

**SELECTBOARD MEETING**  
**February 9, 2017**

Present:            Dave Adams                                         Brent Meacham  
                       Dave Tilton     Nanette Rogers  
                       Greg Barrows

Guests:            See attached list

The meeting was called to order at 7:00 p.m.

**CHANGES TO AGENDA**

The following change was made to the agenda: added request to include a raffle ticket notice to benefit the music program in the newsletter and letter of support for the State Clean Water Revolving Fund priority list.

**PUBLIC COMMENT**

Dave Gauthier advised that last January he had notified the Board under public comment of a problem with an underground spring on Huntley Road that creates an unsafe area due to icing. The problem has not been fixed. He stated Brent was not present during the conversation and wanted to know if Brent received the message. Brent advised that he did but was unable to get to it, adding that it will be taken care of.

Dave Gauthier also advised that there are some potholes by the Cambridge Road bridge. Brent advised that he is waiting for a warm day to work on them.

**MINUTES**

Dave Tilton made a motion to approve the January 26, 2017 minutes as amended, seconded by Dave Adams. Motion passed: 2-0.

**JACKSON FARM & FOREST PROJECT – REQUEST FOR FUNDS**

Melissa was present to discuss and request funds for the engineering and legal expenses for subdividing the remainder of the Jackson Farm. It is estimated that the cost will be around \$6,000. There is approximately \$5,000 available in the Planning Commission's special projects line item that can be used if approved by the Selectboard.

Dave Adams made a motion to approve expending funds from the Planning Commission's special projects budget to be used for the engineering work for the Jackson Farm & Forest Project and for expending funds in the Legal & Professional line item for the legal expenses as outlined by Melissa, seconded by Dave Tilton. Motion passed: 2-0.

**SPILLER LOT & TOWN COMMON BOUNDARY/COMMON ROAD RIGHT OF WAY**

The Town's attorney, Dave Rugh, was present to discuss the Spiller lot title issues. The issue is the area just south of the town common. In the mid 1800's the Vermont Supreme Court dedicated the area for public use which basically means there is an easement on the Spiller lot and the property to the east that states the land shall be used for the public. The area dedicated public is where the buyer wants to construct a building however cannot due to the easement. The buyer will not purchase the property unless the title is cleared and the public use easement/dedication is removed. Filing a Declaratory Judgement action with the court to Quiet Title the property is essential to sell the property to anyone. If there is no opposition, then hopefully the court can act on the Declaratory

Judgement within 60 to 90 days from the date filed. Once the judge makes a decision, there is a 30 day appeal period. If there is no appeal the decision gets recorded in the Land Records.

The Town will need to re-notice the sale of Spiller lot due to the recent discoveries. The front is owned by the Town, which leaves no access to the property, and the church owns a lot on the western boundary. The notice would include conveyance of the Town owned lot. It was noted that if the Town conveys the portion in front of the Spiller lot then it should do the same for the other properties located south of the town common.

As part of the Ancient Roads research, the committee could not find any records laying out Common Road. This was probably because the Town owned the land on both sides of what is now Common Road. As part of this process, the Town should lay out Common Road and will need to determine how wide the right of way should be to accommodate any use it may want or need for the land currently owned by the Town, such as sidewalks, wastewater infrastructure, etc. After the road is laid out, the Town could then convey the lands south of the road to the property owners. This would be done by a boundary line adjustment. At the very least, the Town needs to grant easements for access to the Spiller, Fleury and Allen lots to resolve any title issues affecting these properties. It was noted that the Adams and Kearns lots are not affected to the same degree as the other three lots. It is recommended that a survey be done of all the properties south of Common Road.

Dave Tilton asked how the property owners are currently being taxed? Does it include the property owned by the Town? Nanette would need to review the Listers' files to answer the question.

Ira Allen asked if anyone has reviewed Irene Allen's records. She was a lifelong resident who had a passionate interest in town history. It is possible that her records would indicate any reason why the Town owned the land south of Common Road. Ira added that the current property owners south of Common Road are currently aware of the status of the land in front of their lots, which they maintain irrelevant of the ownership. Ira pointed out the alignment of trees on the property south of Common Road and also on the Fay property located next to the library, which indicate property lines and or roads, which is consistent with Irene Allen's records. At this time he is not in favor of conveying the town property south of Common Road to the abutting property owners. Dave Adams stated that the Town is looking at all the properties south of Common Road as not to give preferential treatment to Mr. Hutchins. Melissa Manka advised that based on conversations with the Fleurys, they have expressed interest in owning their "front yard." Dave Adams stated for the record that the Selectboard received a letter from Glenn Rogers stating the same concerns as Ira. Mr. Rogers cautioned the Town to think before it gives the town property away because it was done for a reason. He suggested looking at historical records, maps and photos to determine why the boundaries are where they are.

