

**East Montpelier Selectboard Meeting APPROVED (10/05/15) MINUTES  
September 21, 2015 at the Town Office**

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

**Others present:** Lyn Blackwell (Funding Request Study Committee; FRSC), Gina Conn (*Times Argus*), Mary Fettig (private citizen), Marc Fontaine (private citizen), Norman Hill (Planning Commission; PC), Judi Hudson (private citizen), Michael Hudson (private citizen), Lindy Johnson (FRSC), Alan May (private citizen), Toni May (private citizen), David Maynard (private citizen), Kevin Nadzam (FRSC), Ann Stanton (FRSC), Gene Troia (PC), Kim Watson (PC).

**A. CALL TO ORDER**

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

**B. ADDITIONS TO THE AGENDA**

Schaarschmidt Access Application  
Recreation Board Permit Application  
VLCT PACIF Renewal  
Tax Sale Agreement with Rice & Riley PLLC

**C. PUBLIC COMMENT**

Michael Hudson and Judy Hudson are part of a group of siblings inheriting a house in East Montpelier Village. They plan to file a quiet title action in court, including a claim for adverse possession of the former town hall property. The family's long-term intent is to sell the house and property.

**D. DISCUSSION WITH FUNDING REQUEST REVIEW COMMITTEE**

The Funding Request Review Committee is about to begin its annual work of recommending funding levels to local service and environmental organizations for a floor vote at town meeting. Chair Lyn Blackwell asked for confirmation that the Selectboard (SB) wants the committee to keep the total under \$25,000 (the maximum allowed under town rules for a floor vote). She pointed out that one organization alone (Central Vermont Home Health and Hospice) received \$5,500 in the current year, almost 25% of the \$22,561 total given last year.

The SB confirmed the \$25,000 cap and asked the committee to try to hold the increase over last year to 5%. But the SB recognized that, with new organizations making requests, the committee may find it difficult to cap it at 5%, in which case they can come back to SB for further consultation. The SB thanked committee members for their work.

**E. SCHAARSCHMIDT ACCESS APPLICATION**

This is a request for a second access for the property located at 189 Boulder Ridge Road (at the west side of the dead-end cul-de-sac).

Road Foreman Mike Garand has signed off on the application. A culvert will be required. The second access is justified because topography limits access to a planned barn via the existing driveway.

**Motion: I move to approve Access Application #15-029 for the Ralph Schaarschmidt property on Boulder Ridge Road and to sign it. Made: Mr. Etnier. Second: Mr. Sparrow. 5-0.**

## **F. RECREATION BOARD PERMIT APPLICATION**

The Recreation Board would like to move the concession shed closer to the road. As the Town owns the property, the SB or its representative needs to sign the permit application.

**Motion: I move to authorize Town Administrator Bruce Johnson to sign the application of the Recreation Board to the Development Review Board for a waiver on the location of the concession shed. Made: Mr. Etnier. Second: Mr. Sparrow. 5-0.**

## **G. VLCT PACIF RENEWAL**

The Town receives Property/Casualty and Workers' Compensation insurance coverage through the Vermont League of Cities and Towns (VLCT) PACIF program. The quote for the coming year's coverage will be forthcoming after the Town submits an application.

**Motion: I move to authorize Town Administrator Bruce Johnson to sign the application to renew the Town's PACIF coverage. Made: Ms. Swasey. Second: Mr. Northrup. 5-0.**

## **H. TAX SALE AGREEMENT WITH RICE & RILEY PLLC**

Delinquent Tax Collector Karen Gramer is contracting with Rice & Riley PLLC to pursue tax sales on the Laundry and Caldwell properties. Rice & Riley has asked for confirmation that the SB has authorized the necessary legal assistance and expenses, as outlined in the Rice & Riley PLLC scope of services letter dated September 21, 2015.

**Motion: I move to authorize the Delinquent Tax Collector to contract for the necessary legal assistance and expenses in preparation for or conduct of a tax sale on the Laundry & Caldwell properties. Made: Mr. Etnier. Second: Ms. Swasey. 5-0.**

## **I. DISCUSSION OF ZONING ENFORCEMENT ACTIONS**

Alan and Toni May were at the August 31 SB meeting to object to their neighbors, John Clement and Callie Buck, living on the land they own without a wastewater system and without a permit. At that meeting, the SB asked Zoning Administrator (ZA) Johnson to send a letter to Mr. Clement, as a first step in enforcement.

ZA Johnson sent a letter dated September 12 to Mr. Clement and Ms. Buck, banning further residential use of a camper or any other structure on the property until they apply for and receive a town permit for the structure and they work out a plan with the state for access to potable water and treatment of wastewater. The letter advised them that Mr. Johnson will conduct a site inspection in early October to ensure compliance.

