



Selectboard

Town of Hinesburg
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Meeting Minutes – Nov. 5, 2018 Hinesburg Town Hall

Attending the meeting; Phil Pouech, Aaron Kimball, Tom Ayer, Andrea Morgante, Merrily Lovell, Renae Marshall (Town Administrator), Frank Koss, John Little, Matt Giroux, Deborah Goudreau, Frank Twarog, Charlie Baker, Ken Brown, Carol Jenkins, Steven Giroux, Bob Linck, Stevie Spencer, Johanna White, Dena Monahan, Bud Allen, Dennis & Marion Willmott, Jean and Vince Masseur, Patti Drew, Mary Jo Brace, Ben Avery, DeeDee Erb, Peter Erb, Bob Hyams, Barbara Forauer, Miriam Crane, Jerrilyn Miller, Nancy Baker, Chris Hendel, Cynthia Hendel, Debra Howard, Heidi Simkins, Barry Russell, Bryce Busier, Meg Handler, Roberta Soll, Mary Beth Bowman, Nina Frasier, Kate Schubart, Bill Schubart, Dan Silverman, Sally Reiss, Theora Ward, Jean Kiedaisch, Matt Kiedaisch, Catherine Goldsmith, Rik Palieri, John Kiedaisch, Ginny Roberts, Geoffrey Gevalt, Patricia Whitney, Mary Crane, Peter Erb, Barb Segal, Ellen Dooley, Andres Roomet, Richard Faesy, Emily Bergan

Meeting was called to order at 7:00 PM.

Additions/Deletions/Changes None, but no executive session needed.

Public Comment None

Chittenden County Regional Planning Commission (CCRPC) FY18 Annual Report Presentation

Charlie Baker from CCRPC came to check on the services they provide to the town. Andrea M. serves on the board. Phil P. recognized our Hinesburg representatives on the board and committees. CCRPC helped with the South Village Sidewalk project (to condos, Meadow Mist), grant applications, Municipal Roads General Permit Compliance, grants-in-aid, and more. In the Capital Program, they are hoping the Village North Sidewalk will happen in spring 2019, and the Village South Sidewalk in 2020. The VT 116/CVU Road intersection is scheduled in 2019. There were no additional questions for Charlie.

Consider Water/Wastewater Allocation Request from BlackRock Construction (Haystack Crossing)

No one present; the Board had asked for the number of ADA apartments in the building, and the number of low income units in the senior housing. They received some information from BlackRock and Alex Weinhausen. Phil P. reported that Alex W. said we could add stipulations about how many low income units are required (he is required to have 5 units outside, he is committing to 10 in senior). Andrea M. would like to ensure that needs that have been identified (10 have to be permanently affordable based on inclusionary zoning requirements 5.21.9). She would like to tie it to water. Tom A. said he agreed with tying it in, and Aaron agreed that it makes sense to make it a condition. Phil P. pointed out this is almost our whole allocation for this category, so it is important. He would propose asking Renae to draft something with these conditions on there, to vote on at next meeting. Andrea drafted something already, and will pass her draft on to Renae. 50 senior housing building will also put demands on emergency response, and Phil P. mentioned we will need to speak with Frank etc. Andrea M. said we may need to

have additional research done as part of Act 250. Ben Avery entered the meeting; they won't be doing anything until they drill the well, then they will move on to the second piece.

Phil P. proposed jumping ahead to budget priorities, as they were ahead of schedule.

Discussion of Budget Priorities and Draft Capital Improvement Plan and FY 20 Budget Discuss Departments Adopted by Selectboard Members for the FY20 Budget Season

Rena M. said this is a continuation of last meeting. She asked the Board to think 5-10 years out as far as needs. Phil P. asked when she expects input from department heads. Worksheets are due back Nov. 21. Andrea M. proposed adding the Richmond Rd. sidewalk as a capital project. Phil P. agreed this would be worth adding. Andrea would also like to add treating and replacement of street trees (ash). Rena M. said she tentatively scheduled Paul Wieczorek (town tree warden) at the next meeting. Andrea would also like to add energy efficiency or generation to public buildings (such as solar); Phil mentioned new town garage. Phil P. would like to add water/wastewater for the town. Andrea would also add town website; Phil P. mentioned looking at the Killington website. Tom A. would like to see movement on lot 1 (park). Andrea asked and Rena confirmed that they would do water/wastewater separately (in June). Phil P. asked about health insurance costs. Rena M. answered they are going up.

