

TOWN OF RUTLAND
DRAFT
SELECT BOARD

MINUTES: March 24, 2015

Board members present: Mary Ashcroft, Joe Diction, Paul Clifford and Don Chioffi via telephone

The meeting opened at 6:34 P.M. with the Pledge of Allegiance.

Mr. Diction asked those in attendance to remain standing in silence in memory of Mr. Anthony “Tony” Flory, who passed away. Mr. Diction recited the numerous positions which “Tony” held in the Town of Rutland:

- First Constable
- Second Constable
- Landfill Operator
- Transfer Station Operator
- Town Planning Commission
- Town Recreation Commission (Charter Member)(Chairman)
- Town Fire Department (Charter Member)
- Winter Snow plowing
- Town Highway Crew
- Tax Collector

Mr. Diction requested those in attendance bow their heads in respect for Tony Flory. Mr. Diction thanked those in attendance.

The Board considered the 3-10-15 minutes. Ms. Ashcroft moved to approve as printed. Mr. Clifford made a second to the motion. The motion passed unanimously.

Mr. Diction announced that Select Board member Mr. Don Chioffi was in Montpelier and would be providing testimony to the Natural Resources Energy Committee at a joint Senate & House Public Hearing.

Town Planning Commission Chairman Andrew McKane reported:

Not Present.

1. Mr. William Matteson reported that the Commission has begun working on the Land Use Map of the Town Plan. He said the Commission had a good meeting with Mr. Ed Bove the previous week.
2. Mr. Matteson said the Commission voted to hold off with an Organizational meeting until after the new appointees are named. He said to date no one has expressed an interest in being the Commission Chairman.

He said Mr. McKane would keep the position until someone else is nominated to be Chairman. Mr. Matteson said he would be submitting a letter of resignation from the Planning Commission.

Town SWAC Representative Mr. William Matteson reported:

1. The next Household Hazardous Waste collection is scheduled for April 11, 2015 from 8:00 A.M. to 11:30 A.M. at the Town Transfer Station. Mr. Matteson emphasized the fact that the collection is for households and no businesses are allowed to participate. He said Town resident can also attend a collection day held in another SWAC town.
2. Mr. Matteson also cited correspondence from SWAC Administrator Ms. Pam Clapp regarding upcoming Solid Waste and Recycling deadlines.

Town Clerk & Treasurer Ms. Donna Zeller reported:

1. Presented Liquor License requests from Johnny Boys and the Mobile Mart for consideration. Ms. Zeller said both have been vetted by the Police Department. Ms. Ashcroft moved to approve the Liquor licenses for Johnny Boys and the Mobile Mart. Mr. Clifford made a second to the motion. The motion passed unanimously.
2. Dog Licenses are due April 1, 2015.
3. Town Scholarships are due April 24, 2015.
4. Announced the Town Officers Educational Conference will take place in Killington on April 29, 2015.
5. Told the Board that she notified members of the Town Board of Civil Authority of a property tax appeal workshop.
6. April 3, 2015 is the article deadline for The Circle.
7. Told the Board she will meet with NEMRC to begin switching all accounts and payroll over to the NEMRC computer system.
8. Ms. Zeller told the Board that she will be closing her office on Friday afternoons so she and Ms. Susan McGee can have some quiet time to start to learn the new system and change the books over.

She said they will be in her office but will keep the public out so they can have quiet time to meet with NEMRC and go over the new procedures without any interruptions.

Ms. Ashcroft suggested the notice stating the Clerk's office will be close should explain the reason why the office is closed. Ms. Zeller said her office will be closed Friday afternoons at least through June 30th.

9. Ms. Zeller said taxes are due May 10, 2015.

Town Road Commissioner Mr. Byron Hathaway reported:

1. He submitted the Bridge and Roads Standards for Board consideration. Ms. Ashcroft moved to approve the Bridge and Roads Standards. Mr. Clifford made a second to the motion. The motion passed unanimously.

2. He submitted the Annual Financial Plan for Board consideration. Ms. Ashcroft moved to approve the Annual Financial Plan for the Town of Rutland. Mr. Clifford made a second to the motion. The motion passed unanimously.

