

**Town of Shaftsbury
Regular Selectboard Meeting
6:00PM
Monday, November 19, 2012
Cole Hall - 61 Buck Hill Road**

Members present: Lon McClintock, Craig Bruder, Carl Korman, Karen Mellinger, Billy Obenauer

Members absent: None

Others present: Margy Becker (Town Administrator), Sandra Mangsen (Recording Clerk) Jeri Schoof, Robert and Kathleen Geneslaw, Jennifer Viereck, Bob Holmes, Terry Stacy, Jay T Palmer, Mitchell and JoAnn Race, Tom Huncharek, Mike Foley, Megan Donckers, Michael Bidy, Christine Hunt, Joyce Scarey, Noel Cardiff, Don Gabrus, Chad Schmidt, Peter Cross, Ron Nadeau, Cara Nadeau, Bob Holmes

1. Call to Order

Lon McClintock called the meeting to order at 6:00 p.m.

2. Announcements

Lon McClintock requested that members of the public who wish to speak be succinct, in view of the long agenda, and that they identify themselves.

Karen Mellinger reported that the NorShaft Lions Club is interested in helping with the town's holiday tree. She hopes to set the date for the lighting this evening.

Margy Becker reminded citizens that the town's overnight parking ban will be in place from December 1 to April 1.

3. Public Comments

Bob Holmes reminded those in attendance that annual reports from non-profits that have received appropriations from the town are due shortly. Further appropriations require reports to have been submitted; moreover, the Selectboard relies on these reports in order to determine whether the organization is serving residents of Shaftsbury.

4. Conflict of Interest Statement

Lon McClintock stated that he has a conflict on interest with respect to Agenda item 5, the hearing regarding the dog ordinance's vicious dog provisions.

5. Public Hearing: Pursuant to Vicious Dog Provisions-Shaftsbury Dog Ordinance

Lon McClintock left the table.

Karen Mellinger (vice chair) opened the hearing.

She noted that the dog owners in question (Hunt and Wilkinson) were not at that point in attendance, but that attendance is not required. Christine Hunt arrived later in the proceedings, which began with testimony from the Animal Control Officer, Traci Mulligan.

Traci Mulligan reported receiving several recent complaints with respect to dogs running at large. On June 17 she received a complaint of three dogs running at large (Trixie, Oscar, Zoey); another complaint was received on June 29, with respect to the same dogs.

She has attempted more than once to contact Christine Hunt, owner of the dogs. A message was left on July 7; on July 9 she visited the house, and left a warning letter, indicating that the dogs needed to be licensed within two weeks

On Nov 16, she established that the dogs in question were not yet licensed.

Members of the public in attendance offered their own testimony, including two neighbors whose properties are adjacent to the Hunt home. Photographs were presented as evidence by Don Gabrus.

Carl Korman asked the Animal Control Officer how many offences there have been altogether; her response was that there have been more than three.

Noel Cardiff reported that the dogs owned by Wilkinson and Hunt have been a continual problem for him and his neighbors. He requested that the Selectboard revise and strengthen the dog ordinance as well as addressing the particular problem at hand.

Carl Korman asked whether either neighbor had spoken to the Hunts directly about the problem; the answer was negative. Neighbors have reported the problem to the State Police or to the Animal Control Officer.

Christine Hunt arrived and was invited to offer her testimony. She apologized for her dogs and stated that she does her best to control them. She is a single mom who works full time; she failed to respond to previous warnings because she is busy. She claimed to be unaware that her dogs were causing such problems. She admitted they are not licensed, but claimed that they are vaccinated. Karen Mellinger assured herself that Christine Hunt is aware she has responsibilities as a dog owner to control her animals.

Traci Mulligan (Animal Control Officer) pointed out that in March 2010 there had already been a warning issued to Christine Hunt about her unlicensed dogs causing problems.

