

ROCKINGHAM SELECTBOARD REGULAR MEETING
Tuesday, November 1, 2016

Present: Lamont Barnett, Joshua Hearne, Peter Golec, Stefan Golec, Ann DiBernardo

Also Present: Willis Stearns, II, Municipal Manager; Kerry Bennett, Recording Clerk; Listers Camilla Roberts, Paul Noble & Michael Harty; BFDDA Executive Director Mary Helen Hawthorne; Ralph Meima, Director of Project Development Green Lantern Group; Deborah Wright; Susan Hammond; Attorney Steve Ankuda

Press: KMO, FACT8; Joel Slutsky, The Shopper; Susan Smallheer, Rutland Herald; Tory Jones Bonenfant, Eagle Times

Call to Order: Meeting was called to order at 6:30 p.m. by Chairman Lamont Barnett

Additions to the Agenda for Routine Administrative Matters and/or Pressing Matters that will require ratification at a future meeting: None

Approve Minutes of October 18, 2016: *Peter Golec made the motion to approve the minutes of October 18, 2016 as printed. Motion was seconded by Joshua Hearne. Motion passed.*

Public Comment on Items Not on the Agenda (3 minutes per person):

- Bellows Falls Downtown Development Alliance Executive Director Mary Helen Hawthorne was present and noted that she has met several times with the new Development Director. During these meetings the Memorandum of Understanding between the Town and BFDDA has come up. Hawthorne noted that this MOU was suspended back in February 2016 and would like the Board to make a decision on whether or not the MOU will be back in force, whether there will be a new MOU, or whether there will be no MOU. In addition, Hawthorne put the Board on notice that BFDDA intends to request an increase in the Town's budgeted donation, currently \$5,000.

Manager's Report:

- The Park & Ride should be completed this week, weather permitting. However, it will not be open until probably mid December due to lighting installation.
- The Highway Department will continue with ditching on roads throughout the Town.
- Highway was out last Thursday due to very heavy, wet snow causing a significant number of trees down including 8 on the Port Road. Stearns stated that they would like to thank whoever assisted the Town by removing some of these trees on both the Port Road and on Paradise Hill.
- Leaf & lawn debris pick up will continue through November weather permitting on Mondays and Fridays.
- Winter parking ban is now in effect. There is no parking on the streets in both the Villages of Bellows Falls and Saxtons River from midnight to 7:00 a.m. In addition, there is no parking on any street or road during and 24 hours following a snowstorm. Vehicles will be towed without notice at owner's expense.

- The Town is seeking individuals to serve on the Design Review Board and the Planning Commission. Those interested should contact Chuck Wise at planning@rockbf.org or call the Town Office at 463-3964, extension 114.
- The Bridge Street Bridge sidewalk should be completed by the end of this week and paving of the bridge will follow.
- The Bellows Falls Water Project on Route 5 North will shut down for the winter by Friday, November 11 and begin again around April 23, 2017.
- For those connected to the Bellows Falls Water System, there appears to be a significant leak totaling approximately 50 gallons per minute in the Village. It is thought that this may be a vacant building and the Water Department asks that if anyone hears water running or sees evidence of a leak to please contact them at 463-1232.

Agenda:

1. Fairpoint Communications – License to Bury: This request was tabled at the last meeting due to the Board’s concern of the possibility of overhead wires. Stephanie from Fairpoint was present to answer any questions. Stearns stated that he and Highway Superintendent Mike Hinds had met with representatives from Fairpoint and the contractor. The new lines will go under the sidewalk to an existing pole and then underground to the bridge. There will be no new overhead lines placed. Peter Golec asked about the numerous poles that still remain around town. Stephanie stated that she believes Fairpoint has removed all its lines but there are still lines from Comcast, Sovernet, etc. She also noted that as Fairpoint removes their lines Green Mountain Power is notified. *Peter Golec made the motion to approve the License to Bury request from Fairpoint Communications for Rockingham Street as requested. Motion was seconded by Joshua Hearne. Motion passed.*
2. Listers Office – C. Roberts
 - a) Sansoucy Estimate for New Appraisal of TransCanada for 2017: Listers Camilla Roberts, Paul Noble and Michael Harty were present to discuss this request and to answer questions. Roberts stated that the Listers are seeking authority from the Board for Stearns to sign an agreement with Sansoucy to perform a new appraisal on the Hydro facility and land at a cost of \$35,000. Roberts noted that there is \$25,000 budgeted and the State has provided funds over the years for this type of reappraisal. Barnett noted that this appeared to be in conflict with the Town’s Purchasing Policy. Stefan Golec noted that the Board can waive the policy and that he agrees with the Listers to continue the Town’s investment with Sansoucy. Noble stated that if this were to go out to bid as Barnett suggested, the results would not be competitive as Sansoucy, because of its relationship with the Town during a prior reappraisal, has a significant amount of data that another company would have to develop from scratch. *Peter Golec made the motion that the Board suspends the Purchasing Policy and authorize the Municipal Manager to enter into an agreement with Sansoucy for a new appraisal of the Hydroelectric facility and land at a cost of \$35,000. Motion was seconded by Joshua Hearne. Motion passed.*

