

**East Montpelier Selectboard Meeting APPROVED (11/02/15) MINUTES  
October 19, 2015 at the Town Office**

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

**Others present:** Alex Boguzewski (town resident), Gina Conn (Times Argus), Ed Deegan (town resident), Ross Hazel (lister), Peter Hill (town resident), Toni May (town resident), David Maynard (town resident), Julie Potter (Planning Commission), Ray Stout (town resident), Gene Troia (Planning Commission), Kim Watson (Planning Commission).

**A. CALL TO ORDER**

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

**B. ADDITIONS TO THE AGENDA**

None noted at the time. Later in the meeting, Ross Hazel asked to discuss the East Montpelier Senior Living Initiative (EMSLI) after his business as lister; this had been scheduled under Other Business.

**C. PUBLIC COMMENT**

None.

**D. CONSIDERATION OF SELECTBOARD VACANCY**

Steve Sparrow has moved to Calais and resigned from the Selectboard. The vacancy was posted where meetings are warned and in Front Porch Forum. Six candidates indicated their interest:

Alex Boguzewski

Ed Deegan

Phillip Heinz

Peter Hill

Ray Stout

Gene Troia

Mr. Heinz sent a letter indicating his interest and describing qualifications, plus sending his regrets for the meeting. All the other candidates attended the meeting and spoke. (Mr. Deegan arrived after the board had moved on from this item of business but before it made a decision.)

The board thanked the candidates for their interest and said that they would decide later in the meeting how to proceed.

**E. DISCUSSION ON ZONING ENFORCEMENT ACTIONS**

The town has issued a formal Notice of Violation against the Clement/Buck family at 365 Mays Way, for having a camper on the site without a permit, and the state Agency of Natural Resources has done the same.

Mr. Johnson reported that John Clement told Mr. Johnson last week that he and Callie Buck had moved out and taken the domestic animals. No one is living there now. The camper is still there, which Mr. Clement said he intends to turn into a shed, for which he would apply for permit.

Neighbor Toni May told the board about activity she had observed on the Clement/Buck property. She

asked if the Town intends to enforce with fines if camper is still there. She said there is no way of proving Mr. Clement and Ms. Buck are not living there as long as camper is there.

Ms. May also asked about an item in the minutes from last meeting, that "the board wanted to reiterate that there is no known health issue on the 365 Mays Way parcel, nor is there any raw sewage on that parcel or on the 201 Mays Way parcel. Both state and town officials have monitored the area for health concerns on a regular basis this summer and have found no evidence of human waste." She asked how the board determined this.

She was told that town health officer Dave Grundy and state enforcement officers had made site visits and determined that there was no human waste or sewage on the surface of the Clement/Buck property (365 Mays Way) or its boundary to the Mays' property (201 Mays Way).

Ms. May asked where Mr. Clement and Ms. Buck go to the bathroom. Mr. Johnson said that Mr. Clement reported that they did not relieve themselves while on the property.

Ms. May concluded by reading a statement from her husband, Alan May. He clarified that comments he made at the September 28 vicious dog hearing about what he would do with Mr. Clement and Ms. Buck's dog were not meant as threats. If the dog Zoe comes on to the Mays' property again, he intends to comply with town procedures and work through the animal control officer.

The board discussed costs to the town of an enforcement action. Mr. Johnson estimated it would be \$5,000 at the environmental court, and it would end with the structure still in place. The town would then probably need to work through a law enforcement agency if it was going to remove the structure itself. And there is no set timeline for the judicial process; it could take quite a while to get a decision and order from the court.

Mr. Etnier noted that there is no evidence of a health hazard, nor evidence that anyone is living in the camper, but the camper's presence is a continued violation of the town's ordinances. However, the appeal period for the notice of violation runs another three days.

The board decided to take no action until after the appeal period had run out and to evaluate the situation at its next meeting.

## **F. LISTERS ERRORS & OMISSIONS**

Chair Gardner recused himself as a SB member from the discussion and vote, due to a conflict of interest. Vice-chair Northrup chaired this part of the meeting.

Lister Ross Hazel presented six errors in the grand list that the listers are asking permission from the SB to correct for the 2015 Grand List:

### **➤ T. Wayne Clark/Seth Gardner**

- The Codling Road property transfer was not processed properly by the listers; the two new building lots Mr. Clark created and kept were not separated from the main property when the listers updated the records to reflect Mr. Gardner's purchase; that problem has now been corrected with a net gain to the grand list

### **➤ Donald Cote**

- Mr. Cote's two US Rte. 2 commercial building lots on the east side of the Winooski just beyond the Carpet Barn and one lot behind the business have been rendered relatively

useless for development purposes by the river corridor protection zone; the listers have reassessed the lots downward to reflect this issue

