

**TOWN OF SWANTON  
MINUTES  
REGULAR SELECTBOARD MEETING  
Swanton Town Office Building  
1 Academy Street, Swanton, VT 05488**

***Tuesday, August 6, 2014 @ 7:00 p.m.***

Present: Dan Billado, Selectboard Chair; Joel Clark, Selectboard Vice Chair; James Guilmette and John Lavoie, Selectmen; Cathy Fournier, Town Clerk; Harold Garrett, Road Foreman; Yaasha Wheeler, Secretary; Peter Cross, Cross Consulting Engineers; Leslie Nulty, Energtek; Catherine Dimitruk, NRPC; Heather Buczkowski, Channel 16.

**A. Call to Order**

Mr. Billado called the meeting to order at 7:00 p.m.

**B. Pledge of Allegiance**

Mr. Billado led those present in the pledge of allegiance.

**C. Agenda Review**

Mr. Billado explained that Mr. Jescavage's absence was due to the death of his brother-in-law.

Animal Control was added. Mr. Billado requested to table the discussion on lights, the garage safety audit, the warrantee log, and the police report, since Mr. Jescavage and Chief Stell were out of town.

**D. Meeting Topics**

**1. Minutes**

- a) July 15, 2014 SLB Finance Meeting
- b) July 15, 2014 SLB Regular Meeting

Mr. Lavoie made a motion, seconded by Mr. Guilmette, to approve the meeting minutes as written. Motion carried.

**2. Public Comments – None.**

**3. Economic Development**

**a) Sign Park D Documents for Energtek Act 250 Application**

Mr. Billado stated that the Park D business group, mentioned in the stormwater permit, no longer exists, so its name should be removed from the permit. Mr. Cross explained that the old construction permit needs to be terminated, because a new permit had been applied for. The permit on which the Park D Business Group was mentioned was simply being modified.

Mr. Clark made a motion, seconded by Mr. Guilmette, to no longer include the Park D Business Group on the permit. Motion carried.

Mr. Clark made a motion, seconded by Mr. Lavoie, to approve the notice of termination for the stormwater construction permit. Motion carried.

Mr. Cross stated that VTrans would like Energtek to be a co-applicant on the new application, to replace the old application that did not include Energtek. Mr. Clark made a motion, seconded by Mr. Lavoie, for Mr. Billado to sign the new VTrans permit. Motion carried.

**b) Discuss NRPC Review of Energtek Act 250 Application**

Mr. Billado mentioned that he and Catherine Dimitruk had discussed the concerns that NRPC had with Energtek, some of which had been printed in a letter to the St. Albans Messenger. Mr. Billado was

concerned that the paper rehashed information that had already been addressed; for example, the fire safety concerns had already been addressed in discussion with Tim Girard, Swanton Village Fire Chief.

Ms. Dimitruk stated that RPC has party status in all Act 250 applications, so the Commission reviews all projects under their Project Review Committee. Mr. Newton's letter was based on the comments discussed at the project review meeting. NRPC is only advisory to the district commission. In the case of this project, the Policy and Project Review Committee reviewed the conceptual plan sent by Mr. Cross, since the complete application had not yet been sent. Mr. Newton drafted the original letter on July 15<sup>th</sup> based on that initial information. The NRPC then received the complete application. The reason why the letter was sent to the St. Albans Messenger was because the Messenger was on the service list, to which the commission had to send their report, and the Messenger did not follow-up for an explanation. Had the Messenger done so, the NRPC would have explained that these items were no longer of any concern.

Mr. Clark said he saw no specific concerns from the NRPC; "fire safety" is not a specific concern. He would have preferred to see questions about whether the NFPA requirements were being met, rather than simply a blanket concern about "fire safety."

Ms. Dimitruk stated that the original comment was meant to be directed toward Mr. Cross in the conceptual phase. Mr. Clark said that he could see how the NRPC's concerns would bother the public. Mr. Garrett stated that he is on the project review committee, and he explained that some applications include very little information upon which to base a review. Common concerns were in relation to traffic, security (fencing), stormwater runoff (water quality), and other concerns. The comments were often made on little specific information.

Mr. Billado felt that the NRPC should have had the information on July 30<sup>th</sup>, the date on which the letter was reprinted and sent to the service list. Ms. Dimitruk stated that normally the applicants would not have crossed in the way that they did, and that there was an "unfortunate timing of process." Mr. Clark said that there was a difference between expressing concern and asking about how the project met the code requirements; expressing concern almost sounds like "we don't think someone is doing their job." Ms. Dimitruk said that she had met with staff about the letter and considered how it could have been handled better, in hindsight.

Mr. Billado said that, on the one hand, the project's safety was a concern, but the letter also encouraged public access to the Lamoille Rail Trail near the project, which seemed contradictory.