Members of the Selectboard asked questions of Christine Hunt, and pointed out the discrepancies between her description of the dogs' behavior and her efforts to control them and the testimony of her neighbors.

Cathy Wilkinson, owner of the boxer involved in the incidents described, did not appear at the hearing. The Animal Control Officer noted that this boxer is licensed.

Christine Hunt complained about her neighbors' cats despoiling her yard.

Billy Obenauer asked Ms. Hunt if she would be willing to sign an agreement with respect to the methods she will use to control her dogs in the future. Noel Cardiff objected that an agreement will not suffice.

Motion. To close the hearing. Moved by Carl Korman; seconded by Craig Bruder. Carried, 4-0-0.

Motion. To address the matter in open session. Moved by Carl Korman; seconded by Craig Bruder. Carried, 4-0-0.

Board members agreed that the matter needs to be resolved this evening.

Summary of the Board's discussion.

Carl Korman asserted that the Board must assume that statements about the Wilkinson dog are true, since no rebuttal was offered by the owner. Therefore, it must simply impose whatever remedies are available in the dog ordinance. With respect to the Hunt dogs, the owner is not apparently living up to her responsibilities as a dog owner. She has been warned, but the situation has not changed. Therefore she should be subject to fines and penalties according to dog ordinance. It would be possible to offer her one last chance to control the dogs; or, simply to impound the dogs immediately.

Craig Bruder said he is in basic agreement with Carl Korman. The track record is there; the best efforts of the owner (Hunt) are not promising. He would favor fines for violations (licensing); license and proof of vaccinations should be required within a week. It is less clear what fines/penalties can be imposed with respect to the problem of the dogs running at large. It may be reasonable to offer one last chance, with zero tolerance for lack of compliance.

Both agreed that the story of the attack on the cat offers sufficient evidence that the dogs in question are vicious.

Traci Mulligan suggested that Ms. Hunt immediately surrender her young uncontrollable dog (Trixie).

Billy Obenauer reviewed the issues: no response to warnings, with a hearing called because there was an allegation with respect to vicious dogs. The problems have been persistent, but there has been no recent ticket issued; therefore, the entire history of the behavior of these dogs and their owners should not necessarily be invoked.

Karen Mellinger reviewed the ordinance, reading the definition of a vicious dog. In her reading, the Selectboard can, in cases of an attack, declare the dog vicious and impose penalties.

Billy Obenauer asked how many violations there have been and how best to count them.

Carl Korman reminded the Board that if letters are sent, and no response is received, a violation has been documented even in the absence of a ticket being issued; the problem has been chronic.

The choices appear to be immediate impoundment of the dogs or the offer of a last clear chance to control them.

Billy Obenauer expressed concern about the applicability of the ordinance.

Motion. That the dog Trixie and the dog Zoey be found to be vicious dogs in violation of the dog ordinance section 5 and that pursuant to section 6, the Selectboard may impound both dogs. In consideration of a last clear chance for owners to restrain their dogs, the dogs will be permitted to remain with their owners, but if in the next six months they are found to be in a neighbor's yard (with evidence), then they are to be picked up by the Animal Control Officer and impounded. Moved by Carl Korman; seconded by Craig Bruder. Carried 3-1-0 (Obenauer opposed).

Karen Mellinger suggested that the owners work willingly with the Animal Control Officer to learn better methods for control of the dogs.

Billy Obenauer asked what section of the dog ordinance permits the Selectboard to make this decision; he suggested that the dogs cannot be impounded.

6. Law Enforcement Services & Recent Burglaries Bennington County Sheriff's Department

Lon McClintock returned to the table.

Bennington County Sheriff, Chad Schmidt offered suggestions for provisions homeowners can make to limit the possibility of break-ins at their residences.

The Sheriff's suggestions included installation of alarm systems and motion sensor lights, watching out for neighbors' properties, noting of suspicious vehicles in the area, and making accurate observations. He added that the presence of dogs, or leaving radios and/or lights on, may help and certainly can't hurt.