- **The state has recently mandated a new way to value solar facilities; the old method allowed the town to include on its grand list for town tax purposes (ed tax is handled differently) a certain value per kW for facilities larger than 10 kW; now this is allowed only for facilities larger than 50 kW and the value/kW is lower; this change affects three parcels:**
  - Seth Gardner's solar facility located just up Kelton from the Snow Hill intersection; this is large enough that it still has an (largely diminished) assessed value
  - Kingsbury Hydro's solar facility across VT Rte. 14 N from the North Montpelier Pond dam; no longer has an assessed value
  - Burr Morse's solar installation across County Road from the Morse Sugarshack; no longer has an assessed value

**Motion: I move to accept the errors and omissions report from the EM listers and the changes to the grand list. Made. Mr. Etnier. Second: Ms. Swasey. 3-0; Mr. Gardner recused himself.**

### **G. EMSLI (EAST MONTPELIER SENIOR LIVING INITIATIVE)**

Mr. Hazel reported he has received phone calls about EMSLI using the 48-acre parcel in the village the town recently put the winning bid on. EMSLI would like to move forward with discussion and put materials on the town's web site.

The SB noted that Four Corners Schoolhouse has a web page on the town site, and giving a page to EMSLI is consistent with the phase-out of the Signpost's website as a place for diverse town committees. Since the purchase of the parcel in the village has not yet been approved by the court, the SB suggested waiting to post information about the new property until it's officially purchased by the town.

Mr. Northrup asked Mr. Hazel if he wants to be on the to-be-created facilities committee, and Mr. Hazel said yes.

### **H. DISCUSSION ON POTENTIAL AMENDMENTS TO ZONING REGULATIONS**

Section 7.4 Certificates of Compliance

Article 9 Flood Hazard Regulations

The SB has discussed these amendments numerous times with members of the Planning Commission (PC). There seems to be no controversy about the changes to Article 9. The changes to Section 7.4 are controversial.

After a brief discussion as to whether to warn the PC's language for 7.4 or to craft alternative language removing certificates of compliance from all of the zoning regulations—or possibly everything but the flood hazard regulations—the SB decided to warn the existing language.

**Motion: I move to warn the amendments to the town zoning regulations for November 30th, as presented by the Planning Commission. Made: Mr. Etnier. Second: Ms. Swasey. 4-0.**

### **I. DISCUSSION ON DEVELOPMENT OF ROADSIDE VEGETATION POLICY**

Road Foreman Mike Garand has asked the SB to consider a policy for cutting roadside vegetation that he can follow.

Mr. Northrup said a townsperson suggested the SB not waste time on roadside vegetation, but form a committee to take the question on.

Mr. Etnier said he saw three alternatives for making decisions on cutting roadside vegetation: 1) The present policy of leaving the determinations up to Mr. Garand, consulting with the SB and/or Tree Warden Paul Cate as appropriate; 2) a uniform cutting policy that would treat currently narrow roads like parts of Center Road the same as wide roads like parts of North Street; or 3) a granular policy specifying how each tenth of a mile of the town's road system was to be handled. He said he prefers the first alternative.

Mr. Northrup said he prefers the first, too, but some work is not getting done because folks aren't pushing for it.

Mr. Gardner said the road crew used to cut more along roads, and now they cut less. He thought Mr. Garand wants some backing for cutting more.

Mr. Etnier said we can have a SB member work with Mr. Garand to give him backing case by case. If that SB member is conflicted in a particular case, we can designate another one.

Mr. Gardner said the town could cut more brush in ditches.

Mr. Northrup said a policy could say a tree will be removed if it affects drainage or is in the roadway. Or if it interferes with sight lines. And we could write that down in a policy.

Mr. Johnson said if you write it down, the town has to take down trees on Center Road (i.e., a formal, non-road specific, policy would affect all the roads in town, even the ones no one wants cleared, and would need to be applied consistently).

Mr. Gardner said the tree warden isn't trained in safety issues related to sight lines.

Mr. Etnier asked exactly what the role of tree warden is in deciding to cut roadside vegetation.

Mr. Johnson said that safety issues trump any input from the tree warden.

The board turned back to roadside mowing and considered whether to ask for more mowing next year.

No action taken. The SB will consider roadside mowing approaches at budget time.

## **J. DISCUSSION ON CREATION OF BUILDING FACILITIES COMMITTEE**

The SB would like to create a building facilities committee to consider issues related to municipal buildings of all kinds. The discussion will be colored by whether the court approves the purchase of the 48-acre parcel in the village. The SB considered whether this discussion might best be handled at town meeting or with a committee working beforehand.

It's difficult to give a committee a charge when we don't know whether the town owns the village parcel. The SB will revisit the issue when the court has decided on the purchase.