Sue Adams asked what the town residents can do if they take issue with the Declaratory Judgment action process. Attorney Rugh advised that the property owner will need to file an entry of appearance with the court and recommended the person utilize the services of an attorney for the process.

Attorney Rugh advised that if the Town wants to continue with the sale of the Spiller lot, it needs to Quiet Title the public use easement as well as convey the land under the public easement by notice of sale to Jeff Hutchins. These can be done simultaneously. Melissa Manka added that a boundary line adjustment or subdivision, including easements, will also need to be done.

Dave Adams made a motion to authorize the Town attorney to file a Declaratory Judgement action to Quiet Title what is known as the Town to Woodworth parcel that is dedicated to public use, seconded by Dave Tilton. Motion passed: 2-0.

Dave Tilton stated that there needs to be consistency with how the other properties south of Common Road are treated. Dave Adams asked if the other properties can be noticed at the same time the Spiller lot is. Attorney Rugh advised that he will need to research it.

#### **UNITED WHITE CHURCH PROPERTY**

During the process of researching the Spiller lot and town common, it was discovered that the western side of what is known as the Spiller lot and approximately two acres of land between White Church Lane and Brookside Road are owned by the United White Church. The two acres has been maintained and used by the Town. The Town may approach the Church to see if they are interested in conveying the property to the Town. Attorney Rugh stated that a Quit Claim would be the preferred method if conveyed.

It is believed that the two acres were deeded to the Church in 1825. The Ancient Roads Committee found surveys laying out Brookside Road and White Church Lane therefore these two roads are defined, permanent rights of way. John Doane asked if the lot is buildable. Melissa Manka advised that it is considered a separate lot. The lot is wet and has ledge and shallow bedrock present. White test pits were done, there was no wastewater capacity found on the two acres. If the Church had offsite wastewater capacity, potentially the lot could be considered buildable.

John asked if the Church has control over what the lot can be used for. Attorney Rugh advised yes unless something is found like there was with the Spiller lot that there is a dedication of public use. Although the Town has been maintaining and using the property for a considerable number of years, Attorney Rugh stated it is unclear if the Town can claim adverse possession because the Church is a charitable institution.

Ira Allen advised that in 1840 the present church replaced a church that was on the lower level of the lot. In more recent years, deeds have referenced the new church not the original church. This should be kept in mind when doing research of the property. Melissa advised that the State will be flying lidar mapping. If there are any stones where the original church was, this it would be the one chance of seeing them.

Melissa Manka advised that the current zoning maps and regulations were developed based on these two acres being the town common. The regulations would need to be changed because the land is designated as town common. Also, with Form Based Code, the Planning Commission would have to have a discussion on what uses would be allowed on the property.

Sue asked if the Board has a formal motion they want to make so the Church knows what the Town's intentions are? Dave Adams advised that this is an informal discussion only and the Board will contact the Church after the Selectboard decides what it wants to do.

#### **SALE OF 19.5 ACRE LOT OWNED BY TOWN AND SCHOOL**

The Selectboard and School Board need to authorize a member to sign the documents pertaining to the sale of the 19.5 acre parcel jointly owned by the town and school district.

Dave Adams made a motion to authorize Casey Mathieu or Dave Tilton to execute all deeds, tax returns and any other documents associated with the Town's conveyance of the 20-acre, more or

less, property at the corner of the Westford-Milton Road and Old Stage Road seconded by Dave Tilton. Motion passed: 2-0.

#### **ACCESS BETWEEN LIBRARY AND TOWN OFFICE**

Approximately six to eight months ago, Attorney Rugh conducted a search of the town office and library properties to determine the legal status of the access located between the two buildings. The access is utilized by the homeowner behind the Town's property as well as the Town. Attorney Rugh believes this is a similar situation as the Spiller lot where no one needed access across town property. He feels it would be a good idea to convey a formal easement to the abutter to clear up any issues. Dave Adams agreed adding that the Town has had several discussions and spent money multiple times to try to determine the legal status. Attorney Rugh suggested that the easement not be located between the two buildings but around the perimeter of the property. This would allow the town to expand the existing buildings and would also comply with the Vermont Agency of Transportation's (VTrans) guidelines. Melissa agreed adding that VTrans has stated they would like the access eliminated due to limited site distance. Melissa advised that the property owner was contacted several years ago however was not willing to give up the access. She feels it is worth revisiting a circular, one way access to address safety concerns. VTrans was amenable to the circular one way access.

Pat Haller pointed that this seems to be just one part of a master plan to clear up any title issues around the entire town common. The Town will draft a letter to the abutter regarding the location of the access and formalizing an easement and provide the letter to the town attorney for his review prior to sending.

#### **LETTER OF SUPPORT FOR CLEAN WATER REVOLVING FUND**

Melissa requested approval of a support letter to remain on the priority list of the Clean Water Revolving Fund in the event that there are funds available and the Town has a project to pursue. This is something that needs to be done annually to remain on the list.

