

**TOWN OF RUTLAND SELECT BOARD OPEN MEETING
HELD VIA PUBLICALLY ACCESSABLE CONFERENCE CALL LINE
MAY 26th, 2020**

Out of an abundance of caution around the covid-19 virus, this meeting was held via a conference call line which was made publicly available for anyone to call into.

- Board members present: Josh Terenzini, Mary Ashcroft, Sharon Russell, Joe Denardo, John Paul Faignant
- Meeting opened at 6:00 P.M.

Approval of Orders

The Board approved the orders

Approval of Select Board Minutes for May 12th:

- Ms. Russell moved to approve the minutes; Mr. Faignant seconded the motion. The motion passed 5-0.

Questions from the floor; public comment:

Town Delinquent tax collector Jim Scholtz asked the board permission to have the Town Attorney review some documents he received regarding the bankruptcy filing of LaFlammes. Mr. Faignant asked Mr. Scholtz to provide copies to the board for their review.

New Business: Board to discuss fireworks sales in the Town of Rutland by C&C Fireworks

1. Mr. Terenzini discussed complaints received by Rutland Town and other towns regarding fireworks being set off.
2. Chuck and Chip Greeno of C&C Fireworks were present on the call to discuss this issue.
3. Ms. Russell reviewed the challenges veterans face with fireworks being set off.
4. Chip Greeno reviewed their efforts to ensure their customers are abiding by the rules for setting off fireworks.
5. Mr. Faignant asked if they would agree to restrict sales to individuals the possess a valid, approved permit. Mr. Greeno stated there are some municipalities that do not have an approval process and they also have customers from out of state. He made an agreement with the Town of Pittsford for their stand located there to only sell to individuals with a permit. He would agree to that restriction for Rutland Town residents but not for all sales.
6. Mr. Faignant asked if they would agree to not sell to anyone with an address in Rutland City. Mr. Greeno stated he did not think that was fair but would abide by it if this was imposed. Mr. Faignant stated that a majority of the complaints come from Rutland City and Rutland Town.
7. Mr. Faignant stated if they would accept the limitations to not sell to Rutland City residents, and only to Rutland town residents with a permit, that this should be honored in their Pittsford location as well.

8. Mr. Greeno suggested a change in enforcement, such as confiscating the offender's fireworks, could be a more effective deterrent as it would not matter where they were purchased.
9. Mr. Terenzini reviewed a draft modification to the operating permit. It would state that they would only be allowed to sell fireworks upon the customer providing a valid permit from their municipality. This permit would then need to be kept on file by the Greenos.
10. Mr. Terenzini commented that the limited availability of Town Police Department officers to patrol makes it difficult to catch issues as they are happening.
11. Mr. Greeno had strong objections to applying this to customers from any town.
12. Mr. Denardo commented that the state statute requires a permit before fireworks are used anywhere in the state, so he is not sure how towns are getting around the requirement when they are not issuing them.
13. There was extensive discussion among board members on various issues and possible remedies.
14. Mr. Denardo suggest the Town Fire Chief send a message to the Fire Department and Police Department officers to inform them of issued permits. Chief Clark said this would be easy to do.
15. Ms. Ashcroft suggested an approved permit be posted on the Town Website to be able to allow residents to be able to see approved permits and if one does not exist, allow them to call in a complaint. This idea was supported by the board.
16. Mr. Fagnant moved to modify the operating permit to C&C fireworks to state that there would be no selling of fireworks to Rutland Town residents that do not possess an approved permit from the Town Fire Chief. No sales to residents of Rutland City would be allowed without a permit. The motion passed 5-0.
17. Mr. Terenzini stated a revised permit will be sent to the Greeno's.

Bill Sweet Administrative Assistant to the Select Board:

1. Provided an updated meeting schedule and committee agenda items
2. Reviewed the Act 250 application submitted for the proposed Harbor Freight building on Route 7 South. There are 2 pages which need to be completed by the Town. It mainly involves the ability to provide municipal services.
 - a. Ms. Ashcroft asked it to be sent to all department heads and the Planning Commission for review as it could help with some wetlands work in the area.
3. Provided the board with the list of 3 previously approved sewer discharge allocations which were not acted upon and qualified for withdrawal. Each person on this list was contacted and had no objection to the withdrawal. This needs board approval to formally withdraw.
 - a. Ms. Ashcroft moved to withdraw the unused allocation from Andrew Derby, Thomas Orin and Byrnes Truck and Equipment. Mr. Denardo seconded the motion. The motion passed 5-0.
4. One user with a previously approved allocation did ask to keep it. This is for property on 212 East Pittsford Road owned by Brad LaFaso. He is planning to build another home on the property and if the ground did not perk for a septic field, he wanted to connect to the sewer line. Mr. LaFaso was not present for the meeting.

