

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

Tuesday, October 20, 2015 @ 7:00 p.m.

Present: Dan Billado, Selectboard Chair; Joel Clark, Selectboard Vice Chair; John Lavoie, James Guilmette, and William "Turk" Thompson, Selectmen; David Jescavage, Town Administrator; Cathy Fournier, Town Clerk; Yaasha Wheeler, Secretary; Matthew Preedom, St. Albans Messenger; Travis & Ashley Belisle; Dustin & Christine Lang; Pat Messier; Ron Kilburn, Zoning Administrator; Derick Billado, Animal Control Officer; Rep. Brian Savage and Marianna Gamache; Luc & Michelle Deslandes; Steve & Carol Woodward; John Chase; Anthony Iarrapino, VERA Renewables; James & Jeanne Royer; Penny Dubie; Ed Ferguson; Mark & Mary Bushey; Mary Anne Duell; Ricky Doe; Reginald Beliveau, Village Manager; Chad Trahan; John A. Smith; Patricia Rainville; Andre & Linda Gagne; Ed Daniel; Dave Butterfield; Gil & Marie Tremblay; Bruce & Michele LaCross; Bruce & Sally Collopy; Rita Howard; Heather Buczkowski, Ch. 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. Clark added executive session for personnel at the end of the meeting. He also removed Item 5(b), to be postponed for another night. Mrs. Fournier added (d) Economic Development under Orders/Expenditures. Mr. Jescavage added a flyer discussion under 4(f).

D. Meeting Topics:

1. Minutes

a) October 6, 2015 SLB Regular Meeting

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

2. Public Comments – None.

3. Economic Development – None.

4. Old Business

a) Wind Turbine Discussion with Chris Recchia, VT Public Service Department

Mr. Chris Recchia from the Public Service Department came forward. He stated that the PSD represents the public interest before the PSB, and was responsible for representing the general good of the state and its citizens, and helped advance the state's goals. He explained that the PSB was a three-person board that reviews Certificates of Public Good and other applications. He explained the history of the board, in terms of the railroad industry, and that it now reviews energy cases. His department reviews

incoming projects, considers whether it is in the public interest, and challenges any projects that it feels are not in the interest of the public good. In terms of the Swanton Wind Project, three things were going on right now:

- An investigation related to the met tower construction and installation. Met towers require a CPG, and one was not sought or received for this project.
- The applicant has requested a power agreement under the federal law of the Public Utility Policy Act of 1978 (PURPA), which was designed to encourage renewable energy under that structure. PURPA has not been used much. Utilities are obligated to pay for the avoided cost for the project and that cost goes into the rates for their consumers. The applicant filed for that rule, which the PSD asked to dismiss because it felt it was not complete.
- The 45-day notice had been given regarding the application. That said, there was no application before the PSD at the moment. Unless and until a full application was received, the PSD would not be able to communicate any comments on the Swanton Wind Project.

Mr. Billado stated that the Selectboard and the community had been doing a lot of research on wind projects, and noted that many people involved in other wind projects had been pro-wind until they had been living with them. There were many concerns. Speaking for himself, Mr. Billado stated that he “ran for this seat to ensure the quality of life for the people who put me in this seat.” He had done a lot of research regarding issues on noise, water quality, runoff and erosion. The state had invested a lot of money into cleaning up Lake Champlain, so water quality issues “scare the hell out of me,” and “any devastation to our waterways all ends up in our lake.” He was also concerned about the impact on the habitat—deer, birds, bats, crickets, frogs, and wildlife of many types. Blasting the ridgelines: “That can’t be good for our environment.” He told the story of a family whose well failed because of clear-cut land (not related to a wind project). He further listed concerns with power companies buying Vermont renewable energy, at the cost of Vermont aesthetics, with recs being sold out of state. “What are Vermonters reaping from these benefits?” He noted that the Village Manager stated that the Village was currently forced to spend \$50,000 a month on renewable energies.

