

MINUTES OF THE SHAFTSBURY SELECT BOARD
SEPTEMBER 14, 2009
COLE HALL
SHAFTSBURY, VERMONT

Board Present: Lon McClintock (Chairman), Bill Pennebaker, Karen Mellinger, Cinda Morse

Others Present: Henri Billow (Treasurer), Larry Johnson (Town Lister), Mark Rondeau (Bennington Banner), Paul Hendler, Craig Bruder (Planning Commission), Chris Williams (PC), William Jakubowski (DRB), Chris Ponessi (DRB), Deena Ruege (Recreation Committee), Margaret Becker (Town Administrator), Susan Swasta (Recording Secretary)

1. Call Meeting to Order:

Chairman Lon McClintock called the meeting to order at 7:00 PM.

2. Announcements:

Ms. Mellinger reported that progress continues on sidewalk and water projects. Some water main breaks have slowed things down. She announced that there will be directional drilling on Meadow Lane to Main Street this week, and residents may find this interesting.

Ms. Mellinger said that the firemen's barbecue event had been terrific.

3. Conflict of Interest Statement:

Chairman McClintock asked if any Board member has a conflict of interest with any topic on tonight's agenda. None did.

4. Public Comments:

Chairman McClintock stated that the Career Development Center is interested in helping with the Town's tree work. They have worked successfully with Road Foreman Ron Daniels in the past, and would like to work with him again on this.

Shaftsbury resident Paul Hendler asked what is going on with the tree work on Myers Road. Chairman McClintock replied that there has been a hangup in the project having to do with the hauling of logs and stumps. Mr. Daniels is on vacation for two weeks, so not much was going to be done while he is away. He said that he knows this is inconvenient for Myers Road residents. Town Administrator Margy Becker stated that some logs have been removed, but there are some still there. Chairman McClintock said that they don't have an answer for Mr. Hendler tonight.

Mr. Hendler expressed residents' concerns that there was a big rush to do the project and now it is a mess and has come to a halt. Cinda Morse noted a similar issue regarding Shaftsbury Hollow Road, where promised repair has been delayed. She said that there needs to be training for the road crew so that work can be supervised and continue while Mr. Daniels is away. The construction season is short.

Chairman McClintock stated that some road crew members have been signed up for training. He said that the crew had done culvert and ditch work in Shaftsbury Hollow and were just waiting for Mr. Daniels' return to complete fabric work and resurfacing. Ms. Becker noted that Mr. Daniels got a grant to do embankment work on White Creek Road. Ms. Mellinger said that the road crew will

also be working on Ledgeley for the water project.

5. Select Board Vacancy

Chairman McClintock stated that the current vacant seat expires at the next Town Meeting. The Board has the authority to appoint a replacement, to leave the seat vacant until the next election, or to hold a special election. He asked what Board members want to do.

Ms. Morse noted that they had received criticism for appointing a member to fill the last vacancy, so her inclination would be to leave the seat vacant or hold a special election. Ms. Mellinger noted that the appointment had been for almost a full term last time, and this is just until March. Chairman McClintock said he thought the criticism had been more about who was selected.

Larry Johnson encouraged the Board to hold an election, and said that there are people interested in serving. There was discussion of the election process and of Board members' preferences on how to proceed.

Ms. Morse made motion to look at holding a special election to fill the Select Board vacancy. Ms. Mellinger seconded.

Chairman McClintock asked if it should be scheduled for October 20, forty days from now, since a special election must be held not less than thirty days and not more than forty days after warning.

Ms. Morse amended her motion to state that a special election to fill the Select Board vacancy be set for October 20, 2009. Ms. Mellinger seconded. Motion carried 4-0-0.

6. Liaison Assignments:

Chairman McClintock listed the liaison slots that need to be filled. Ms. Mellinger agreed to take on the health officer and emergency management liaison assignments. Mr. Pennebaker will take on Development Review Board (DRB) and Veterans Committee. Ms. Morse will take on Animal Control and Tree Warden. Chairman McClintock will take on law enforcement and Fire Warden.

7. DRB Vacancy:

Chairman McClintock said that he had received an email from DRB chairwoman Phylis Porio recommending that current DRB alternate Chris Ponessi be appointed. Mr. Ponessi introduced himself and stated that he is a civil engineer for Spieth in Manchester, and that he does not do a lot of work in Shaftsbury. He would probably recuse himself with cases involving Peckham, who he does some work for.

Ms. Morse made motion to appoint DRB alternate Chris Ponessi to fill the vacant three-year DRB term, expiring in 2012. Ms. Mellinger seconded. Motion carried 4-0-0.

8. Bid Opening -- Cole Hall Repairs:

Chairman McClintock noted that they had had to rebid because of a lack of specificity in the first bid. The tasks included in the bid are roof repair, cornice and steeple repair, and painting the steeple. Ms. Becker opened bids from Paul Getty Construction of Salem, NY for \$30,100; and from AJ Frey Construction Management of Bennington for \$50,160. Ms. Becker stated that the historic preservation grant is for \$7,000. Ms. Mellinger said that there is currently \$26,362 in the

Cole Hall reserve fund, with another \$10,000 to be added. It was agreed to ask the Facilities Committee for guidance in using the Cole Hall funds and evaluating the bids.

9. Committee Administration:

Chairman McClintock stated that the issue concerns responsibility for posting committee meeting warnings and doing meeting minutes. He said the Town Administrator should not have this added responsibility, so there needs to be a simple, consistent system for committees to follow. Ms. Becker noted that the Town has many working committees, and it's not clear if they are ad hoc, or if they do official Town business and therefore must comply with open meeting laws. There was discussion of how committees currently operate. Ms. Becker said she needs to do research to find out what each committee does, and can then decide if they need to comply with the law. Bill Jakubowski suggested that committees report to the Select Board once a month.