Rena said they should be looking at it, thinking about it, meeting with department heads. The Board should let Rena know if there's a week they won't be able to attend. All felt Mondays were good (Dec. and Jan.). Rena encouraged public participation in the budget process.

Review Minutes from 10/29/18

Aaron K. **made a motion to approve the minutes with any amendments**; Tom A. **seconded** the motion. Two minor amendments were made; the Board **voted 5-0** to approve the minutes.

Consider Approving Warrants

Phil P. **made a motion to approve warrants including payroll as presented to the Board**. Tom **seconded** the motion. The Board **voted 5-0**.

Town Administrator Report

Rena M. announced that budget worksheets are due back Nov. 21. Town report submissions are due Dec. 14. They are actively getting information to insurance companies for bidding (property, liability, workers comp).

The Town Garage open house is scheduled for Sat. Dec. 1, 8 AM-12 PM. On Nov. 13 (Tuesday), CSWD will be hosting a forum for Hinesburg residents at the main hall. Phil said it is designed to get input on what town folks would like to see for drop-off center, and to show support of CSWD coming back; it would be good for public to attend. Department head meeting Wed. Nov. 14, 10 AM. Safety committee meeting (walkthrough of water/wastewater) Tues. Nov. 20. Voting tomorrow, 7 AM-7 PM. John Titus just gave his notice, so we will have an opening in the Highway Dept. Also have an opening for the Health Officer.

Selectboard Forum

Tom A. said based on Ray's recommendation of a sidewalk up Richmond Rd., he'd like to see a community-driven project of neighbors up through there securing easements. It could be a trail that is off the road, doesn't have to be paved at this point. Andrea M. said we have explored creating it in the right of way, but this will require some easements. Around Iroquois Manufacturing there is a safety concern. Phil P. agreed it is a great idea. We could consider putting together a small committee, including Highway Dept. A member of the public asked about bicycles. Andrea replied we'd like to consider bicycles, but then we have to push the ditches over. Phil P. replied it is challenging area.

Tom announced that Quadra and the Growlers will be playing Fri. Jan. 4 as a fundraiser for the Bissonette Rec Fields.

Discussion Regarding Electric (EV) Car Charging Station

Richard Faesy and Emily Bergan (Energy Futures Group) introduced themselves. They'd like to seek permission, then ask for 10% town match to put in a public electric vehicle charging station (90% would come from VW settlement funds). They have talked with police chief, and propose a location at the southeast side of the police station parking lot (there is a preference in the grant for near ADA). The charging pedestal would have two cords. Power for this (that wouldn't go across new asphalt to the north) is from the south side of the fire station (120-130 ft. of trenching). Would make sense to do a credit card charge (instead of town paying for power). It would be \$20,000 for everything, and they need to come up with 10% (could be in-kind labor – excavation and trenching perhaps). Phil clarified this is a level 2 charge (a few hours to charge). Discussion ensued about how the town would be reimbursed. Andrea asked about putting a station in the new parking lot (there is a conduit there); Phil P. asked about putting one in the Commuter Lot. They mentioned they could apply for a second round of funding. Phil P. pointed out charging at NRG and CVU lots aren't public. They'd save about half of this by using existing conduit. Tom A. was concerned about getting blacktop fixed; he also mentioned that this area is a snow collecting area. Richard and Emily clarified they haven't talked to Al Barber yet. Chief Koss was supportive.

Andrea M. was supportive and would commit to 10% match (\$2000 or in-kind); Aaron agreed. Chuck Reiss (Energy Committee) mentioned they are supportive of this effort. Peter Erb asked if there are two handicapped spots; no, there is only one. Does it mean no one else can park there? You can't block the handicapped spot. Phil said he'd propose moving forward and putting together an application. They can make the motion next time.

Richard and Emily will figure out questions about ADA, and check with Fire Chief.

