDP grant award; Rick Kehne seconded the motion. It was voted and passed 3-0 (Denise Wheeler and Marc Mihaly recused themselves and therefore did not participate in the vote).
6. East Calais Easement: The Town Attorney explained that there are three properties in East Calais that no one was aware have driveways that travel over a parcel of Town land. One of those properties went up for sale and the issue was revealed via title search. A buyer's attorney identified that there are no easements dealing with the driveways, and a lack of deeded easement creates problems with selling or buying these properties. To resolve this issue, the Town will convey non-exclusive easements, and announcement of the conveyance of these easements was duly posted; by statute, that posting then allows for any petitioning objection to the conveyance be submitted within the statutorily timeframe. No objecting petition was submitted.

One Board member will be authorized to sign the deed on behalf of the Town; a resolution and certificate will state that the statutory process was followed. The Town Attorney described the details of the easement language, including: allows entrance and egress on the existing driveways, and follows the parcels; parcel owners are solely responsible for maintaining their

driveways; the Town may move these easements for its purpose and at its expense in the future. A mylar survey will be created and recorded with the easements.

John Brabant made a motion to designate the Chair, Denise Wheeler, to sign the paperwork on behalf of the town of Calais in this matter; Rick Kehne seconded the motion which was voted and passed unanimously. Marc Mihaly moved the resolution and certification regarding conveyance of municipal real estate, as described, in East Calais. Denise Wheeler seconded the motion; it was voted and passed unanimously.

7. Washington Electric Coop (WEC) Permit: Bill Powell, WEC, attended the meeting and explained the sequence of events around the permit received and proposed revision sought by WEC for road work in Kents Corner. The group reviewed a photograph and detailed sketch of the location and relevant details.

Bill Powell recapped the original plan that the Selectboard approved, and a problem that was later identified: the presence of a culvert in proximity to the original scheme. Subsequent site visits with the Road Commissioner, WEC, and Rick Kehne proposed a permit revision (avoiding culvert disruption and instead doing a new pole installation); and then the Calais Design Advisory Board (DAB) and a property owner gave input, informally. John Brabant noted that *if* the DAB has jurisdiction about the location of this pole, they need to warn a meeting and make it available to the public. John Brabant emphasized that as in the past, this unwarned DAB discussion at the site would not be valid from a procedural standpoint. Sharon Winn Fannon asked, absent that process, should we continue talking about this, or send this back to the Road Commissioner and Bill Powell and the DAB to return with a recommendation.

Bill Powell explained the boundary distinctions, and what he is asking for on behalf of WEC is to rescind the request for the revision, as long as they can work something out with the Road Commissioner (essentially returning to the original plan). The potential failure of this particular culvert would result in loss of power to all local members (WEC customers); Bill expected we can reasonably modify the plan by making it specific to best practice for conduit so in the case of a failing culvert, the conduit is safe. The originally issued permit would be kept (August 23, 2021), without the revision. The Board decided the decision that granted the original permit stands, and no additional action must be taken today.

The Operations Manager, Rick Kehne, and the Road Commissioner met at the location today and Alfred Larrabee proposed a feasible solution (quick disconnect on the north side of the culvert that could happen until the time the culvert needs replacement). He emphasized the Town's need to be able to replace a culvert as needed by the Highway Department.

John Brabant pointed out that the DAB is really charged with buildings; a pole may be significant, but a culvert likely is not.

If a different permit amendment is needed due to the Road Commissioner's suggestions, WEC can return to the Board; if the DAB has jurisdiction and something to address, they will warn a meeting.

Denise Wheeler clarified that WEC is willing to work with the Road Commissioner to investigate this other option and will report back to the Board on October 11, 2021. John Brabant verbally confirmed that there may be modifications to the original plan, and WEC is voluntarily not moving forward with the permit. There will be consultations with the Road Commissioner (and Rick Kehne as able) and the Board will get a joint report back. In good faith, based on Bill Powell's representation, the Board is not taking action tonight. The original permit and the revision being considered do not need DAB evaluation. If there is a discovery that the DAB needs to be involved, that meeting should be duly warned and follow the Open Meeting Law.

James Duggan, Director Of Preservation for VT State Historic Sites, attended and commented that he is here to gather information for their organization (they have not been notified by WEC). The owners of the properties on both sides of the road should have been involved, and the State of Vermont is an owner. He requested to be part of this discussion; anything involving one of their sites warrants review by his archaeology team. The Kent Museum is owned by the State; a historic marker is located in proximity to these lines. He is trying to determine the location of these lines in relation to the state's assets. They should have been part of the consultation previously, and as owners, are interested in the happenings; they would have jurisdiction for any of the ground disturbances, and want to review plans prior to construction. James Duggan will share an application for WEC to submit to his office.

