

**Select Board Meeting, Monday, September 12<sup>th</sup>, 2016 in the Cavendish Town Office**  
**Meeting Room at 6:30 pm**

**Present:** Bob Glidden (Chairman), George Timko, Mike Ripley, Wendy Regier, Rich Svec (Town Manager), Bruce McEnaney (Assistant to the Town Manager), Jen Leak (Recording Secretary ), Ed McEananey from LPCTV and citizens as listed on the attached sheet.

**Absent:** Jill Flinn

**1. Call the meeting to order**

Bob Glidden, Chairman, called the meeting to order at 6:33 p.m.

**2. Continue public hearing on the adoption of the Cavendish Flood Hazard Area Regulations (FHAR) update. The draft of the FHARs update were reviewed by the Board of Selectmen with the Chair of the Cavendish Planning Commission on May 23<sup>rd</sup> and with John Broker-Campbell, Flood Plain Manager for Southern Vermont, on June 28<sup>th</sup> and were also discussed at Select Board meetings on October 13<sup>th</sup> & November 9<sup>th</sup>, 2015 and May 9<sup>th</sup>, June 13<sup>th</sup> & July 11<sup>th</sup>, 2016. The Public Hearing was initiated on August 15<sup>th</sup> and recessed until September 12<sup>th</sup>.**

Rich asked the Board members for comments regarding the final draft, which he had emailed to them last Friday. Wendy had a number of comments, which she shared with the Board.

Bob asked if anyone present had any questions. Neil Snyder asked if micro-hydroelectric facilities, for residential use, should be allowed in the setback areas if they had a state permit. Rich said he thought that those could be included in Section 7.B, Item # 7.

Rich noted that Dean Kauppinen had written a letter with some questions about the proposed FHARs and that he has distributed copies of Dean's letter to each Board member. Rich and the Board discussed the issues raised by Kauppinen in his letter.

Carl Snyder asked how the required elevation of a new foundation would be determined. Rich said that engineer certified plans would need to be submitted. Carl asked if the construction would be inspected, and how the regulations would be enforced. Rich said that, if there were any questions, the Administrative Officer would handle them.

Rich asked Planning Commission Chairman Etienne Ting, who was now present, to address two sections which seemed to have been cut initially but were added back into the final version. Wendy had questioned who had done those edits and why. Etienne said he would need to look at previous drafts to answer that and he would let the Select Board know.

Mike added that a portion of his property was in a flood zone and he was concerned about placing so many restrictions on individual property owners. He added that flood emergency monies would be 5% less if the Town does not adopt the new regulations in the event a flood event occurs in the future. Mike said he didn't think it was worth the extra aid money, given the burden it places on property owners who need to make repairs and would need to meet the new building codes. Mike added that, if the regulations were adopted, perhaps owners who bought property

before they were in place could be excluded, or property assessments could take these restrictions into account. Rich noted that, in the case of Tropical Storm Irene, that 5% less in aid money would have been about \$210,000, which would have been needed to be raised by an increase in property taxes. He added that there are also state regulations for floodplain construction that limit construction which would be in effect regardless of whether the Town adopts the proposed FHARs or not.

Trevor Barlow, who was present, asked if there might be new technologies which could mitigate some of the increased costs of construction. He also wondered if the Town or State had resources to help property owners with the costs of meeting these regulations if they are passed. Margo said that FEMA is encouraging people not to rebuild in flood-prone areas, due to economic and safety concerns, and she thought these regulations were designed to discourage rebuilding in hazard areas.

Wendy asked Etienne if he had any comments. Etienne said the State has changed how they look at waterways, and they now want rivers to be allowed to change course naturally over time. He said the difficulty is that almost all Vermont towns were developed along rivers, so this natural meandering will impact man-made structures. Over time, the State hopes that damaged properties will not be rebuilt, and no new construction in river corridors will be allowed, so that rivers may take their natural courses. Etienne said that the Planning Commission spent two years developing these regulations, but the State never answered how the revised regulations will impact property values. Etienne also noted that the new regulations ignore factors such as the Springfield dam, which protects the downtown area from flooding. Under the new regulations, no new construction would be allowed in that downtown area. Trevor asked if there could be a variance could be issued for such a protected area, and Etienne said there could be if a hydraulic study was done and the study supported it.

The Select Board discussed whether they were ready to vote on adoption of these regulations.

