

**TOWN OF RUTLAND**  
**DRAFT**  
**SELECT BOARD**

MINUTES: May 19, 2015

Board members present: Paul Clifford, Don Chioffi and John Paul Faignant

The meeting opened at 6:30 P.M. with the Pledge of Allegiance.

Mr. Chioffi announced that Mr. Dicton would not be in attendance due to a severe sinus infection. He said Ms. Ashcroft would not be present due to attendance at one of her children's events at Mill River High School.

The Board reviewed the minutes of 5-5-15. Mr. Faignant moved to approve the 5-5-15 minutes. Mr. Clifford made a second to the motion. The motion passed unanimously.

Messrs. Red Grover, Brownson Spencer and attorney Karl Anderson met with the Board regarding the Select Board accepting the unapproved section of Grover Drive as a Town road.

Mr. Anderson said they are present to try to get an understanding of the Board's pleasure regarding what Mr. Grover needs to do in order to move forward. Mr. Anderson cited correspondence between Mr. Grover's agents and Town officials and said he is present for a face to face discussion.

Mr. Anderson told Board members that he had spoken with Mr. Kevin Brown and that they have agreed to convey the road as a single parcel verses two parcels. Mr. Anderson said Mr. Grover will get drainage rights, from owners along the road, since there was not drainage easement language in place when the lots were sold.

Mr. Anderson made the following comments in regards to a Stantec April 24, 2015 memo pertaining to the unapproved section of Grover Drive:

- He said Mr. Grover opposes doing test borings in the road.
- He said the borings would introduce a means for water to get into the road.

Mr. Anderson said his client would discourage and resist doing boring samples. He said to do so is a bad practice. He said the Town might confirm the road is built properly while opening up the road to multiple points for the infiltration of water.

Mr. Anderson said he is present to get guidance from the Select Board as to what needs to be done.

Mr. Faignant questioned whether Mr. Anderson should be asking the Town's lawyer his questions rather than the Board. Mr. Anderson said he spoke with Mr. Kevin Brown and that he said it is ultimately up to the Board to decide.

Mr. Faignant said the Board should have the opportunity to speak to Mr. Brown before responding to Mr. Anderson request to waive certain road acceptance conditions.

Mr. Anderson cited Stantec's suggestion that borings be made in the roadway every 50 feet and said his client does not agree. He said the damage done to the road would outweigh the benefit the Board would get by making the holes.

Mr. Faignant said the so-called whole poking is needed because the applicant cannot provide a certification as to the road construction. Mr. Spencer said the Town's Road acceptance specifications are designed for something more modern than the Grover's 1970 Act 250 permit.

Mr. Spencer said most of the road was built before the Town had an ordinance. He said many of the things the ordinance requires really don't make any sense after the fact. Mr. Spence said he did the certification as well as he could based on his personal involvement with the project and what he could gather from others including Mr. Hathaway.

Mr. Spencer said in his opinion the road has been built to the Town standard. Mr. Spencer said the Town's standard is a little weak and he noted that the Town actually has three standards. Mr. Spence said it was hard trying to figure out which one to follow.

Mr. Spencer said it appears the Town is using the A-76 Standard. He said the road pretty much conforms to A-76. Mr. Faignant cited the fact that Mr. Doug Casella constructed the road base and he suggested Mr. Spencer speak to Mr. Casella to determine how the road was constructed. Mr. Spencer cited the fact that Mr. Casella is ill and is not available.

Mr. Chioffi said the certification issue came up after a number of issues cited by past Board members were being addressed. He said it was decided that absent a certification the Board would go with Mr. Hathaway's recommendation. Mr. Chioffi said it states in the minutes that Mr. Hathaway is prepared to give the Board a recommendation.

Mr. Clifford inquired if the Stantec conditions would apply to any new road. Mr. Hathaway said under normal circumstances the same conditions would apply. Mr. Hathaway said the Town road acceptance policy was much more lax than it is today.