Sharon Winn Fannon asked what the normal notice process for owners is, understanding that WEC must be notifying property owners, including Vermont Historic Preservation (as an owner). James Duggan commented that projects that require a state permit (telecom, electric in public service) are subject to 22 VSA 14, which is triggered by the amount of ground disturbance proposed, and if a site is potentially sensitive for archeology.

John Brabant agreed that the Board understands and practices courtesy in keeping all parties as informed as possible and may have made an error in not notifying this neighbor; he questioned whether the application mentioned by James Duggan will trigger a significantly more elaborate and time-consuming process. James Duggan explained he doesn't know the answer to this question because he hasn't had an opportunity to review any of the associated documents; he clarified it is WEC's responsibility as the developer of the project to bring this to State Historic Preservation for review. The Board charged WEC with taking this action and satisfying the state's HPC review before proceeding as planned.

8. Municipal Mitigation Grants in Aid FY 22: The Operations Manager explained this is a grant that occurs regularly for towns to identify specific sections of roads for funding; this year the application is for a total of \$22,000. Four specific projects have been identified for submission. The Town applies for this grant every year. Sharon Winn Fannon made a motion to authorize signature of the annual Municipal Mitigation Grants in Aid FY 22 – #GA0046; Marc Mihaly seconded the motion. It was voted and passed 5-0.
9. Roadside Mowing: A new request has been received for no roadside mowing on Peck Hill and Fifers Ride Roads. Current practice is for the Road Commissioner to direct residents concerned about roadside mowing to communicate directly with the Selectboard. The email

request received doesn't indicate the reason for the "no mow" request, but the Road Commissioner remembered that the residents mentioned avoiding the Monarch butterfly life cycle.

The Board discussed wanting to know why a resident is requesting no-mow; if the residents are taking action to address the concern; and if the Road Commissioner sees any traffic issue. John Brabant reminded that historically it was law in Vermont that landowners needed to mow their own road fronts; if a roadside is not mowed by the Town, residents need to agree they will mow at some point to keep back woody stuff, as historically done by individual landowners. He added the Highway Department can't be hopscotching around roadsides all year. The Board considered having the Town Attorney create a document to formalize a process and expectation. The Town has a plan in place for addressing the spread of roadside invasive plant species and any exemption would need to address this. Peter Harvey, for example, has annually presented a predictable plan with details. Sharon Winn Fannon and Marc Mihaly agreed to work on a draft policy for the town, related to no-mow areas, and an associated process for residents to request that their roads not be mowed and for the town to review/approve such requests.

Sharon Winn Fannon made a motion to approve the request but not as presented; the no-mow will be honored through October 15, 2021, only, after which time the Selectboard is asking the Road Commissioner to do mowing. In 2022, everybody who has had this arrangement needs to come back and make a new request under a process the Selectboard will have put in place by April 1, 2022. Marc Mihaly seconded the motion.

Operations Manager Toby Talbot commented that it is unmanageable to ask the Highway Department to mow roadsides within an extremely tight time frame, when mowing is limited by the season, man hours, rain, etc. It must be made incumbent upon the residents to maintain their roadside yearly to provide a full travel lane and a shoulder, where people can pull over in an emergency; grass makes it unclear if it is a safe surface to pull onto.

The motion was voted and passed 5-0. The Board tasked Marc Mihaly and Sharon Winn Fannon to create a draft on a process for residents to request exclusion from highway roadside mowing.

10. (LHMP) Local Hazard Mitigation Plan (Grace Vison, CVRPC): Marc Mihaly made a motion to approve and sign the certificate of adoption for the LHMP; John Brabant seconded. The motion was voted and passed 5-0.
11. Calais Continuity of Operations (COOP) Planning: Grace Vison, Central Vermont Regional Planning Commission, gave a brief update presentation. A COOP and its functions were highlighted, by necessity, with the onset of COVID-19 pandemic. A formal COOP defines essential functions that the Town, on a daily/weekly/monthly basis, needs to get done: paying bills, collecting funds, plowing roads, etc. A COOP is essentially these mission-essential functions, documented (in electronic and paper form). Grace Vinson suggested next steps in creating the COOP; the Board planned to have binders at the town office and staff and each Selectboard member's house and Road Commissioner.

