

Town of Woodbury Selectboard

Approved Minutes – October 24, 2016 Selectboard Meeting

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

Town Officers Present: Brandy Smith-Town Treasurer; Diana Peduzzi-Town Clerk; Erni Wilbur-Assistant Town Clerk; Michael McGlynn-Lister

Town Employees: Harry Dailey—Road Foreman

Members of the Public: Norman Etkind; Robin Durkee

Media: John Pepe—HCTV

Michael Gray called the meeting to order at 6:03 P.M.

Adjustments to Agenda:

There were no adjustments to the agenda.

Public Comment: Norman Etkind was present to clear up any confusion regarding the generator at the Woodbury Elementary School. Norman held the Emergency Management Director’s position for the Town when the generator was installed. Norman indicated at a Town Meeting held several years ago the voters agreed to purchase and install the generator however, the School would assume 100% of the maintenance cost. Norman continued he is unsure who owns the L.P. gas tank as the company who installed the tank and provided L.P. is no longer in business. After some discussion, the group agreed that the Town is the tank’s owner as the Town is paying for the L.P. and the Town’s Emergency Manager oversees the generator’s use and maintenance. Norman and Michael continued, the generator provides emergency power for the school and Fire Department and that the school is the designated shelter in the event of an emergency.

Approve Bills to the Town: Michael made a motion to approve the bills to the Town, Skip seconded the motion, and the motion passed unanimously.

Approve the Minutes from the October 10, 2016 Selectboard Meeting: Michael made the motion to approve the meeting minutes, Skip seconded the motion, and the motion carried unanimously.

Request for Key to the Town Hall – Skip Lindsay for Jessica Waters: Jessica Waters had spoken to Skip Lindsay about obtaining a key for the Town Hall in case it needed to be opened in an

emergency. Skip noted that Jessica lives in the Woodbury Store adjacent to the Town Hall and would have rapid access to the Town Hall if needed

Robin Durkee, who currently manages the Town Hall, joined the discussion and noted the school janitor has a key for the Town Hall as the building functions as a gathering point in the event of an emergency at the school. Further conversation focused on who currently has keys to the Town Hall. Robin noted the school janitor along with Brian Shatney should be in possession of the Town Hall key. Robin Durkee will check with Brian Shatney and Larry Eldred to verify that they do still have keys.

Because there are other means to access the Town Hall, Jessica's request to have a key was denied. Skip will inform Jessica of the Select Board's decision.

Town Treasurer's Report:

Brandy distributed the current Balance Sheet and Financial Statement documents to the Board.

Brandy remarked delinquent taxes owed to the Town have been reduced to \$17,824.00 and that \$796,000 remains to be collected for tax year 2016. Brandy continued, noting that in roughly 20 days she will be cutting a \$1.6M check to the School District.

Brandy advised the group of a check-scanning appliance installed on her desk and connected to her computer that allows her to scan and deposit checks from her desk. Brandy noted there are no extra fees charged for this machine. Cash deposits will continue to be done as usual. Lastly, Brandy noted Union Bank set up the Town's "Sweep" account and that all Town funds are now fully insured by the FDIC.

Town Clerk's Report:

Diana reported that a person commented that he did not feel that the Select Board was giving adequate reports of what went on in Executive Sessions. Michael said he would be glad to speak to that person about Executive Session protocols and reporting.

Several random pieces of mail were received:

- The Central Vermont Solid Waste Management District sent a notice of two public hearings – Wed., Nov. 9 at 6 pm and Tues., Nov. 25 at 5 p.m. Both will be held at CVSWMD Additional Recyclables Collection Center at 540 N. Main St., Barre. These meetings will discuss administrative updates to their charter.
- The Town received the assessment report for the Town Garage's underground storage tank. There is a fee of \$50 annually for this assessment.

Diana continued she is very busy with election work. She requested that the Select Board be present to help count ballots election night. Diana remarked she has received 50 – 60 early ballots that will be counted during Election Day.

Old Woodbury Store Hazard Mitigation Grant Project:

Diana remarked that two estimates for property appraisal services at the Old Woodbury Store have been received. One from Champlain Valley Appraisal Services who estimated the cost for the appraisal at \$2,500 and another from Sargent Appraisal Services with an estimated the cost for the appraisal of \$4,000. Both of these companies can do the work in November. Diana noted the budgeted amount for the appraisal is \$2,500.

Michael asked Diana to contact references highlighted in the bid proposals and check proof of insurances before a contract is awarded. Diana noted both contractors indicated they could complete the appraisal in November.

Skip advised the group that Clay Point Associates from Williston Vermont has been awarded the contract for the lead and asbestos assessment. Clay Point Associates and Skip worked on the contract that was scrutinized by the Town's Attorney and approved for signature. Michael signed the contract and Diana will mail it to Kyle Austin of Clay Point Associates.

Michael asked if Clay Point wanted to do the work tomorrow, October 25, 2016. Skip replied now that the Old Store/HMG project is maturing a communications plan is essential and will detail who communicates what information to whom. Diana made the initial email contact with the property owners noting Clay Point technicians wanted to begin their work on October 25, 2016. Diana did receive a response but the response had nothing to do with lead and asbestos testing. Diana then asked Skip to follow-up with the property owners, which he did in an email noting the same dates for the inspection; Skip did not receive a response.