3. Tax Stabilization – Chroma/BDCC

- a) Rescind previous motion – new motion for BDCC Real Estate Holdings, Inc. II. Stearns noted that at the October 4, 2016 Selectboard Meeting, the Board approved a tax stabilization agreement with Chroma Technology. In reviewing the request from Chroma, it was noted that the request was for tax stabilization with Brattleboro Development Credit Corporation Real Estate Holdings, Inc. II, the entity that will own the Chroma property during the New Market Tax Credit compliance period. *Ann DiBernardo made the motion that the Rockingham Selectboard rescinds its motion made on October 2, 2016 regarding the tax stabilization agreement with Chroma Technology. Motion was seconded by Peter Golec. Motion passed. Ann DiBernardo made the motion that the Rockingham Selectboard approves the tax stabilization request from Chroma Technology with the April 2017 grand list value of the Town portion only, excluding the education portion, for the duration of the expansion project and that this tax stabilization agreement be between the Town of Rockingham and the Brattleboro Development Credit Corporation Real Estate Holdings, Inc. II, and authorize the Municipal Manager to sign the agreement on behalf of the Town. Motion was seconded by Joshua Hearne. Motion passed.*

4. Recreation Center Repair Update: Stearns reported that over the past week, Ingram has stripped sheetrock up 2 to 3' on the north and south walls and 5' on the exterior. It was also found that 2 window frames have rotted. A company that moves buildings will be stabilizing the Rec Center and the plan is to repair the north wall, the south wall and then both sides.

5. Finance Office – Chip Stearns

- a) FY2017 Budget Status: Stearns reported that we are now 33.33% into the fiscal year and there are no issues that he has noticed. Stearns reminded everyone that taxes are due on November 10, 2016 by 4:30 p.m. As of today's date, 44.46% of taxes have already been collected.

Stearns stated that the Town & Village will be holding a "yard sale" to dispose of unwanted items. Several trucks are included as well as the pellet furnace previously installed in the Fire/Police Facility. DiBernardo asked why the pellet furnace was being sold. Stearns reported that it has not been used for several years as the price of oil is cheaper to burn than pellets. As well, the furnace was not UL listed. Stefan Golec suggested that an auction service like Auctions International be contacted as well.

DiBernardo asked about if the Town had enough salt & sand. Stearns stated that everything is full due to the mild winter last year and the Town has a contract for guaranteed delivery if necessary.

- b) Approve Financing (fire trucks/town hall & rec center repairs/highway equipment): A memo was included in the Board packets with the information of the quotes received. *Peter Golec made the motion to approve the financing for the highway equipment from Merchant's Bank of \$165,000 at 1.80% and financing for the repairs to the Town Hall and Recreation Center to People's United Bank in the amount of \$250,000 at 1.85% and fire equipment to People's United Bank for \$500,000 at 1.85%. Motion was seconded by Stefan Golec. Motion passed.*

