

# MINUTES FROM 10/23/2018

## SELECTBOARD MEETING

**PRESENT:** Chairman, Lee Kimball, Vice-Chair, Cheryl Moomey, Alton Brusco, Ken Millman, Clerk, Donna L. Bohannon

**GUESTS:** Attorney, David Rugh, Carol Behrman, Terry Tatro, Susan Millman, Leeann Porto, Danielle James Choiniere, Tenzin

### **6:00pm – Ordinance questions and how to proceed with property at 26 Lake Street – Advice from Town Attorney David Rugh.**

- Meeting called to order at 6:00PM by Chairman, Lee Kimball
- Dave Rugh, the Town's attorney, began by talking about the property located at 26 Lake Street.
- He explained that the best way for the Town to recoup its costs in removal of the structure, is through the Health Order process.
- He also explained that towns are only allowed to act on an issue to the extent that Vermont law allows, which is why using the health order process is preferable if the Town is concerned about cost recovery.
- Dave suggested that #1, the town use the health order process and that #2, the existing Nuisance Property ordinance be modified to be stricter.
- To enact suggestion #1, he advised that the Health Officer inspect the property to ascertain any health issues that might exist. He suggested asking the librarian and other neighbors if they have witnessed any health or safety related concerns and suggested getting a statement from them if they have.
- For suggestion #2 he advised that the ordinance be reviewed by his office so that suggestions can be made to give more power to the ordinance and the penalty structure.
- Dave provided Lee with some information that might be useful in locating the owner of the property so that he can be served with tickets, informed of upcoming hearings that may take place and any other actions that he should be informed about.
- Ken Millman asked, if a trespasser were to get hurt on this property what would his liability be.
- Dave replied that if the owner knew of the hazards that caused the injury, he could potentially be liable for the injury.
- He suggested that this property could be deemed and "attractive nuisance" which by definition means: *"The attractive nuisance doctrine...states that a landowner may be held liable for injuries to children trespassing on the land if the injury is caused by an object on the land that is likely to attract children. Wikipedia"*
- If this property is an attractive nuisance, it would likely be considered a health issue if not properly secured so that others, particularly children cannot gain access to the building and possibly get hurt.
- Susan Millman asked if the Town can take it upon themselves to board the property up if it is deemed an attractive nuisance.
- Dave reiterated that establishing this property as an attractive nuisance will be the best course of action so as to establish that it is a public health hazard or a significant risk to public health, but it would still be advisable to get a court order before taking any action.

- He explained that in order for liens to be placed on the property it would have to proceed through the court system and a judgement order would need to be issued and recorded in the land records books of the town.
- Dave also suggested that the Village charter may have a section that addresses this issue.
- He also suggested that the enforcement officer, Carol Behrman, get the ticket served by the Sheriff's Department as they have the means to find him, and that a copy of the ticket be sent to the Judicial Bureau.
- Dave will work on the language in the Nuisance Properties ordinance.
- Lee will work with Dave on setting a date and time for a hearing and will talk to the Librarian to find out if there has been any noticeable activity around the property in question.
- Carol will get the ticket to the Sheriff's Department after November 1<sup>st</sup> so that it can be served on him and she will send a copy to the Judicial Bureau also.
- Tabled until the next regular meeting, currently scheduled for 11/13/2018.

#### **7:00pm - OPEN REGULAR MEETING:**

- **Regular meeting called to order at 7:18 by Chairman Lee Kimball**

**PRESENT:** Chairman, Lee Kimball, Vice-Chair, Cheryl Moomey, Alton Brusco, Ken Millman, Clerk, Donna L. Bohannon

#### **GUESTS:**

Carol Behrman, Terry Tatro, Susan Millman, Leeann Porto, Danielle James Choiniere, Tenzin, Pam McCarthy

**ADJUST AGENDA (if needed): Several adjustments were requested.**

- **ADJUSTMENT #1 – Ken Millman suggested discussing ordinance reviews**
- **ADJUSTMENT #2 – Ken suggested an update about an audit**
- **ADJUSTMENT #3 – Lee Kimball brought up the issue of recycling**
- **ADJUSTMENT #4 –The Clerk presented an aerial photo for possible purchase**

#### **NEW / OLD BUSINESS UPDATES / TABLED TOPICS AND / OR WAITING RESULTS:**

- 1209 Border Road property complaint– Update.
  - The Clerk called the judicial bureau to ask about the status of the tickets that had been issued.
  - The judicial bureau stated that both tickets had been contested. The Town will be notified when a hearing is scheduled.
  - Terry Tatro received an email from an Act 250 coordinator who was seeking information about whether the property owner should have an ACT 250 permit.
  - Terry will give the contact information for the Act 250 coordinator to Lee who can pass it on the complainant for follow up.
  - Tabled until the next regular meeting, currently scheduled for 11/13/2018.

