

Town of Woodbury Selectboard

Approved Minutes – May 23, 2016 Selectboard Meeting

Selectboard Members Present: Michael Gray-Chair, Guy Rouelle, Thomas “Skip” Lindsay

Town Officers Present: Brandy Smith-Town Treasurer; Erni Wilbur-Assistant Town Clerk; Kim Silk-Animal Control and Building Officer; Jennifer Harman- Zoning Administrator

Members of the Public: Kim Royer – Vermont Dept. of Fish & Wildlife; Paul Council-Woodbury Conservation Commission; Vail Leach

Media: John Pepe – HCTV; Michael Bielawski – Hardwick Gazette

Michael Gray called the meeting to order at 6:00 p.m.

Adjustments to Agenda/Public Comment: Michael indicated he had one adjustment to the agenda and added a few items to the updates and follow-ups including:

- Updates to the Town Forest discussion
- Worker’s Compensation for Service Contractors
- Re-painted crosswalk in the Village
- Michael wanted to talk about appointments to the Hazard Mitigation Facilitation Committee however he was not able to contact members/advisors, Norman Etkind and David Zahn, nor has he asked Vail Leach to be part of the Hazard Mitigation Facilitation Committee. Michael further discussed a topic Skip Lindsay brought up during the May 9, 2016 Selectboard Meeting concerning/requesting some form of formal minutes or notes that communicate what is happening with the Hazard Mitigation Grant (HMG) submitted to FEMA.

Approve Bills to the Town: Michael made the motion to approve the bills to the Town. Guy seconded and the motion carried.

Approve the Minutes from the May 9, 2016 Select Board Meeting: Michael made the motion to approve the final draft minutes of May 9, 2016 as printed. Guy seconded and the motion passed.

Road Foreman’s Report: Harry Dailey reported there had been an issue with the low-pressure fuel pump and the air conditioner in the excavator last week. The excavator was repaired. However, the Road Crew lost a couple of days ditching on Buck Lake Road. Harry noted that

new culverts and crushed ledge are being installed on Buck Lake Road as well. The Crew has been doing some ditching, and grading when they are able, weather permitting, and will begin ditching on Tibbets Hill Road next.

Harry will be attending the ribbon cutting ceremony at Buck Lake on Saturday along with Michael Gray and Skip Lindsay. Harry noted he would also attend a CVRPC Regional Advisory Meeting on Tuesday afternoon.

Harry and Skip attended another Act 64, Vermont's Clean Water Act, meeting in St. Johnsbury, VT on May 10, 2016. Here's the link to ACT 64; click on the Act's Summary pick from the menu.

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUK Ewjt_v72m_rMAhXE8CYKHTkOCGoQFggoMAI&url=http%3A%2F%2Flegislature.vermont.gov%2Fbill%2Fstatus%2F2016%2FH.35&usq=AFQjCNGbBVh-yynvNECrJPzoy_PeA2CT9TA&sig2=X82GI14nJ1yX-wpTmlDgTQ&bvm=bv.122676328,d.cWw

Skip noted the Agency of Natural Resources presenter at the meeting, Jim Ryan, indicated Private Roads are exempt from the regulations of this Act. Skip hoped the Vermont Enhanced 911 GIS Map could provide a layer illustrating Private Roads only. Further investigation found the Private Roads layer does not exist however, a spreadsheet is being prepared by the E911 Board Staff listing the private roads in Woodbury.

Note that under the stipulations of Act 64 the ANR will issue a general permit for storm water runoff from municipal roads. The permit will include a schedule and requirements for the inventory of roads, prioritization of projects and project implementation. All Cities, Towns, and Villages are required to apply for the storm water permit by July 1, 2021. The annual \$2,000.00 permit fees collected from each City, Town, and Municipality will be utilized to fund grants for use in identifying at risk roads.