He said the policy is less lax because the Board has accepted some roads that had less than adequate construction underneath the roads. He said these road acceptances have prompted the stringent acceptance policy.

Mr. Hathaway said the Grover's' have fallen into a huge grey area because there was no acceptance policy when they began construction on their road. He said the Select Board needs to grant the Grover's some waivers under the policy.

Mr. Hathaway said because the Grover's did not have an on-site engineer design and lay out the road he does not think any professional engineer will certify that the road was constructed to the Town's policy.

Mr. Hathaway said the Board will have to back off on the certification because no one will certify as to the road's construction. Mr. Hathaway told the Board that the previous project manager did not allow him (Mr. Hathaway) to inspect the road as it was being constructed.

Mr. Hathaway said none-the-less he did view the road during construction and that he feels it is a fairly decent road. He said he does not think there are huge issues and problems with the road.

Mr. Hathaway said the base gravel has been in place several years and that the road was plowed in the winter and no muddy spots have developed.

Mr. Clifford asked if geotextile fabric had been used in the road construction. Mr. Spencer said he did not see any when the corner was dug out. Mr. Spencer said normally it would not have been used since the road is not in a high water table and soft soils.

Mr. Faignant suggested that Mr. Anderson write a letter to the Town attorney and identifying the areas where they are seeking waivers and why. He said the Board could move the matter along after hearing from Mr. Brown.

Mr. Hathaway said he is not in favor of core samples being taken from the roadway. Mr. Faignant said he too is against doing core sampling. Mr. Hathaway said Mr. Grover has done ditching and shoulder work to the section of road under consideration for acceptance. Mr. Hathaway said he cannot see any reason not to take over the road.

Mr. Faignant said with the letter the Board can document the grey area so it is not used as a precedent by someone in the future. Mr. Faignant said the Board should be able to address the road acceptance at the next meeting. Mr. Grover said he would like to finalize the road for his mother's benefit.

Town SWAC Representative Mr. Richard Lloyd reported:

1. Mr. Lloyd informed the Board that the last SWAC meeting was held on May 7<sup>th</sup>. He said the purpose of the meeting was to review the Solid Waste Plan. Mr. Lloyd said the Plan becomes effective July 1<sup>st</sup>. Mr. Lloyd said there would be a public hearing regarding the Solid Waste Plan on June 2<sup>nd</sup> in Fair Haven. Mr. Lloyd said the Town is in total compliance with the Solid Waste Plan.
2. The Board considered the proposed Solid Waste Variable Pricing ordinance and decided to wait for a full Board before taking any action on whether to adopt. Mr.

Faignant moved to table the Solid Waste Variable Pricing ordinance. Mr. Clifford made a second to the motion. The motion passed unanimously.

3. Board members decided to wait until the next meeting to address possible solid waste disposal price increases. Mr. Clifford moved to table the item until the next meeting. Mr. Faignant made a second to the motion. The motion passed unanimously.
4. Mr. Lloyd said the Town's hopper would be compatible with a new trash compactor. Mr. Lloyd told the Board that the Transfer Committee has been exploring the pros and cons of going to a zero sort operation. He said it looks positive to go to zero sort.

Mr. Lloyd said there is no rush to go to zero sort. He said it is something the committee is considering for the future. Board members and Mr. Lloyd discussed whether the top rail around the compactor could be removed.

Mr. Lloyd said people are having a difficult time throwing their bags over the bars. Mr. Lloyd will check to determine the required height for the top rail. Mr. Lloyd said the rail height is over-kill.