In a previous discussion with the landowners and the ad hoc committee for the Hazard Mitigation Grant, the landowners did not want to allow any access to the building until a purchase and sales agreement was signed. The ad hoc HMG sub-committee of Michael, Diana and Vail met with attorney Chris Greene to bring him up to speed on the process, engage his services and get his advice. Chris advised said that it would be premature to offer a purchase and sales agreement until after the appraisal and lead and asbestos assessment work was complete. Diana reported that, in a later communication, the landowners claim that Chris Greene is their attorney and that they were planning to use him for this transaction. If this is true, the town will use another attorney so as not to create a conflict.

A discussion ensued regarding who will serve as the point of contact with the property owners. Guy Rouelle volunteered to serve in that capacity.

Michael reported the Central Vermont Regional Planning Commission would begin the hiring process for the Phase II environmental consultants in early November. Subsequently, a consultant will be in direct contact with the Town for this project task.

Road Foreman's Report:

Harry began his report noting that he attended a Road Foremen meeting in St. Johnsbury. That focused on Act 64, (an act relating to improving the quality of State waters) passed by the legislature in 2015. Harry noted that Act 64 affects Class 4 roads and that the Town should institute a Class 4 road policy. Harry distributed a Model Class 4 Highway and Trail Policy developed by the VLCT he received at the meeting.

Harry noted the ANR would have completed a Permit Template by January 1, 2017 and plans a three-month period in which to field comments and concerns from Municipalities. Harry remarked the planned 2018 implementation date for the Permit might well be pushed to 2019.

Michael has been collecting information from several towns that do have a Class 4 road policy

Skip, with VLCT's assistance, has created Mutual Aid Agreements between Woodbury and Hardwick and Woodbury and East Montpelier. Skip indicated he had sent the agreements to the Vermont Attorney General's office for their review and each document passed the AG's scrutiny Skip noted that Jon Jewett, Hardwick's Town Manager, has signed the agreement and that he forwarded agreements to the chairperson of the East Montpelier Select Board and to the Select Board in Calais.

Updates and Follow-ups:

Michael remarked that a good part of the Village Erosion Project has been completed and noted the paving was done today, October 24, 2016. Michael commented that Paul Lamberti left for vacation, and will finish the project when he returns.

Michael said he would contact Shauna Clifford to inform her of the progress. A discussion followed regarding partial Grant invoicing. Brandy stated that VTrans would accept a partial invoice for work completed to date. Brandy plans to submit an invoice for the paving and guard rail installation this week.

Executive Session:

Michael made the motion to enter into Executive Session at 6:56 p.m. citing State Statute Title 1; Chapter 005; Subchapter 002; Section 313; Part (1) that premature general public knowledge would place former Select Board members and our present Road Foreman at a substantial

disadvantage concerning labor relations agreements with our current Road Foreman, specifically regarding his salaried position and the issue of overtime payment. Harry was invited to attend. Skip seconded the motion and the motion passed unanimously.

Discussion between the Select Board and Harry Dailey commenced regarding overtime hours worked by Harry during fiscal years 2014, 2015, and 2016. Harry agreed to become a salaried employee and was informed by the Select Board that he was an exempt employee and not entitled to overtime time pay or compensatory time off. However, in-fact, Harry was not an exempt employee and therefore eligible for overtime compensation according to the Federal Labor Standards Act.

Note under the FLSA to qualify for an Executive Exemption all these tests must be met:

1. *The employee must be compensated on a salary basis at a rate not less than \$455 per week;*
2. *The employee's primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;*
3. *The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and*
4. *The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.*

Harry does not meet tests 2 and 3 and consequently his job classification should be that of a non-exempt employee and entitled to overtime pay and compensatory time off.

Harry's overtime hours totaled 421 for Fiscal years 2014, 2015, and 2016. However the Federal Labor Standards Act: 29 US Code § 207 (o)(3)(A)(B), caps the amount of hours that may be accrued at 320 overtime hours.

After an extended period of negotiations Michael made the motion to come out of Executive Session at 7:37 PM, Guy seconded the motion and the motion carried unanimously.

Skip announced that Harry Dailey and the Select Board agreed to compensate Harry for the full amount of overtime hours allowed under the FLSA at a rate of \$22.12 per hour for overtime worked in Fiscal Years 2014, 2015, and 2016 as follows:

10/26/16: 160hrs x 1.5 time = 240 x \$22.12= \$5,308.80

7/1/17: 160hrs x 1.5 time = 240 x \$22.12= \$5,308.80

Total amount due: \$10,617.60

Diana asked how the maximum number of hours compares with Harry's total overtime hours. Michael replied that Harry had 421 hours owed to him but used some for time off last week leaving a total of 394 hours remaining.

Michael explained that Harry was not paid overtime for the last three fiscal years and that was a mistake. Harry will be paid overtime going forward. Michael remarked the Town's Attorney agrees that Harry should be paid for his overtime hours as well. Michael continued that when the next budget is put together it would contain a line item for anticipated overtime costs.

A discussion ensued regarding the Town's personnel policy and the need for the document to be revised and brought into compliance with Federal and State statutes.

Michael Gray made a motion to adjourn at 8:04 P.M. Skip seconded the motion and the motion carried.

Approved Date: November 14, 2016

Michael Gray: Select Board Chair: _____/S/_____

Guy Rouelle: Select Board Member: _____/S/_____

Thomas Lindsay: Select Board Member: _____/S/_____