Harry wondered if the Town could ask the Vermont Youth Conservation Corp to come back this year to work on the Class 4 roads. Michael noted the Vermont Youth Conservation Corp may only work on Class 4 Roads where there was runoff that flows directly into a pond or stream. Harry indicated he would be attending a meeting sponsored by the Central Vermont Regional Planning Commission where Harry will be serving in an advisory position for the CVRPC's Town Highway commission.

The discussion moved to the **Request for Proposal for Repaving Lower Cabot Road**. Skip reported the RFP was mailed to a number of contractors on May 23, 2016 and will be advertised in several regional newspapers. The Selectboard anticipates a Bid Award date of June 24, 2016. Harry Dailey will serve as the single point of contact for prospective bidders using the towoodbury@comcast.net email address and Harry's 456.8883 landline telephone

number. Harry will check the email account each day for any questions from prospective contractors.

Skip Lindsay noted he was in contact with Shauna Clifford regarding the proper bituminous concrete asphalt specifications required for the project and Skip felt confident the RFP specifications were now correct. A discussion ensued noting should the bids come in higher than the grant funding of \$130,000.00, the Town does not have to award the bid. Guy Rouelle noted if the bids come in higher, the Town could always rebid the project as well. Guy urged Skip and Harry to be certain any questions posed by prospective bidders would be compiled and shared as required to ensure appropriate bidding protocols are strictly followed.

Skip stated a site visit is scheduled for Friday, June 3, 2016 at 10:00AM.

Skip further indicated the need to engage the services for a Professional Engineer to complete the Quality Assurance and Quality Control for the project, as he does not have the requisite skills to perform these tasks. Skip will reach out to several vendors who provide this service and present the Selectboard with a cost analysis and recommendations.

Skip asked Harry if he was cataloging the roadwork done and asked if Harry could bring his computer to the next Select Board meeting on June 13 so the information could be reviewed. Harry indicated his computer program stores roads worked on, tasks performed by each road crew member e.g. ditching, culverts, grading, etc.

Skip noted that part time for the road crew is over budget by 81%. Guy Rouelle wondered if it is time to consider hiring a third road crew employee and indicated that information captured on the road crew's laptop could be used to determine a need for additional staff.

Buck Lake Road & Buck Lake Conservation Camp: Kim Royer from Vermont Fish and Wildlife and Paul Council, a member of Woodbury's Conservation Committee, attended the meeting for this discussion. Michael gave a history of ATV use of the Buck Lake Road beginning with a Select Board decision in October 2014 that opened up a portion of Buck Lake Road to ATV use.

Kim Royer mentioned that some of the camp was purchased with Federal funding using "Dingle Johnson Funds". Use of this fund ensures fishing access has to remain open and the land must be kept open and be available for public use. Currently ATV's are not allowed on State Land, but Buck Lake Road being classified as a Class 4 Town road opens it up to ATV use.

Michael indicated that Class 4 roads are open for use by ATV's and dirt bikes unless there is an ordinance in place banning their use. Guy wondered if there could be a temporary ordinance instituted however, Michael noted there is a 60-day warning period after the creation of an

ordinance. Michael will talk with VLCT and Paul Gilles to see if there are any temporary fixes to the ATV use of the Buck Lake Road especially during the summer when campers are present.

Discussion was held about making the road a pent road that would have an unlocked gate that would be closed certain hours. The gate would have signs prohibiting ATV use however remain as access to fishing and to the public.

It was mentioned the ATV Club could ask its members not to use the road for ATV travel when campers are present. Brandy Smith mentioned that most of the ATVer's that use the road are not members of the Club so therefore the club would have no control over the ATV riders.

Paul Council opined that area is a big out of the way place and would rather not see ATV's used in the Buck Lake Region. Kim Royer noted that currently ATV's are not allowed on State owned land but Buck Lake is different in that Buck Lake Road is a Town Class 4 road and therefore open to ATV's absent a Town ordinance.