***Bob Glidden moved/Mike Ripley seconded a motion to again recess the public hearing on the adoption of the Cavendish Flood Hazard Area Regulations (FHAR) update until a later date to be announced. All voted in favor.***

The Select Board reviewed which issues still need to be resolved and asked Rich to invite John Broker Campbell to attend the regular monthly Select Board meeting in October to clarify some issues. Rich asked if Wendy could review her questions with the Planning Commission directly. Wendy said she would be unable to attend the next Planning Commission meeting, but that she could discuss her questions with Rich, who could pass them along to Etienne. The Select Board decided to reconvene the public hearing on Monday, October 17, which is a week later than the normal Select Board meeting date due to the Columbus Day holiday which occurs this year on October 10<sup>th</sup>. The public hearing on the revision of the Flood Hazard Area Regulations was recessed at 8:00 p.m. and the regular monthly Select Board meeting began.

**3. Review/approve minutes of the meetings of August 15<sup>th</sup>, August 29<sup>th</sup> and September 1<sup>st</sup>, 2016**

***Mike Ripley moved/George Timko seconded a motion to approve the minutes of the meetings of August 15<sup>th</sup>, August 29<sup>th</sup> and September 1<sup>st</sup>, 2016, as written. All voted in favor.***

#### **4. Sign Orders**

Bob Glidden, Chairman, informed the Select Board there were no orders to sign.

#### **5. Review Correspondence**

Bob Glidden, Chairman, directed the Select Board to review correspondence at their convenience during the course of the meeting.

#### **6. Adjust agenda**

Rich had several adjustments to the agenda:

7.a. Review four special event permits submitted by Mary Jane Abbate for the Inn at Glimmerstone

7.b. Accept resignation of Dan Churchill as Town Agent

Rich also requested a brief executive session at the end of the meeting to discuss a real estate negotiations matter.

#### **7. Hear Citizens**

Margo Caulfield was present and updated the Board on recent Telecommunications Committee activity. The Committee met with representatives from Comcast, who said they are reluctant spend the necessary money to address our underserved areas. TDS is planning to upgrade their system this fall in five areas in town, and there should be better services available, for an additional charge, once those upgrades are completed. VTel wireless has been problematic for those who have tried it. Margo said the Knapp Pond area, which is covered by Fairpoint, is still underserved. Margo recommended that the Select Board should investigate if TDS service is not improved by November. Mike said his Comcast service has been great, and he would like to see them expand their service area.

Margo said the 4<sup>th</sup> and 6<sup>th</sup> grade CTES classes did some clean-up along the Black River last week. She added that the Historical Society will be cleaning the Civil War Memorial next to the Museum this autumn.

#### **7.a. Review four special event permits submitted by Mary Jane Abbate for the Inn at Glimmerstone**

Rich reminded the Board that Mary Jane came to the August Select Board meeting to discuss some noise complaints received from several of her neighbors during previous events at Glimmerstone. Rich said, since that meeting, there was an event for which Mary Jane had requested a permit for fireworks having contacted both the Cavendish and Proctorsville fire chiefs. Both chiefs denied that permit; however, the fireworks were set off anyway.

Ed Garrow, who was present, said he was in his residence and heard the fireworks at 9:45 p.m. He said the Select Board had recommended some things Mary Jane could do to improve relations with her neighbors. He is concerned that she is not working to comply with the Select Board's recommendations. He reminded the Board that it is their job to protect the citizens of this town, especially since there is no Town noise ordinance. Bob said that consideration of a noise ordinance is on tonight's agenda.

Bob said that he, as Proctorsville Fire Chief, had talked with the Town Constable and the Cavendish Fire Chief about the fireworks. Rich added that he was very concerned about fireworks being set off without a permit especially in light of the current very dry conditions. Bruce noted that, even with a permit from the fire chief, you were still required to have a “qualified operator” to obtain them and to set them off.

Linda Collins was present, and said she lives directly behind the Glimmerstone barn on Rogers Drive. She was concerned about the dangers of fireworks being set off so close to her home. Linda said she has called the state police on two occasions for excessive noise late at night, but she didn’t receive much of a response. She said that there were previous fireworks this summer, which were also not permitted. Linda said the music has been played loudly and after the period of catered liquor has ended. She also said there were events held without a liquor catering permit.

Mike asked if the Select Board had approved permits for future dates. Jen said she did not believe so. Mike asked what the consequences would be if the Select Board did not approve the four new permits tonight. Bruce said she would be in violation of the State Department of Liquor Control if she served alcohol without a permit.

