

**East Montpelier Selectboard Meeting APPROVED MINUTES (07/21/14)  
July 7, 2014 at the Town Office**

**Selectboard members present:** Carl Etnier (recording secretary), Seth Gardner, Casey Northrup, Steve Sparrow, Kim Swasey; Bruce Johnson (town administrator)

**Others present:** Sam Anderson (Central Vermont Economic Development Corporation), Ginny Burley (Central Vermont New Directions Coalition), Marcus Hass (CVNDC), Paul Erlbaum, Carolyn Shapiro, Julie Potter (planning commission), Jean Vissering (planning commission chair)

**A. CALL TO ORDER**

Chair Seth Gardner called the meeting to order at 6:34 pm.

**B. ADDITIONS TO THE AGENDA**

Litigation threat on a zoning issue.

**C. PUBLIC COMMENT**

Julie Potter thanked the SB for appointment as CVRPC representative and announced she had been elected to the executive committee.

**D. CENTRAL VERMONT ECONOMIC DEVELOPMENT CORPORATION**

Sam Anderson, Executive Director, described the work of CVEDC and invited us to attend their next annual meeting, on October 16.

**E. CENTRAL VERMONT NEW DIRECTIONS COALITION PRESENTATION**

Ginny Burley and Marcus Hass, both in for Ann Gilbert, described the coalition's work in reducing the negative impact of alcohol, tobacco, and other drugs. Towns and cities in Vermont have various policies, for example, half of Wrightsville beach is smoke-free. Montpelier is considering making its parks smoke free.

When asked about areas of acute concern in East Montpelier, they did not identify any. They said they are willing to help the SB with any policy needs we identify.

**F. CONSIDERATION OF PROPOSED ZONING REGULATION AMENDMENTS**

Planning Commission members Jean Vissering and Julie Potter presented proposed amendments to the zoning regulations. Ms. Vissering explained that the PC is considering amendments to the regulations in a number of phases, and the current round is of minor, simple changes. Ms. Potter characterized the changes as clarifications, improving language, and other technical corrections, except for the changing of the threshold for requiring a conditional use permit for groundwater withdrawal. That is a substantive change, and the PC believes it has done enough homework to make the change now.

The SB will consider the process for adopting the amendments at a meeting in the near future.

**G. CONSIDERATION OF PAVING ALTERNATIVES FOR VINCENT FLATS**

Mr. Johnson reported that he met with Tom Anderson and Ted Domey of VTrans to discuss options for repaving Vincent Flats Road. They discussed a plan that would re-engineer the intersection with Cherry Tree Hill Road and dramatically resurface the road from Route 2 and out past Fairmont Farm. The expense would be well above what the town budgeted. And we do not yet have word on whether the state will give us Class 2 status for Vincent Flats; Mr. Anderson will take over the push for that. At the

earliest, this paving could happen in 2016.

We will put together a paving plan using shim-and-overlay for repairing the road this year, in anticipation of more work a few years down the line.

#### **H. PRELIMINARY REVIEW OF FY2015 TAX RATE**

Mr. Johnson reported that the Grand List will likely change slightly over the next few weeks; we'll be ready to set the tax rate at the August 4 SB meeting.

#### **I. DISCUSSION ON TOWN PROCEDURES FOR HANDLING VICIOUS AND POTENTIALLY VICIOUS DOGS**

Mr. Etnier reported on his discussion of the town's options with Vermont League of Cities and Towns attorney Garrett Baxter, who put together the League's [\*The Big Book of Woof\*](#). A key take-away from the book and the discussion is that, regardless of what the town's ordinance says, the Selectboard has a statutory obligation to hold a vicious dog hearing if someone files a written complaint. If the SB finds that a dog has behaved in a vicious way, it may order *any* appropriate remedy, "without limitation," according to the statute.

Mr. Etnier recommended that the Selectboard educate itself about how to handle a written vicious dog complaint and publicize this option to town residents. He suggested the town adopt the model forms and rules of procedure in *The Big Book of Woof*. The question of whether to adopt these documents will be on the agenda of the July 21 Selectboard meeting, and an informational session for town residents will be on the agenda for August 4.

Mr. Etnier also suggested the SB consider amending the town's animal control ordinance to bring it more in line with VLCT's model ordinance. The most significant change he sees is to give the SB power to conduct a hearing under the protocol of a vicious dog hearing, for dogs that are "potentially vicious." The legal standard for a "vicious dog" is that it has bitten someone off the owner's property. A "potentially vicious" dog has shown propensities to viciousness, such as biting other animals, behaving in a threatening manner, etc. He suggested the discussion start later this year, perhaps in October, to give the board time to handle any written complaints it might receive after publicizing the options available for handling current dog conflicts.