Three possible solutions were made:

- Rescind the October 2014 decision that allowed ATV access on the Class 4 portion of Buck Lake Road that is plowed in the winter. This portion of road begins where the Class 3 portion ends (at the sharp curve to the left, about 150 yards from Rte. 14 to the town truck turnaround for winter plowing.
- Work on an ordinance to prohibit the use of ATV's and dirt bikes on Buck Lake Road and maybe other erosion sensitive Class 4 roads.
- The Town could throw up the road from where it continues past the beach at Buck Lake north to Hardwick to where it meets the Stratton Road in Hardwick and turn that section of Buck Lake Road into a recreational trail that does not allow ATV use.

Guy asked Kim if the Fish and Wildlife legal counsel could assist the Town in creating an ATV ordinance and with the steps required to throw up a portion of the road. Kim will pursue and report back to Guy.

Kim will also check to see what signs they have available to post prohibiting ATV use. Harry has the posts to secure the warning signs.

Subsequently, Michael made the motion to rescind the October 13, 2014 Selectboard decision that opened up the winter plowed section of the Class 4 portion of Buck Lake Road for ATV use and the Town post that portion of Buck Lake Road prohibiting the use by ATV's and Dirt Bikes while camp is in session. Additionally, the Town will install signs that indicate that no ATV or Dirt Bikes use is allowed. Skip seconded the motion and the motion passed unanimously.

Work to be done includes adopting a formal ATV Ordinance, and changing the classification of the section of Buck Lake Road past the camp and continuing on to Hardwick to a recreational trail.

Treasurer's Report: Brandy Smith reported that Worker's Compensation insurance for private contractors, specifically the Town Office cleaners, is \$10.04 per \$100.00 of salary. VLCT and PACIF both said it would be okay to employ private contractors as Town employees. The Town would be required to define the scope of work and frequency of work to be performed at a minimum. A brief discussion ensued regarding the annual cost of the Town's cleaning service. A cost of \$7,600.00 per year was stated mistakenly by Michael. However, upon further review the actual cost is \$60.00 per month or \$720 per year. The town's cost for yearly worker's compensation would be \$72. An agenda item will be included on the June 13, 2016 Selectboard Meeting where formal consideration will be given to add this person as a Town employee.

Brandy informed the Select Board that she sent the School District \$2,798.37 as final payment for this Fiscal Year.

Town Clerk's Report: Diana Peduzzi was absent and therefore a Town Clerk's Report was not made.

Marie Katon Property: Jennifer Harman, Town Zoning Administrator, Kim Silk – Animal Control and Dangerous Buildings Officer, and Brian Shatney – Town Health Officer were invited to add their insight to the discussion. Brian was unable to attend due to work commitments.

Michael gave a history of the problems with the Katon Property indicating there had been multiple complaints regarding illegal burning, smoke, unregistered dogs and the general condition of the Katon property by townspeople to the Selectboard. The Zoning Administrator at that time was Janet Shatney who did an inspection of the property and noted several zoning violations. Marie and the Town worked out a verbal agreement to address the Zoning violations. Michael followed up with a formal letter to Marie that listed the violations and outlined their verbal agreement.

One of the agreements was to provide assistance by the town to remove trash that would have been picked-up as part of the Green-Up Day initiative. However, Marie did not sign the agreement and therefore, the Town did not assist. The group noted Marie has taken care of some of the issues mentioned in the letter, removing some of the unregistered cars and a vehicle used as a domicile. All agreed if the Town is to help in any way, the Town needs a commitment from Marie to do her part.

Recently there was an issue with an illegal burn on the property. Town officials and Firefighters who responded to the Katon property were met with hostility from individuals on the property.

The State Police were called to assist but were turned away after Woodbury Volunteer Fire Department Chief Paul Cerutti was able to diffuse the situation.

Guy indicated he read Woodbury's Zoning Ordinance and distributed aerial photographs of the Katon property taken from a private aircraft last week at an altitude of 400 feet.