Mr. Billado was aware of Green Mountain Power’s request to dismiss the request for the payment of the rate from the Swanton Wind developer. A number of people had met with the governor (including Brian Savage and Marianna Gamache) and the Swanton Selectboard had sent a letter to the governor, and the response from the governor was a “boiler-plate letter.” He felt that Gov. Shumlin was “misleading people,” concerning the cost of energy and the effect on the environment.

Mr. Clark thanked Mr. Recchia for his presence. He asked those who opposed the project to raise their hand, and those who were for the project to raise their hand as well. He asked if the PSB had specific criteria that they looked at.

Mr. Recchia said that the PSB looked at water quality (with testimony from the Agency of Natural Resources), aesthetics and environmental issues (with testimony from the Department of Public Service). The standard was that there would be no adverse impact, and if it could not be mitigated, it could not go forward. Mr. Clark asked how 499 foot tall towers could not have an aesthetic impact. Mr. Recchia explained that the PSB looked at the Queechee test in terms of aesthetics. It is not an aesthetics issue from an individual homeowner’s point of view, but from a more community point of view.

Mr. Clark asked if there was a minimum safe distance to residences. Mr. Recchia said that there was no specific minimum distance from property boundaries, and in the original applications, some of the setbacks were based on safety concepts: “What if a tower fell over?” None of that was designed to address the sound issues. Mr. Clark asked: “Why don’t we have a moratorium on these large projects if we don’t even know the minimum safe distance from homes?” Mr. Recchia stated that safety records have been pretty consistent across the world, and there had not been significant safety issues with these types of projects. As for a moratorium, that had been considered for solar. “Time is going by, and tell me what would be accomplished during a moratorium that

couldn't be accomplished during the normal course of business, so that you're not infringing on peoples' property rights and the legal process that people are entitled to." He admitted that noise and sound has been a problem, but that issue was still under consideration and study. He noted that there had been an extensive study in Canada, and the professionals had not found a public health impact. That said, his personal view was that it was more like motion sickness, in which some people were more susceptible or less susceptible. It was not a public health issue, but an individual health issue. The Department of Health was involved in this project as well.

Mr. Clark noted that April 24, 2012, ANR had written a letter regarding the issues at the Grandfather's Knob proposed project, regarding the land use and habitat. Mr. Recchia replied that he was with ANR at that time, and they felt that that project could not move forward because of the habitat issues. ANR had gotten more sophisticated with their habitat mapping.

Mr. Clark asked if the state's goal of 90% renewable energy by 2050 put pressure on any of these state agencies. Mr. Recchia did not feel that there was pressure, since 2050 was still a long way away. He stated that there had been rate increases (or increases in the rate of inflation), which he felt was attributable to Vermont's push for renewable energy. That said, these projects must be done in a way that was good for Vermont as a whole. Ninety percent of these projects were done well and had had no adverse impact, but the ten percent were more debatable. There was no policy in place to fast-track anything. "We can't stop developers from proposing things, and it causes us all anxiety when projects are poorly considered and not communicated transparently to people." The PSD's goal was to work with people, under the belief that renewable energy was good for Vermont, and they were working to try to make sure it was done responsibly. Right now, the decision was being made based on a willing landowner, a developer with investment capital, and they ask, "What's the closest place with a 3-phase line that I can tie into?" That was not good planning. "We want to support good development in which a lot of footwork is needed. Most do well, but some don't."

Mr. Clark stated his support for renewable, but was very against this specific project and against the lack of local control. "As a town agency, how much money do we spend trying to go up against an application for which thousands of dollars were spent to prepare it?" They wanted to represent the constituents well, but they didn't want to throw money away. Mr. Recchia replied that, unless or until an application came in, there was nothing to do. Once that had happened, the town could decide whether to intervene or not, as a party. No town has ever been refused party status, but the process did require an attorney. This was a legal proceeding. All assertions had to be backed up with data. He felt that the PSD represented towns well, though not individuals, as individual representation was not the department's responsibility. "You don't have to engage in every issue. You can focus on only those issues which you are particularly concerned about. You don't have to make that decision now. You usually have a couple months after an application is filed when you can respond."