3. Mr. Hathaway submitted the Roads and Bridge Standards and network inventory for Board consideration. Ms. Ashcroft moved to adopt the certificate of Compliance for Road and Bridge Standards as submitted. Mr. Clifford made a second to the motion. The motion passed unanimously.

4. Mr. Hathaway informed the Board that he would be meeting on April 2, 2015 at 1:00 PM regarding the Strong Communities Better Connections RFP. Mr. Hathaway told Board members that only two bids had been submitted. He said he would be meeting at the RRPC office. He said the purpose of the meeting is to adjust the RFP in the hope of getting more bid proposals.

5. He informed the Board that the Flory Family requested a Town Highway Truck for the funeral procession on Saturday. The Board had no problem with the request.

6. Mr. Hathaway told the Board that he would be meeting with FEMA Officials on Thursday regarding December 10, 2014 storm.

7. Mr. Hathaway recommended that the Board select the Casella Construction Prospect Hill Road culvert bid proposal for \$131,350.00. He said the Town would get up to \$90,000.00 for a State structures grant.

Mr. Hathaway said the Belden Company, Kingsbury Construction and Weaver Excavating also submitted bid proposals. He said the high bid was for \$179,000.00.

Ms. Ashcroft moved to select the Casella construction bid. Mr. Clifford made a second to the motion. The motion passed unanimously.

The Board reviewed bids proposals for a new 7 Yard truck to replace the existing 550 Town truck. Mr. Hathaway said the Board received several non-specification bids, he said the vehicles do not meet his specifications.

Mr. Hathaway told the Board that three bidders did meet his specifications. Mr. Hathaway recommended the Board select the Charlebois Western Star truck for \$122,691.00. He said the vehicle comes with the best engine warranty. Board

members and Mr. Hathaway discussed the truck bids further. Ms. Ashcroft asked Mr. Hathaway if the Western Star is worth \$6,000.00 more than a similar truck sold by Charlebois. Mr. Hathaway said in his opinion the truck he selected is worth the additional \$6,000.00. Mr. Hathaway said the Town would get 15 years of use out of the Western Star. Mr. Hathaway said the purchase would not deplete the Highway depreciation account.

Mr. Hathaway said the Town should get at least \$25,000.00 from the sale of the existing Town truck. Mr. Hathaway said the money from the truck sale would go into the depreciation account.

Mr. Clifford moved to go with the Charlebois Western Star as recommended by Mr. Hathaway. Ms. Ashcroft made a second to the motion. The motion passed unanimously.

Ms. Ashcroft moved to select the Plow & Body bid submitted by Viking for \$68,980.00. Mr. Hathaway said all three bids met his specifications. Mr. Clifford made a second to the motion. The motion passed unanimously.

Mr. Hathaway told Board members that he has spoken with a general contractor who has offered an estimated construction price, which would be significantly less than when the Town has in the budget.

Mr. Hathaway reviewed his proposal to correct the Johnson Energy drainage problem caused by the construction of the new Fire Station. Mr. Dicton questioned Mr. Hathaway regarding the need to receive permitting for the proposed work.

Mr. Hathaway proposed two possible corrections ranging in price from \$4,460.00 up to \$17,138.00. Mr. Zingale informed Board members that the Town Attorney said it would be better to make the correction and then present Black River Design Architects (BRDA) a bill for the work rather than argue with BRDA as to how much it would cost to fix the drainage problem. The matter was tabled until such time the Fire Committee does a site visit.

Town Fire Chief Mr. Frank Cioffi reported:

1. He informed the Board that the Flory Family has requested a couple of Town Fire Trucks be in Mr. Flory's funeral procession. Board members had no problem with the request.
2. The Chief informed Board members that some Fire department members recently testified in Montpelier regarding closing the Rutland County Dispatch center.

Ms. Ashcroft cited the fact that one of her tenants placed a called for a water heater leak and that the Clarendon Fire department responded. Ms. Ashcroft said Rutland Town arrived later.

