

**MINUTES OF THE SHAFTSBURY SELECT BOARD
NOVEMBER 27, 2006
COLE HALL
SHAFTSBURY, VERMONT**

Board Present: Wynn Metcalfe, Chairman, Cinda Morse, Bill Pennebaker, Karen Mellinger

Board Absent: Jim Mead

Others Present: Jim Carter (DRB), Jackie Carter, Phylis Porio (DRB), William Jakubowski (DRB), Michael Nolet (Creative Imaging Solutions), Aaron Chrostowsky, (Town Administrator), Susan Swasta (Recording Secretary)

1. Call Meeting to Order:

Chairman Wynn Metcalfe called the meeting to order at 7:00 PM.

2. Announcements:

There were no announcements.

3. Conflict of Interest:

Chairman Metcalfe asked if any Board member had a conflict of interest with any of the issues on tonight's agenda. None did.

4. Warrants:

The following warrants were presented for approval:

- PR#27R - \$ 348.52 Payroll Warrant
- PR#21 - \$ 8.039.11 Payroll Warrant
- AP#25 - \$ General Warrant

Cinda Morse made motion to pay warrants. Karen Mellinger seconded. Motion carried 4-0-0.

5. Minutes:

November 20, 2006 Minutes:

Approval of November 20 minutes was postponed until the next meeting, since some Board members had not had an opportunity to read them.

November 20, 2006 Budget Committee Minutes:

Bill Pennebaker made motion to approve the November 20 Budget Committee minutes. Ms Morse seconded. Motion carried 4-0-0.

6. Public Comments:

There were no public comments.

7. Agency of Natural Resources (ANR) Enforcement Action:

Chairman Metcalfe asked that the Board approve Town Attorney Rob Woolmington's settlement with the ANR in this matter. Mr. Woolmington has indicated that there will be no further negotiations with the state. Aaron Chrostowsky needs Board approval to sign the agreement with ANR prepared by Mr. Woolmington.

Ms. Morse made motion to give Mr. Chrostowsky permission to sign off on the ANR document prepared by Mr. Woolmington. Ms. Mellinger seconded. Motion carried 4-0-0.

8. Construction Services for Landfill Gas Remediation Project:

Mr. Chrostowsky reported on a proposed service agreement with DuBois and King, designer of the remediation project, to answer technical questions and visit the site three times during construction to make sure specifications are being followed. These services would cost \$3,250. Mr. Chrostowsky recommended having this done because he feels the town has too much at stake to not have things done correctly.

Ms. Mellinger asked if the work is that complicated, and he replied that the construction contractors may not have the technical expertise to ensure that it's done right. Both Ms. Mellinger and Mr. Pennebaker felt that this is a lot of money. Chairman Metcalfe suggested having Highway Foreman Ron Daniels look at the remediation plan. If Mr. Daniels thinks the work is simple, oversight may not be required.

Mr. Pennebaker reported on an error that he had picked up in the DuBois and King plan caused by taking distance figures from KAS's plan instead of measuring actual distances. He felt that they should have checked these distances for accuracy. Mr. Chrostowsky will meet with Mr. Daniels on the remediation plan and report back to the Board.

Ms. Mellinger asked if the problem with the methane readers has been resolved. Mr. Chrostowsky replied that it has, and that the state is paying for the new meters. She asked if measurements have been taken in the meantime, and he stated that they have not. Mr. Pennebaker asked Mr. Chrostowsky to let him know when the new meter comes in so that he can add a capture system to it.

9. Development Review Update:

Chairman Metcalfe invited Development Review Board (DRB) Chairman Jim Carter and Vice Chairwoman Phylis Porio to come to the table for discussion. Mr. Carter read a report to the Select Board dealing with enforcement of zoning bylaws. He noted that all DRB members have reviewed the report, which describes two existing situations that have come before the DRB and need to be dealt with promptly and fully if in violation. One case involves a residential property used for storage of tractors and trailers, fuel, and quarried and mined materials. The site generates large-vehicle traffic. Mr. Carter personally observed use of an oxyacetylene torch on one of the vehicles. He stated that, after a period of inaction, a notice of violation had been served, the owner defaulted on the violation, and the matter went to Town Counsel. No further direction or attention on the matter has been forthcoming.

The second case concerns a property at the southwest corner of North and Airport Roads being used for an industrial storage facility and mining operation, in violation of state laws and town zoning bylaws.

Mr. Carter stated that town officials must take prompt action on enforcement in these cases. The integrity of the DRB relies on enforcement. He asked the Select Board to conduct an investigation as to whether Town Counsel has been advised to take legal action in the first matter.

He also asked the Select Board to direct the Zoning Administrator to investigate the second situation, in order to ascertain whether a zoning permit exists and to issue a detailed notice of violation and required remediation. Mr. Carter noted that the property is zoned roadside commercial but has never had a change of use from residential filed.

Mr. Carter stated that the town cannot continue to ignore these two situations. Most citizens comply with regulations, while a few thumb their noses at the laws of the community. Chairman Metcalfe asked if there is a personnel issue to be addressed, and Mr. Carter replied that there is. This must be handled in Executive Session.

Ms. Morse asked if these situations represent violations that have been identified. Mr. Carter replied that they present serious safety concerns that have not been addressed or followed through on. Chairman Metcalfe noted that there have been two or three occasions when the DRB was told that Town Counsel was moving forward when this was in fact not happening.

