

ST. JOHNSBURY BOARD OF SELECTMEN
REGULAR MEETING
MONDAY, FEBRUARY 11, 2013

The St. Johnsbury Selectboard met in the Pomerleau Building, 1st Floor on Monday, February 11, 2013 at 7:00 p.m. for its Regular Meeting of the Select Board. Present were: Chairman Jim Rust, Rodney Lamotte, Bernard Timson, Kevin Oddy, and Vice Chairman Alan Ruggles. Interim Town Manager Merelise O'Connor was also present.

The meeting was called to order and with the Pledge of Allegiance at 7:00 p.m.

PUBLIC ATTENDANCE

Brian Christman, Susan Dugan, Tim Persons, Jeff Moore, Bradford Hickox, Mike Fortier, private investigator James Cronan, Cindy Robillard, Joseph Rieckman, Tom Moore, Michelle Fay, Town Clerk/Treasurer Stacy Jewell.

PRESS

Shawn Gaffney from News 7.

PUBLIC COMMENT

Cindy Robillard asked for a general update on the progress in hiring a new town manager. Chairman Jim Rust responded that they currently had 3 candidates.

MINUTES

Chairman Jim Rust suggested tabling this discussion, but that there was a draft available to the public. The Board unanimously agreed with a motion made by Lamotte and seconded by Timson.

WARRANTS

On a motion made by Ruggles and seconded by Lamotte, warrants were unanimously approved.

LIQUOR AND CATERING LICENSES

On a motion made by Oddy and seconded by Ruggles, catering licenses were unanimously approved.

There were no liquor licenses to approve.

PRIVATE INVESTIGATOR JAMES CRONAN

Chairman Jim Rust clarified that the Board is asking for information. Mr. Cronan retired in 1999 as Captain of the Vermont State Police. His primary business function is to investigate public employees and perform management studies of public offices. His investigations depend on the specific needs of his clients. He said he doesn't waste time.

He has done file reviews which entail looking at documented evidence and then rendering an opinion. He has managed police departments for small time periods until Town's could hire a new head of the department.

Chairman Jim Rust wanted to clarify any public misinformation. He confirmed today that the State Police has not factually reviewed the case, neither has the Attorney General's office. The State Police did not have any information or documents delivered; they have only made recommendations on how to proceed through phone calls. The Attorney General stated that they don't get involved at this level.

Chairman Jim Rust continued that the Board will give no direction to the Interim Town Manager or Chief of Police of how to manage the department or to take over running the department, it's not the Board's job. The Board looks at overall policy and gathers information about policies and procedures. We could go into the investigation or wait for a new Town Manager, and look at other towns that have had issues.

Tom Moore asked why all the information has not gone to the State Police. Chairman Jim Rust replied that the wrongdoing was "alleged", and that the State Police didn't ask for any information. He had made a series of phone calls that included the Attorney General who doesn't handle cases at this level, and the State Police who recommended the Town draft a letter to the Colonel. The Colonel said the State Police would not handle this case internally and would not make a recommendation for a specific individual to handle it, but suggested the Town contact Rutland or Williston for the name of a qualified individual if it wanted to hire a consultant or investigator.

Cindy Robillard asked who has already reviewed the file. Chairman Jim Rust replied that 2 complaints had come before the Selectboard. One was delivered by email, and then followed up with a packet sent by mail, and one was stated before the board. Mr. Christman was found not guilty in his criminal case. The Chief of Police reviewed the file, but Mr. Christman was not satisfied and came to the Selectboard. The District Attorney has not reviewed the case.

Brian Christman stated that he had requested a complete file from the state's attorney and was given a CD that was not able to be opened. On January 14, he had requested public records, and on January 16 he received a letter from the town attorney as to when the records would be available. Attorney Sipples stated, later in the meeting, that information was provided within 10 days of the second request by Mr. Christman.

Tim Parsons suggested that the elected Town Agent Mr. Zuccaro handle this case instead of his partner, Mr. Sipples.

The Board continued discussions with private investigator Mr. Cronan. Chairman Jim Rust asked about the cost and scope of a file review. Mr. Cronan replied that it would take no more than two days, and he would look at whatever evidence was available.