Toni May opened this section of the meeting with ongoing objections to Clement's and Buck's presence on the land without proper permits. She wants them to obey the law or leave. In response to Mr. Gardner's question about what further action she wanted the town to take at this time, she had no specific response. She would have liked the town to have acted earlier, as she said the violation has been ongoing for years.

Mr. Johnson commented that the town has no mechanism to evict land owners from their own land for violation of zoning regulations.

Ms. May also raised new conflicts with Mr. Clement. She said his dog had come over to her property and gone into her home and her car. At first, Mr. Clement did not come over to retrieve the dog, as he

had a no-trespassing order issued against him. When he was allowed onto the property, the dog did not come to him immediately, she said.

Ms. May said Mr. Clement had commented in the course of the conversation that the house won't be worth much if it is burned to the ground. She said she called state police and Town Constable Sandy Conti.

Neighbor David Maynard said he has watched the situation escalate. Mr. Maynard said it would be easier to live with some of things Mr. Clement and Ms. Buck had done if they were good neighbors, but they have done everything to be a poor neighbor: domestic abuse, the state police coming, and cigarette butts in the road.

Neighbor Mary Fettig said she and Mr. Maynard feel uneasy in their house.

Mr. Gardner said he had spoken with Mr. Clement over the weekend, who told him he was moving out.

Ms. Swasey asked Mr. Maynard and Ms. Fettig what effect Mr. Clement and Ms. Buck had on them. Mr. Maynard said the Clement/Buck cows and goats kept coming to his and Ms. Fettig's garden, including in the asparagus patch. Ms. Buck offered to pay for damaged asparagus, but he said asparagus is not easy to replace.

Neighbor Marc Fontaine said he was upset to see how upset the Mays were on Saturday, after the confrontation about the dog. He also characterized the situation as "escalating."

Mr. Gardner told the Mays they have the option of filing a complaint if they want further action on the dog.

Mr. May said Constable Conti gave Mr. Clement until Wednesday to prove the dog is registered and vaccinated.

## **J. DISCUSSION OF POTENTIAL AMENDMENTS TO ZONING REGULATIONS**

The PC sent the SB a packet of proposed amendments to the zoning regulations on May 7, 2015. The SB is required to act on them by May 7, 2016. The SB set aside this time to discuss issues around two sections of the amendments: a process for certificates of compliance, and the flood hazard regulations.

### *Certificates of Compliance*

The town regulations now prohibit occupying or using a structure until the ZA has approved a certificate of compliance (CoC) with the building permit. ZA Johnson would like to see CoCs eliminated from the regulations. The PC heard his objections to the existing regulations but remained convinced of the value of a CoC. The PC did, however, amend the regulation of the CoC.

PC member Gene Troia, who commented that he is a builder, argued for the importance of a CoC. It gives the town a record that the structure has been completed according to the permit or, if not, what deviations have been made.

PC member Norman Hill said he was hard to convince of the value of a CoC, and he remained on the fence. He wants the town to either have a CoC system and enforce it or not have it at all. He commented that a couple attorneys on the PC said it could cause problem for sales if town has regulations requiring a CoC and the CoC does not exist for a home. The builder also has to certify that

the building meets state energy code, to receive a CoC.

ZA Johnson argued that East Montpelier is not "a code town." As ZA, he cannot prove anything that the owner or builder attests to on a CoC—he is not expected to do an independent inspection. Yet, since the regulations would require the ZA to approve a CoC, he would still be responsible for its accuracy. Furthermore, if someone applied for a CoC under the regulations, if the ZA did not act within 30 days, the CoC would be automatically approved. In that case, Mr. Johnson said, the town is still a party.

Mr. Etnier asked whether the Town would be liable if a CoC exists and contains inaccurate information. No one knew the answer.

Sacha Pealer is the Floodplain Manager in the state's Rivers Program who has worked with the PC on flood hazard amendments. Mr. Johnson said he had called Ms. Pealer and asked whether the town would be compliant with the National Flood Insurance Program (NFIP) if the regulations do not call for a CoC. She told him there would be no change in NFIP status. The program would prefer a CoC system, but it doesn't change rates or anything else if they're not there.

Mr. Johnson also asked Ms. Pealer whether it would cause problems if the town uses a CoC in its flood regulations and removes the CoC everywhere else. She said no, and some towns do that. She recommends a CoC system in flood regulations.

#### *Flood hazard regulations*

The PC has proposed amendments to the town's flood hazard regulations to bring them into compliance with new state and federal standards. If the amendments are adopted, the Town would be eligible for an additional 5% reimbursement from the state in the event of a FEMA-approved disaster. With the Town's current regulations in place, FEMA would cover 75% of the costs and the state would provide 12.5%. Adopting the amendments would raise the state's reimbursement to 17.5%.