Mr. Thompson felt that they were "beating a dead horse and wasting everyone's time, because until we have a town vote to see whether we want it or don't want it, we don't know." He disagreed with Mr. Recchia that renewable energy was not being fast-tracked. The rate of renewable development showed evidence of fast-tracking and state pushing. Mr. Recchia replied, that the government was "not nearly as efficient as you think, but what you see particularly in solar is a result of prices coming down, as well as federal tax credits," which he expected would expire next year. The private market was driving this. Mr. Thompson stated that he believed in renewable energy, for the right place and the right time. He did not think there was anything the town could do to stop it. Gov. Shumlin "has an agenda and it's going to happen." He wanted to wait until the vote came out, and let the voters and taxpayers tell the town how much money should be spent opposing (or not opposing) Mr. Belisle's proposed project.

Mr. Billado asked if the PSD or PSB would take into consideration a vote with a strong opinion. Mr. Recchia replied that it would certainly be taken into serious consideration. Mr. Lavoie said the Selectboard had a lot on our plates, but they usually had control, "and this one, we don't have control. It makes us at our wits' end that there will be something we feel doesn't fit aesthetic-wise in our county and Vermont as a whole." He

was concerned about the aesthetic impact on the tourism. “If they [the tourists] don’t come, who is going to pay for that?” Mr. Billado: “These are fifty-story structures. There’s nothing fifty stories in the state of Vermont.” Mr. Lavoie admitted that times do change, “but those are changes that you can elect to take or not. Without local control, we don’t have that choice.” His main concern, however, was safety, and people abandoning homes that did not sell. He asked the PSD to take a strong look at these projects in Vermont.

Mr. Billado stated that, “win or lose, whatever happens, this is not a waste of time for me.” Mr. Recchia replied that he would be glad to come before the board again. Mr. Billado asked if Mr. Belisle had anything to say. He gave the Selectboard a letter that he had written in response to their letter. Anthony Iarapino, from VERA Renewables, said that the application had not been filed yet because they “agreed in part with you,” in the need to work with people and consider all the implications. He emphasized that this project is not Lowell, and pointed out that the area has locals (even the developer) in the area and a road infrastructure. He felt that a lot of the information out there about wind energy was misleading. His team welcomed the Town of Swanton’s participation at the Public Service Board. “We wish that there wouldn’t be a rush to judgment. It seems that the only people who are on a fast-track are those who are rushing to judgment before all the facts are in.” He pointed out that many stormwater measures had worked in Lowell and other areas to protect the water quality. He felt that there was very little chance of getting a fair vote during the Swanton vote, given the environment. He asked for Swanton’s patience and cooperation in learning more about this project and getting the facts.

Mr. Billado, speaking for himself, restated his concerns, and pointed out the sources of his information, some from people who worked for the state who were once in favor of wind energy. Mr. Iarapino said that there were many witnesses who challenged the applicant to prove that there would not be undue adverse impact. Mr. Clark took exception to the term “working landscape,” since all that was up there was a scenic ridge, despite the logging and sugar bush in that area. “Would Swanton Wind help fund so we can go to the PSB and have the same representation that you guys get before the board in this project?” Mr. Belisle said Swanton Wind would not. Mr. Iarapino added that the state put systems in place so that the town could be represented.

Mr. Dustin Lang had a letter that he read into the record, from the PSB, noting that “due to trespassing... only the hearing officer and parties of record... are welcome to enter the property for a site visit on September 16th.” Mr. Recchia said that that was the letter from the property owner, who could determine who could or could not be on his property. The PSD and ANR had a right to visit the site in determination of the met tower issue. Mr. Lang noted that one woman had to go to the supreme court to gain party status in a solar project. He noted the project would require an “interstate road bed.”

Mr. Clark and Mr. Billado requested that the statements be restricted to questions, that would then be answered. Mr. Thompson disagreed with allowing public forum on this issue.