Chairman Jim Rust asked about the cost and scope of a complete investigation. Mr. Cronan replied that it would average 4 to 5 days, but he would need to know the scope of the investigation before committing, as it could be more or less than 4 or 5 days. Lamotte asked how much it would cost, and Mr. Cronan replied that his hourly rate was \$75 per hour; an investigation would cost under \$2,500 and said "I don't waste your time."

Chairman Jim Rust asked Mr. Cronan about the cost and scope of a full review of the police department. Mr. Cronan replied that he would then perform a management study of the policies, procedures, structures, and communication.

Chairman Jim Rust asked Mr. Cronan how long his last full review lasted. Mr. Cronan replied that full reviews are complex, and could take 3 to 4 weeks.

Lamotte asked Mr. Cronan how his last 2 or 3 past cases were investigated. Mr. Cronan replied that he would give the Board and the Interim Town Manager the names of town individuals who would be able to discuss what he did for those towns. He did an investigation in St. Johnsbury related to a former Chief of Police a few years ago.

Chairman Jim Rust said that the Board was still gathering information, and it's important to get points of contact for follow up by the Interim Town Manager. The Board has not yet discussed the scope and is still gathering more information.

Mr. Christman said that he is investigating criminal action of 3 officers that put him in court.

Chairman Jim Rust said that the Board still needs to look at the policy and procedures and make decisions that are in the best interest of the town. The Board would extract any information, and make the final decision to move forward with any investigation or not to move forward.

Mr. Labounty asked why the charade, why put it off, why not move forward with the investigation?

Cindy Robillard asked the Board to clarify the motion to vote and authorization of funds to move forward. Chairman Jim Rust clarified that the motion made was to gather information and ask the investigator to meet with the board.

Mike Fortier asked the Board to define the scope, since it seems to be increasing with Mr. Christman's claims. This sounds like more of an investigation of the Police Department's policies and procedures. Chairman Jim Rust responded that no one has told the Chief of Police how to run the police department. The Selectboard will look at policies and the big picture, and discuss what the scope would be. The Board is not signing a contract at this time with Mr. Cronan.

Ray Labounty asked why the Board didn't hire someone to investigate or review the police department's policies. Chairman Jim Rust responded that the board members will

make or not make a motion to do that. Mr. Labounty continued that the scope of this investigation has increased at each meeting. Chairman Jim Rust responded that the scope has been the same all along, but that the media and public have other input.

Lamotte said that he is not ready to spend the town's money right now and needs more information. This has to be settled and not rushed into, and needs to know what the investigation and end results would be, and what the costs were of previous investigations. Mr. LaMotte moved to put the investigation off until more information about Cronan's cases could be obtained. The motion was seconded by Mr. Ruggles. Mr. LaMotte clarified that the information should include the subject of the case, the result and the cost. The information is to be brought for the meeting on the 25th. Discussions continued.

Mike Fortier asked what information the Board was looking for, and Interim Town Manager Merelise O'Connor replied that she understood the motion to direct her to obtain information about work Mr. Cronan has performed in other towns, the content, the result and the cost, along with references.

Tim Persons asked what the timeframe would be to gather this information. Chairman Jim Rust responded that if the Interim Town Manager has it by the next meeting that would be satisfactory.

The motion to table this discussion until the Interim Town Manager retrieved more information on Mr. Cronan that was made by Lamotte and seconded by Ruggles was unanimously approved.

ANTHONY EGIZI, STATE TRANSPORTATION, RIGHT OF WAY ISSUE

On South Main Street by South Main Auto Body, there is a historic right of way in place that has never been discontinued, and Mr. Egizi asked the Board to hold to the assumed right of way line to expedite construction. The bridge had been looked at for replacement or repair, and there are some structural issues underneath. Two years ago the state started a process to fix it or replace it.

Tom Moore said that when it was closed in 1927 the alignment of the road moved, so the historic right of way is against the landowner's property.

Oddy asked Mr. Egizi what the impact would be to the property owners if the Board decides to hold to the historic right of way. Mr. Egizi said that there would be only one property impacted, and the road would be moved and realigned. To keep the road where it is, the Board would need to adopt an assumed right of way, and then officially discontinue the historic right of way.