Dave Adams made a motion to approve the letter of support to the Clean Water Revolving fund to allow the Town to remain on the priority list, seconded by Dave Tilton. Motion passed: 2-0.

#### **TRANSFER OF SCHOOL PROPERTY TO TOWN**

At the last meeting the Selectboard and Mark Drapa discussed the possibility of a lease in lieu of a user agreement for parcel 2 which has the sports fields. Mark was able to obtain a copy of a lease agreement between the Essex School District and the Recreation Department. The lease has a three year term with auto renewal and a two year cancellation notice. Attorney Rugh advised that voter approval is required if a lease is for longer than three years. He needs to research if an auto renewal triggers voter approval.

Attorney Rugh pointed out that a lease provides the school the ability to impose policies to protect the safety of students whereas a user agreement would not. He also pointed out that a lease agreement would need to include a provision for the use of the trail on the perimeter of the property.

Mark will distribute a soft copy of the lease for it to be customized to the Town and School District's needs.

#### **PERMISSION TO INCLUDE ARTICLE IN NEWSLETTER**

Elaine Morse has requested to be able to include information in the newsletter for a fundraiser that benefits the school music program. The Board approved the request.

### **ROAD SCHEDULE**

Dave Adams made a motion to approve the February 9, 2017 through February 22, 2017 Road Schedule, seconded by Dave Tilton. Motion passed: 2-0.

Brent anticipates being able to cut the trees on Covey Road. Ned Meehan is keeping an eye on the weather and will advise Brent which day would work best. The road will need to be closed when the trees are being cut. Nanette requested as much advanced notice as possible to be able to alert of the closure.

### **ROAD CREW MEMBER AND BENEFITS**

The Town of Westford is not required to offer unpaid leave under Family Medical Leave Act (FMLA) or the Vermont's Parental and Family Leave Act (VPFLA) because it has less than the minimum number of employees required. The Selectboard discussed how to handle Mark's leave of absence. It was noted that the Town provided a 12 week leave of absence last year and paid for the employee's insurance benefits during that time frame. The 12 weeks coincides with the Town's short term disability coverage. An attorney has recommended that if the Town grants leave it does so only under special circumstances. The Board feels Mark's circumstances are unusual. Based on this and the fact that leave was granted to another employee, the Board feels it right to offer leave to Mark for up to 12 weeks. During this time frame, Mark's position is guaranteed and his insurance benefits will be paid for by the Town. Once the 12 weeks have passed, Mark will have the option to continue his insurance benefits under COBRA.

Dave Adams made a motion to grant Mark Brito up to 12 weeks unpaid leave, due to special circumstances, with insurance benefits being paid for during that time frame by the Town, seconded by Dave Tilton. Motion passed: 2-0.

In the meantime, Brent will advertise for a full-time position with benefits. The Board and Brent will revisit this topic toward the end of Mark's 12 week leave.

### **ACCOUNTS PAYABLE & PAYROLL WARRANTS**

The Board approved the accounts payable and payroll warrants.

### **CORRESPONDENCE**

The Town received a complaint against Ted Pelkey's dog. Multiple complaints have been filed against this owner/dog over a period of time. The Town currently does not have a Dog Warden to investigate this complaint and enforce the Dog Ordinance. The Dog Ordinance authorizes the Dog Warden, Selectboard and/or law enforcement officers to enforce the ordinance. Given the history with the dog owner, the Selectboard would like law enforcement to investigate the incident and enforce the ordinance. Nanette will contact the Sheriff's Office.

Melissa Manka advised the Selectboard via email that the Chittenden Regional Planning Commission (CCRPC) wants to reclassify the southern part of Old Stage Road to the same classification as the Essex portion. The reason being to be able to identify both sections as the same with regard to improvements, water quality, etc. The CCRPC will move forward with the classification unless the Town objects. Melissa did not see any reason not to make this change. The Selectboard agreed.

### **EXCESS WEIGHT PERMITS**

The Chair signed excess weight permits for Hinesburg Sand & Gravel.

Selectboard Meeting  
February 9, 2017  
Page 6

**ADJOURN**

The meeting adjourned at 9:17 p.m.

Respectfully Submitted,

David E. Adams, Chair  
Selectboard

Nanette Rogers  
Town Administrator

TOWN OF WESTFORD  
SELECTBOARD MEETING  
GUEST LIST

Date: February 9, 2017

Name (please print)

Address

Sue Adams

4 Common Rd

David Reigh

Stitzel, Page & Flecken

Missalanka

Town of Westford

D. Hunter

180 Huntley Rd

PAT HALLER

62 Brookside Rd

David Cavallere

138 Old #11 Rd

IRA ALLEN

168 1/2 - 128

Heather Amato

97 Deer Run Lane

Wendy Doane

~~62~~ 5 Manley Rd

Mark Drapa

51 North Rd

John Doan

5 Manley Rd.