The Sheriff noted that, in response to the Selectboard's request, there will be an increased presence of officers patrolling in the town. The hourly rate for the additional services needs to be determined (c. \$25.50/hr.). The Sheriff's Department can help to organize Neighborhood Watch program (providing signs, packages of information, advice on how to manage a phone line for accepting reports). There were some questions from the public about where officers will increase patrols. The Sheriff declined to name specific areas or streets, but noted that the patrol frequency will be based on location of past incidents. He recommended that residents should not call 911, but rather the State Police, the Bennington Police, or the Sheriff's Office to make any reports. Specific observations (plate number, number of passengers, direction of travel, a photo) are most helpful.

7. New Town Garage – Status Report

Lon McClintock reported having talked with Trevor Mance about a right of way for access to the new garage; this will be discussed in more detail in executive session.

Design proposals are to be received by Dec 3.

Lon McClintock request that Terry Stacy provide specifications with respect to the proposed right of way for heavy trucks (amount of topsoil to be removed; material to be used to build the access road) as these specifications would be helpful for Trevor Mance in his consideration of the town's request for a right of way.

8. Road Foreman Reports: Terry Stacy

Terry Stacy updated the Board on current Capital Improvement Projects.

- A) Cider Mill: The project is 2/3 complete; topsoil has been spread and grass seeded on the lower portion of the berm. Guard rail has been installed, alignment straightened, some ditching has been installed.
- B) Holy Smoke Rd: 180 feet left to finish in the spring (2 weeks' of work). He is aware of how narrow the road is and that this is a problem for the school bus (see Nov 5 minutes). The crew has been removing trees, and some of the shoulder has been seeded for erosion control.
- C) White Creek Rd – The road crew is waiting for the patched area to settle. The paving contractor had some difficulty fixing the small paved section due to both grade and angle changes. Terry Stacy stated that this section will have to be reclaimed prior to resurfacing the road.
- D) Fabric and gravel has been spread on 800 feet of Ehrich Road and 650 feet of Myers Road for sub-base and top layer improvements.

Terry Stacy then reported on the Twitchell Hill paving and reclamation project. The road base was prepared and regarded several times to achieve the proper crown and alignment. Karen Mellinger asked about the problem posed at locations where driveways are below the new road level. Terry Stacy asked how much apron the town should provide? Lon McClintock recommended that the crew inspect all driveways, and that gravel be added to those that need it (not only for those who have complained).

Lon McClintock asked about striping the roads. Terry responded that for Class 2 or 3 roads the work needs to be subcontracted.

Bill Obenauer reported having received a query about Tunic Road that terminates in a private road. The landowner has asked if the town would mark with a sign where the private road begins and town road ends. The consensus of the Board is that it is the property owner's responsibility to post such a sign, if it should be needed. Terry Stacy reported that the situation is not unique as there are several similar roads in the town.

9. DRB Organization

Megan Donckers (Chair of the Development Review Board) reported that the members had discussed the question of reorganization and reached a consensus. They are recommending five full members and two alternates.

Motion. To revise the structure of the Development Review Board to include five full members and two alternates. Moved by Billy Obenauer; seconded by Karen Mellinger. Carried, 5-0-0.

10. DRB Appointment(s)

Two applications have been received for the regular seats on the Development Review Board. Several others put their names forward at the meeting.

Lon McClintock queried the Board with respect to the process for making the required appointments. Billy Obenauer preferred involvement of the Selectboard; other members suggested that accepting the Development Review Board's recommendation would be fine, with interviews of candidates by the Selectboard as necessary.

The Selectboard plans to invite candidates for interviews at its next meeting, or at a special meeting held after the next DRB meeting. Megan Donckers will advise Lon McClintock and Margy Becker of the Development Review Board's progress in recommending candidates.