- 26 Lake Street property complaint – Update.
  - This issue was discussed with the Town Attorney at the 6PM portion of the meeting.
  - Tabled until the next regular meeting, currently scheduled for 11/13/2018.
- 645 South Main St. – complaint – Update.
  - Lee Kimball reported that the “junk” car had been removed, there are not any garbage bags around the house and that the log length wood is being cut up.
  - This item will be removed from the agenda.
- 328 South Main Street property complaint – Update.
  - There is nothing to update currently.
  - Tabled until the next regular meeting, currently scheduled for 11/13/2018.
- A complaint was submitted about the property located at 37 Vantine Avenue.
  - Ownership of this property is still not definitive. The bank is in the process of foreclosing on the property and will assume ownership once it is final.
  - Lee will prepare a health order to issue to the bank once the foreclosure is final.
  - Tabled until the next regular meeting, currently scheduled for 11/13/2018.
- Transfer Station topics for discussion –
  - Transfer Station scales need to be covered – Update.
    - The Board was reminded that the scales need to be enclosed on three sides and have a protective cover over the top.
    - Lee Kimball will talk to Dan and design a structure that will protect the scales.
  - Fork Lift repairs – Update.
    - Alton informed all that the highway crew have been busy, but they will make the repairs as they can.
    - This will remain on the agenda per Alton.
  - Tabled until the next regular meeting, currently scheduled for 11/13/2018.
- **ADJUSTMENT #3 – Lee Kimball brought up the issue of recycling**
  - Lee gave some examples of what can and cannot be recycled and explained that it can be very confusing.
  - He also explained that if a large amount of non-recyclable items go in with the recyclable items, the whole load of zero sort could get rejected by the facility and it would cost the town to have it returned.

- He suggested that an education campaign take place to make people aware of what can and cannot be put in the zero-sort recycling.
- Ken Millman will send a link to the Clerk so that posters and information sheets can be printed for distribution.
- The Clerk mentioned that the Transfer Station Forman would like to keep the seasonal employee on until the 1<sup>st</sup> of November.
- The Board, after some debate, agreed to allow the seasonal employee to stay on until November 1<sup>st</sup>.
- Lee will give a list of specific duties he would like to see the seasonal employee complete before November 1<sup>st</sup>.
- Greenwood Road speed study – Update.
  - The posts are set up and Sheriff Allen has been notified that they are in place.
  - Ken will follow up with Sheriff Allen about the study.
  - Tabled until the next regular meeting, currently scheduled for 11/13/2018.
- Christopher Road Property Ownership: Update.
  - Lee informed the Board that he contacted the Vermont Electric Coop. because the tree in question is coming into contact with the power lines.
  - He will update the Board on the outcome of their visit.
  - Tabled until the next regular meeting, currently scheduled for 11/13/2018.
- Town generator needs to be repaired.
  - Clerk will contact Caterpillar in Richmond Vermont to set up a service call.
  - Tabled until the next regular meeting, currently scheduled for 11/13/2018.
- Sidewalk plow driver –
  - Paul Fortin will be contacted to confirm that he is still interested in maintaining this position.
  - Tabled until the next regular meeting, currently scheduled for 11/13/2018.

#### **VISITOR INPUT:**

- **ADJUSTMENT #1 – Ken Millman suggested discussing ordinance reviews**
  - The Clerk will research VLCT model ordinances and bring them back to the Selectboard.
  - The Board agreed that having the Town attorney review any and all ordinances before adopting them would be best practice.
- **ADJUSTMENT #2 – Ken suggested an update about an audit**
  - The Clerk will send a copy of the Proposed RFP that she has for their approval.
  - Tabled until the next regular meeting, currently scheduled for 11/13/2018.
- **ADJUSTMENT #4 –The Clerk presented an aerial photo for possible purchase**

- An aerial photographer, Greg Cromer, left a 20"x28" framed photo of part of the Town and Village with the Clerk.
- The purchase price is \$150.
- Alton Brusco motioned to purchase the photo, Cheryl Moomey seconded – there were two votes to purchase and two votes not to purchase. The photo will not be purchased by the Town.
  
- Pam McCarthy was present to introduce herself to the Board as a candidate to represent Franklin County and Alburgh in the Vermont State Senate.
  
- She answered several questions and talked about her political experience and views.

**APPROVE THE FOLLOWING MEETING MINUTES:**

- **10/09/2018 - SELECTBOARD MEETING**

- Cheryl Moomey motioned to accept the minutes from the 10/09/2018 meeting as written – seconded by Ken Millman – all in favor – motion carried.

**APPROVE INVOICES / SIGNATURES NEEDED:**

- All invoices approved and signed

**ADJOURN:**

- At 8:30PM Alton Brusco motioned to adjourn – seconded by Ken Millman – all in favor – motion carried – meeting adjourned.

Respectfully submitted,  
Donna L. Bohannon  
Alburgh Town Clerk

Please note the above minutes HAVE NOT been approved. Approval or changes to the minutes will be addressed at the next regular meeting, currently scheduled 11/13/2018.