Sharon Winn Fannon raised concern with the Chair's inconsistent approach to creating a signature line for every Board member. Often there is only one signature line for the Chair, even though the Board is now meeting in person and all members can sign. Some documents come from different owners who do not have a practice of multiple signature lines. Sharon noted that the Chair made the edit to add other signatures on a document that the Chair was not going to sign because of recusal, and Sharon asked that the Chair make a similar edit on documents that arrive with the presumption that the Board would have only the Chair's signature.

Denise Wheeler clarified, some documents can be edited to include signature lines for all to sign, some do not come in a format that can be edited or adjusted.

12. TH #7 Site Visit: The Board will plan a date.
13. Town Hall Usage: The Old West Church Association has requested a heated location for meeting downstairs at the Town Hall currently the Calais Historic Society uses this space. The Town Hall was closed due to renovations, and then due to COVID-19 restrictions; the Board is still in the process of opening with a working management agreement with the Friends of the Town Hall. The Board has already allowed for Town-appointed committees to schedule for use of the Town Hall; now the question is if to include community-based non-profits (if there is a conflict, the Town function gets priority). The Town Office staff is not necessarily scheduling, overseeing, and checking afterward for a mess at the Town Hall, and we don't have a public works director or other manager for events. John Brabant spoke in favor of allowing the public to come use the space. If the town must hire someone to clean the space, the cleaning will be billed to the group who last used the Hall. The Board considered again who would be providing the management for this.

The Selectboard connection to the Zoom call was disconnected and took a few minutes to reconnect. The in-person discussion continued in the interim.

John Brabant made a motion that the Selectboard approve an interim policy that allows for the Town Hall *downstairs* area, for up to 90 days, to allow members of the community, upon request, to use the Town Hall. They would be responsible for the cost of cleanup if a mess is left behind, including no items in the trash, all dishes washed, sinks and bathrooms cleaned, and the building in the condition it was found in. If cleaning service is needed it will be billed to the last group that used the Hall. Marc Mihaly seconded the motion. The motion passed unanimously.

A volunteer from among the Friends group will be sought for scheduling duty of non-Town functions. Barbara Butler noted that nobody on the Friends committee has access to the website calendar. The Board decided to have a Town webmaster grant website calendar permission to one Friends' member.

The use of the upstairs was discussed next. The Board has been in cooperation with the Friends group around the management agreement, but it has not been approved as the Friends group continues to try to secure insurance for the upstairs space. Denise Wheeler noted that for

consistency and fairness to everyone all private requests since the lifting of the governor's COVID-19 restrictions have been denied because of the lack of agreement in place; private events have not been able to be insured upstairs as yet. Sharon Winn Fannon pointed out the Town carries liability risk for non-municipal events because of this insurance issue.

Barbara Butler commented that the Town Hall is insured for municipal activities; her understanding is the insurance carrier will not insure *non*-municipal activities. The Board considered how to determine what the extent of the coverage is, from the insurer directly, and planned to invite the insurance carrier to an upcoming meeting. Sharon Winn Fannon continued that our VLCT PACIF insurance currently in place covers municipal events, then what was just authorized takes us outside of that coverage. Thus, we have just agreed to a policy that has some risk associated with it. John Brabant was animated in his belief that the building should not be kept closed to the public because of this amount of bureaucratic risk. The Board decided to let the downstairs usage motion stand, and not to permit the upstairs usage request that was received for a private art filming. The denial of the upstairs space use is consistent with the decisions made as requests have been received over the last six months.

14. Appointment of Zoning Administrator: The Planning Commission has made a recommendation to appoint a new ZA. Bob Martin agreed to remain in service until the Board has found a replacement.
15. Review and approve minutes: This item was tabled until a subsequent meeting.
16. Executive Session for Personnel Matters: Sharon Winn Fannon made a motion to go into Executive Session at 9:11 pm per 1 V.S.A. subsection 313 (a) (3), personnel matters, and (a) (1) (a) contracts. The motion was seconded by, voted on and carried 5-0. The Board resumed Regular Session at 9:50 pm.
17. Other Business/Old Business/New Business: None.
18. Adjournment: Marc Mihaly made a motion to adjourn at pm. Rick Kehne seconded the motion which was voted on and carried 5-0.

Date: 9/28/2021 Respectfully Submitted, Katie Lane-Karnas, Recording Secretary
Approved by the Selectboard at the 10/25/2021 meeting

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