

JOINT BOARD MEETING
Rockingham Selectboard & Bellows Falls Village Trustees
Tuesday, May 31, 2016

Present:

Selectboard: Lamont Barnett, Peter Golec, Ann DiBernardo, Joshua Hearne, Stefan Golec
Trustees: Myles Mickle, Stefan Golec, Colin James, Evelyn Weeks, Steve Adams

Also Present: Willis Stearns, II, Municipal Manager; Kerry Bennett, Recording Clerk; Mary Helen Hawthorne, BFDDA Executive Director; Library Trustees –John Bohannon, Martha Rowley, Ellen Taetzsch, Doreen Aldrich, Heidi Lauricella, Carol Blackwood and Leslie Lassetter; Library Director Céline Houlné; Deborah Wright; Jon Midura; Robin & Brian Story; Brad Weeks; Nancy & Jim McAuliffe

Press: Joey Powers & Alex Stradling, FACT8; Tory Jones Bonenfant, Eagle Times

Call to Order: Meeting was called to order at 6:00 p.m. by Selectboard Chair Lamont Barnett.

Additions to the Agenda for Routine Administrative Matters and/or Pressing Matters that will require ratification at a future meeting:

- Barnett stated that a letter had been received from Fred Kenney, Executive Director of the Vermont Economic Progress Council, requesting a letter of support for Chroma Technology for a grant application. *Peter Golec made the motion that the Rockingham Selectboard approve the letter to the Vermont Economic Progress Council in support of the application to Vermont Employment Growth Incentive being submitted by Chroma Technology as printed and authorize the Selectboard Chair to sign the letter on behalf of the Board. Motion was seconded by Joshua Hearne. Motion passed.*

Approve Minutes of March 29, 2016: *Peter Golec made the motion to approve the minutes of March 29, 2016 as printed. Motion was seconded by Joshua Hearne. Motion passed.*

Public Comment on items not on the Agenda – 3 minutes per person: None

Agenda:

1. Board Training – Attorney Ray Massucco thanked the Board for inviting him back and have the opportunity to talk with the boards. Massucco stated that he has been full time counsel for the Bellows Falls Village Corporation since 1983 and has represented the Town for many years as well as development office counsel and town agent, has sat on the Zoning Board and Planning Commission and has a fair amount of exposure to public service. Massucco noted that in the last 35 years or so the time and attention on public boards has increased dramatically. The legislature has imposed and continues to impose requirements on how we conduct ourselves as public officials. Massucco encouraged the Board members to read the statutes. Massucco noted that the open meeting law applies to not only the elected boards, but any committees, subcommittees, or any official body of the municipality. Massucco stated that first and foremost, boards are responsible for the general supervision of the municipality, which is setting policy and adopting a budget. The boards' function is not to run the day to day operations of the municipality.

Rockingham/Bellows Falls is a manager form of government with the Library Trustees being a little different in that there is no intermediary level of supervision. For the Town & Village, the only employee of the boards is the manager, not the department heads, not individual employees, not committees, etc. Massucco noted that in the case of these 2 boards, the Municipal Manager is their only employee.

Massucco also reviewed the setting of policies and encouraged the Board to stay familiar with these. Massucco stated that the other major function of the boards is to set a budget to be presented to the voters.

Massucco then explained that the ultimate responsibility for warning meetings is a board function. However, every board he is familiar with delegates that to a clerk, to an official, etc., but it is ultimately it is the responsibility of the board to see that the meetings are warned and posted.

Massucco then discussed the agenda noting that the board can make additions to the agenda at the beginning of the meeting, as the board just did, but if it is something of a substantive nature it has to be ratified at a future meeting. If it is minor, additions and changes can be made throughout the agenda. Massucco reminded the Board that the purpose of an agenda is to give the public notice of what the board is going to be discussing.

Massucco told the board that another reason to be careful about talking with employees is that in the event of disciplinary measures, and there are a series of steps outlined in the Personnel Rules and in the Collective Bargaining Agreements, and if this is grieved and the individual has discussed this with a board member, then the board member must distance themselves 100%. Massucco cautioned the board that if they are approached by an employee with a complaint they should stop this immediately and inform them to follow the appropriate steps.