Town Clerk & Treasurer Ms. Donna Zeller reported:

1. She told the Board that all Town offices will be closed for Memorial Day on Monday the 25<sup>th</sup>.
2. The Circle deadline is Friday June 5<sup>th</sup>.
3. Presented the warrant to destroy unlicensed dogs. She said there are 95 animals on the list. Mr. Clifford moved to sign the warrant. Mr. Faignant made a second to the motion. The motion passed unanimously.
4. Ms. Zeller said the Clerk & Treasurer and the Select Board have been invited to Boys & Girls Club annual clambake and auction to be held on Saturday June 13, 2015 at the Rutland Country Club.
5. Ms. Zeller informed the Board of an upcoming VLCT Human Resources and Employment Law seminar.
6. Ms. Zeller informed the Board that Planet Aid would like the Town to host a donation bin. She said the Town would receive five cents per pound for clothing collected. Mr. Lloyd said a box at the transfer station would not be an imposition as long as it was picked up on time. Mr. Dumas cited the fact that the Transfer Station is only open two days a week.

7. Ms. Zeller suggested the Board address the individual room thermostats in the Town Municipal Building. Ms. Zeller said Mr. Zingale was going to address the matter but that nothing has been done.

Mr. Zingale told the Board that due to the way the thermostats are wired it would be costly to install set back thermostats. He said he would attempt to get a price for the Board to consider.

Town Planning Commission Chairman Andrew McKane reported:

Not present.

Town Emergency Management Director and Transportation Council representative Mr. Martin Wasserman reported:

Not present

Town Road Commissioner Mr. Byron Hathaway reported:

1. The kick-off meeting for the Small Communities Better Connections Grant was earlier in the day. He suggested a Select Board member, a Planning Commissioner and a local business owner and himself serve on the Steering committee.

Mr. Chioffi said Mr. Hathaway should contact Mr. Franny McGinnis to see if he would be interested serving on the committee. Board members were in agreement that Ms. Ashcroft would be the Board's representative on the committee.

2. He told the Board that the Bike-Pedestrian Grant kick-off meeting is scheduled for May 28, at 10:00 AM at the RRPC office. Mr. Hathaway said he is also looking for 2 to 3 Town officials to serve on a Steering committee.
3. Mr. Hathaway reported that the Complete Street Committee met last week and reviewed the 18 survey responses. He said because of the low number of responses the committee will now hand deliver paper copies to individuals. He said some would be distributed at School graduation.
4. He told the Board that Seward Road was reclaimed and graded the previous day. He said the asphalt basecoat would be applied the following day. He said a fiber optic cable at an unknown depth, in the Cold River Road, resulted in a delay in completing paving work.

He said Gleason Road would be paved next then the East Pittsford Road.

5. Mr. Hathaway told Board members that Stantec has begun working on the Highway Garage storm water permit. Mr. Hathaway submitted a change order for Board approval. He said **\$4,760.00** of the **\$11,000.00** has already been paid. Mr. Fagnant moved to have Mr. Chioffi sign the agreement. Mr. Clifford made a second to the motion. The motion passed unanimously.
6. Mr. Hathaway said he will receive bids for the construction of the Highway garage on May 29<sup>th</sup> and will present the bids to the Board at the June 2<sup>nd</sup> meeting.

Town Fire Chief Mr. Frank Cioffi reported:

Not present.

Town Fire Fighter Mr. Craig Robideau requested permission to take a Town Fire Truck to parades in Wallingford and Pittsford on Memorial Day. Mr. Fagnant moved to approve the request. Mr. Clifford made a second to the motion. The motion passed unanimously.

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

Not present.

Mr. Fred Nicholson, alternate to the Regional Planning Commission reported:

Town Police Chief Mr. Ed Dumas Reported:

1. Mr. Dumas told the Board that to-date the department has received 521 calls for service. He said last year at the same time the number was just over 300 calls.
2. Chief Dumas cautioned Town residents to be on the lookout for suspicious individuals in their neighborhood. Chief Dumas cited several daytime home break-ins that occurred in Town recently. Mr. Dumas encouraged Town residents to call the police if they see anything unusual.
3. Chief Dumas told the Board that Captain Washburn would soon file an electronic Cops Grant application. He said the grant would fund the Town resource Officer. He told the Board that Mr. Washburn has been working on the application for several weeks.

Mr. Chioffi said he would have the overtime information requested by Chief Dumas for the next meeting.

