

**Town of Shaftsbury
Selectboard Regular Meeting
Monday, January 20, 2014**

Members Present: Karen Mellinger, Carl Korman, Mitchell Race, Tim Scoggins, Ken Harrington
Staff Present: Margy Becker, Town Administrator
Others Present: Bob Moffitt

1. Call to Order

The meeting was called to order at 6:00P.M.

2. Approval of Minutes

Approval tabled until February 3, 2014.

3. Approval of Warrants

Motion to approve Transfer Warrant for FY14 transfers to reserves in the amount of \$93,000. Moved by Mitchell Race/Carl Korman 2nd. Motion carried unanimous 5-0-0.

Payroll Warrant #14 in the amount of \$20,677.28. Motion moved by Carl Korman/Mitchell Race 2nd. Motion carried unanimous 5-0-0.

4. Conflict of interest

Mitchell Race suggested he might have a conflict of interest regarding the confirmation of the zoning articles to appear on the ballot, as he was personally involved with the process of preparing the composting amendment.

5. Announcements

None.

6. Public Comments

Shaftsbury resident Bob Moffitt joined the conversation to discuss the process for proposed discontinuance of Donald Greene road.

Moffitt provided the Selectboard with a copy of the Vermont Municipal Law Index. Karen Mellinger commended Bob Moffitt for his effort to come before the Selectboard and suggested the website provide a link to the Municipal Index.

7. Selectboard reports for Town report

Karen Mellinger discussed the process of publishing the Town Report. The Selectboard is responsible for the budget guide and a budget report, which details changes. The Selectboard discussed information regarding by-law changes in the town report, and also elaborated on the Constable discussions which would also be included. Other corrections were noted.

8. March 2014 Town Meeting Warning

Selectmen reviewed the components of a draft warning for Town Meeting, which included three potential articles pertaining to zoning bylaw amendments and three potential articles concerning the status of the Town constables.

8a. Proposed zoning articles:

The Selectboard discussed the 1987 voter approval of a change in the Town's status from an 'urban' town to a 'rural' town for the purposes of bylaw adoptions. The Selectboard noted the zoning bylaw amendment procedures that were conducted from 2009 to 2012 appear to have violated the process adopted in 1987. During this time zoning amendments were adopted by a majority vote of the Selectboard versus by an Australian ballot vote.

The Town attorney has noted that the statute of limitations for challenges to zoning bylaws or amendments is two years from the date the bylaw was enacted. The Town attorney has recommended warning an Australian Ballot vote in March 2014 for adoption of any zoning amendments adopted by the Selectboard within the past two years.

The Selectboard members expressed concerns about the fact that a lot of work was involved in preparation and adoption of the solid waste facility amendment and revisions to the flood hazard regulations.

Carl Korman found the draft articles pertaining to the zoning amendment issues to be vague and lacking a reasonable explanation of benefits, cause and effect, etc. He suggested that an explanation to the zoning bylaws being voted on should be provided - i.e. in an informational brochure.

Motion to place item 1A (solid waste amendment) and 1B (flood hazard regulations amendment) on the Australian ballot, to be voted on separately by the residents of Shaftsbury. Moved by Tim Scoggins/Carl Korman 2nd. Motion carried 4-0-1 as Mitchell Race abstained.

The Selectboard discussed the editing done to the proposed zoning bylaw articles conducted by the town lawyer. Carl Korman suggested a conference with the town attorney for purpose of clarification.

Mitchell Race noted the work of the town planning commission, and believed that it was important that the residents of Shaftsbury understand the time and effort which goes into the

bylaws in question.

It was suggested to the Selectboard that an explanation in the vote should be included. Discussions about the legality of explanations on the ballot was discussed in detail. Tim Scoggins provided a statement from the Vermont Secretary of State specifying that a ballot can only have yes/no questions, and that explanatory language is generally not applicable.

Motion to approve the language of proposed Article 2 as follows “Shall the voters of the Town of Shaftsbury authorize future amendments to the zoning bylaws to be adopted by majority vote of the Selectboard, as provided by 24 V.S.A. Sec. 4442(c)(1)? **And to place article on the ballot. Moved by Tim Scoggins/Ken Harrington 2nd. Motion carried 5-0-0.**

Tim Scoggins agreed to collaborate with appropriate parties to produce a ‘voter’s guide’ to the proposed zoning amendments.