Massucco noted that only boards can act, no individual board member can take action on their own that is going to commit the municipality. A board member can only act if they have been designated or authorized by their board by a proper vote but otherwise an individual board member has no authority unless authorized. DiBernardo asked if the Selectboard Chair or the Village President have any special authority that way, i.e. can they make decisions if they need to. Massucco stated that all board members have equal powers and the Chair and/or the President is responsible for setting the agenda for meetings. Massucco reiterated that individually the Chair and/or Village President has no greater or lesser authority than other board members.

Massucco noted that in reference to the open meeting law and email communication, if you are a public official sitting on a municipal board, don't use it. Email can be used to set an agenda or request additions to the agenda and talk about scheduling, but it cannot be used for a discussion on anything of substance. If there is a majority of the board in a discussion via email concerning anything of substance, this is an open meeting and is a violation.

Massucco then noted that every meeting is an open meeting with the exception of deliberative session and executive session. Massucco stated that the board cannot take a vote in executive session unless it involves an option on real estate. The Board can have discussions in executive session but stated that the board should use this cautiously. Massucco noted that a motion has to be made to go into executive session and there are certain reasons that require an additional motion that premature disclosure could be harmful to the municipality. Massucco noted that the 2 motions are not required for everything but it is safer to use the 2 motions for everything. No binding action can be taken in an executive session, minutes in executive session are not required and if they are taken are not subject to a public records request. Massucco also cautioned the board that they can only discuss in executive session the stated reason for entering executive session. If there is a need to discuss another item then the board should come out of executive session and make another motion to go back in. Massucco stated that unfortunately in the State of Vermont there is no penalty for a board member to disclose what went on in executive session to the public, the media, etc. Massucco stated that this is unethical but it is not illegal and in his opinion any member who violates this should step down and Massucco requested that the board members not disclose what was discussed in executive session. Barnett noted that although executive sessions are not subject to a public records request but the subject can be deposed in a court. Massucco stated that is true. For example, a board may be getting sued over the executive sessions and in order to establish a case the court may need access to what took place and a member can be deposed and be required under oath to disclose what went on in executive session. Massucco stated that this is one reason that boards do not take notes.

Massucco again reiterated that the board members should become familiar with the Personnel Rules, the collective bargaining agreements, the policies and ordinances and be very cautious as public officials. Massucco informed the Board that the Secretary of State's Office, the Attorney General's Office, and the Vermont League of Cities and Towns are all very helpful organizations and have a lot of information.

Barnett thanked Massucco for his presentation and Massucco in turn thanked the Board for allowing him to conduct this very important training each year.

Massucco then stated, on a personal note, that there are a lot of events in the community this weekend including Roots on the River, Pickin in the Pasture and the Farmers Market and urged everyone to attend.

Barnett then stated that he would like to take this opportunity to thank the Bellows Falls Fire Department and surrounding departments responding to the fire on Green Street. Those involved did a fantastic job of keeping the fire contained and there was very little if any damage to surrounding residences.

2. BFDDA Update – Mary Helen Hawthorne, Executive Director, thanked the Boards for their continued support and informed the board members that BFDDA would be asking each Board to increase its monetary support from the \$5,000 each to \$7500 each in the next budget preparation. Hawthorne distributed a list of items that are being worked on including the parking signs and the Downtown Designation renewal application. Hawthorne also noted that the Vermont Pretzel building has been sold and plans are being made for the space. Hawthorne noted that the draft of the renewal application is done and distributed for comments. DiBernardo asked about the brochure. Hawthorne stated that BFDDA will now be changing to rack cards which will be placed at welcome centers and other locations.

- a) **Approve & Sign Community Reinvestment Agreement:** Hawthorne stated that this is part of the downtown designation renewal application. *Stefan Golec made the motion that the Rockingham Selectboard approves and signs the agreement as presented. Motion was seconded by Joshua Hearne. Motion passed.*

Colin James made the motion that the Bellows Falls Trustees approves and signs the agreement as presented. Motion was seconded by Evelyn Weeks. Motion passed.