Town Recreation Director Mr. Mike Rowe reported:

1. He reported that softball and baseball is underway. He said there are about 120 participants in the softball and baseball programs.

2. Mr. Rowe told the Board that the pool cover was removed on Saturday May 16<sup>th</sup>. He said the pool would be started up on Tuesday May 19<sup>th</sup>.
3. Mr. Rowe said he hopes to open the pool on June 6<sup>th</sup> and have it open full time by June 19<sup>th</sup>.
4. He said pool registration will take place at the pool from 5:00 PM to 7:00 PM on June 3<sup>rd</sup> and 4<sup>th</sup>.
5. Mr. Rowe thanked Messrs. Walt Trip and Tom Gallipo for assistance in removing the pool cover.
6. Mr. Rowe told Board members that some trees at Dewey Field have been trimmed so that the lights can now illuminate the field of play.
7. Mr. Faignant said the health concern with dogs roaming in Northwood Park was discussed at a recent Recreation Committee meeting. He said some dogs are relieving themselves on the balls fields. He said there are also safety concerns with dogs not on a leash in the park.

Mr. Faignant said the Committee will recommend to the full Board that dogs must be leashed when in Northwood Park and that there be a warning for the first infraction and then a **\$100.00** fine for the second and expulsion from the Park if there is a third violation.

Mr. Faignant said the matter is a serious health hazard both for kids and other people using the park. Mr. Chioffi said the Board should make changes to the Dog Ordinance so that the proposed changes apply to the whole Town. Mr. Chioffi said the ordinance should be amended to delete that a dog can be under an owners verbal control.

Chief Dumas said he would hate to see a change in the ordinance that would prohibit an individual with a lot of land from allowing their dog to run loose on their own land. Mr. Faignant said the committee will also be recommending extensive signage notification be placed throughout Northwood Park.

Mr. Faignant said the Board needs to determine the status of the power line right-of-way within Northwood Park, which is a location where many individuals enter the Park. Mr. Nicholson and Mr. Zingale said the Town owns the land and that Green Mountain Power has a R-O-W over the Town land.

Clifford moved to table the matter until the full Board can discuss the matter. Mr. Faignant made a second the motion. The motion passed unanimously.

Mr. Rowe told the Board that the lifeguard stands at the pool need to be replaced at a total cost of **\$ 4,600.00**. He said the money could come from the

depreciation account. Mr. Fagnant moved to authorize Mr. Rowe to purchase two lifeguard stands from the depreciation fund. Mr. Clifford made a second to the motion. The motion passed unanimously.

Mr. Chioffi asked Mr. Rowe if he had an update regarding the vandalism to the Dog waste disposal station. Mr. Rowe said he did not have an update.

Mr. Chioffi asked if the camera's at the pool should be relocated. Mr. Zingale said the Board should move the pan, tilt, zoom (ptz) camera in conjunction with the construction of the highway garage. Mr. Rowe said part of his five year plan is to put a camera and recorder at the new Recreation building at Northwood and a camera with a live feed at Dewey Field.

Town Administrator Mr. Joseph Zingale Jr. reported:

1. Mr. Zingale reported that all of the pump station plantings are winter hardy. He said no fabric was used and that no plan would grow over two feet in height. Mr. Zingale told the Board he has not received a reply from Ms. Theresa Gilman as to what she will allow.
2. He informed the Board that Chief Cioffi would like the Fire Committee to schedule a meeting to discuss the McKinley Station tank removal.
3. Mr. Zingale informed the Board that two individuals called to complain regarding the number of vehicles on a Post Road property. Mr. Zingale said the Town has a court stipulation with the owners of the property regarding the removal of unregistered vehicles on the property.

He told the Board that another two individuals had called to complain regarding the unsightly manner in which a Post Road resident is keeping their property. He said that the callers feel the Town should have a regulation to require individuals to keep up the appearance of their property.