Presentation by Responsible Growth Hinesburg (RGH) on Strategies to Purchase Lot 15 Without Taxpayer Funding

Phil P. reminded everyone that the DRB denied the Hannaford's application, in part based on non-compliance with the Official Map. The Selectboard has had legal counsel and discussion about this; they will not move in one direction or another tonight. It is a complicated issue. Andrea M. said the Selectboard has 120 days to act after the DRB denial. A member of the public asked how many days it has been. Phil replied 120 days will reach into February.

Catherine Goldsmith, member of RGH, would like to save lot 15 for public use. It has been proposed for development, and this has proven difficult. It is an essential part of drainage from Lake Iroquois, and runoff from this will overtop Route 116 with a 50 or 100 year storm. Past suggestions have included affordable housing, farmer's market, play space, senior housing. They have collected \$100,000 to start paying for the land. The town could also commit funds from the VT Gas payment, or the Land Conservation fund. RGH, with their donation, would only require that the 1.2 acres of wetland be protected forever, and the land be used for community space. They would pursue grant funds for wetlands restoration.

Andrea M. mentioned that the legal advice they received was that they could accept money from a private group or individuals.

Tom A. was concerned with eminent domain being used against the wishes of the owner of the land, without a rock solid use in mind. He felt eminent domain is only for essential community function (infrastructure). This is not about a store, but a parcel.

Merrily L. said the hydrologist made clear that this is an essential wetland; this is the only place this can be distributed and collected. We will have more rain throughout the year, and she feels this is essential infrastructure. She thanked RGH.

Aaron K. said there is no question that eminent domain is a serious consideration; he felt stormwater is a compelling reason. From what we know about stormwater, this is a significant parcel.

Phil P. brought up the concern for the Giroux Trust that has been dragged along in this process. They have been burdened with this large problem. If this process moves forward, what is the value of this property? He would want the process to be fair. He also felt it would be hard to request the town spend a significant amount of funds on this. He reminded the Board and public that the legal issues associated with this are not cut and dry. There could be legal costs associated with this action; he would advise the Selectboard to move cautiously in whichever direction they choose.

Phil opened to the public; keep away from wanting or not wanting Hannaford.

Catherine G. said their understanding is that this is a way to bring this to a close for the town. She said it doesn't seem right for RGH to dictate what needs to happen on the land. This is a way to get parties out of these agreements, and potentially help heal the situation.

Bob Linck asked if they have a sense of what family's terms might be in terms of price. Phil P. said he has no legal ability to answer; if they were to move forward there would need to be an assessment done. Bob L. suggested getting a mutually acceptable appraiser signed on, if the family was willing to talk about a sale.

Frank Koss, Hinesburg resident, stated that the only fair price would be the one Hannaford's is paying them. He applauded their patience. Hannaford's had no other place they could build (because of 20,000 sq. ft. cap); we could have stopped this a long time ago. With 400 new housing units proposed, he felt it would be nice to have a regular grocery store. He brought up lot 1 – we've done nothing there in 13 years he's lived here. He doesn't believe we will do anything with lot 15. He had problems with the ethics of all of this. He felt Hannaford won't just walk away from this. He mentioned that the cost of the lot is only part of the consideration; it will bring another water user to his (high) water bill. He felt there are a lot of people out there who would like to see the store there. He proposed we not spend anymore, until we can bring it up at Town Meeting (do we want to continue spending legal fees); the people should vote on this.

Phil responded that it could potentially be an item for town meeting. Unfortunately, the 120-day deadline would be before Town Meeting.

Nancy Baker pointed out there is no plan for anything because current plan has been rejected. Stormwater is a huge question; if town wants to keep repairing roads that flood due to parking lots, impervious surfaces – it is a lot of money. If Hannaford's walks away because it's not successful, we are stuck with a big parking lot. Phil P. replied that they are only here for official map purposes tonight.

Tom A. brought up the ditch between Thistle Hill and lot 15; how is water coming off the side hill and being treated on lot 15?

Peter Erb said town has made plans for lot 1 (putting in parking, eliminating greenspace). It is a small area for town of this size. We need community public space somewhere.

Bob Hyams asked what the town's obligation is to defend the DRB's decision in Environmental Court. Phil replied that the policy has been that the town defends the DRB. Does the town know how much it costs? Phil said last year was \$25,000 (for a mix of legal things). He would expect there would be costs either way.