3. **Discuss Derelict Buildings:** Barnett stated that the Village President had requested this item and turned this discussion over to Mickle. Mickle stated that this item was discussed at length at the Annual Village Meeting a few weeks ago and asked if it was possible to make the Unsafe Building Ordinance as strong as the Grass Cutting Ordinance. Mickle stated he had 2 properties in mind – 25 Hapgood Street and 34 Old Terrace. Stearns stated that 25 Hapgood is the only property under the Unsafe Building Ordinance at this time. The property at 34 Old Terrace is owned by the Town following tax sale in February 2015. The property owners have 1 year to redeem a property after tax sale. Stearns did note that this property has been vandalized, the furnace removed and all the copper removed. Stearns also noted that 14 Tuttle Street is under a Health Order issued by the Town.

Stefan Golec asked about the Chemco Building and this will be put on the June 14 Trustees agenda for further discussion.

Robin Story noted that the 25 Hapgood property has now been 3 years since the Fire Chief closed it. Story stated that it went up for tax sale a year ago but the property owner redeemed it. However, it is on the delinquent tax list again. Story noted that it is a safety issue and there are children playing around the property. Story reminded the Board that she had tried to amend the budget at the Annual Village Meeting to be used to enforce the Unsafe Building Ordinance but this failed. It was noted that the Board could vote to use some of the fund balance if necessary.

This issue was discussed at length and the process in the ordinance also discussed. Stearns noted that most of these properties have a mortgage and should a lien be placed the Town and/or Village would be second behind the mortgage company. For an example, the house on Green Street that was under a Health Order by the Town and ultimately demolished, cost \$44,800.

Nancy McAuliffe, former Village President, was present and noted that the Board of Trustees had decided at a recent meeting not to pursue the Chemco building to allow the owner to pursue the sale of the property. James McAuliffe also noted that Vermont laws protect the property owners and is a very difficult process to do anything.

Barnett noted that the Walpole Selectboard members were present for the Special Tri Board Meeting and suggested that this meeting be recessed until the end of that meeting. *Myles Mickle made the motion to recess the Joint Board Meeting at 7:03 p.m. to be continued following the Tri-Board Meeting. Motion was seconded by Joshua Hearne. Motion passed.*

Barnett called the meeting of the Rockingham Selectboard & Bellows Falls Village Trustees back to order at 8:00 p.m. and resumed the discussion on derelict buildings.

The Board then discussed ways to motivate property owners to do upkeep and maintenance on their property including the possibility of using fund balance to pursue ordinance administration and Revolving Loan Fund monies to assist with purchase of a 2 family home.

It was decided by the Bellows Falls Trustees to have Attorney Massucco attend the June 14 meeting to discuss the Unsafe Building Ordinance process. Weeks stated that the 25 Hapgood property needs some action.

4. Sidewalk Repairs/Markings Discussion: Barnett noted that this item was also requested by Mickle. Mickle noted that work has been done on the Church Street sidewalk and asked if this would continue in this area, particularly the steps. Stearns noted that some of the stairside steps have been repaired and the landing is also on the schedule to be done. Stearns also noted that the bumpouts in the square are deteriorating and will need to be replaced.

Stearns also noted that marking is scheduled to be done soon and that if the Highway Department were to follow the standards for marking parking places and crosswalks that the downtown would lose 19 spaces. Hearne asked about the liability if not marked correctly noting that there are definitely a few places that it is difficult to see pedestrians. Barnett stated that the businesses could not afford to lose 19 spaces. Barnett also asked if the markings were done to code and spaces were lost would the parking be enforced by the Bellows Falls Police Department. Weeks asked what this would cost. Stearns stated that it would require a new hire, possibly full time with benefits. Barnett noted that the loss of a parking space is equivalent to \$300 per day per space.

Weeks noted that in the sidewalk issue there is a section of sidewalk on Canal Street across from the back entrance to Canal House where a pipe had been included to reduce the space between the sidewalk and the fencing but it looks like either it was not continued far enough or was removed. Weeks noted that an animal or small child could easily fit through this space. Stearns stated that he will look into this.