Rich read the four current applications, which were received by the Town Clerk this morning:

1. Request to Cater Malt, Vinous and/or Spirituous Liquors for the Inn at Glimmerstone Mansion, wedding rehearsal dinner, on Friday, September 16, 2016, from 4-9 p.m., for 35 people.
2. Request to Cater Malt, Vinous and/or Spirituous Liquors for the Inn at Glimmerstone Mansion, wedding cocktail hour and reception, 3 p.m.-midnight, for 125 people. The date is blank.
3. Request to Cater Malt, Vinous and/or Spirituous Liquors for the Inn at Glimmerstone Mansion, wedding cocktail hour and reception, on Saturday, October 8, 2016, from 3 p.m.-midnight, for 75 people.
4. Request to Cater Malt, Vinous and/or Spirituous Liquors for the Inn at Glimmerstone Mansion, wedding cocktail hour and reception, on Wednesday, September 7, 2016, from 3 p.m.-midnight, for 106 people.

The Town Clerk emailed Mary Jane this morning, asking her to stop in and correct the missing and incorrect (in the past) dates, but did not receive a reply. Rich said he also called her prior to tonight’s meeting and left a message.

***Mike Ripley moved/Bob Glidden seconded a motion not to approve the two applications with incorrect dates and not to approve the other two applications without further discussion with Mary Jane Abbate.*** George and Wendy voiced their concerns over the fireworks, and her disregard for the concerns of the community. ***All voted in favor.***

The Select Board said they could meet again on Wednesday, September 14, at 6:30 p.m., if Mary Jane wanted to discuss this action. Rich said he would contact Mary Jane and let the Board know if she was able to meet them at that time.

Ed and Linda thanked the Select Board for their consideration and for taking this action.

7.b. **Accept resignation of Dan Churchill as Town Agent**

Rich read Dan's letter, stating that since he was Chairman of the Board of Civil Authority he could not also hold the position of Town Agent.

*Mike Ripley moved/Wendy Regier seconded a motion to accept Dan Churchill's resignation as Town Agent with regrets. All voted in favor.*

8. **Update on the VTrans railroad bank stabilization project on Cavendish Gulf Road [Vtrans Cavendish RREW12K] which is in progress**

Rich said he and Bruce visited the construction site this morning to inspect the shotcrete color, which had been added to a preliminary layer of shotcrete. He took some pictures, which he passed out to the Board members. The road is closed during construction from 7 a.m.-7p.m. Bruce asked the contractors to post those times on their electronic signboards, and they have done so.

George asked about the at-grade crossing on Cavendish Gulf Road, which was also supposed to be under construction this summer. Rich said he had received no recent information on that project but had discussed with the VTrans reps that both projects should not happen at the same time.

9. **Update on the status of conveyance of town parcel #1R06-059 on Heald Road**

Rich said the notice of intent to sell the Heald Road property is posted and advertised, and the closing can occur after September 16<sup>th</sup> if no appeals are received. The earliest possible closing would be on or around September 19<sup>th</sup>.

In a related matter, Rich said another Town owned property, a condo unit in Proctorsville which was also obtained at tax sale, has significant liens upon it, including unpaid condo association dues. The former owner was still living there despite the tax sale and lack of redemption therefrom. Taxes since the tax sale all remain unpaid. However, Bruce spoke with her and facilitated her moving out last week. The Town attorney and the condo association attorney are presently discussing a possible negotiated sales agreement. Rich said the Town needs to post a Notice of Intent to Sell Municipal Property for this property in order to move forward with any conveyance.

*George Timko moved/Bob Glidden seconded a motion to give the Town Manager the authority to post an intent to sell notice for the Town owned property on Depot Street, Proctorsville, with parcel id 1V20-045.U4. All in voted in favor.*

10. **Progress report on the fee schedule changes and activities at the Cavendish Transfer Station**

Bruce said the new fee schedule transition has gone smoothly. He also noted that a resident mis-stepped and slipped on the concrete blocks by the demo container, scraping her ankle, so the edges of blocks have been painted red for greater visibility.

Bruce said that anyone entering the transfer station without a permit sticker is given a written notice that they need to get one. However, within a few weeks anyone entering without a sticker

will not be allowed to use the facility. Rich added that transfer station stickers can be obtained by phone or mail by those who have trouble getting to the Town office during business hours.

**11. Town Manager to discuss a minor (favorable) change in the FY 2017 Cavendish Municipal Wastewater System rate schedule for approval**

Rich said he had made an error in calculating the new sewer rates, which were approved at the August Select Board meeting. He recalculated them and the corrected rate is \$1.00 per quarter lower per ERU than the rate approved at the August 29<sup>th</sup>, 2016 meeting. Since the first utility bills of the fiscal year are about to be produced, he would like to have the Board approve of the revised rates.