Guy opined the purpose of Zoning Ordinance is to conserve the value of land and buildings and further noted he believes the Town is not conserving any value to the land nor the buildings. However, Guy noted the Ordinance does not deprive a landowner the reasonable use of their land. Both Guy and Skip noted the Zoning Ordinance is out-dated as the original document was created on April 25, 1973, amended three times, and further indicated the last amendment was adopted on March 24, 2006. Guy feels the ordinance needs to be revised and the group discussed how to move forward with the revision. Michael and the entire group indicated that updating the Zoning Ordinance should be a priority and put on the Selectboard's "to do" list. Jennifer volunteered to help in the rewrite of the Ordinance.

Much discussion was held among those present regarding the path forward to resolve the Katon property concerns. Guy pointed out that Section 2.7 of the Zoning Ordinance indicates a fine of \$50.00 a day can be levied until zoning violations are successfully addressed and stressed the Town proceed with levying the fine. Jennifer questioned if Marie is unable to pay to get rid of the trash how would the Town expect her to pay a fine? Kim wondered how the fine would be executed and who would administer and collect the monies. Michael countered noting he held recent discussions with the Judicial Bureau regarding processes including issuance of a letter to the property owner noting the Zoning violations, levying a fine or fines by the Zoning Administrator with copies of the correspondence and fines sent to the Judicial Bureau and the Town. Michael further explained if the fines were not paid, the Judicial Bureau would initiate collections through a collection agency. Michael noted the property owner may contest the violation via a Court hearing as well.

Kim Silk stressed that Jennifer must write to the Judicial Bureau requesting a "ticket book" that will be utilized should the Zoning violations continue. Kim noted his frustration with the persons he has encountered in the process of serving violations for unregistered dogs on the same property. Kim shared the following pieces of information are required to successfully serve a ticket:

- Vermont Driver's License Number
- Date of Birth
- Address of the Violation
- Correct Name of the Violator

Guy then referenced to Section 3.8 of Woodbury's Zoning Ordinance that addresses "Storage of Motor Vehicles and Miscellaneous Junk". Guy noted the Woodbury Zoning Ordinance did not provide a definition of what junk is while other Town's Zoning Ordinances have clear definitions of what constitutes junk. Guy strongly recommended the Ordinance be updated to include a definition of junk. Jennifer noted the need to have Section 3.8 updated and she volunteered to bring her definition of junk to the next Selectboard Meeting. Guy read VLCT's definition of "junk" to the group:

"Junk" means old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material including, but not limited to, rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof.

Skip indicated the Town should resend the December 24, 2015 to Marie Katon the letter in hopes common ground can be attained.

Michael shared with the group that Ryan McCall, from the Agency of Natural Resources Enforcement and Compliance Division, would be conducting an inspection of the Katon Property on Wednesday, May 25, 2016. Michael noted the ANR handles its own investigation without involvement of the Town. The ANR will be checking junkyard violations, operation of an illegal salvage yard, open burning violations, and solid waste violations. ANR are bound by regulations not to initiate a report of their actions and findings to the Town. However, the Town may contact the ANR and request a copy of the report and updates on actions being taken by ANR.

Kim commented on the unregistered dogs residing on the Katon property noting in a report he distributed to the Selectboard eight separate incidences involving dogs. Kim continued one dog has been registered, but there are dogs on the property that have not. Kim read from the State Statue concerning dogs that stipulates the Town has the authority to impound unregistered dogs for a period of ten days. If the dog owners do not register their canines, they could then be turned over to the Humane Society for adoption or disposal.

Kim believes the Town does not back him up therefore, he cannot do his job effectively. Vail Leach opined that Kim and the Town have a public safety issue with the dogs and an obligation to ensure the safety of the public. Michael asked Kim what he needs from the Town to carry out his duties as Dog Officer. Kim noted he will do his duties, but is reluctant to go onto the Katon property without police backup. Michael will ask the Washington County Sheriff's department to accompany Kim to the Katon property in order for Kim to "inventory the dogs".