6. Selectboard Items

- a) Green Lantern – new proposal to purchase land: Ralph Meima, Director of Project Development, was present to ask the Board if it would consider a purchase of a portion of the Town's gravel pit for a solar array. Barnett noted that whether the Town leased or sold this land, it would no longer be available for future development. DiBernardo asked if they would consider purchasing the entire 42 acres. Meima stated that they would be requesting a portion that would be tucked away at the northern end. Stefan Golec asked about the net value of credits and would also like more information on the value of the property. DiBernardo asked what Green Lantern was offering. Meima stated \$45,000 for 5 acres. Peter Golec agreed that the Board needed more information on the value of the property and suggested putting this on the next agenda. *Stefan Golec made the motion to table the Green Lantern proposal to purchase until the November 15 Selectboard Meeting and asked that a value be requested from the Listers Office. Motion was seconded by Ann DiBernardo. Motion passed.*
- b) Odd Bellows, LLC application for mural – decide party status of Town: The application and photo of the proposed mural was distributed to the Board for review. Stearns noted that as an abutter to the property (the old Vermont Pretzel building) the Selectboard needs to decide how they want to handle party status. After discussion, the following action was taken. *Peter Golec made the motion that the Town apply for party status and appoint Stefan Golec as the Board's representative. Motion was seconded by Joshua Hearne. Motion passed.*
- c) Report from Town Counsel re: Bartonsville Bridge Debris: Attorney Steve Ankuda was present stating that he had been asked to look into the disposition of the remains of the Bartonsville Bridge. Ankuda stated that he had a letter addressed to the Chair which will become a public document following this discussion. Ankuda stated that he has been in contact with the Kelly Kindestin, Property & Claims Manager at Vermont League of Cities & Towns (VLCT), Tim Andrews, Barns & Bridges of New England, Buck Adams, Adams Construction, David Sime (Stearns brother-in-law) and Stearns as well as copies of numerous emails pertaining to the debris.

Ankuda outlined the events immediately following Tropical Storm Irene regarding the Bartonsville Bridge and VLCT. Ankuda noted that VLCT's initial position was only to cover the deck and up was covered at a value of \$250,000 although the Town had \$1 million coverage, stating that the platform and the abutments were not covered. Under those circumstances the platform and the abutments would have remained the Town's property and the salvageable upper parts VLCT's property as they had paid for that. Eventually VLCT agreed that the entire bridge was covered by the insurance, the claim was paid and VLCT became the owner of everything. VLCT then began a procedure to see what they could get for those components. Tim Andrews from Barns & Bridges of New England, an expert on old bridges, was contacted by VLCT, hired by VLCT, and inventoried all remains of the bridge (a copy of which is an attachment to Ankuda's report). Ankuda stated that VLCT was definitely looking to make some money back on the components. Trusses were cut down, loaded and transported to Andrews' property in New Hampshire. Ankuda did note that the debris sat in the Route 103 Gravel Pit for a long time. Ankuda noted that Andrews stated that he felt some of this debris would have been useable if it had not sat in the elements for so long but this was VLCT's debris and the Town had allowed VLCT to use the Gravel Pit for storage from 2011 to March 2016 and during that time VLCT worked with Andrews to decide what to do with these. Ankuda then reminded the Board that Sue Hammond, Selectboard member, was talking about trying to put up a kiosk information booth near the bridge but the railroad had some issues about the location and eventually that kiosk idea was abandoned. Hammond reported that to the Board at a Selectboard meeting on September 2014. Ankuda noted that also included with his report is a chronology compiled by Selectboard member Peter Golec that outlined when the Selectboard heard about different aspects of the bridge.

Ankuda noted that during that entire period Stearns was informed as to what was going on but was not playing any part and was just copied on emails. Ankuda noted that Sue Hammond was working directly with Andrews to try to work things out until it was abandoned.

Ankuda stated that on March 14, 2016 that Andrews contacted Kelly Kindestin at VLCT in an email stating that the trusses are not worth doing anything with, that they are decayed to the point where they are not useable and requested to terminate the contract between him and VLCT. Kindestin agreed a few days later. So, up until mid-March 2016 VLCT was in complete ownership and control of the debris.

Ankuda noted that then on March 29, 2016, Kelly Kindestin from VLCT was here to meet with the Joint Board on another matter and Stearns noted that it was then that Kindestin told Stearns that the deal with Andrews was gone and asked Stearns to help VLCT get rid of the debris and send VLCT a bill. The next correspondence between VLCT and the Town was when Stearns sent an email on April 15, 2016 saying that he had found a home for some of the pressure treated beams. Ankuda noted that the bridge was composed of some pressure treated beams, some creosote treated beams and some