Mr. Zingale questioned whether the individual dialed 911 or a different number. He said if the individual had dialed 911 a code would have displayed on the dispatchers screen indicating the call came from the Town of Rutland. Mr. Zingale said the Town's code is "220".

3. Chief Cioffi told the Board that the department is considering purchasing a used fire truck rather than purchasing a new truck. Mr. Cioffi said he would schedule a meeting with the Fire Committee when he has more information.

Mr. Zingale will follow up with Mr. Kevin Brown regarding the status of talks with the contractor. Mr. Diction asked Mr. Cioffi if everything is up to snuff inside the building. Mr. Cioffi said they are still waiting for clarification on the HVHC System, as to how it actually worked. He said sometime it came on and sometimes it did not come on.

Mr. Cioffi said we are waiting for them to say it is working or it is not working, to tell us. He said the item was listed in one of the letters sent to them. He said he does not think he has been told where it is officially at. Mr. Diction asked Mr. Zingale if he had sent the letter out. Mr. Zingale said the Town Attorney is handling the matter and that he thinks the letter was sent out.

Mr. Diction told Mr. Zingale to get an update on the action items from the Town attorney. Mr. Diction told Mr. Cioffi that he would be notified when the committee sets a date to meet at the station for the drainage issues. Mr. Diction asked the Chief to attend or to send someone.

Town representative to the Rutland Regional Planning Commission Mr. Sherman Hunter reported:

1. He said the Commission considered an Act 250 permit application for a Danby-MT. Tabor auto body shop. He said the application was approved no problem.
2. He said the Commission also considered an Act 248 permit request from GMP to upgrade a Wallingford substation. He said there would be no change in the foot print. He said the Commission had no problems with the proposal.
3. He said the Commission also worked on updating the Regional Plan. Mr. Fred Nicholson said the Regional Plan has to be updated every 8 years. He said the plan is to readopt a revised Regional Plan next year. Mr. Nicholson said there is a bill in the Legislature to change the Town Plan readoption to every 10 year.

These are the stats of the Rutland Town Police Department within the past two week period.

-Calls for service within the two week period: 69

- Total calls for the 2014 year: 174
- Total calls for the 2015 year: 273

-Types of calls assigned

Public Speaking, 911 Hang Ups, Agency Assists, Alarms, Animal Problems, Directed Patrol, VIN Inspection, Abandoned Vehicle, Frauds, Motor Vehicle Complaint, Citizen Assists, Welfare Check, Service of APO, Suspicious Complaints, Child Abuse Complaints, Accidents Property Damage, Burglary's, Fire Assists, Unsecure Premises, Threatening Complaints, Thefts, and Noise Disturbance

Closed Cases: 37

- Number of Arrests: 0
- What Types of Arrest: 0
- Motor Vehicle Stops:16
- Vermont Civil Violation Complaints (Tickets) Issued:
- Total Fine Amount : \$1,640.00 dollars
- Warnings: 6

- Total number of Patrol Hours: 177.5
 1. Chief Dumas: 28.5
 2. Captain Washburn: 79
 3. Officer Gamble: 40
 4. Officer Sly : 30

Total number of Admin hours: 31.5

1. Chief Dumas: 20.5
2. Captain Washburn: 1
3. Officer Gamble: 0
4. Officer Sly : 10

Chief Dumas informed the Board of a problem with the radar units in the new vehicles. He told the Board that Mr. John Sly was in the process of fixing the problem. He said Mr. Sly could do the work much cheaper than having to bring in a technician.

Mr. Diction reviewed the proposed speed limit ordinance amendment with Chief Dumas.

Mr. Zingale said he had deleted reference to enforcing a speed limit of 50 miles per hour (mph) because the Town can only enforce speed limits less than 50 mph on a State road.

Ms. Ashcroft moved to adopt the amendment to the speed limit ordinance as reviewed by the Town Attorney and attached to his memo of March 18, 2015. Mr. Clifford made a second to the motion. The motion passed unanimously.

Board members discussed appointing a Deputy Health Officer. Ms. Ashcroft moved to appoint John Sly as Deputy Health Officer. Ms. Ashcroft asked several questions. Mr. Clifford made a second to the motion. The motion passed unanimously.