According to a memo from the PC, the town has 269 parcels (20% of the town total) that are at least partially in the floodplain (now called the "special flood hazard area") or the river corridor; of those, 142 parcels are in both zones. The proposed amendments would affect 13 parcels that are now classified as being in the river corridor but not in the special flood hazard area.

Mr. Johnson's recommendation is the Town should adopt the amendments.

The SB decided to set a hearing for the entire package of amendments for November 30, 2015. The SB will determine at a later date, for the purposes of the warning, exactly what the content of the amendments will be.

#### **K. MUNICIPAL PLANNING GRANT**

The Planning Commission has put together an application for a municipal planning grant for help in the village.

**Motion: I move to adopt the Resolution for Municipal Planning Grant. Made: Ms. Swasey.  
Second: Mr. Northrup. 5-0.**

#### **L. VLCT TOWN FAIR**

**Motion: I move to delegate Bruce Johnson as the Town's voting member at the VLCT Town Fair.  
Made: Mr. Northrup. Second: Mr. Sparrow. 5-0.**

## **M. MUNICIPAL DAY REPORT**

Mr. Etnier and PC member Julie Potter submitted written reports on what they learned at the state government's Municipal Day held Sept. 9. This led to a discussion of how the Town might adopt solar electricity, with its mix of meters on Green Mountain Power and Washington Electric.

## **N. COUNTY ROAD TRANSPORTATION ALTERNATIVES PROGRAM (TAP) GRANT**

Both East Montpelier and Calais have talked for years in various venues about providing bicycle-friendly facilities on County Road.

Mr. Etnier reported discussions with Calais SB member Toby Talbot and Transportation Alternatives Coordinator Scott Robertson at the Agency of Transportation about applying for a grant to conduct a scoping study for a project that would widen the road and construct bicycle lanes. Calais is interested. The deadline for this year's TAP grant application is Oct. 16, and the towns' share would be 50% of an estimated \$30,000 project—in other words, about \$7,500 per town, if both East Montpelier and Calais participate. Mr. Etnier has asked Mr. Robertson to investigate whether a bicycle-pedestrian program, which calls for only a 10% match from the town, might be an alternative source of funds for this project.

## **O. CONSIDERATION OF MOU WITH EMFD FOR TOWN USE OF TEMPLETON ROAD FIRE STATION**

The town and East Montpelier Fire Department (EMFD) have been working on a memorandum of understanding (MOU) to encapsulate the general understanding surrounding the proposed alteration and use of a portion of the Templeton Road Fire Station. EMFD President Bill Amell has signed the latest MOU version.

**Motion: I move to authorize Seth Gardner to sign the MOU with EMFD for Town use of the Templeton Road Fire Station. Made: Mr. Sparrow. Second: Mr. Etnier. 5-0.**

## **P. CONSIDERATION OF MEETING DATE/TIME AMENDMENT TO 2015 SELECTBOARD RULES OF TRANSACTION**

Mr. Etnier asked whether the SB might consider moving to some other dates for its regular meetings than the first and third Mondays.

No action taken.

## **Q. WARRANTS**

Signed.

## **R. MINUTES**

**Motion: I move to approve the minutes of August 31, 2015 as written. Made: Mr. Northrup. Second: Ms. Swasey. 5-0.**

## **S. OTHER BUSINESS**

### *Organics Recycling Event*

Mr. Johnson reported that Central Vermont Solid Waste Management District (CVSWMD) did a half-hour presentation at East Montpelier Elementary School last Wednesday, September 16th on Vermont's Universal Recycling Law, residential handling of organic waste, and composting. The two CVSWMD presenters and Mr. Johnson stuck around until the end of the EMES open house. Due to a relatively low

turnout and minimal pre-orders, they were able to offer all attendees free Green Cones &/or composters along with small containers for organics transport (i.e., pails to carry stuff from kitchen to composter), all covered by a grant the Town received from CVSWMD.

*Zoning Administrator Report*

See permit activity for period August 31 – September 21, 2015

Next Development Review Board meeting will be on October 6, 2015, covering.

- Habitat for Humanity request to develop the Benton lot—asking for setback waiver
- Recreation Board request for a setback waiver to relocate concession shed
- Appeal of ZA's issuance of a permit to Duane Wells for an accessory dwelling
- Manghi sketch plan for a two-lot subdivision

*Possible insurance claim against the Town*

A Town vehicle doing maintenance on Codling Road was involved in an incident that caused damage to a pickup truck. The town has submitted an accident report to VLCT.

*Upcoming vacancy on the Board*

Mr. Sparrow announced he will be moving out of town and will at a later date resign from the SB.

**ADJOURNMENT**

**Motion: I move to adjourn. Made: Mr. Sparrow. Second: Ms. Swasey. 5-0. 9:58 pm.**