Christine Lang said that she had heard that it would cost \$1 million to \$1.5 million to permit this project; is the Department of Public Service going to give us equal money to be represented? Mr. Billado replied that every party must pay for its own money. Mr. Recchia agreed that the PSD would “help you in any way we can during the process.” Mrs. Lang asked if the PSD would help the Town gather information on noise testing? Mr. Recchia said that the PSD would do what it could to help give towns information they need. The PSD was happy to have any discussions at any time about any of the town’s concerns. “Even though the town does not have review authority, please consider [the Public Service Department] a resource.”

Mrs. MaryAnn Duell wanted to know what would be done to ensure safety from hazards like ice hurled off the blades and the blasting from the rocks. She noted that there were people who had made lawsuits because of rock blasting from the Milton project. Mr. Recchia said that blasting should not go onto neighboring properties. As for ice, there were a few instances in which turbine blades had built up ice, which fell onto sidewalks

or which increased vibrations and noise. The newer technologies included a heated blade. It was not to the advantage of the operator to have ice on those blades, so they had every incentive to ensure no ice build-up.

Mrs. Danielle Garrant asked what Mr. Recchia meant by referring to “growing pains” in a previous conversation with her. Mr. Recchia replied that this was mostly in reference to solar developers who had not consulted with the proper authorities or done their research. Mrs. Garrant said “growing pains end. If we’re talking about my home, we are not talking about it ever ending.” Mrs. Garrant asked, “Can you assure me that my family, which lives a half a mile from this project, will not be adversely affected?” Mr. Recchia replied that he could not assure Mrs. Garrant of that.

Mr. Steve Woodward asked if blasting would cause any issues to drinking water. Mr. Recchia said that ANR would evaluate the hydrology of the site, as it exists now and as it is proposed, and consider any potential impacts. Mr. Recchia specified that an application would include all the relevant information, which would then be evaluated for its potential impact. No specifics were known at this time.

Mrs. Penny Dubie said that there were eight different legislators and representatives who asked Mr. Recchia to address the noise complaints from people around Sheffield and Lowell Mountain had been complaining about for three years. Those people had asked the state agencies to take the wind turbine noise pollution and health and safety concerns seriously. What is the PSD’s plan of action for those complaints filed years ago? Mr. Recchia said that a response had been sent to the representatives and he disputed the fact that people did not receive a response. “We respond to every single complaint that we get.” If the operation was normal, there was nothing to be done. Other times, a response resulted in a change in the operation. There was perhaps a misinterpretation of the PSD’s response to individual complaints and the PSB’s open docket to gather information on some other complaints. He noted action taken in certain projects regarding specific issues. Any project that came before the board would be thoroughly evaluated in light of the standards set in previous projects in Vermont. He felt there should be a clear, measurable, consistent, enforceable standard, instead of various standards (as was currently the case).

Rep. Marianna Gamache asked if this project would be subject to that standard he wished for. Mr. Recchia replied that this project would not be, but it should not be stopped. “If nobody has a court case, you can’t make a standard.” There were not a lot of complaints, but the reality was that most of the people associated with the projects were fine with them. However, those who were affected would be helped whenever possible. Rep. Gamache asked what the state would be losing if it took a “time-out” to consider these issues more. Mr. Recchia explained that renewable energy account for 5% of the state’s employment and was the fastest-growing industry. “I understand the concern, but a moratorium is not the answer.” Rep. Gamache said that, she, being on the energy committee, was led to believe that there would be no major projects coming up, but two and half-weeks after the legislative session, the project then came up.

Mrs. Sally Collopy stated that many people with health concerns did not have those concern addressed by the PSD. What was being done to protect health? Regarding Mr. Recchia’s statement that 90 percent of projects went through just fine, “but who was ever in favor of all of these?” Mr. Recchia said that there was a difference between public health and individual health, and the PSD’s responsibility was to protect the public health. He noted that there were some individuals who might be more or less susceptible to certain issues. “We need a contingency for those people if, after a project is built, they say, ‘I thought this would be okay, but it’s not.’ We don’t know who those people are yet.” There were no contingencies in place for the current project.

Mr. Jim Royer asked to know more about the Canadian test on “wind turbine syndrome.” Mr. Recchia said he would be happy to pass along that information.