untreated beams. Ankuda stated that it appeared that everyone was of the belief, by March of 2016, that the untreated beams were what Tim Andrews referred to, as compost. Ankuda also noted that Highway Superintendent Mike Hinds also looked at the debris early on, 2012-2013, to see if any of it was useable by the Town or Village and he didn't want any of it. First of all, creosote is very bad to dispose of and you don't use it near any water source, pressure treated is almost as bad and the non-treated beams were not viable. Ankuda stated that in his email of April 15, 2016, Stearns informed VLCT that he had a place to dispose of the beams on private property and asked Kindestin if he had her blessing to transport them stating that he had the ability to transport them. This email was sent on Town email. Kindestin gave her permission for Stearns to take these. Within the next few weeks, Stearns, on his own time, transported the pressure treated beams to a location in New Hampshire owned by his brother-in-law. Stearns does not have any ownership interest in the property. Ankuda stated he did speak with the brother-in-law specifically whether they were sold to him – he stated that absolutely no but he did reimburse Stearns for the gas for the tractor. These were loaded onto Stearns own trailer and drive to the location by Stearns and these beams were used to rebuilding a dilapidated bridge on the brother-in-law's property. Barnett asked if these beams were useable. Ankuda stated that they were.

The next occurrence was around June 15, 2016. Stearns contacted Kindestin again stating that there was someone in Bartonsville who thought they might be able to use the creosote beams to shore up an old barn. Stearns stated that this was not in Bartonsville. Ankuda noted that Stearns loaded these onto his trailer and transported them to the location. Ultimately, these beams were returned in August. Ankuda noted that this was again a request approved by Kindestin.

In July 2016, the remains of the bridge, meaning the non-creosote and non-pressure treated, were buried in the pit. During a bus tour in July of the board, Stearns noted that the remaining debris was buried in the same area where apparently lots and lots of other Irene debris was buried.

On August 1, 2016, there was a letter written by Sue Hammond, who asked that Stearns read the letter at a Selectboard meeting scheduled for August 2, 2016. At that time Stearns sent another email to Kindestin to confirm that he had permission to remove this debris personally and Kindestin that all the way through she understood that the Town was disposing of these for the League and the League would pay for this. Ankuda noted that based on Kindestin's correspondence it doesn't say that she understood that Stearns was doing this on his own but that he was handling it in his capacity on behalf of the Town. When faced with that issue in early August, Stearns made arrangements for Buck Adams to go to Tim Andrew's place and retrieve what was left and Stearns personally retrieved the creosote beams. All these were brought to 32 Gowing Road. DiBernardo shushed Ankuda at this point. Ankuda stated "I shouldn't say that?" DiBernardo replied

no. Ankuda did state that this was Jim Kolodziej's property. Ankuda noted that finally the beams may have met their final resting place or final storage place.

Ankuda noted that the remainder of the bridge that was buried was dug up and disposed of. The Agency of Natural Resources was monitoring this and they closed the file as far as they were concerned.

Ankuda stated that he has written out in detail a full report with exhibits for the Board to look at. Ankuda noted that the remains that were left, were dug up and disposed of and VLCT paid the bill. Ankuda also noted that there is nothing black and white that this was ever Town property and the closest you could come to that is that for awhile it was buried in the pit on Town property but is comparable to someone dumping rubbish into a landfill. Ankuda stated that he doesn't see, in the scheme of things, that it ever really became Town property and VLCT authorized and asked assistance through the Manager to dispose of these materials and that is the way they viewed what happened.

Ankuda recommended that the Board meet in executive session to discuss where to go from here, that the Board review the report, which is a public document. Barnett asked if Ankuda was available to stay tonight for an executive session. Ankuda stated that he was. Barnett asked if it would be appropriate to ask Stearns to respond if he felt that there was anything in the report not correct. Ankuda stated that 100% absolutely and noted that this report is purely an investigation by him as to what happened regarding the debris and nothing more than that, all circumstances backed up by the communications.

Ankuda stated that there may be things in the report that are inaccurate – the Bartonsville delivery, the creosote beams maybe, or some things like that but he doesn't suspect there is a lot of dispute over the correspondence that was in the emails that from VLCT's standpoint they felt they were dealing from someone for the Town. Ankuda did note that the Town, in disposing of the debris, Stearns saved a bundle of money for VLCT in getting rid of creosote and pressure treated beams at no cost to VLCT. The disposal of the decayed wood in the pit was paid for by VLCT. Barnett stated the Town also paid for that. Ankuda replied that the Town paid for digging it up and there was a bill to VLCT for the Town's assistance in loading the debris with the hauler. However, the first time it was buried the Town used its own equipment to bury. Barnett asked if there was a sense of what the value of the bridge was that was built in New Hampshire. Ankuda stated that there was not, that a bridge was not built and that there were only some beams used to replace the floor. Ankuda also stated that when this issue arose, Stearns went to his brother-in-law's and retrieved all the beams that were not used and he believes the number of beams was about 30 and 10 or 12 came back. Ankuda also stated that Tim Andrews noted that of the 69 beams, he took 21 along with the trusses and he took what he thought was the best. Ankuda stated that he asked Andrews what he thought the value was and Andrews replied that it was pretty much worthless. Barnett asked if it was of the beams that he took. Ankuda stated that Andrews reply was regarding what was in the pit