- a. Ms. Ashcroft asked about the timeline for it to expire. Mr. Sweet answered that if it is not used within a year the ordinance requires an extension be applied for. No extension was applied for.
- b. Mr. Faignant said due to the absence of actual plans on file, the property would be free to reapply if needed.
- c. Ms. Ashcroft moved to not allow an extension and withdraw the allocation under the ordinance. Ms. Russell seconded the motion. The motion passed 5-0.
5. Presented a list of users who have exceeded their approved allocation and a draft of a letter which could be sent to those users.
 - a. U-Haul is on the list but submitted their application today.
 - b. Ms. Ashcroft moved to send the first letter to the users on the list and asking them to submit a supplemental application. Ms. Russell seconded the motion. The motion passed 5-0.
6. Ms. Ashcroft reviewed a letter dated May 20th from the property manager for East Asian LLC requesting a 90-day extension to research their allocation history. Ms. Ashcroft moved to grant their extension. Ms. Russell seconded the motion. The motion passed 5-0.
7. Ms. Ashcroft reviewed an application from U-Haul which was received today to establish an allocation. They did not previously have one.
 - a. Ms. Ashcroft moved to grant U-Haul international Inc their requested allocation of 275 Gallons Per Day. Mr. Denardo seconded the motion. The motion passed 5-0.
8. Presented a letter from Northstar Fireworks regarding the upcoming July 4th Town Fireworks displays. They can still present the display following proper distancing guidelines.
 - a. The board discussed the feasibility of hosting the event again this year.
 - b. General seating on the hill as years past would not be allowed. People would have to remain in their cars. Mr. Rowe commented that this presents limited areas for people to park to be able to watch and be able to see them.
 - c. Discussed allowing parking along one side of Post Road this year to allow more people to be able to see. Town Police Chief Dumas agreed with this idea.
 - d. Discussed possible parking at the Town School. The school grounds are closed to the public.
 - e. Mr. Faignant said he would coordinate with the Fire Department closing off access to the school parking lot.
 - f. Mr. Terenzini commented on the future of the Town Wide Celebration this year. He feels there is no safe way to hold this event this year. This event will be postponed and planned for 2021.
9. Provided correspondence from Allco Energy regarding the Otter Creek Solar project.

- a. Ms. Ashcroft asked for the Planning Commission to review this latest letter as well.
10. Ms. Ashcroft thanked Mr. Sweet for his efforts on cleaning up the sewer allocations for the town.

Kari Clark Rutland Town Clerk/Treasurer:

1. The delinquent tax list was given to the delinquent tax collector this morning.
2. We collected 97.9% of taxes in town which is the best result in a long time.
3. Our local options tax payment was received, and a summary is in the packet. We received more than was expected.
4. Researchers are coming in on a regular basis and they have been following all the guidelines in place.
5. Ms. Ashcroft asked for budget status sheets for the next meeting.

Barbara Noyes-Pulling Rutland Town Planning Commission Chair:

1. Vermont has agreed to fund the clean water projects again. Byron will be talking about this as well. This would be for the Wynnemere development off Killington Avenue.
2. The Commission is still working on Business Route 4 recommendations and have been in contact with some people from the railroad museum about some future improvements on this area.

Mike Rowe Rutland Town Recreation Director:

1. The pool opening process is nearly complete. A safety plan was forwarded to board members to review if they can open this year.
2. As discussed in a recent recreation committee meeting, the backflow preventer at the pool has failed. It is needed to be able to run the pool. Mr. Rowe provided 2 quotes from local plumbers to do the repair.
 - a. Ms. Russell moved to approve the bid from Bill Lohsen to conduct the repair at Northwood Pool. Mr. Faignant seconded the motion. The motion passed 5-0.
3. Mr. Rowe asked the other park maintenance employee be allowed to start work again.
 - a. Mr. Faignant moved to allow him to start. Ms. Russell seconded the motion. The motion passed 5-0.

Byron Hathaway Rutland Town Road Commissioner:

1. Discussed the grant opportunity for the Wynnemere development storm water retrofit.
 - a. The grant would cover the design costs. The storm water permit has expired and needs to be renewed. This would help us with our MS4 obligations.

- b. Ms. Ashcroft moved this this project move forward, and the matching funds needed for construction are already in the budget. Mr. Faignant seconded the motion. The motion passed 5-0.
2. Discussed the request from the Wynnemere Homeowners Association to have the board come and do a site visit in preparation of a decision to have the town take over the road.
 - a. The board felt a site visit could safely be conducted. Mr. Terenzini asked Mr. Hathaway to set up a site visit in June.
3. Provided a letter to the board which was given to Tim Hubbard regarding the upcoming winter maintenance season.
4. Ms. Ashcroft asked about roadside mowing. This is planned for June.
5. Green Up Day will be May 30th. Bags are available at our transfer station and Town Hall.

