

Minutes of the East Montpelier Selectboard

August 2, 2021 Selectboard Meeting

This meeting was held in-person at the town office building with a remote participation option using the Zoom conferencing platform.

SB Attendance: Chair Seth Gardner, Amy Willis, Judith Dillon, Jon Jewett and Carl Etnier; Town Administrator Bruce Johnson

In-Person Public Attendance: Tom Fisher, Town Representative to CVFiber; Jeremy Hansen, CVFiber Governing Board Chair

Remote Public Attendance: Assistant Animal Control Officer Amber Perry

Chair Gardner called the meeting to order at 6:34 p.m.

Additions to Agenda: None

Minutes:

Chair Gardner presented the draft minutes of the July 12, 2021 board meeting.

Motion: To approve the July 12, 2021 minutes as amended. Made by Mr. Jewett; second by Ms. Dillon. Passed unanimously.

Public Comment: None

Update from CVFiber Regarding Current Plans and Conversation on American Rescue Plan Funding Usage

**Tom Fisher, Town Representative to CVFiber
Jeremy Hansen, CVFiber Governing Board Chair**

Mr. Hansen provided the board with an EM-slanted version of a PowerPoint presentation CVFiber recently provided in a forum for the general public. CVFiber, a communications union district (CUD) formed in 2018 with East Montpelier as one of the original member towns, is on a mission to provide fast, locally owned, affordable broadband service to everyone in its central Vermont member communities. The target is to provide 50% of the region's underserved (defined as those without a minimum available 25/3 Mbps service option) populace by 2022 and 95% by 2024. Much of the current push will be in partnership with Washington Electric Co-operative, running fiber along WEC's existing pole network. CVFiber is in line to receive significant grant funding from state/federal sources in the very near future and has contractors at the ready to move forward with design and construction activity when the funding hits its bank account.

CVFiber estimates that all of East Montpelier could be served with fiber broadband at a cost of \$3,012,791 (\$45,861,000 total for the full CVFiber district). That cost includes, absent unusual circumstances (long driveways, etc.), connections to homes. Phase 1 of the CVFiber build-out plan is designed to reach 80% of the underserved properties. The current grant funding availability may make

it possible to do this initial build-out without bonding. East Montpelier's approximately 300 underserved properties will be part of the first 5-town (CVFiber's "Area A"; 1,663 parcels) wave of construction, with 96% of the Area A properties expected to be served by the end of 2022 and all by the end of 2023.

Mr. Hansen emphasized that grant funding will both speed up the construction process and lower subscription rates. CVFiber, as a statutory CUD, cannot take tax revenue from its member communities. East Montpelier and the other member towns can, however, legally contribute American Rescue Plan Act (ARPA) funds to CVFiber. Of the five towns that are part of Area A (Moretown, Middlesex, Worcester, Calais, EM), all but East Montpelier have already shown interest in funneling at least some of their ARPA funding to CVFiber. Middlesex is working with Attorney Rob Halpert to refine a CVFiber-provided agreement with the intent to transfer over its entire first year ARPA town allocation. Mr. Hansen made it clear that CVFiber would appreciate receiving the town funding as it would help alleviate a cashflow issue brought on by grant timing – it appears the towns will receive their ARPA funds before the promised grant funding to CVFiber will be available. Since CVFiber is ready to jump once funds are in place, town ARPA contributions would move things along.

Update on American Rescue Plan Funding

The US Treasury Department has determined that Vermont counties are not "units of general local government" for purposes of the American Rescue Plan Act. This determination will allow the funds targeted for Vermont counties to be distributed directly to municipalities. The town has not yet received its first year "town" allocation of \$133,529, which should arrive by the end of the month. The first year "county" allocation should come by the end of September. The precise "county" allocation to the town has not been released, but previous estimates imply the figure will likely be approximately double the "town" allocation. A second round of ARPA funding in the same amounts will be distributed around this time next year. The usage by the town of these funds needs to be committed by 2024 and fully spent by 2026.

ARPA includes four broad criteria outlining eligible uses:

- To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
- For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and,
- To make necessary investments in water, sewer, or broadband infrastructure.

Board members discussed how they want to move the process for determining use of ARPA funds forward. Two lines of thought emerged: the board wants to directly engage the public in the determination process; the board also, however, recognizes the CVFiber timing concern, is cognizant of the town residents' support for CVFiber and desire for access to better broadband service, and understands that the ARPA funds use options for East Montpelier will be limited.

Motion: To appropriate \$100,000 of town ARPA funds to CVFiber contingent on:

- town receipt of the anticipated ARPA funds;

- **determination of the legality of transferring ARPA funds from the town to CVFiber; and,**
- **development and acceptance of a memorandum of understanding between the town and CVFiber regarding the transfer and utilization of ARPA funds.**

And to engage Attorney Rob Halpert to assist the town in this process.

Made by Mr. Jewett; second by Mr. Etnier. Passed unanimously.

Setting of the 2021-2022 Property Tax Rates

The proposed 2021/22 property tax rates, calculated using a grand list figure of \$3,104,000, up \$29,000 (0.94%) from last year, are as follows:

- Residential (homestead) tax rate: 2.4808; down 0.0573 (2.3%) from last year
- Non-residential (nonhomestead) tax rate: 2.3709; down 0.0095 (0.4%) from last year

Motion: To set the 2021/22 property tax rates at 2.4808 for homestead parcels and 2.3709 for nonhomestead parcels. Made by Mr. Etnier; second by Ms. Dillon. Passed unanimously.

Consideration of Homestead Filing Penalty Waiver

Under 32 V.S.A. §5410(g) the town is allowed to assess an 8% penalty for residents who file their homestead declaration late. The town also has the option to waive the penalty for everyone. There are also certain hardship exemptions.