other than what he took. Ankuda stated that Andrews was hoping that he could cut down the trusses and clean them up and re-use these. Barnett noted that obviously if 20 of the beams went toward the resurrection of another bridge they must have still been useable and have some value, referring to the ones that went to Stearns brother-in-law. Ankuda stated that there was some value to those.

Barnett asked if there were any further questions from the Board or the public.

Susan Hammond asked when Tim Andrews took the trusses stating that she knew he cut off two 40' sections out of the 60' sections that were in the pit, but would like to know when he took them from the pit. Ankuda stated that he was not sure when he took them from the pit as it was not pertinent to any of this. Hammond stated that she had asked Stearns verbally earlier this year what was happening with Andrews and Stearns stated he was going to check but she never heard. Ankuda noted that it was around March 14, 2016 that Andrews had finally looked into the beams and tested them. Ankuda stated that he was surprised that it was 5 years later before he had done this as he was hired by VLCT early on. Stearns stated that somewhere in the correspondence he had heard from Kindestin that Buck Adams was picking them up for Andrews so arrangements to get the gate opened at the pit was done through Stearns and it was just after one of the first snowstorms so is guessing it was sometime in November 2015 when he took them and by March 2016 he made his determination. Stearns stated that he had asked specifically what the arrangement was when these beams left the pit and if they were coming back to the pit and VLCT indicated that he was not buying them and they would remain the property of VLCT so when Andrews was done VLCT would own the results of what he built and subsequent to that VLCT gave ownership of that material to Andrews.

Ankuda noted that at one time there was a \$14,000 or \$16,000 purchase price from VLCT for the debris. Stearns corrected that noting that this was an offer by the Town for the Town to buy the debris. Peter Golec stated that in the chronology, somewhere toward the end, VLCT offered to accept the \$16,000 and the Bartonsville group declined. Hammond stated she had worked with Stearns when they were trying to build the kiosk and they came up with 10% of what was recovered. Stearns stated that it was not him at that time it was former manager Tim Cullenen. Hammond stated that what was decided to offer was 10% of the recovery cost. Hammond also noted that the group wanted VLCT to give it to them but VLCT would not do that. Hammond stated that when the kiosk plan fell through the group stated that there was no sense in spending that money for something that they could not use at that point. Hammond noted that this did not mean they did not want it but they were not going to pay \$16,000 for something that they were not going to use.

Review Overtime & Comp Time Report: No comments

Review Task List (1st meeting of month): DiBernardo requested that the Bridge Street Bridge & Depot Street Bridge be placed on the task list.

Review Agenda Items for Next Meeting – November 15, 2016

- MOU – BFADC & BFDDA
- Green Lantern Land Purchase

Review Agenda Items for Joint Board Meeting - November 29, 2016:

- DiBernardo would like to add Depot Street Bridge & Bridge Street Bridge to the task list

Review & Approve Orders, Bills & Warrants: *Peter Golec made the motion to approve the orders, bills and warrants as presented. Motion was seconded by Joshua Hearne. Motion passed.*

Other Business:

- Stefan Golec noted that Rutland Town & Rutland City were doing recycling of rental properties and stated he would be bringing this up at the Trustees meeting and seemed that it was a win/win situation. Barnett noted that these appear to be neglected house and there is a substantial investment.

Executive Session: *Peter Golec made the motion that the Selectboard enters executive session at 8:22 p.m. to discuss the appointment or employment or evaluation of a public officer or employee, 1 V.S.A. §313(a)(3) and invite Attorney Steve Ankuda to attend. Motion was seconded by Ann DiBernardo. Motion passed.*

The Board came out of executive session at 9:05 p.m.

Peter Golec made the motion that an emergency meeting be warned with the Bellows Falls Village Trustees for Thursday, November 3, 2016 at 6:30 p.m. Motion was seconded by Ann DiBernardo. Motion passed.

Adjourn: *Peter Golec made the motion to adjourn the meeting at 9:06 p.m. Motion was seconded by Joshua Hearne. Motion passed.*

Attest: _____
Kerry Bennett, Recording Clerk