11. Brownell's Salvage Yard – Approval of final written decision re: Location Approval

Lon McClintock distributed a revised draft decision re: the location of Brownell's Salvage Yard, which incorporates some language from an existing court order. After some discussion, a few changes were incorporated and will be included in an edited version.

Motion. To approve the decision on the location of the salvage yard, as amended. Moved by Craig Bruder; seconded by Karen Mellinger. Carried, 5-0-0.

12. Highway Access Ordinance – 2nd reading

The item was deferred until the next meeting.

13. Board of Listers – Request to Approve Correction of Errors and Omissions

David Mance property.

Motion. To accept Board of Listers' correction with respect to the David Mance Property. Moved by Billy Obenauer; seconded by Karen Mellinger. Motion withdrawn.

Margy Becker noted that there is no change in valuation; the correction simply removes double taxation on one parcel.

Motion. To accept the Board of Listers' recommendation to combine Parcel ID 020123 with Parcel ID 020136, and recognize that the first parcel ID is now inactive on the Grand List. Moved by Billy Obenauer; seconded by Craig Bruder. Carried, 5-0-0.

James Serrao Property

Motion. To accept the Board of Listers' recommendation of the Homestead Grand list value on Parcel ID 180137.1 (Serrao property) be changed from \$257,500 to \$267,000. Moved by Billy Obenauer; seconded by Craig Bruder. Carried, 5-0-0.

14. FY14 Budget Preparation Schedule

Lon McClintock reminded all present that weekly meetings will begin on Dec 3; other dates are to be determined.

15. Diesel Fuel bid – Status/Action

Margy Becker reported that the bid from John Ray & Sons was not for a fixed price (See minutes of Nov 5); thus, no contract has been signed.

Motion. To accept the bid of John Ray & Son for delivery of diesel fuel at 18 cents per gallon above their cost at the Port of Albany. Moved by Karen Mellinger; seconded by Craig Bruder. Carried, 5-0-0.

16. Request for Shoe Recycling-Transfer Station f/b/o MAU girls varsity tennis

Motion. To accept the proposal for the MAU girls varsity tennis team to collect shoes for recycling. Moved by Karen Mellinger; seconded by Billy Obenauer. Carried, 5-0-0.

17. Town Administrator's Report

Margy Becker reported that the Treasurer, Bill Fisk, wishes to bring financial reports to the next meeting.

18. Other Business

Bill Obenauer thanked the Board for its understanding of his recent schedule conflicts, which will be resolved next semester.

The holiday tree lighting was scheduled for Dec 9, as proposed by Karen Mellinger.

Lon McClintock will send the Selectboard a partial budget. He asked members to consider mechanisms for adjustment of highway department compensation, given the anomalies vis-à-vis compensation in other towns.

19. Minutes

Approval deferred until the next meeting.

20. Warrants

Motion. To approve Payroll Warrant # 19 (retirement) in the amount of \$ 128.15. Moved by Billy Obenauer; seconded by Karen Mellinger. Carried, 5-0-0.

Motion. To approve Payroll Warrant # 19 in the amount of \$ 8928.62. Moved by Craig Bruder; seconded by Carl Korman. Carried, 5-0-0.

Motion. To approve Payroll Warrant # 20 in the amount of \$ 6,690.58. Moved by Karen Mellinger; seconded by Carl Korman. Carried, 5-0-0.

Motion. To approve Check Warrant # 13 in the amount of \$ 90,668.46. Moved by Craig Bruder; seconded by Carl Korman. Carried, 5-0-0.

21. Executive Session: Real Estate Negotiations – New Town Garage

Motion. To move into Executive Session at 9:45 p.m. to discuss a contract matter with respect to real estate negotiations and the New Town Garage. Moved by Billy Obenauer; seconded by Craig Bruder. Carried 5-0-0.

22. Adjournment

Motion. To adjourn the meeting at 10:50PM. The motion was seconded and carried unanimously.

Respectfully submitted,

Sandra Mangsen
(Recording Clerk)