Town Recreation Director Mr. Mike Rowe reported:

1. Told the Board that baseball and softball registrations are ongoing.
2. Discussed a request from the City of Rutland Recreation Department regarding City use of Town pool this summer. Mr. Rowe said the Rutland City Swim team (which includes Town residents) will be using Northwood Pool for morning practice Monday through Friday.

He said the pool might also be used for a couple of swim meets if the pool meets the depth requirements. He said the City would also like to use the pool three mornings a week from 6:00 A.M. to 7:45 A.M. Mr. Rowe said City officials have agreed to pay a fee for the use of the Town pool.

Mr. Rowe said the addition of the City programs will not impact the normal operation of the Town pool and that the fees would more than cover any cost the Town might incur.

He said the pool's operating budget will not be affected. Mr. Rowe said there will be enough staff whether there are 10 people or 100 people at the pool. He said if there were too many people he would have to regulate groups in and out of the pool.

Board members and Mr. Rowe discussed City use of the Town pool further. Mr. Rowe said the City has requested that City families be charged \$75.00 to use the Town pool. Mr. Rowe said normally the Town would charge \$120.00 for the pass.

He said in exchange the City would allow Town residents to register for City programs at the City rate. The rate would not apply to summer day camps and the Flip-side Park.

Ms. Ashcroft said the proposal is a good deal all around for the Town and the City and the kids. Ms. Ashcroft moved to approve the agreement Mr. Rowe has with the City of Rutland for the use of Northwood Pool. Mr. Clifford made a second to the motion. The motion passed unanimously.

Mr. Dicton called Select Board member Mr. Chioffi on the telephone in order for Mr. Chioffi to participate in the discussion regarding a proposed land sale from the Town to Mr. Gregg Nutting.

Mr. Dicton told Mr. Chioffi who was present in the room for the discussion. Ms. Ashcroft said she had met with Mr. Hathaway and had reviewed the deed, the subdivision plat as approved by the Planning Commission.

Ms. Ashcroft said the Cemetery Commission wants to own the road and triangular piece of property south of the road. Mr. Byron R. Hathaway said he spoke with Mr. Nutting at which time he informed Mr. Nutting that the Cemetery Commission wants the Town to keep ownership of the road and a small crumb of land, south and adjacent to the road.

He said by the Town retaining ownership it would make it easier to follow a meets and bounds description. Mr. Hathaway said one cemetery Commission feels the Town should have a 10 foot no build zone on the Nutting land in order to facilitate fence maintenance.

Town resident Mr. Gregg Nutting said it does not make any sense for the Town to own the driveway to his home. He said it is a liability for him to exit his home and be on Town land. He said now is the time to fix the matter. Mr. Nutting said he should own the driveway.

Mr. Nutting said his offer to the Town is for all of the land. He said if this does not work then he would make the Town another offer for less land. Mr. Nutting said the Town should be collecting taxes from the lot and not owning the lot.

Mr. Nutting said if the Town keeps the road then he should be given an easement and made responsible for upkeep, maintenance, snow plowing and repair of the road.

Mr. Chioffi cited the fact that the Town purchased all of Mr. Creed's land because it was a package deal. He said in addition to the land the Town wanted for the cemetery the Town got the road and the wetlands.

Mr. Chioffi said the Town has not owned the land for hundreds of years. He said what the Town has is excess land beyond what the Town needed to protect the cemetery. Mr. Chioffi said he does not see any benefit in the Town retaining any of the land.

Mr. Chioffi said it is a cleaner deal for the Town to sell Mr. Nutting all of the land, provided the Town receives all of the rights which the cemetery Commission wants. Mr. Chioffi questioned why the Town would want to own the driveway and have to maintain the driveway for Mr. Nutting.

Mr. Chioffi said he is in favor of selling all of the land to Mr. Nutting. Mr. Clifford questioned Mr. Hathaway as to why the Cemetery Commission wants to retain the small triangular lot. Mr. Hathaway said it would make for an easier meets & bounds description.