Leslie Nulty stated that she was the executive VP for Energtek, and that it was the company's intention to be good neighbors and good environmental stewards. She confirmed that the letter was sent to the service list after the completed application had been received, and asked if there was a process that would correct the letter prior to sending out its comments to the service list. Ms. Dimitruk stated that the committee would have had to re-meet, and it would have slowed down the process. She offered to have Mr. Jeff Green verify that the review comments were based on the conceptual plan. The Selectboard was in favor of action that would resolve the situation and clarify that the committee was not opposed to the project.

#### **c) Request Approval to Apply for 2014 Municipal Planning Grant**

Mr. Lavoie made a motion, seconded by Mr. Guilmette, to authorize Mr. David Jescavage to apply for the 2014 Municipal Planning Grant. Motion carried. Ms. Dimitruk stated that if Mr. Jescavage needed assistance, Northwest Regional Planning Commission was happy to help.

Mr. Billado mentioned that the deadline of the purchase and sales agreement had been set as August 1<sup>st</sup>. It should be extended to a later date.

#### **d) Request by Cathy Montagne to Discuss Southern Growth District & Status of Sholan Road**

Mrs. Montagne informed the board that the farm owned by herself and her husband extended the length of the Sholan Road, right next to the Swanton/St. Albans town line. They had plans to develop along the road, and stated that, because the road was class 4, the road was not considered road frontage. She requested to improve the road to class 3. Mr. Clark said that he expected interest from the Town of Swanton, but the costs involved to upgrade to Class 3 would have to be considered. Would the Town do it on its own, or would it be a cost shared with the developer? How would it affect Route 105 and 207? Mrs.

Montagne stated that she had questions as well; if Sholan Road became a route between 105 and 207, would it be widened? Mr. Garrett affirmed that the road was already a 50 foot right-of-way. Mr. Clark expected that the road should be paved, and Mr. Lavoie added that the corner with Bushey Road was a busy one and safety would have to be considered.

Mrs. Montagne said that she already had some interest in the property; what should she tell them? Mr. Clark said that the Selectboard could do some estimates and check into potential permitting issues, and decide as a board whether to upgrade the road. Mr. Billado said that there could not be an immediate answer, because of all the questions involved, and asked Mrs. Montagne to come forward with a plan that the board could comment on. She asked to know the board's vision for the Southern Growth District; would it include big stores or small stores? Mr. Clark added that the Zoning Bylaw rewrite might influence what would be going on in the district. He was interested in meeting with Mr. Jescavage, Mr. Garrett, and Mrs. Montagne to discuss the matter further.

Mr. Billado returned to the matter of the purchase and sales agreement, and realized that the deadline was September 1<sup>st</sup>. Mrs. Nulty stated that Energtek had assumed all permits would be in place in October, but the big hang-up was that Vermont Gas had to get an Act 248 permit, for which they had not yet filed. The Energtek lawyer had said that an Act 248 permit could take 9 months. Mrs. Nulty stated that she would have to talk again with Vermont Gas, Mr. Cross, and the leaders of Energtek, to figure out what looks likely. The process might take a lot longer than expected. Energtek would send a letter proposing an extension once more facts were known.

**4. Old Business**

- a) **Review Street Lights Abutters Letter** – TABLED.

**5. Law Enforcement**

- a) **SW Village Police Chief Report** – TABLED.

**6. Highway Department**

**a) Road Paving Updates**

Mr. Clark reported that Pike Industries had finished paving. South River Road had been paved, and a small portion of Janes Road had been paved. Until Janes Road could be ditched to relieve some of the wetness, paving over the broken asphalt would just be a waste of money.

Mr. Guilmette asked if the Town had gotten an answer on the “rumble strip mess” on Comstock Road. Apparently, grading had not been done before the paving. Mr. Garrett reported that the town was responsible for grading it prior to the paving, and unfortunately, when they went over the area with the vibrator to pack it, it created a rumble strip. It was smoothing out over time. The area should be topcoated, but it might take a few years. Mr. Garrett said that he had heard nothing but gratitude from people about South River Street, despite overspending the budget. Mr. Clark said that it was a planned overexpenditure, to address a need.

**b) Discuss Concrete Culvert on Maquam Shore Road**

The Selectboard believed the grant did not expire until later in 2015. There were currently no bids on the culvert project. Mr. Garrett suggested that it was possible for the Town highway crew to do the job themselves, if they had sufficiently dry weather.

**c) Old Garage Demo Update**

The demolition was underway. Wires, pipes, and windows had been removed.

**d) New Truck Purchase Update**

Mr. Clark had signed the purchase order for the plow, body, and other items. Mr. Garrett reported that the truck (just the chassis) should arrive around the 10<sup>th</sup> of October. The truck should be inspected when it arrived to ensure that it was what the Town expected.

**e) Discuss New Garage Safety Inspection**

TABLED.

