

Minutes of the East Montpelier Selectboard

January 13, 2014 Public Hearings:

- 1. To consider the adoption of a town charter pursuant to 17 V.S.A. §2645. Any vote on the adoption of a proposed town charter will be by Australian Ballot on March 4, 2014.**
- 2. To consider the adoption of a town conflict of interest ordinance as authorized under the provisions of 24 V.S.A. §1984. Any vote on the adoption of a town conflict of interest ordinance will be by floor vote at 2014 Town Meeting**

SB Attendance: Chair Seth Gardner, Kim Swasey, Steve Sparrow, Casey Northrup, and Carl Etnier; Town Administrator Bruce Johnson

Charter Committee Attendance: Chair Edie Miller, Richard Brock, Michael Duane, Julie Potter, Jack Pauly, Kim Watson, Karen Gramer, Norman Hill, Ed Deegan

Public Attendance: Carolyn Shapiro, Norma Raymond, Tony Klein, Rob Chickering, Tom Brazier, Sandy Conti, Alice Angney, Richard Angney, Jean Vissering

The hearings were opened at 6:05 p.m.

Chair Gardner welcomed the audience and explained that the proposed town charter would be discussed first with the proposed conflict of interest ordinance following. He then turned the hearing over to Charter Committee Chair Edie Miller.

Ms. Miller described the Charter Committee's efforts and the reasoning behind what elements were or were not included in the proposed charter. She answered a query about the potential negative aspects of the charter concept with the response that any change requires state legislative action, so a charter may not be as responsive to citizen desires as the current statutory structure, which can be altered, when legally possible, by solely a town vote. On the other hand, there are only certain changes allowed within the statutory scheme, whereas the charter is conceivably open to any governing concept a town deems desirable. She then introduced the specific sections of the proposed charter and asked for comments/questions.

On the appointment of the Town Treasurer:

- The issue is whether to elect or appoint a treasurer; an appointed treasurer would be hired by and answer to the Selectboard
- The selection committee includes two Selectboard members, which should help ensure that recommended candidates will meet Selectboard expectations
- Multiple candidates could be recommended to the Selectboard; if no suitable candidates are found, the committee will readvertise the position
- The selection committee will determine how to advertise the position and whether to actively seek non-local candidates
- The treasurer job description will need to be carefully crafted to meet the town's needs coupled with mandated statutory duties; as an elected official, currently the treasurer has statutory duties but no job description and no minimum qualifications

On the elimination of the separate elected offices of Trustees of Public Funds, Town Grand Juror, and Town Law Agent:

- The Selectboard will handle the duties of the Trustees of Public Funds with the assistance of the appointed treasurer; the other two offices are unnecessary and any residual duties are already handled by the Selectboard
- No public comments

On the change in term length of the appointed Zoning Administrator to one year:

- The ZA position is currently governed by state statute; the statute mandates a 3-year term among other requirements; the proposed charter reduces the mandatory term to one year, but maintains all other statutory requirements
- Ms. Vissering, on behalf of the Planning Commission, presented a letter against the proposed change; the ZA position has a steep learning curve and, by its very nature, can be both confrontational and divisive; the 3-year term allows the ZA to grow into the position and provides some protection for the independent nature of the position
- Counter-arguments include the desire to have accountable employees; it is difficult to remove a ZA if he/she is not meeting expectations; a 1-year term allows an unsuitable employee to be let go relatively quickly simply by not reappointing the person to the position; if the ZA is good, there is every incentive for the Selectboard to continually reappoint the person

Ms. Miller handed the hearing back to Chair Gardner, who closed discussion on the town charter and opened discussion on the proposed conflict of interest ordinance.

Mr. Etnier, both as a Selectboard member and Charter Committee member, described the proposed ordinance. The Charter Committee considered adding a conflict of interest provision into the proposed charter, but determined that it was an unnecessary addition to the charter and could be dealt with effectively as a town-voted ordinance. The committee also investigated the option of including a recall provision in the charter, but decided not to pursue that possibility. In the end the committee developed a draft ordinance and presented it to the Selectboard as part of its final report. Mr. Etnier went on to explain that the town already has a conflict of interest policy, but there is concern that the Selectboard-adopted policy is not enforceable against elected officials. A town-voted ordinance would be effective against elected officials, at least those that are members of boards/commissions. Neither a policy nor an ordinance has much effect on an elected official that serves alone, such as the Town Clerk, Constable, Delinquent Tax Collector, or Town Treasurer.

Discussion centered on exactly what constituted a conflict of interest and how tight the enforcement would be. Both the current policy and draft ordinance have the same, very detailed definition. Concern was expressed that the definition is overly broad as East Montpelier is a small town in a small state – avoiding all conflicts is nearly impossible. The fear is that an ordinance, by its very nature, will and should be enforced more literally than a policy. The criteria for what constitutes a conflict need to be carefully developed and there needs to be consistent application of the criteria.

Mr. Gardner thanked the audience and the Charter Committee.

The hearings were closed at 7:08 p.m.

January 13, 2014 Special Meeting

SB Attendance: Chair Seth Gardner, Kim Swasey, Steve Sparrow, Casey Northrup, and Carl Etnier; Town Administrator Bruce Johnson

Public Attendance (from East Montpelier): Don Welch (Town Treasurer), Karen Gramer (Delinquent Tax Collector), Ed Deegan, Tom Brazier

A. CALL TO ORDER

Chair Seth Gardner called the meeting to order at 7:10 pm, after the conclusion of a hearing on the proposed charter and conflict-of-interest ordinance.