The town has chosen to waive the late-filing penalty in the past, for a number of reasons: 1) The penalty only affects those who do file but file late; those who are required to file but don't file are not penalized if they are not caught. 2) The town's revenues are not affected by whether someone declares a homestead in town or not. 3) It is in the town's interest to encourage accurate information about who is a resident here, and waiving the penalty encourages people to file a homestead declaration, even if it is late. 4) For a time, the state allowed a homestead declaration to remain in effect until the landowner rescinded it; the SB does not see a good reason for reverting to a system requiring filing each year.

Board members determined that they had seen no new information that would cause a reconsideration of the decision from previous years.

Motion: To waive the homestead declaration late filing penalty. Made by Mr. Etnier; second by Ms. Willis. Passed unanimously.

Animal Control Officer Report

Animal Control Officer Carl Etnier

In a quick sidebar, ACO Etnier relayed information from Town Clerk Rosie Laquerre that the town has 403 licensed dogs for 2021, with just 12 known unlicensed dogs, far fewer than in recent years.

Mr. Etnier, continuing to wear his ACO hat, moved on to provide an overview of a challenging ongoing situation in town involving a small farm's difficulties in keeping its animals within the farm's borders, leading to confrontations with neighbors. Town officers are trying to calm the waters, informally mediating disputes while providing guidance, with a focus on good fencing techniques, to the farmer.

The situation highlights the lack of effective options, both for the town and the neighbors, for dealing with issues revolving around the control of farm animals. The statutory toolbox for towns in this area is limited and often outdated. The fallback position is generally to recommend the offended parties pursue private legal actions.

ACO Etnier would like the board to consider adopting an ordinance to enhance the town's options for dealing with nuisance farm animal situations. The Town of Calais recently adopted an "Ordinance to Regulate Livestock Running at Large", designed specifically to add tools for town officers to combat a long-standing animal control problem. Similar to domestic animal ordinances, the Calais ordinance relies on officers working directly with parties on remedial actions, with a tiered fine system available to help encourage appropriate animal management. Attorney Jim Barlow provided Calais with its original draft document along with follow-up advice and is willing to work with East Montpelier if the board chooses to go in that direction.

Board members had varying opinions on the necessity &/or desirability of adopting this type of ordinance, but all were willing to support ACO Etnier's efforts to develop a draft ordinance for future review and discussion.

Motion: To authorize ACO Etnier to utilize Attorney Jim Barlow for legal assistance in the development of a draft farm animal control ordinance. Made by Ms. Willis; second by Ms. Dillon. Passed 4-0 (Mr. Etnier recused himself).

Discussion on Town Management in Light of COVID-19

Once again, the board reviewed the state of municipal operations under the June 22, 2021 Selectboard order and decided to stick with the current course. The office remains open for normal services with limited internal building access. Board members will continue to monitor the situation as case numbers rise throughout the state and nation. The board will revisit the issue at its August 23rd meeting.

Warrants

- **July 19, 2021 Special Warrant for Review**
 - As required by board policy, the special warrant approved by Chair Gardner was presented to board members for review. No action was necessary.
- **August 2, 2021 Regular Warrant for Approval**
 - Board members reviewed and signed the warrant.

Other Business

Town Administrator Report

- Update on Road Projects:
 - The road crew will be replacing the northerly-most culvert on Cherry Tree Hill Road on Wednesday. This will require an all-day closure of the road at the Quaker/Vincent Flats Roads intersection. The culvert replacement and roadside erosion control project is funded by the town's FY2021 Municipal Grants-in-Aid award.
 - The County Road project continues to progress towards a mid-August start, with precise timing remaining at the mercy of state wetlands permit issuance. The expectation is that the road will be closed from mid-to-late August for the replacement of the Morse Farm

and “north of Barnes” culverts. Pike will reclaim the road around the end of August with paving planned for mid-September.

- COVID-19 Memorial Service:
 - A memorial service in honor of Vermonters COVID-19 will be held Sunday, September 19, 2021, 3:00 p.m. at the Statehouse lawn.
- EMFD Agreement Update:
 - The Calais Selectboard has reviewed and is, at least tentatively, in support of the version the EM board approved on July 12th. The Calais board’s intent had been to set up a meeting with the EM board and EMFD to discuss our version. Scheduling such a meeting has been challenging, so Calais will once again review the EM version at its August 9th meeting with an eye toward acceptance. If Calais does approve our version, it will then be officially sent along to EMFD for consideration.
 - The EMFD board is disappointed that it has been unable to meet with Calais to discuss the issues and remains unhappy with the proposed changes. EMFD’s current intent is to treat the August 12th update meeting as an opportunity to discuss the agreement.
- Meeting Schedule:

○ August 12, 2021	7:00 pm	EMFD update at ESF (in-person meeting)
○ August 23, 2021	6:30 pm	Selectboard “special” regular meeting
○ September 13, 2021	6:30 pm	Selectboard “special” regular meeting

Zoning Administrator Report

- There were 3 new zoning permit applications since the July 12th SB meeting. There have been 48 applications so far in 2021.
- The next DRB meeting is scheduled for September 7, 2021 and will be held in-person with a Zoom remote attendance option. Two hearings are set, with more expected:
 - Continuation of the hearing for Application 21-032, the building & business expansion at 1528 US Rte. 2 (Demers Auto & Green Mountain Day Spa); and,
 - Application 21-047, new commercial garage at 505 Quaker Road (Rob Brown’s auto repair business).

Motion: To adjourn. Made by Ms. Willis; second by Mr. Jewett. Passed unanimously.
Meeting adjourned at 8:16 p.m.

Respectfully submitted by Bruce Johnson, Town Administrator

Approved: August 23, 2021 East Montpelier Selectboard meeting