Erni Wilber informed the gathering she sends post cards to persons with unregistered dogs and is getting *some* positive results. However, Erni indicated there are several persons she would like to call before she turns the issue(s) over to Kim.

Hazard Mitigation Facilitation Committee: Michael shared with the group he has compiled the minutes from the last Hazard Mitigation Facilitation Committee meeting and so far Vail has approved the minutes; Diana Peduzzi has yet to give her approval. Once Michael has heard from Diana, he will post the minutes on Front Porch Forum.

A discussion ensued regarding posting these and other meeting minutes. Skip noted he received an email from Front Porch Forum asking he not post Selectboard Minutes on their site. Skip did post the Selectboard Meeting Minutes on the Woodbury Connections Facebook page and additionally posted a link to this page on Front Porch Forum. Guy noted Woodbury's WEB Page is ready to be activated and the notification can be announced on Front Porch Forum and the Woodbury Connections Facebook page.

Michael called VLCT and the Secretary of State seeking guidance regarding making minutes of the last Hazard Mitigation Facilitation Committee meeting public. Michael underscored he does not want to characterize the Hazard Mitigation Facilitation Committee as an officially appointed committee as it grew from the "ad hoc" Village Committee. Michael further noted the Hazard Mitigation Facilitation Committee is carrying out Town business and the VLCT and Secretary of State Office advised Michael to err on the side of caution and publish the meeting minutes.

Michael feels it best to continue with the group primarily Diana, Vail, and Michael as it has been functioning and that meetings with state or federal agencies and the property owners be documented with minutes from each meeting being compiled and posted. Michael indicated private negotiations with the landowners are ongoing in an effort to reach an agreement with the Town. Dialogue from these meetings will not be made public as Michael indicated these discussions are analogous with Executive Session meetings. Michael continued, once an agreement is reached between the Town's Hazard Mitigation Facilitation Committee and the property owners, information would be presented to the entire Selectboard for their review and approval. Michael agreed with Skip that it is important to get the meeting minutes out into a public forum. Skip noted Town Articles 15 and 16 both passed at Town meeting and authorize an expenditure of \$30,000 to help in the purchasing and razing of the former Woodbury Country Store property.

In summary, Michael indicated when there are meetings and decisions made or steps bringing the process forward the Hazard Mitigation Facilitation Committee will write up something and put it on Front Porch Forum. However, Michael noted the more sensitive discussions with the property owners would remain private.

Skip asked if the two letters posted to the property owners have been signed. One letter will grant access into the building and the other letter stipulates the property owners agree to become part of the process. Michael believes the letters have not been signed as the property

owners requested a meeting with Gail Aloisio from the Central Vermont Regional Planning Commission. Both letters require signatures by the property owners before the CVRPC will consider the Grant for the Phase II Study. The CVRPC needs to ensure the property owners are on board and fully understand what their liabilities are. The property owners requested a meeting with the CVRPC however due to a scheduling conflict the meeting never took place. Michael noted Diana is acting as an intermediary attempting to arrange a meeting.

Michael indicated that absent these signed letters, Grant monies would not be awarded during this cycle date and the project put on hold until the next cycle date.

Town Forest: The Conservation Committee met recently and Jack Travelstead and Paul Council are working to have a survey of the Town Forest. A walk through of the Town Forest with Allan Thompson has been scheduled for June 3 focusing on how to create habitat for wildlife in the Town Forest. Michael noted the Conservation Committee is exploring the use of Grant monies available to pay for the work in creating wildlife habitat.

Michael made the motion to adjourn the meeting at 8:25, Skip seconded the motion, and it carried unanimously.

Approved Date: June 13, 2016

Michael Gray: /S/ Michael Gray Selectboard Chair

Guy Rouelle: /S/ Guy Rouelle Selectboard Member

Thomas Lindsay: /S/ Thomas Lindsay Selectboard Member