Oddy made a motion to direct the Interim Town Manager to write an assumed right of way letter, seconded by Timson and unanimously approved. (Note: The state required this letter to be sent by the Town Clerk, but was prepared by the Interim Town Manager.)

Oddy made another motion for the Interim Town Manager to find out what would be necessary to abandon the historic right of way, seconded by Ruggles and unanimously approved.

Chairman Jim Rust stated that there would be a need to set up a special Selectboard meeting for the South Main Street bridge project, to include sending notifications and invitations directly to property owners and any other citizens. VTRANS will talk about replacement of the bridge which is part of the scoping of this project.

Tim Persons asked if the interstate fence would be removed which might be better than a one-way. The Board responded that they can't strand the property owners.

TOWN MANAGER'S REPORT

Eastern Avenue Parking

Interim Town Manager Merelise O'Connor met with Shaun Donohue, AHS director. The state agency has 48 assigned parking spaces. Vehicles display green tags. Mr. Donohue asked for 5 more green tags for rotating existing employees who would be using the existing assigned parking spaces, and 6 visitor tags. He also asked to designate 3 spots for handicapped parking, and to post and enforce signage.

Chairman Jim Rust reminded the Board to refer to page 1, number 4 of the lease agreement between the Town of St. Johnsbury and AHS. There are 24 other parking spots with no overnight parking with the Town enforcing the east side of Pearl Street to include parking, signage, and cleaning of snow and sand. In the lease, none of these spots were designated handicapped parking, because the Town has no control of assigning handicapped parking and it goes beyond the scope of the Board.

Oddy stated that the town should be charging for extra tags and replacement tags. Town Clerk Stacy Jewell said that there is a \$5 accountability charge for replacement tags. All green parking tags are assigned to specific cars and match the parking permit number listed on the green tag and the handheld meter used by parking enforcers. Ms. Jewell also said that she could provide visitor tags that would not be assigned permanently to vehicles for the Pearl Street parking lot. All revenue from parking enforcement is deposited to the Town.

Chairman Jim Rust asked to table the discussion to be able to get more information from the Town Clerk. Lamotte made a motion to issue 5 additional tags and 6 visitor tags using the existing 48 spots specified on the lease agreement, which was seconded by Oddy and unanimously approved.

GMP proposed fishing pier, Fred Mold Park

Interim Town Manager Merelise O'Connor said that the offer of a fishing pier offer was part of the 1993 licensing, and, if built, would be a gift to the Town and future maintenance would be the responsibility of the Town. The size and design of the pier is

still negotiable, and she recommended that the Board name a small committee of people who like to fish to work with the designers.

Chairman Jim Rust said that this project has been ongoing since 1993, and that the planning commission should be involved to recommend the people who will be working with the designer. He also questioned the long term cost of upkeep, and there may already be something in the overall agreement that may fit. Timson recommended use of composite material. Chairman Jim Rust responded that the planning commission will look at all materials and many other things, and the Board will be able to see more than just the picture that had been presented today.

Tim Persons wondered if the fishing pier would be an attractive nuisance. Chairman Jim Rust responded that the planning commission does very good work, and this issue falls within the Town's plan of increasing recreation along the river.

Jeff Moore commented that there is a monthly meeting of the planning commission scheduled on February 19. If the Board is interested they should send this to the planning commission and get back to the Board.

Oddy made a motion to forward this to the planning commission for review and recommendation to the Board, seconded by Ruggles and unanimously approved.

Smoking restrictions for the Welcome Center outside entrance

Interim Town Manager Merelise O'Connor said that she had received complaints about the conditions regarding cigarette butts on the front porch area of the Pomerleau building. People are annoyed with having to walk through the ambient smoke and step through the discarded butts. She has started pursuing what rules may be established and is looking for recommendations regarding appropriate signage.

Chairman Jim Rust suggested working with the Health and Fitness Coalition who did free signage with Laura Ruggles to resolve issues.