Mr. Carter noted that if there were to be an accident resulting from failure to act, it would result in devastating public

relations for the town. Chairman Metcalfe asked Mr. Carter, Ms. Porio, and Mr. Jakubowski to remain until the end of the meeting for an Executive Session. They agreed to do so.

10. Other Business:

Chairman Metcalfe reported that last week Town Clerk Judy Stratton had talked to the Board about putting all of the town's minutes on computer by scanning and indexing them. He then introduced Mike Nolet from Creative Imaging Solutions to explain how this would work.

Mr. Nolet attempted to show Board members the document viewer on a laptop computer, but the program was not working, so he took questions. He explained that records are scanned, then OCR (optical character recognition) is used to create create online PDF (portable document format) documents, permitting full text searching across all documents. Up to six indexes may be created for each set of documents. Storage is on CD's.

Mr. Nolet stated that there is a \$1000 one-time cost for the document viewer, and then a per-page charge based on the number of indexes. His company is willing to do the project in increments. Mr. Pennebaker asked about ongoing expenses, and Mr. Nolet replied that updating usually takes place every six months or annually, He estimated the costs involved. Chairman Metcalfe thanked him for the presentation and said that Board members will discuss this and get back to him.

11. Executive Session

Chairman Metcalfe asked for a motion to permit a nonmember of the DRB (Jackie Carter) to remain present during Executive Session.

Ms. Mellinger made motion to allow a nonmember of the DRB to remain present during Executive Session. Ms. Morse seconded. Motion carried 4-0-0.

Ms. Morse made motion to go into Executive Session (Personnel). Ms. Mellinger seconded. Motion carried 4-0-0.

Board went into Executive Session (Personnel) at 7:45 PM.

Board came out of Executive Session (Personnel) at 8:35 PM. No action was taken.

10 Other Business (Resumed):

Ms. Mellinger asked if new guardrails have been put up. She did not see them on Sawmill Road during a drive there today. Mr. Chrostowsky replied that they should have been put up because Mr. Daniels had said they would come in on November 21. He will check with Mr. Daniels on this.

Chairman Metcalfe gave a follow-up on the discussion he and Ms. Morse had had with Trevor Mance of TAM. He reported that the construction and demolition (C and D) tonnage and cubic yardage being brought in is was under the limits allowed by the state.

Ms. Mellinger asked if TAM's C and D activity has stopped. Chairman Metcalfe replied that it has. Mr. Pennebaker noted that Buzz Surwilo's letter on the matter backs the position taken by the Board last week. Chairman Metcalfe stated that Mr. Mance had already agreed to those conditions during the meeting with Ms. Morse and himself.

Mr. Pennebaker said that his only issue had been the off-hours activity. Ms. Morse noted that last week's motion had included a clause that activity would cease until the state defined permitted activity, and that now that the state has done so, a new motion should reflect this.

Ms. Morse made motion that all bringing in of solid waste materials will take place only during hours that the town transfer station is open, in accordance with the rules set by the state.

Ms. Mellinger asked if all private C and D should be forbidden. She stated that the town cannot verify that TAM's private C and D from Shaftsbury. Chairman Metcalfe replied that if TAM is taken out of the equation, it is not possible to verify where anyone's C and D comes from. Any contractor may be bringing in a large amount of C and D

without identifying the source.

Ms. Mellinger then asked if there should be some kind of policy on large haulers, because if a large load is brought in, the limit for the day will be reached. Ms. Morse saw no problem with this. Chairman Metcalfe asked for a restatement of Ms. Morse's motion.

Mr. Pennebaker made motion that all bringing in of solid waste materials will take place only during hours that the town transfer station is open, in accordance with the rules set by the state. Ms. Mellinger seconded. Motion carried 4-0-0.

Chairman Metcalfe stated that from now on the Board will put off discussion of matters that everyone is not informed about until the following week. This will ensure that all have done the homework and are ready to work together.

Mr. Chrostowsky discussed the problems with Pat Smith's retaining wall. Ms. Smith, of Grant Street, claims that a culvert that was replaced has caused frost heave and damaged the wall, and that the town should fix the wall. Mr. Chrostowsky and Mr. Daniels disagree. Mr. Daniels stated that the culvert was not replaced, and that it is old but it works. Chairman Metcalfe asked Mr. Chrostowsky to set up a site visit.

Mr. Pennebaker asked if there has been any word from the state on landfill recertification, and Mr. Chrostowsky replied that there has not. He will call, but it is now the state's responsibility.

Mr. Chrostowsky reported, regarding the sidewalk project, that Mr. Daniels will do some digging for the archeologists tomorrow. He is getting feedback from engineers for the design of the project.

Mr. Chrostowsky reported that he will be attending a regional meeting on insurance to be held by the Vermont League of Cities and Towns (VLCT). He asked if the Board wants him to get a quote from Blue Cross/Blue Shield, even though VLCT chose to go with CIGNA. After discussion, it was agreed to get quotes from both and to see what VLCT has to say at the meeting.

Chairman Metcalfe noted that five or six people have failed to come in to meet on the budget, so it will probably be necessary to set a meeting for another night.

The meeting adjourned at 9:05 PM.

Respectfully Submitted,

Susan M. Swasta