5. Award Fuel & Propane Bids: A memo was distributed showing that 7 vendors submitted bids out of the 12 that were sent out for #2 fuel oil and propane for the FY2017 heating season. HB Energy Solutions was the low bidder for both. *Joshua Hearne made the motion that the Rockingham Selectboard accept the bids for #2 fuel oil at \$1.749 per gallon and propane at \$1.19 per gallon from HB Energy Solutions and authorize the Municipal Manager to sign the contract on behalf of the Town. Motion was seconded by Peter Golec. Motion passed.*

Evelyn Weeks made the motion that the Bellows Falls Trustees accept the bids for #2 fuel oil at \$1.749 per gallon and propane at \$1.19 per gallon from HB Energy Solutions and authorize the Municipal Manager to sign the contract on behalf of the Village. Motion was seconded by Colin James. Motion passed.

6. Personnel Rules Change Discussion: Barnett stated that a memo was included in the Board packets for discussion on proposed changes to the Town of Rockingham/Bellows Falls Village Corporation Personnel Rules. The proposed changes would add language that would require the Municipal Manager to get approval from the appropriate Board when the issue would involve the Manager. Additional language is also added that “A supervisor will not request, nor will an employee perform, special favors for the supervisor. Should the above pertain to the Municipal Manager, approval of the appropriate Board is necessary.”

Ann DiBernardo made the motion that the Rockingham Selectboard approves the changes to the Personnel Rules as printed. Motion was seconded by Joshua Hearne. Motion passed.

Stefan Golec made the motion that the Bellows Falls Trustees approves the changes to the Personnel Rules as printed. Motion was seconded by Steve Adams. Motion passed with 3 in favor, 1 opposed.

7. Discuss Manager’s Review: Barnett stated that a couple of members of the Selectboard felt that the Manager’s review done in February was not completed and is suggesting that the Boards review the review. Stefan Golec stated that he felt the Trustees met the requirements of the review but it would not hurt to look this over and bring the new members up to speed. Mickle agreed and stated that it would solve some confusion. Peter Golec noted that both boards use the same form and asked how new members of the boards could evaluate the manager at this time. Peter Golec also stated that the Manager’s contract called for an annual review, not multiple reviews. Peter Golec noted that the

Selectboard did the review and authorized the Chair and the Vice-Chair to meet with the Manager to go over the review. James stated that the Trustees had also done a review and authorized the Village President to meet with the Manager and go over the review. James stated that he did not think this was appropriate to do another review now. Stearns stated that a Special Joint Board meeting could be scheduled to review the reviews and reminded the Board that he could request that this be done in open session. Mickle suggested that the time of year of the review be looked at for future annual reviews.

Ann DiBernardo made the motion that the Rockingham Selectboard schedule a Special Joint Board Meeting with the Bellows Falls Trustees on Tuesday, June 14, 2016 following the Bellows Falls Trustees Regular meeting for a review of the Manager's review. Motion was seconded by Joshua Hearne. Motion passed with DiBernardo, Hearne and Stefan Golec in favor of the motion. Peter Golec opposed.

Stefan Golec made the motion that a Joint Board Meeting be scheduled with the Selectboard for Tuesday, June 14, 2016 following the Bellows Falls Trustees Regular meeting for review of the reviews. Motion was seconded by Evelyn Weeks. Deborah Wright noted that for appearance sake, although not illegal, that Stefan Golec, as a member of both boards, refrains from making motions that impact both boards. Golec agreed and rescinded his motion and Weeks her second.

Evelyn Weeks made the motion that the Bellows Falls Trustees schedule a Joint Board Special Meeting with the Rockingham Selectboard on Tuesday, June 14, 2016 following the Bellows Falls Trustees Regular Meeting to review the reviews of the Manager. Motion was seconded by Steve Adams. Motion passed with Mickle, Golec, Weeks and Adams in favor of the motion, James opposed.

Other Business:

- DiBernardo stated that she heard from several people that they would like to see the Memorial Day Services return to the Hetty Green Park.

Adjourn: *Joshua Hearne made the motion to adjourn the meeting at 9:07 p.m. Motion was seconded by Peter Golec. Motion passed.*

Attest: _____
Kerry Bennett, Recording Clerk