Chuck Reiss said it would be ethical that we'd give the property owner the appraised value. Would there be a way to get public input on this before town meeting? He felt it would be valuable to know the support or lack thereof of the town.

Mary Crane said they have 120 days to start the process; if they start the process then can they extend the time period? Phil replied they have received advice that they could extend the time. She asked if anyone has done this before on the Official Map? Phil replied it doesn't happen often.

Andrea M. said they do have to begin the process, but that the 120-days is directly out of the law and couldn't be extended. There should be an agreement with Giroux Trust to agree on a price (no desire to undercut the price they agreed on with Hannaford). This can be a cooperative, amicable process with legal representation for both.

Phil P. said he thought that this could be a way to find a peaceful resolution to a difficult issue; maybe it is, but it is complicated.

Frank Twarog said he is reminded with his family's experience with eminent domain. Their family farm was taken for Mass Turnpike. It was a very painful experience. He recommended the Board take the view of landowners: compensation may not be the only thing to consider. When he worked out west, the family hired local people, and was proud; something to be said for being an employer in town.

Mary Beth Bowman asked if Giroux Family Trust were to tell us a price, could it be a simple process? Does it have to be so complicated? The land was going to be sold anyway, and we can come up with the money without taxpayer money. If it was compensated the way they were going to get from Hannaford, it seems apples to apples to her. Phil P. said they may have other concerns/expectations. Proposal from RGH is interesting and adds to the story.

Tom A. spoke to Frank's point about this being more than a paycheck; their parents created Commerce Park for people to do business in town, and beef up tax rolls in town. They did not want this to be a town-owned property. It isn't keeping with what this parcel was created for. The question he would ask is why this lot? What about other lots (lot 1)? What about other developers who would want to come to Hinesburg?

Ken Brown said he wanted to address 20,000 sq. ft. issue. It was a Select Board mistake (he was on the Select Board at the time). They were opening up the section where Kinney Drugs is for commerce and residential, and they made the zoning there less than 20,000 sq. ft. They looked at Commerce Park, it was for 30,000 sq. ft. – they asked if they should zone lot 15 to 20,000 sq. ft.? The Board said they shouldn't worry about it because it was wetlands, and you couldn't build a 30,000 sq ft building there.

Rik P. said a member of the public said that Alex called a meeting about what we want for this town, and no one wanted a big box store here. Will this building change the character of the town? It seems there has been no compromise to build a smaller store that meets community.

Rolf K. said the Official Map deserves an amount of respect. Inherent in planning process is determining what we will need in the future; lot 15 goes back 10 years as a valuable public resource. This is what we have governments for; he feels the map should be respected and adhered to. He pointed out that Hannaford had recourse; Cheese Plant was available for sale at that time, and they knew full well about the Official Map and the designation for this parcel.

DeeDee Erb asked if there was a point in Hannaford's process when they tried to accommodate the community (20,000 sq. ft. instead of 30,000 sq.ft.). Catherine G. said their plan has not changed.

Patty Whitney said there are a lot of things to consider; however much Hannaford has invested in this, this shouldn't be a consideration for the Board to consider in this decision. Tom A. said he is concerned about future prospects that would be turned away. Andrea M. said they had every opportunity to come to the Selectboard or DRB, but chose instead to say the Official Map didn't count or to use the inadequate farmer's market. The town was looking at lot 15 because it could be a quiet park (not right on 116) – bandstand would be competing with traffic in other sites (lot 1). They also felt you could consider proximity to Canal walk as part of a larger park. She agreed that the Planning Commission didn't give enough notice to landowners, but they didn't hear any complaints from landowners that it was on Map. The decision before the Select Board now is if we act with what is before us on the Official Map.

Stevie Spencer encouraged the Board to not be influenced by the legal fees, but instead consider what is best for the land. Put the earth first.

Meg Handler would like to see the Board go forward to try to acquire this piece of property. It has become abundantly clear that kids/families need contact with natural spaces. It is becoming harder to access that. She sees no better use for eminent domain than acquiring natural spaces for public use. Traditionally we think of eminent domain as used for highways, but this is for public good. It is time we prioritize that. This is a natural destination and a central location, and an exciting opportunity.