8b. Confirmation of articles concerning status of Constables

Tim Scoggins made the motion to place the proposed article concerning prohibition of law enforcement authority on the ballot as follows: “Shall the voters of the Town of Shaftsbury prohibit its First and Second Constables from exercising law enforcement authority as provided by 24 V.S.A. Sec. 1936a(1)? **Carl Korman seconded.**

Ken Harrington made the motion to amend the original motion to put all Constable articles on the ballot. Tim Scoggins seconded for discussion purposes. Ken Harrington noted that putting all articles on the warning gave the whole picture to the voters. Tim Scoggins disagreed, noting the articles are confusing.

Carl Korman consulted the statutes which apply to Constable authority, noting they are very confusing. He agreed to consult with the VLCT. Karen Mellinger stated she still wants voters to have a say.

The Chair called the question. Action: 1 for (Harrington); 4 against; 0 abstaining. The amendment to the motion failed.

The Chair called the question on the original Scoggins motion. Action: 0 for – 5 against – 0 abstaining. The motion failed.

The Selectboard revisited prior discussions concerning the fact the town had elected a fully certified law enforcement officer for the Town Constable position. It was also noted the Town had contracted with the Bennington County Sheriffs for several years.

There were discussions about why the Selectboard hesitated to propose a budget for Constable training and certification in the past. The Selectboard acknowledged past discussions regarding the possibility of extending the term for the town Constable from a one year to a two year position. Continued confusion around the precise authorities of Constables and appropriate voter actions was noted. Tim Scoggins suggested that 17 V.S.A. 26467 be addressed with regards to

the Constable position being changed from an elected to appointed position. No motion was made in support of this article.

Motion to place the article addressing extending the terms of Constables on the ballot as follows: “Shall the voters of the Town of Shaftsbury change the terms of its First and Second Constable from one year terms to two year terms as provided by 17 V.S.A. Sec. 2646(7)?”
Moved by Ken Harrington/Mitch Race 2nd. Motion carried 4-0-1 (Scoggins abstaining). The motion carried.

Motion to accept the revised warning. Moved by Carl Korman/2nd by Mitchell Race. Motion carried unanimously 5-0.

9. VT Health Exchange – enrollment changes

The Selectboard noted that the coverage for employees to the town was extended through March of 2014 and that they have chosen the Gold Blue for You plan provided by Blue Cross/Blue Shield as the basis of the proposed FY15 budget.

Margy Becker announced the changes in enrollment requirements for small business, due to the fact the Health exchange payment option for small businesses is not working. The Town employees will have to enroll directly with BCBS, and the Town can offer only two plans. Enrollment must occur before February 17, 2014 for the plan to go into effect on April 1st, 2014. Discussions regarding selection of a second plan will be scheduled for the February 3 regular meeting.

10. School Board Liaison Report

Tim Scoggins reported on the recent School Board meeting attended by Scoggins, and explained to the Selectboard the article in the Bennington Banner suggesting the Shaftsbury Elementary School taxes would increase by approximately three cents.

Tim Scoggins reported the School Board is moving forward to include District One into the Shaftsbury school tax base, and at the last meeting the School Board approved \$3,000 for legal assistance.

11. VTRANS Weight Limit Reporting

The Selectboard acknowledged the formal request from VTRANS to report special weight limits on town roads and bridges. There are currently none. Margy Becker noted there was no report to submit.

12. VTRANS Certificate of Highway Mileage Report

The Selectboard discussed the VTRANS Certificate of Highway Mileage Report, and noted the report is intended for the basis of state aid allocation for Class 3 roads. Margy Becker acknowledged there was time to formalize a report and action will be scheduled for February 3.

13. Public Hearing Schedule – Discontinuance of Donald Green Road

The Selectboard discussed a March 17th hearing date for the discontinuance of Donald Green Road, and also noted the requirement for at least one public hearing meeting on the matter.

14. Town Administrator's Report

Margy Becker highlighted a revised bid from Clean Harbors which came in under \$10,000 and encouraged the Selectboard to formally warn the bid for a February approval.

15. Other Business

None.

16. Adjournment

Selectboard meeting was adjourned at 9:07P.M.

Prepared By:

Shawn M. Sterling