Mr. Chioffi asked if the triangular parcel of land impedes access to the cemetery from US RT 7. Mr. Byron R. Hathaway said not as long as the Cemetery Commission has a good solid R-O-W.

Mr. Chioffi said as long as the 50' R-O-W is not impeded then Mr. Nutting should be allowed to use all of the rest of the land, should the Board vote to sell all the land to Mr. Nutting. Both Messrs. Hathaway said the cemetery Commission would like the Town to own the road and the triangular parcel.

Mr. Byron J. Hathaway told the Board the Cemetery Commission would like to retain ownership of the road and triangular parcel of land as an alternate way to access the cemetery 10 to 50 years down the road.

Ms. Ashcroft said the question is whether the access to the cemetery will be through a R-O-W or deeded property ownership. Mr. Byron J. Hathaway said if the Town owns the land it can do what it wants with the land 10, 20 or 30 years in the future without being restricted by a R-O-W.

Ms. Ashcroft asked Mr. Byron J. Hathaway what the Town would need besides the right of passage for vehicles and the right to install utilities and underground lines within the road r-o-w.

Mr. Byron J. Hathaway said any well drafted R-O-W agreement he has seen has had holes shot at it. He said if you own it, you own it. Ms. Ashcroft said Mr. Byron J. Hathaway needs to have faith in lawyers. Mr. Byron J. Hathaway said he sees no reason to give up ownership of the land in question.

Mr. Nutting said now is the time to fix the matter and for him to own the driveway. Mr. Chioffi said he sees no other Town use of the land in the proposed sale, other than access to the cemetery.

Mr. Chioffi said the Town should sell the land to Mr. Nutting because it is his driveway. Mr. Chioffi said the Town could retain any rights it needs. Mr. Chioffi questioned why the Town of Rutland wants to own Mr. Nuttings driveway.

Mr. Chioffi said he has always been of the understanding that the Town planned to sell the land to Mr. Nutting and that Cemetery Commission would get rights for the use of the road. Mr. Chioffi said he disagrees with Mr. Byron J. Hathaway statement that there is no reason to sell the land.

Mr. Chioffi made a motion to sell the land with the Cemetery Commission's deed restriction requirements. Mr. Clifford made a second to the motion. Board members discussed the matter further.

Ms. Ashcroft restated the proposed motion and said it is understood there will be no building with in the 50' R-O-W ever. Ms. Ashcroft said the correct price is \$9,000.00. The motion passed unanimously.

Mr. Chioffi reported to the Board regarding the testimony he presented at a joint legislative hearing in Montpelier.

Town Administrator Mr. Joseph Zingale Jr. reported:

1. That he has been contacted by a Mr. Tom T. Garden regarding a proposed solar facility to be sited on the Thomas property adjacent to the Army Guard / Reserve Building off the Post Road. Mr. Zingale said some of the project would be located on primary agricultural soils and some in wetlands.

Mr. Hathaway questioned if the proposed solar development would require an Act 250 permit because he said the land is under an Act 250 permit. Board members and Mr. Zingale and other discussed the matter further. Mr. Zingale will check with Bill Burke and report back to the Board.

2. Mr. Zingale informed the Board that he had submitted a hand drawn map of the water & septic system, on the Cunningham property, to the State for consideration in connection with the Town's request for a waiver under the State's subdivision rules.
3. He informed Board members that the new plaques have been ordered.
4. He informed the Board that the Town Attorney planned to have a letter for their next meeting as to whether the Board should appeal the groSolar Act 248 permit.

Mr. Zingale reviewed the items in the Board's packet.

Mr. Dicton read the newspaper notice requesting Town residents to fill open positions.

Mr. Dicton read Mr. Tony Flory's letter of resignation from the Town Planning Commission.

Mr. Dicton passed out Select Board Committee assignments. He said a Finance, Administrative Assistant Search and Personnel are new committees. Mr. Dicton read member assignment.

Ms. Ashcroft moved to close the meeting at 8:50 P.M. Mr. Clifford made a second to the motion. The motion passed unanimously.