Deborah Howard stated that everyone in the town wants to do right by the Giroux's, and heal the divisions. She trusts the Board to do this well with legal aid. If the message sent to developers is if you won't work with the town, you don't get your way, this will make her not disappointed.

Nancy Baker said in the past we were taken advantage of by developer who built a building larger than allowed, and was fined. Did this money go back into legal funds? Phil P. said it went into general and is long gone.

Phil P. closed the public hearing, and thanked everyone for coming. They will look at it and take the necessary time to make a good decision.

Peter Erb asked what actions will be taken, and how to communicate. Phil P. said they will get legal advice, and they continue to get information coming in. They will try to keep the process open, and packets they have are open. Merrily L. asked if they could do a FPF update if there are new developments. Phil P. said as they get close, they would likely have another meeting. Peter Erb recommended they not squander the 120 days. Andrea M. said some votes require 90 days. Phil P. said they can ask for a motion to extend the deadline.

Bob Linck commented that on a project he worked on in Newbury, they voted Sept. 26, petition arrived the day after, and on Nov. 27 they had a second vote (60 days).

Phil P. said they said they would have to discuss possible options (special vote may be a good option); it seems they should make a decision as a Board. It is hard to measure the goals of the town and what people think. Tom A. said he is in favor of a vote to get pulse of the town, but he doesn't think will end it (Andrea M. said it will continue in court). Andrea M. said the vote would be should the town acquire lot 15, not using taxpayer dollars. Merrily L. said even if people want Hannaford, it doesn't fit in with Official Map. Phil P. replied that it is a Select Board decision – to act on that or not (they don't have to follow DRB's decision, because they have to weigh what eminent domain means). Phil P. said assuming RGH comes up with funds, it messes with the Select Board process, because it usually would come before the Board for the funds. Andrea M. said yes, but with donations of land, the Board still has to decide if the town can keep up with the maintenance.

Aaron K. asked how it would work legally; what if the donation doesn't happen? Phil P. said the answer is in the question Andrea M. posed. Andrea M. said we can word it so that the consequences of voting

no are clear. Phil and Andrea said they could add a second item to vote on, should the town put taxpayer dollars towards it?

Tom A. said the Official Map language says you should have a use in mind, and that is why we rejected it the first time. Andrea M. said we don't have the farmer's market. Phil P. felt it would be more palatable to say what they were going to do with it when they acquire it.

Aaron K. heard mentioned gas settlement money, is that tax dollars? Is that permissible? Should we say no town money? Phil P. said the Select Board needs to talk about this. Andrea M. remembered that the wording was that we'd invest the interest for that purpose; the principal would remain invested.

Merrily L. said there are more than two options, that Hannaford could leave, and the Giroux's are left with a lot they've been stuck with for 30 years. Phil P. reached out to Steve to see if he'd talk about it. Merrily L. asked if we should formally invite them.

Tom proposed a draft timeline: legal input, Board understanding, Giroux's opinion, understand official map and what can go into certain places, why this spot is so important, get public pulse

Phil P. felt this was big enough issue to get public pulse.

Merrily L. asked about when to do appraisal.

Phil P. suggested meeting with Town Attorney next meeting, and ask him about when to do appraisal.

All felt they should plan for an hour beforehand to give this appropriate time, and they should start at 6 PM on Nov. 19th for executive session? The Board won't meet on Nov. 12th.

Andrea M. asked about why minutes from VT Gas meeting are incorrect. Renae M. said it was a long meeting; what VCAM captured was different than what was in the minutes. Andrea M. states she wanted to keep \$60K in principal, and use interest.

Phil will tell the Town Attorney where we are, and propose 3-4 questions for him. The Board felt it was a good meeting, and everyone was respectful. Merrily L. commented it was nice Frank K. and Frank T. said something; it would have been nice to hear from others (Giroux's). Tom A. said they didn't because they didn't know what was on the agenda, so they didn't come.

Adjourn

Aaron K. **made a motion to adjourn.** Andrea M. **seconded the motion.** The Board **voted 5-0.** The meeting adjourned at 9:45 PM.

Respectfully submitted,

Kate Kelly