## **K. DISCUSSION ON EXCESS WEIGHT PERMIT APPROVAL PROCESS**

The SB spends some time each meeting during part of the year reviewing applications for excess

weight permits. We are not clear what the SB's role in the approval process is. It seems to be a pro forma process that unnecessarily takes up SB attention.

**Motion: I move to delegate the authority to approve excess weight permits to the town administrator. Made: Mr. Etnier. Second: Ms. Swasey. 4-0.**

#### **L. DISCUSSION ON VILLAGE PROPERTIES & PROJECTS**

A key participant in the discussion was not present; no action taken.

#### **M. ACCESS PERMITS**

Chair Gardner recused himself as a SB member from the discussion and vote, due to a conflict of interest. Vice-chair Northrup chaired this part of the meeting.

The board considered permit 15-034 for Elaine Manghi on 185 Markham Road. This is the subject of a 2-lot subdivision scheduled for DRB review on November 3rd. Lot 1 will be a 7 acre lot with the existing dwelling and access expected to be transferred to a son of abutting neighbors Duane & Knoedler. Lot 2 will be a 52+ acre undeveloped lot to be transferred to Seth Gardner for agricultural use.

The purpose of the access application is to provide a dedicated agriculture access to the new Lot 2; the current agriculture access is on the Duane/Manghi line, near the house, and reliant on a disappearing easement; there is no existing clean access to Lot 2.

**Motion: I move to approve access permit 15-034. Made: Mr. Etnier. Second: Ms. Swasey. 3-0; Mr. Gardner recused himself.**

#### **N. WARRANTS**

Signed.

#### **O. MINUTES**

**Motion: I move to approve the minutes of the Vicious Dog Hearing of September 28 that was continued to October 5, 2015 as written. Made: Mr. Northrup. Second: Ms. Swasey. 4-0.**

**Motion: I move to approve the minutes of the Selectboard meeting of October 5, 2015 as amended. Made: Ms. Swasey. Second: Mr. Northrup. 4-0.**

#### **P. OTHER BUSINESS**

*Report on 2015 VLCT Town Fair & Annual Meeting*

Town Administrator Johnson attended the October 8th event.

*Winooski Hydro Certificate of Public Good Application*

The proposal is for net metering of hydro production with National Life with Washington Electric Coop also receiving benefits; 30-day comment period ends November 6th. The town does not wish to comment.

*Potential Meeting with Lt. Matt Nally of the VSP.*

On issues of expanding constable powers/usage and Brazier Road drug deal concerns; no response yet from Lt. Nally

*Front Porch Forum Funding Campaign*

Front Porch Forum is asking towns to contribute to its budget. The SB is pleased with the value the town and town government receives from the listserv and is willing to consider placing an article in the budget.

*Townsperson’s Concern About Potential U-32 Dog Policy Change*

The SB received a hand-written letter opposing U-32 changing its policy and allowing dogs. The letter will be passed along to the U-32 administration.

*Holiday Schedule Through January 1, 2016*

November 11th (Veterans Day) falls on a Wednesday and employees would prefer to work that day and use the holiday time later; as in past years, road crew would like to have the following Monday (November 16th; hunting season) off; however, like last year, the town office would prefer to use the holiday during the Christmas/New Years period.

Christmas & New Years Day are on Friday, which puts the “eves” on Thursday; generally the Town Clerk’s office closes early (around 1 p.m.) on the “eves” so the thought is to simply not open on those days as a trade-off for Veterans Day; last year the trade was for the days after as they fell on Friday.

The SB approved all the proposed adjustments.

*Town Volunteer Appreciation Party*

This will be the fourth year of the tradition. It will be scheduled for Saturday, Dec. 19, at 5 pm.

*Meeting Schedule*

November 2nd	6:30 pm	Regular SB meeting
November 16th	6:30 pm	Regular SB meeting
November 30th	7:00 pm	Public hearing at village fire station
December 3rd	7:00 pm	EMFD FY17 budget presentation at village fire station
December 7th	6:30 pm	Regular SB meeting & joint budget meeting with Calais

*Zoning Administrator Report*

Next DRB meeting will be on October 20, 2015 with one hearing: continuation of appeal of ZA’s issuance of a permit to Duane Wells for an accessory dwelling.

Next regular DRB meeting will be on November 3, 2015 with one scheduled hearing: Manghi/Gardner/Duane final plan review for a two-lot subdivision of 185 Markham Road.

**Q. SB VACANCY (CONTINUATION OF EARLIER DISCUSSION)**

The board determined that it had received enough information from the candidates to make a decision.

**Motion: I move to appoint Gene Troia to the Selectboard to fill the remainder of Steve Sparrow's term. Made: Ms. Swasey. Second: Mr. Northrup. 4-0.**

**R. ADJOURNMENT**

**Motion: I move to adjourn. Made: Mr. Northrup. Second: Ms. Swasey. 4-0. 10:00 pm.**