Mrs. Patty Rainville stated her concern with the blasting and wells. It is not uncommon for people building a new house to not know where the water is. With all the blasting, what happens if, after this is done, all or some of our wells are messed up? Wouldn’t it be better to avoid that kind of a problem? Mr. Recchia said that the agencies involved

would evaluate blasting and water quality when the application was proposed. That would give more specifics about quantity and location of blasting.

The Selectboard thanked Mr. Recchia, Mr. Belisle, and the public for attending. The meeting included a five-minute recess.

5. Community Development

c) Approve Landowner's Right-of-Way Use Permit for Northwest Riders

The route had been changed somewhat because of Energtek's requests regarding the trail. Mr. Lavoie made a motion, seconded by Mr. Guilmette, to approve the Northwest Riders right-of-way use permit.

4. Old Business

b) Announce Renewable Energy Vote Date

Mr. Billado read the following ballot item:

The legal voters in the town of Swanton are hereby warned and notified to meet in the Swanton Village Municipal Complex, First and Elm Streets, in the Village of Swanton, to vote on the articles herein set forth. The polls will be open on Tuesday, November 17, 2015, from 7:00 a.m. to 7:00 p.m., to be voted upon by the use of the official Australian ballot.

ARTICLE 1: Do the voters of the Town of Swanton oppose Swanton Wind, LLC's proposed installation of seven 499-foot tall wind turbines on Rocky Ridge in the Town of Swanton?

ARTICLE 2: Do the voters of the Town of Swanton support state legislation that would enable local town control and review of renewable energy projects for large scale wind/solar generation in the Town of Swanton?

Date at Swanton, County of Franklin, State of Vermont, this 14th day of October, 2015.

c) Approve New Zoning Administrator Appointment Resolution

Mr. Clark made a motion, seconded by Mr. Thompson, to approve the appointment of Darlene Marrier, to the Zoning Administrator position, for a term effective November 1, 2015, and to expire on October 31, 2018. Motion carried. The Selectboard signed the resolution.

d) Approve Deputy Zoning Administrator Reappointment Resolution

Mr. Guilmette made a motion, seconded by Mr. Lavoie, to reappoint David Jescavage as the deputy zoning administrator for a term to begin on November 1, 2015 and to expire on October 31, 2018. Motion carried.

e) Approve New Planning Commissioner Appointment Resolution

Mr. Clark made a motion, seconded by Mr. Guilmette, to appoint Sara Jane Luneau-Swan. After discussion, it was found that Ms. Luneau had not been considered by the Planning Commission, so Mr. Clark withdrew his motion until such time that the Planning Commission could interview her and recommend her to the Selectboard.

f) Flyer Discussion

The Selectboard reviewed the flyer, which was patterned after a public document. Mr. Billado stated that he had no problem with his name being on this, but there would be some who might not feel that it was not wise. Mr. Thompson preferred not to have his name on it. The Planning Commission was not comfortable with signing this flyer. Mr.

Daniel said that the Planning Commission did not want to look like they were biased or taking a position. Mr. Clark replied that this was based on the Planning Commission's and Selectboard's own position letter. Mr. Billado said he had no problem with his name being on the document, since it was a public document. "You do what your heart tells you." Mr. Guilmette was concerned that it looked like the Selectmen wished everyone to vote in opposition.

Mrs. Dubie said that the signatures would be removed, but the statement from the public letter would remain.

Mr. Daniel considered the language in the article to be more inclusive of Swanton, but Mrs. Fournier said that this had been warned already.

5. Community Development

a) Open Sidewalk Scoping RFP Bid Packages

There was only one bid, from Cross Consulting Engineers. Mr. Billado read the cover letter. Mr. Thompson made a motion, seconded by Mr. Lavoie, to table this item to review it and discuss it at the next meeting. Motion carried.

b) Discuss Swanton Enhancement Funding Request

Postponed as per Mr. Clark's request in Agenda Review.

c) Approve Landowner's Right-of-Way Use Permit for Northwest Riders

Already approved.