*George Timko moved/Mike Ripley seconded a motion to approve the corrected rates of \$86.46 for metered base sewer service and \$88.96 for non-metered base sewer service. All voted in favor.*

**12. Update on the work plan for hiring of a new town manager**

Mike said he spoke with Abby at VLCT recently. They have received approximately 15 applications so far. Mike said they agreed to expand the search area into Massachusetts and to increase the advertising time by another week to gather more qualified applicants. The deadline for application is now September 26<sup>th</sup>, 2016.

**13. Review of proposed Policy on Objects Placed in the Town Highway Right-of-way**

Rich reminded the Board he had handed out copies of a draft policy at the August meeting for them to consider. The Board discussed how to measure the rights of way along Town roads. Rich said that this was difficult for several reasons. Firstly, they are not the same width on all roads, and secondly, the roadway is not always centered in the rights of way. Bruce said the right of way is usually 24.5 feet from the center of the roadway, and disputes could be settled by a survey. Rich said the point was to have a tool for practical administration, and not to determine the property lines for all properties in town. Rich said he would like to have a policy in place before winter in order to clarify who is liable for damages to mailboxes, fences, etc, which may be damaged during the winter by snowplowing.

The Select Board agreed to consider the Policy on Objects Placed in the Town Highway Right of Way for approval at the monthly meeting on Monday, October 17<sup>th</sup>. Wendy asked if Rich wanted to include the placement of political signs in this policy. Rich said he'd rather keep it simple and not include them. The Select Board agreed.

**14. Discuss the idea of a noise ordinance**

Bruce handed out copies of a sample VLCT noise ordinance, and a draft he had modified, for the Select Board to consider. Mike asked how many complaints about noise the Town received. Rich said, generally, a few a year. The Select Board agreed they will discuss the issue at the

October monthly meeting. Carl asked if there was currently a Town noise ordinance. George said only as a section of the Town Plan, which would be most important in Act 250 proceedings.

#### **15. Updates on other town activities**

Rich said the Town's primary well was successfully cleaned and redeveloped last week and is now back online. He said the water conservation notice is still in effect while the system storage is refilling.

Rich said that, as the town's agent for the Municipal Planning grant, he signed the contract to conduct a bridge and culvert inventory.

Rich said that he and Bruce have met twice with an Agency of Transportation safety engineer to identify areas in Town where new signage could enhance road safety. Rich said the Regional Planning Commission has obtained an SLRS grant to cover the costs of safe and appropriate highway signs covered in the areas which were identified by Rich and studied for safety enhancements. The actual dates for installation of the safety items is not yet determined.

Bruce noted that guardrails will be installed next week on certain sections of roads which sustained damage during Tropical Storm Irene.

Margo had briefly mentioned, earlier in the meeting tonight, that the Cavendish Historical Society will be cleaning the civil war monument. Rich added that volunteers are needed and welcome to join this project.

#### **16. Other business**

Wendy Regier – Wendy said she met with Tara of Windsor County Youth Services, and reported that the young women from the Twentymile Stream House will be planting daffodils on the Proctorsville Green and also help weed the gardens at the Cavendish Town Elementary School. Wendy said she would like to give certificates to the participants once this work is done. Rich said that if Wendy could get him the needed information he would be happy to make the certificates so that Wendy can pass them to Tara. Bruce said he will order the daffodil bulbs.

Mike Ripley – Mike suggested that any new ordinances/policies that are approved during the year be summarized at Town Meeting, or in the Town Report. Rich said that new policies are summarized in the Selectman's Report section of the Town Report each year, and said they can also be posted on the Town website.

George Timko – George said that, at the May Select Board meeting, there were complaints made about a junk yard at the east end of Cavendish village, which is still there. Rich said that he had spoken to the renters at that time, who said they would be moving soon, but they did not. Rich said that he has talked with them again twice since that time, and also with the property owner, about resolving the situation.

Bob Glidden – none.

*George Timko moved/Mike Ripley seconded a motion to enter executive session to discuss a real estate negotiation at 9:25 p.m. All voted in favor.*

*Mike Ripley moved/George Timko seconded a motion to exit executive session at 9:35 p.m. All voted in favor.*

**17. Adjourn**

*Mike Ripley moved/Wendy Regier seconded a motion to adjourn at 9:35 p.m. All voted in favor.*

Minutes Approved: \_\_\_\_\_

Date: \_\_\_\_\_