#### **J. DISCUSSION ON COMPLIANCE PROCEDURES FOR VERMONT OPEN MEETING LAW REQUIREMENTS AND PUBLIC RECORDS REQUESTS**

The Vermont League of Cities and Towns has issued revised model rules for procedure in response to the legislature's recent amendments to the Open Meeting Law. When the town receives a public records request for a record that appears to be exempt from disclosure, what internal procedures will the town use to craft a response?

The town has no written procedures as to who is responsible for decisions to deny access to a town document requested by a member of the public. In two recent cases where the town has done so, one case was discussed by the board in a meeting. In the other, Mr. Johnson discussed the decision only with attorney Bruce Bjornlund before denying access to the document, and then he immediately notified the SB of the decision. Where there has been controversy, Mr. Johnson has kept the SB informed via email of the dialogue.

Mr. Etnier proposed that the SB be included in some way in making a decision to deny access to a document, a decision which potentially exposes the town to liability. One option is to call a special

meeting. Another is to ask one SB member to be in the loop, along with Mr. Bjornlund. The SB member would not be authorized to act for the board, but could provide another perspective.

Mr. Johnson said that it is too difficult to reliably reach SB members in the three-day statutory time frame required for responding to public records requests.

No action was taken.

For the open meeting law revisions, the Selectboard is responsible for posting its minutes within five days of a meeting, whether they are approved or not. How do we communicate with the town's other boards and committees that they, too, are subject to the requirement?

The board was presented with a memorandum to the town's other boards and committees, informing them of the changes and encouraging them to send their minutes promptly to Mr. Johnson.

**Motion: I make the motion to authorize Seth Gardner to sign the memorandum to all East Montpelier Boards, Commissions, Committees, and Subcommittees, dated July 7, 2014, on Vermont Open Meeting Law Changes. Made: Mr. Etnier. Second: Ms. Swasey. 5-0.**

#### **K. CONSIDERATION OF 2015 CAI TAX MAP MAINTENANCE CONTRACT**

This is the standard annual Cartographic contract to update our tax maps. It is at the same price as last year (\$1,830), but there are a few timing tweaks that they had warned us about last year.

**Motion: I make the motion that the town sign the 2015 CAI Tax Map Maintenance Contract as proposed. Made: Mr. Northrup. Second: Mr. Sparrow. 5-0**

#### **L. ADDITIONAL AGENDA ITEM: LITIGATION THREAT**

Mr. Johnson reported a litigation threat on a zoning issue, from a phone call he received at 5:30 this afternoon. No action taken.

#### **M. WARRANTS**

Warrants were signed.

#### **N. MINUTES**

**Motion: I move to approve the minutes of June 23, 2014 as submitted. Made: Mr. Sparrow. Second: Ms. Swasey. 5-0.**

#### **O. OTHER BUSINESS**

Dave Grundy has forwarded the town an email from the climate change action group 350VT, asking towns to declare themselves to be free of investment in fossil fuel companies. East Montpelier invests in no stocks of any kind. The 350VT organizer responded to this information by asking the town to make the declaration anyway, as a statement of support for the practice. The SB will consider this at the next meeting.

Fire Chief Ty Rolland has requested that East Montpelier and Calais contribute \$500 to EMFD's August 16 50th anniversary celebration.

**Motion: I move to support the EMFD 50th anniversary celebration with a contribution of \$500. Made: Ms. Swasey. Second: Mr. Sparrow. 5-0.**

Upcoming Schedule of Events:

- July 17th EMFD Quarterly Budget Presentation, 7:00 p.m. at ESF
- July 21st Selectboard site inspections, public hearing, regular meeting
  - 6:00 p.m. site inspections starting at Barstow driveway
  - 6:30 p.m. public hearing on road reclassifications
  - 6:45 p.m. regular meeting
- August 4th Selectboard regular meeting, 6:30 p.m. at town office
- August 18th Selectboard regular meeting
- Sept 8th Selectboard special meeting (to avoid Labor Day)
- Sept 22nd Selectboard special meeting
- October 6th Selectboard regular meeting

**P. ADJOURNMENT**

**Motion: I make the motion to adjourn. Made: Ms. Swasey. Second: Mr. Sparrow. 5-0 at 9:57 pm.**