6. Animal Control

a) SW Animal Control Officer Report

Mr. Derick Billado, ACO, came forward. Nothing had happened out of the ordinary. There had been two dog bites, resulting in home confinements, and one loose dog that needed to be registered. He had dealt with a deceased dog, and Mr. Allan Laroche (former ACO) had informed Mr. Derick Billado on how to deal with that.

7. Expenditures

a) General Orders (09/16/15 – 10/20/15)

Mr. Thompson made a motion, seconded by Mr. Clark, to approve the general orders as printed. Motion carried.

b) Highway Orders (09/16/15 – 10/20/15)

Mr. Thompson made a motion, seconded by Mr. Lavoie, to approve the highway orders as printed. Discussion: Mr. Billado noted that the invoice for Officer Rich's extra patrol should include location and time information. Motion carried. Mr. Thompson opposed.

c) Payroll (09/16/15 – 10/20/15)

Mr. Lavoie made a motion, seconded by Mr. Guilmette, to approve the payroll as printed. Motion carried.

d) Economic Development (09/16/15 – 10/20/15)

Mr. Clark made a motion, seconded by Mr. Lavoie, to approve \$1430 to Black River Design and Architect. Motion carried.

8. Highway Department

a) Bushey Street Update

Mr. Clark said there was very little left to do, but he had reviewed the road and sent a

punch list to Harold Garret, Road Foreman. He noted that it had been helpful to paint stop lines on the pavement. Mr. Billado noted that the driveway cut paving had not been addressed the way he had requested. Mr. Clark said he would look into that with Mr. Garrett.

b) Lean-to Update

No information.

c) Other Updates

Mr. Clark said that there were some more culverts to buy, which would “stretch” the culvert line item. Mr. Billado noted that a Tabor Road resident had some concerns about that road, and had been instructed to speak with Mr. Clark about his concerns. Mr. Clark added that he would write a letter to Mr. Porter in regard to the driveway cut on Bushey Street.

Mr. Lavoie said that some people had mentioned the depth of the ditch on Middle Road. He was concerned that the depth might create a hazard; perhaps a guardrail would be required if the ditches were deep enough. Mr. Clark said he would look into that concern.

Mr. Guilmette said he had heard compliments on the brush-hogging.

9. Correspondence

Mr. Jescavage said that the badge company would be sending out the badge this week. A letter from VOSHA said that the case from VOSHA’s recent visit to the Swanton Town Garage had been reviewed and VOSHA had determined Swanton to be in compliance. He informed the board of the measures taken by the Town highway crew to ensure that compliance. He presented a letter from Northwest Medical Center regarding a workshop on Tuesday, October 27, 2015 at MVU to talk about their use of new space.

The letter from Gov. Shumlin had already been discussed and was verbatim to other letters he had sent to area Selectboard regarding their concerns of Swanton Wind.

A letter from Friends of Northern Lake Champlain talked about all their efforts.

10. Any Other Necessary Business – None.

11. Public Comments (Reprise) – None.

12. Upcoming Events

- a) Thursday, October 22, 2015 Next DRB Meeting @ 7 p.m. Town Offices
- b) Tuesday, November 3, 2015 Next SLB Meeting @ 7 p.m. Town Offices
- c) Tuesday, November 17, 2015 Renewable Energy Articles Vote, 7 a.m. to 7 p.m., Village Complex
- d) Tuesday, November 17, 2015 SLB Meeting @ 7 p.m. Town Offices

13. Executive Session (if needed)

Mr. Clark suggested having another finance meeting before the end of the year. Mr. Clark made a motion, seconded by Mr. Guilmette, to go into executive session at 9:20 p.m. for personnel, since it would put the town and the individual at a disadvantage if discussed in the public forum.

E. Adjournment

Mr. Clark made a motion, seconded by Mr. Guilmette, to exit executive session at 9:30 p.m. Motion carried. Action taken: None.

Mr. Lavoie made a motion, seconded by Mr. Guilmette, to adjourn at 9:31 p.m. Motion carried.

Received and filed by:

Cathy Fournier, Swanton Town Clerk

Date