4. Mr. Zingale informed the Board that he advised BK Services to mow what needs mowing, if he should find some of the Cop John grass median mowed when he arrives to mow it.
5. Mr. Zingale discussed a letter from Attorney Mr. Victor Segale which sought a statement from the Town regarding the Alpine Pipeline's position that sewer allocation units cannot be shared. The Board discussed the matter with Mr. Zingale. Mr. Fagnant said the matter should be between Alpine Pipeline and the real estate owners.

Mr. Chioffi said the Town has an interest in the matter since Alpine Pipeline is selling Allocation they received from the Town. Mr. Chioffi said by requiring the owner to purchase additional capacity it will reduce the amount of capacity



available to others town properties on the line. Mr. Fagnant said there is not an Alpine Pipeline capacity shortage. Mr. Chioffi said he would strongly discourage the practice. Mr. Chioffi said it is not a very fair thing to do. Mr. Clifford said he agrees with Mr. Fagnant that the Town does not need to get involved.

6. Mr. Zingale informed the Board that the Denny's Restaurant experienced a decrease in water pressure following the reclaim of Seward Road. Mr. Zingale told the Board that the road is due to be repave the following day and that Denny's has yet to determine if their problem is in their building or under the road to be paved.

Mr. Hathaway said he would pave the road minus the top coat, in the event the road needs to be dug up and repaired. Mr. Fagnant said the problem should be resolved before the road is paved.

7. He informed the Board that Town Planning Commissioner Mr. Mike Leonard has resigned from the Planning Commission effectively immediately. Mr. Zingale said Mr. Leonard would be submitting a letter of resignation.
8. Mr. Zingale presented a map from the RRPC which seeks Town input as to the location of all walking and riding trails in Town. Mr. Zingale said he is concerned that the map shows power lines and is not clear as to whether the power lines are considered trails by the RRPC. Mr. Fagnant told Mr. Zingale to send all Board members a map so they could review the map before making a decision.

The Board reviewed packet correspondence.

Mr. Fagnant moved to approve the thank you letter to Mr. Tom Vickery. Mr. Clifford made a second to the motion. The motion passed unanimously. Mr. Chioffi read the letter.

Mr. Chioffi read a letter from the Vermont Tax Department regarding their redetermination of the Town's CLA rating to 100.31%. Mr. Chioffi said the redetermination will save the Town **\$232,000.00**.

Mr. Chioffi informed Board members that Ms. Ashcroft read and presented Mr. Matthew Burd the congratulatory Board letter, written in recognition of his achieving the rank of Eagle Scout.

Mr. Chioffi read the letter. Mr. Fagnant said he did not recall the Board voting to dedicate May 18<sup>th</sup> as Matthew Burd day. Mr. Chioffi said the Board did not vote on the dedication but that he had done so.

Mr. Chioffi said he was asked to write the letter and that there was some form of recognition to be given and that he did not think it did any harm to do so. Mr. Fagnant said Mr. Chioffi can't operate as a Selectman, alone. Mr. Fagnant said the matter is a

Board decision not an individual effort. Mr. Faignant said that representing that the Town Select Board designated May 18<sup>th</sup> as the official Matthew Day when it was not done is a misrepresentation. Mr. Faignant said Mr. Chioffi had no authority to do what he did.

Mr. Clifford moved to purchase the lettering needed to dedicate the Transfer Station in Memory of Anthony J. "Tony" Flory. Mr. Faignant made a second to the motion. The motion passed unanimously.

Mr. Clifford moved to go into executive session to discuss a tax appeal with Town Lister Mr. Howard Burgess and to finalize the Rutland Town Scholarships. Mr. Faignant made a second to the motion. The motion passed unanimously.

Mr. Chioffi declared the executive session closed. Mr. Clifford moved to approve the scholarship awards. Mr. Faignant made a second to the motion. The motion passed unanimously.

Mr. Faignant moved to close the meeting at 8:15 P.M. Mr. Clifford made a second to the motion. The motion passed unanimously.