Cindy Robillard asked for an update on the easements. Interim Town Manager Merelise O'Connor replied that of the 80 easements that were outstanding a couple of weeks ago, there are only 26 now outstanding, and she is pleased with that progress.

Timson said that since the contract is coming up for the Assessor's position, he would like to see her contract renewed for 3 years instead of 1 year. Timson made a motion for the Interim Town Manager to draw up a 3 year negotiated contract for the assessor's office, and to have the contract prepared before the next meeting in order for the Board to be able to act on it at the next meeting. The motion was seconded by Lamotte, but discussions continued.

Oddy disagreed and said that any contract changes need to be put to bid, and the Board should talk in Executive Session about the prior contractual issue to be resolved. Oddy asked the Board if they would be willing to withdraw this discussion until after the

Executive Session. Town Clerk Stacy Jewell said that any decision should be made quickly, as the towns grand list needs to be set by April 1. The current contract ends on March 21. Chairman Jim Rust said that the contract should have an end date of December 31, and that change should take place before the April 1 deadline.

Cindy Robillard asked if the current contract could be used as is, and if the Board could decide what to do for next year.

Tom Moore commented that the treatment plant contracts are signed for a 5 year term and have never gone out to bid.

Mike Fortier asked for an updated cost for contracted town management issues, and how much longer this expense will continue. Chairman Jim Rust said that the Board will decide that. Mike Fortier asked if it would be at least another two weeks, and Chairman Jim Rust replied "definitely". Jeff Moore said that he agreed with the December 31 expiration date of the assessor's contract.

At 8:30 p.m., Oddy made a motion to adjourn for Executive Session seconded by Lamotte and unanimously approved.

EXECUTIVE SESSION FOR CONTRACT, LEGAL, PERSONNEL MATTERS

1. Legal Item
2. Personnel Item

ADJOURNMENT

At 10:25 p.m., Ruggles made a motion to come out of Executive Session, seconded by Oddy and unanimously approved. The regular session was resumed.

Ruggles made a motion for the Interim Town Manager to ask Michelle Clark to provide a structural analysis on 2013 Memorial Drive FEMA proposal, seconded by Oddy, and unanimously approved.

Ruggles made a motion for the Interim Town Manager to conduct an actuary experience study for the 401a retirement plan, seconded by Oddy, and unanimously approved.

Timson made a motion for the assessor's contract to be drawn up to expire December 31, 2015, and for the Interim Town Manager to have the contract together and ready for signing at the board meeting on February 25, with a copy given to the full board before February 25. The motion was seconded by Lamotte. Discussions continued.

Mike Fortier asked if there was a fixed rate for the term of the contract. The Interim Town Manager Merelise O'Connor said that she would talk to the current assessor Linda Colby and present it to the board.

Cindy Robillard asked about what rules were in place of how someone is paid, whether by salary or contract. She asked if there had been a performance evaluation for this

contractor. Lamotte said that she's been here a few years and has done a great job. Cindy Robillard asked how often outcomes were evaluated. Oddy said that he wanted to clarify that this contract is specifically about a current employee.

Timson made a motion to have just this contract extended through December 31, 2015 and seconded by Lamotte. The negotiations are to clear up any questions about the independent contractor status, in accordance with the IRS regulations, to leave out setting set hours of work, for example, and to require that appropriate insurances are in place and any other issues. The price is to be negotiated. The discussions continued.

Mike Fortier said that there are laws that regulate how to title an independent contractor. Timson replied that the Board has had that discussion.

Cindy Robillard said that the wastewater contract was for a company as opposed to an individual. Chairman Jim Rust said that the liability insurance was not clear in the last contract, they need a copy of insurance placed on file and will make sure that it's written into a new contract.

Mr. Ruggles favored just continuing the contract until Dec 31 of this year to give the Town time to settle on a plan moving forward.

Oddy was opposed to the motion, and said that a contract of this proposed should be put out to bid. Chairman Jim Rust replied that there was not time enough with a new Town Manager coming in. The current contract needs longevity, and the Board needs time to work on where they are going with the assessor's office. The motion carried with a 3 to 2 vote.

At 10:45 p.m., Lamont made a motion to adjourn the meeting, seconded by Timson and unanimously approved.