B. ADDITIONS TO THE AGENDA

None

C. PUBLIC COMMENT

None

D. DELINQUENT TAX COLLECTOR REPORT

Delinquent tax collector Karen Gramer submitted a detailed current report on delinquent taxes. She has collected 79% of the taxes that were delinquent on May 16, 2013. She reported on which taxpayers are in a payment agreement and keeping it, as well as for which taxpayers a tax sale is a possibility.

She has drafted a protocol on how to calculate interest due after someone purchases property at a tax sale, but it requires further review. She plans to contact Vermont League of Cities and Towns for guidance and to present the policy to the Selectboard in April, before sending out notices in May.

Addressing the question of checks and balances for the collector of delinquent taxes, Ms. Gramer described the process of working with the treasurer to reconcile the books on a monthly basis and double check the notices to taxpayers before they go out. Treasurer Don Welch spoke admiringly about the work she does in preparing the notices. She welcomes feedback on her work from the Selectboard.

E. FY2015 BUDGET DEVELOPMENT

Major issues still in play include paving, capital reserve funding, and salaries.

Paving

We will stick with \$280,000 in the paving line item and postpone a decision on exactly what will be done on Quaker Hill/Vincent Flats. If we get a paving grant for Gallison Hill, we'll need about \$20,000 to match it. If we don't get a grant, then we'll need a big chunk in our future budget for that. We may choose to do the Quaker Hill/Vincent Flats work over two years.

Mr. Brazier said that the base has failed in part of Vincent Flats road, so it needs a more thorough treatment than either shim-and-overlay or the sort of bomagging we're discussing. More overlay would be necessary.

Capital reserve

Our capital reserve plan seems to assume an earlier replacement for some equipment than is necessary. Mr. Gardner would like to see an objective schedule for replacing equipment, for example, the schedule the state uses.

Mr. Welch noted that a capital improvement plan will be presented to the town in the upcoming time, which will address some of the questions raised.

Mr. Gardner would like to see us have the option of taking \$20,000 from capital reserve for paving, if necessary. Mr. Johnson indicated that a transfer of that magnitude would cause no problems.

Salary details were also discussed.

The SB is comfortable with the contraction of budget categories in this budget.

The Northern VT Resource Conservation and Development Council is no more, and their dry hydrant appropriation goes to VT Association of Conservation Districts. We will continue the appropriation.

F. DEVELOPMENT OF 2014 TOWN MEETING WARNING

The SB reviewed the draft town meeting warning language.

Questions were raised around the draft article establishing the reserve fund with money from the fund balance. Will the establishment of the reserve fund be voted on the floor and the appropriation to it voted by Australian ballot? In that case, what if the Australian ballot part passes and the floor part fails?

Should the reserve fund be funded with \$100,000 when we're not sure we'll have that much left over from the fund balance? Or should there be language without numbers, e.g., whatever is left from the fund balance?

Mr. Johnson will work on redrafting it, leaving numbers out, as a public question that can be voted on the floor.

G. DEVELOPMENT OF 2013 ANNUAL REPORT

Mr. Johnson solicited ideas for the Selectboard Report in the town report.

H. DISCUSSION OF NEXT STEPS IN DEVELOPMENT PROCESS FOR TOWN CHARTER AND CONFLICT OF INTEREST ORDINANCE

Charter: Members of the charter committee would like to speak with the planning commission at the upcoming meeting this Thursday, to further discuss the term of the zoning administrator. The SB will re-visit the charter wording at the Jan. 20 meeting.

COI Ordinance: Mr. Etnier will use the input he has received to suggest final language for the ordinance and present it at the Jan. 20 meeting.

I. OTHER BUSINESS

Update on Thornton-Kelly dog issue.

Mr. Etnier talked to four of the neighbors and documented both attacks on humans and pets going back several years. Mr. Gardner arranged for himself and Mr. Etnier to visit her and her three labradoodles at 4:30 pm on Sunday, Jan. 12.

Ms. Thornton-Kelly showed them a four-foot high fence she had built for the dogs, in addition to a previously built fence of the same height. She assured them that the dogs would be on leash on the roads, and that she would be with them on her property when they went off leash, under vocal control. Mr. Etnier asked her whether she really had them under vocal control, and she said yes-- she has salmon treats that get them to come when called.

Mr. Gardner told her that he didn't want to hear about further incidents, and he didn't want the town to need to take a further legal step.

Mr. Etnier reported that at the neighborhood potluck later that night, many of the neighbors expressed concerns that the problems with these dogs, which have been going on for years, were not adequately addressed by the solutions discussed with Ms. Thornton-Kelly. They feared that the fence would not be tall enough to keep the dogs enclosed. They pointed out that at least two attacks had occurred in the presence of Ms. Thornton-Kelly, belying her claims of having them under vocal control. And one of them asked that the SB exercise its power described in the dog ordinance, to issue a cease-and-desist order to Ms. Thornton-Kelly.

Mr. Etnier further reported that he was making inquiries for guidance on the height of a fence that will enclose dogs.

Mr. Brazier described a situation in the 1990s, when the SB had the dog owner sign a letter indicating what they agreed to do.

East Montpelier Web Map

The town web site now has a link to a GIS map of town parcels. Is it an issue that owner names can be linked to E911 numbers? No; but the SB wants to hear about any complaints.

Road foreman issues

The size of the sand pile, and need for more sand (or not), was discussed.

Mike Liff vehicles

Mr. Johnson circulated a draft letter, detailing vehicle removals that we expect to see before the next meeting of SB members with Mr. Liff, scheduled for May 5. Mr. Gardner signed the letter.

J. ADJOURN

Motion: I move to adjourn. Made: Mr. Sparrow. Second: Mr. Northrup. 5-0 at 9:30 pm.

Respectfully submitted by Carl Etnier and Bruce Johnson.

Approved: January 20, 2014 East Montpelier Selectboard meeting