Chris Clark Rutland Town Fire Chief:

1. There have not been many calls lately. The department has only responded to 3 calls in the last 2 weeks.
2. Discussed some recent maintenance issues discovered when the trucks were inspected.
 - a. Truck 41 needed new brakes, and those were done.
 - b. Engine 3 needs a new battery tray, reverse light and pump heater. These need to be fixed before it will pass inspection. The cost is about \$1200. With these repairs done, it will likely not pass inspection next year due to structural issues with the frame. The replacement of this truck will need to be accelerated.
3. Chief Clark requested a fire committee meeting. It will be warned for next week.
4. Monthly business meetings will resume on June 1st. Chairs will be setup with distancing and all attendees will need a mask.

Ed Dumas Rutland Town Police Chief:

1. Recent calls for service were provided.
2. Provided an additional quote for a partition for the cruiser.
 - a. The best price was for \$750.50
 - b. Mr. Faignant moved to approve the quote. Ms. Ashcroft seconded the motion. The motion passed 5-0.
3. Mr. Dumas asked about approval for a deferred compensation investment plan. Mr. Faignant stated the board needs to discuss it in executive session before it can be approved.

John Paul Fagnant Town Health Officer

1. The report of his investigation has been submitted from the explosion that occurred at the Holiday Inn on September 30th, 2019.
2. Mr. Fagnant gave a summary of his findings.
3. Mr. Fagnant asked the board to consider bringing charges against the Holiday Inn under 18 VSA 6 and 131 C. Additional charges for the manager under 18 VSA section 131 B which would charge him with knowingly failing to properly service and maintain infrastructure systems critical to safety such as gas and electric. This with the failure of the manager to call the fire department when the smell of gas was first reported knowingly created and contributed to a significant public health risk in violation of that statute.
 - a. Ms. Russell moved to authorize the charges be brought. Mr. Denardo seconded the motion.
 - b. Ms. Ashcroft asked who would prosecute this. Mr. Fagnant said there is a statute that states the States Attorney shall prosecute these types of actions.
 - c. Ms. Ashcroft asked if the town should be considering a private right of action as provided by the statute. Mr. Fagnant stated he is recommending that course after the charges are worked through.
 - d. Mr. Terenzini commented on the work Mr. Fagnant has done and his support of the fire department.
 - e. Town Assistant Fire Chief Mike Carlson said the members of the fire department also appreciate his efforts in support of the members.
 - f. The motion passed 4-0 with Mr. Fagnant abstaining.

New Business: Board to discuss the status of Covid-19 response

1. This has been discussed in other parts of the meeting

New Business: Board to discuss resuming meetings in person

1. Mr. Terenzini asked the board if the board felt meetings could resume in person using the Center Rutland Fire Station being able to properly distance. Mr. Terenzini asked for comments from the other board members.
 - a. After some discussion, the board will discuss this further at the next meeting.

Mr. Terenzini asked Chief Dumas for an update on the investigation into the dog barking complaint on West Proctor Road filed by Brittany Gilman. Chief Dumas stated he has spoken with Town Attorney Kevin Brown and provided him with all the information he had. Chief Dumas stated he feels the only way to solve it is tom have them get rid of the dogs. He feels they are also selling them. Mr. Terenzini asked Mr. Fagnant to speak with Kevin Brown about the issue.

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Mr. Denardo asked about the status of the lawsuit with the railroad regarding the sewer line. Mr. Terenzini stated Kevin Brown has updated him on his progress and he could be invited to a future board meeting. Ms. Ashcroft asked Kevin Brown also be prepared to update the board on the lawsuit regarding the fire station construction.

Ms. Ashcroft thanked Alderman's Chevrolet for putting up signs along Route 7 South for all the graduating seniors of Mil River high School

Committee meeting updates:

1. The recreation committee met recently. Ms. Russell reviewed what was discussed.
 - a. The pool will be ready to open if the executive order allows it and guidelines are followed.
 - b. Ms. Russell spoke with people at Rutland City and they are holding off as well.
 - c. This will be discussed at the June 9th meeting.
 - d. Discussed replacing the zero-turn mower. The committee is recommending holding off at least 1 year on the replacement.

Ms. Ashcroft moved to adjourn. Ms. Russell seconded the motion. The motion passed unanimously. The meeting was adjourned at 7:58 PM.

Respectfully submitted, Mr. Bill Sweet

5/26/2020

Joshua C. Terenzini, Chairman

Mary Ashcroft, Clerk

John Paul Fignant

Joseph Denardo

Sharon Russell

Center Rutland, VT.