10. Curbcut Ordinance:

Ms. Becker reported that she could find no evidence that the Town ever had a highway access ordinance. Chairman McClintock said that when they adopt the current ordinance they should put language at the beginning stating that it rescinds any previous ordinances.

Planning Commission Chairman Craig Bruder said that the Commission had reviewed the ordinance and agreed that it is fine with the exception of the liability section. He emailed revision suggestions on that today. DRB member Bill Jakubowski said they also need language on final inspection.

Chairman McClintock said that he and Mr. Jakubowski have gone back and forth on the issue of ongoing maintenance of driveway culverts. Road Foreman Daniels feels that the Town should maintain them, as it has always done. The second issue is the culvert itself. The Town has always paid for a culvert that collapses or rots. Chairman McClintock noted that plastic culverts are now used. He asked if there should be policy on who is responsible for paying for a replacement culvert and for the labor involved. Should the landowner pay for the culvert, and the Town install it?

Mr. Pennebaker stated that currently the landowner is responsible both for the expense of an initial culvert and its installation. Ms. Becker noted a third situation when a culvert is needed in a place where there is none at present. Chairman McClintock pointed out that the Town has a small culvert budget, and asked if it will be exceeded if driveway culverts are added. He said that in some respects their condition is due to property owners.

Mr. Bruder said that he had added wording on landowners' responsibility in section IV d. There was discussion of this issue. Mr. Bruder went over his other suggested changes. Mr. Jakubowski disagreed with the requirement for proof of worker's compensation for the landowners' contractor. He said that state statute already requires worker's compensation. After discussion of this point, Chairman McClintock stated that they should put together a revised draft for discussion at the next meeting. Tonight's discussion will constitute a work session, not one of the three required readings of the ordinance.

11. Street Dance -- Final Report:

Ms. Morse said she had received an email from Committee member Phylis Porio on attendance, funds taken in, and committee members. Chairman McClintock asked where funds are held. Treasurer Henri Billow replied that the Town holds the funds.

Ms. Mellinger said that it was her understanding that the funds were to be spent on Cleveland Avenue Park. She would like a discussion with the Street Dance Committee on how the funds are to be spent and who determines how they are spent. Ms. Morse suggested bringing everyone to the table for discussion. Deena Ruege suggested that the Street Dance Committee get together with the Recreation Committee. Bill Jakubowski stated that the Lions Club had been told that the funds would be used for Cleveland Park equipment. Chairman McClintock stated that there should be an accounting since the Town is responsible.

12. Cemetery Committee:

Ms. Morse reported that there will be a Cemetery Committee meeting this Thursday to sort things out. Chairman McClintock suggested contacting Florence Beebe and Jim Meskin. Ms. Mellinger suggested announcing the meeting in the paper,

13. Construction Updates:

This was handled during Announcements.

14. Minutes:

August 17, 2009 minutes

Approval of the August 17 minutes was postponed because there was one page missing in the minutes sent to Board members.

August 31, 2009 minutes

Ms. Mellinger made motion to approve August 31 minutes. Mr. Pennebaker seconded.

One correction was requested: *on page 2, item five (Economic Development Committee (EDC) -- Gravel Study), in the motion, "Ms. Pennebaker" is changed to "Mr. Pennebaker."*

Motion carried 3-0-1. (Ms. Morse abstained because she had not been present.)

August 19, 2009 Special Meeting minutes

Ms. Morse made motion to approve August 19 minutes. Ms. Mellinger seconded. Motion carried 4-0-0.

15. Warrants:

Chairman McClintock stated that he has already signed payroll warrants.

The following warrants were presented for approval:

Retirement Warrant #7R: \$233.12

Ms. Morse made motion to pay Retirement Warrant #7R. Ms. Mellinger seconded. Motion carried 4-0-0.

Payroll Warrant #10: \$7,612.34

Ms. Morse made motion to pay Payroll Warrant #10. Ms. Mellinger seconded. Motion carried 4-0-0.

Payroll Warrant #11: \$6,804.70

Ms. Morse made motion to pay Payroll Warrant #11. Ms. Mellinger seconded. Motion carried 4-0-0.

Transfer Warrant: \$56,507.20 (landfill fund, sidewalk fund, HAVA grant, cemetery fund)

Ms. Morse made motion to pay Transfer Warrant. Ms. Mellinger seconded. Motion carried 4-0-0.

Warrant #W6-1: \$34,500.00 (landfill)

Ms. Morse made motion to pay Warrant W6-1. Ms. Mellinger seconded. Motion carried 4-0-0.

Warrant #W7: \$59,579.15 (sheriff, reappraisal, fuel, sidewalks, insurance, calcium chloride, VLCT)

Ms. Morse made motion to pay Warrant W7. Ms. Mellinger seconded. Motion carried 4-0-0.

16. Other Business:

Ms. Mellinger said that a contract for equipment and gravel storage should be discussed in Executive Session.

Chairman McClintock stated that a personnel issue -- a citizen complaint about a Town official that had been referred to the Planning Commission -- will also be discussed in Executive Session. Mr. Bruder and Mr. Williams of the Planning Commission are here for the discussion.

Ms. Morse made motion to go into Executive Session. Mr. Pennebaker seconded. Motion carried 3-0-1.

The meeting went into Executive Session at 9:40 PM.

The meeting adjourned at 11PM.

Respectfully Submitted,
Susan Swasta