**f) Discuss Decker Road Request**

Mr. Garrett stated that he had gotten a call from Wesley Decker about grading Decker Road, which was a gated road. Mr. Billado asked if the road had been graded by the town in the past, and Mr. Garrett recalled that it had been done once. Mr. Lavoie expressed concern that the road was not more of a private drive or even a trail. Mr. Garrett said that the maps delineated the road as a trail, and was gated by the landowner. Mr. Clark was not in favor of grading, unless there was a reason to enter into an agreement. It was noted that Hazard Road was graded, because it was a Class 4 road, and therefore had to be passable 6 months out of the year. Sholan Road was also graded once a year.

Mr. Clark made a motion, seconded by Mr. Billado, not to grade Decker Road. Discussion: Mr. Lavoie said that Decker Road had been graded once by the town in the past, and the grader was in the area. If it's not an inconvenience, how long would it take to grade it? Mr. Garrett estimated about an hour. Mr. Clark guessed that it was probably the old Decker Road, and had devolved to a trail over time. Mr. Billado and Mr. Clark were in favor of the motion. Mr. Guilmette and Mr. Lavoie voted in opposition to the motion. The issue was tabled until a full board could be present for a vote.

**g) Review Warranty Log**

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**h) Shoreland Act Impact on Road Maintenance**

Mr. Billado said that Mr. Jescavage had spoken to the Vermont League of Cities and Towns, and given them the scenarios of concern to Mr. Garrett about working in the Town road right-of-way near the lake. Milly Archer, the Water Resources Coordinator of the VLCT had responded to Mr. Jescavage in an e-mail dated August 4, 2014, that "the new Shoreland Protection Act specifically exempts from permitting the maintenance, emergency repair, repair and replacement of transportation infrastructure by a municipality."

**i) Road Updates**

Mr. Clark and Mr. Garrett would ride together to come up with a plan.

**j) Equipment Updates**

Mr. Billado made a motion, seconded by Mr. Lavoie, that Mr. Garrett make a list of the equipment he needed (cordless drills, etc.). Discussion: Mr. Clark said that the motion was unnecessary, since Mr. Garrett had the authority to get whatever tools he needs. Mr. Billado said that the budget included \$5000 for tool purchases, but Mr. Garrett often had to go home and use his personal tools at the Town garage. Discussion concluded. Mr. Clark opposed. Motion carried.

Mr. Lavoie emphasized that Mr. Garrett should feel free to purchase tools for the garage. Mr. Clark felt that authorizing Mr. Garrett was redundant; the real issue was whether Mr. Garrett would buy new tools instead of using his own.

**k) Department Updates**

None.

**l) Other Updates**

The Selectboard selected August 18<sup>th</sup> for a joint lunch for the Selectboard and highway crew, to be accompanied by a meeting (information only).

**7. Correspondence**

**a) Letter from David Fosgate**

The letter confirmed that he would take responsibility for Robin Hood Drive, as agreed upon with the Selectboard.

**b) Letter from Kathy Lavoie**

Mr. Billado asked Miss Wheeler to call Kathy Lavoie and confirm whether the date for the internship workshop had already passed.

**c) Other Communications – None.**

**8. Any Other Necessary Business**

**a) Charcoal Creek Deed Update**

Mr. Billado has signed the deed.

**b) Zoning Revision Grant Update**

The Joint Legislative Body would review the updated Zoning Bylaws on September 10<sup>th</sup>. The revision was available on the Town website.

**c) FEMA Ice Damage Grant Update**

The FEMA money was available; it just has not arrived yet.

**9. Public Comment – None.**

**10. Upcoming Events**

**a) Wednesday, August 13, 2014 Swanton Today @ 6:30 p.m. Ch. 16**

Mr. Billado and Mr. Clark would attend.

**b) Thursday, August 14, 2014 State Edu Tax Conference/So. Burlington**

**c) Tuesday, August 19, 2014 Next Selectboard Meeting @ 7 p.m.**

Mr. Billado stated that he and Mr. Jescavage had planned to attend the hearing in Montpelier for Energtek, but Mr. Cross had stated that there was no need for them to go.

**11. Executive Session**

Mr. Billado and Mr. Clark had attended the Open Meeting Law seminar with Brian Monaghan and Northwest Regional Planning Commission. They had learned that two motions were needed for executive session.

Mr. Lavoie made a motion, seconded by Mr. Guilmette, to go into executive session at 8:32 p.m. to discuss an employee's situation, which would put him at a disadvantage if it were discussed in open session. Motion carried.

Mr. Lavoie made a motion, seconded by Mr. Guilmette to exit executive session at 9:06 p.m. Motion carried. Action taken: Miss Wheeler was instructed to send a note to Shawn Dashno, Animal Control Officer, to inform him that he must attend a mandatory Selectboard meeting on August 19<sup>th</sup>.

**12. Adjournment**

Mr. Clark made a motion, seconded by Mr. Lavoie, to adjourn at 9:07 p.m. Motion carried.

Typed on August 6, 2014  
Minutes by Yaasha Wheeler  
Received and filed by:

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Cathy Fournier, Swanton Town Clerk

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Date