

Approved November 18, 2014

TOWN OF CORNWALL
SELECT BOARD MEETING
Cornwall Town Office
Tuesday, October 21, 2014

PRESENT: Bruce Hiland, Ben Wood, Magna Dodge, Ben Marks

ALSO PRESENT: Sue Johnson, Stu Johnson, Mary Martin, Randy Martin,
Bobbie Carnwath, Brian Gill, Raph Worrick

Meeting called to order at 7:00 pm

Agenda – approved with clarification by Bruce H. that the pipeline update will include executive session

General Fund and Highway Orders – *signed*

MINUTES

- **September 16, 2014** – Ben M. MOVED / Magna D. SECONDED a motion to approve the minutes as distributed. Motion passed.
- **October 7, 2014** – Magna D. MOVED / Ben W. SECONDED a motion to approve the minutes as distributed. Motion passed.

CORRESPONDENCE REVIEW

- Latest Sodium/Chloride report on water at the Town Shed showed chloride above normal, sodium below normal.
- Letter from Phelps Engineering regarding ongoing permitting information for the well at the Town Hall.
- Copy of letter of apology from the Cornwall Conservation Commission to a town resident regarding an issue with the natural resource survey

PUBLIC COMMENTS

- Mary Martin – read and presented a letter to the Cornwall Select Board urging them not to sign any MOU with Vermont Gas.
- Bobbie Carnwath – asked if the minutes of the September 16 meeting were missing information about what happened between the board coming out of executive session at 8:30 pm and the meeting being adjourned at 9:11 pm. The Clerk of the Select Board apologized for her error and said the minutes should have been written, “The board went into executive session at 8:20 pm and out of executive session at 9:11 pm. The meeting was adjourned at 9:11 pm.” The board members present at that meeting agreed that the minutes should have been thus corrected before being approved. The Clerk will correct the FINAL minutes as above.

TOWN CLERK / TOWN TREASURER'S REPORT – Sue Johnson

- **Taxes** are due on November 1. Tax money is starting to come in. Sue informed the board that she will be in the office on Saturday, November 1 from 9-3.
- **Election Preparation** - Sue will be in the office on Monday, November 3, for early voting and preparing for election day, November 4.
- **Budget Process** – will begin at the November 18 meeting
- **Record Microfilming** - Sue sent out 4 current land record books, vital record books, and survey maps to be microfilmed and digitized.

ROAD COMMISSIONER'S REPORT – Stu Johnson

Stu J. plans on finishing with putting up sand this week. Routine work is proceeding well.

OLD BUSINESS

- **Dog Ordinance** – Town Attorney Jim Carroll recommends that we adopt a dog ordinance that is an improvement on Cornwall's existing dog ordinance, and that is based on the model from VLCT – regardless of the lack of enforcement authority. Dave Sears, who researched the issue and is not able to be present tonight, is OK with Jim Carroll's recommendation. On a related note, the Vermont State Police received a call from a NJ resident informing them that someone with a dangerous pit bull with a record will be moving to Cornwall. VSP notified Cornwall's First Constable, who thought the board should be aware. No action needed.
- **Update on Salt Problem** – Town Attorney has spoken with John Roberts and with Misse Smith. John Roberts has compiled a 20-year history of the issue and Town Attorney is writing a legal opinion.
- **Pipeline** – Ben Marks (wearing attorney hat) updated the board on the PSB process. Vermont Gas has filed a letter with the PSB requesting the formal hearings in December, not January. Ben M., representing Cornwall, has asked that the formal hearings be held in February at the earliest. Other interveners should let the PSB know about any availability issues they have for hearings. FERC and Phase 1 reconsideration issues, which were the legal issues affecting the timing of the formal hearings, have been resolved.

In response to Mary Martin's concerns above, Bruce H. talked briefly about the parallel strategy the Town has pursued from the beginning with Vermont Gas - opposing the pipeline as an intervener in the PSB process and while at the same time being willing to have conversations with Vermont Gas representatives. Over time, Vermont Gas representatives at the table have been replaced with others, as the company has reorganized. Bruce said that should the PSB grant a Certificate of Public Good to Vermont Gas for Phase II, the board has a responsibility to do what it can to achieve the best outcome for Cornwall. At a recent meeting, Vermont Gas proposed an MOU with Cornwall that is basically the Shoreham MOU with Cornwall penciled in.

Raph W. – as a landowner most affected by the pipeline he said he has a concern about a seeming lack of transparency. For example, the language of the September 16 minutes state that the reason for going into executive session was to avoid “premature general public knowledge of negotiations with Vermont Gas Systems”. That makes him worry that the people most affected by the pipeline are being excluded. He also heard that the Fire Chief was consulted about a wish list. If board is making a plan B, he wants to know why aren’t landowners part of the consultation?

Bruce H. – replied as to why the town groups were asked about needs. Bruce said that this was only part of the process of gathering information. The Town has not presented a wish list to Vermont Gas, as company representatives invited the Town to do.

Mary Martin – as a landowner I would like to be consulted about what we would like, too.

Ben M. - responded to Raph’s concerns about the language in the minutes meaning a lack of transparency. He told Raph that the specific language Raph saw in the September 16 minutes is now required as part of the new open meeting laws in municipal board and committee minutes, when a board goes into executive session. This new language in the minutes is being required of municipalities and is not an indication of a change in the level of transparency on the part of the board.

Raph – said he did not realize this, but now understood.

Brian Gill– asked if the board anticipates having to go into executive session often.

Ben M – said that the board has needed to go into executive session regarding the pipeline several times, and will continue to need to do so, during the PSB process, because of attorney/client privilege. Attorney/client privilege is a long-standing legal concept, which protects certain communications between the Town and the Town’s Attorney and keeps those communications confidential.

Mary M. – “When should an MOU be signed?”

Bruce H. – “Ideally during times of greatest leverage. Once Vermont Gas gets a CPG, they have no reason to sign an MOU with the Town. An MOU only has to be honored if it is signed before the CPG is issued.”

Bobbie C – “If the PSB decided to grant a CPG, is there an appeal process?”

Ben M. – “The decision can be appealed to the Vermont Supreme Court, but the only valid grounds for appeal would be violations of the law by the PSB. Furthermore, appeal does not delay the process of the decision.”

Randy M. said that the landowners have met and they will not allow Vermont Gas on their property.

Raph W – “I will argue that the property values will be adversely affected if the pipeline is built through my land, and I want you to know that I will ask the Town to lower the value of my land and lower my taxes.”

- **E911 and Street Signage** – Stu said that the Town is responsible for signage on all public Town roads. Raph mentioned the difficulties that the Fire Department has had with locating houses when responding to a 911 call. Bruce H. suggested an article in the Town newsletter – to inform people about the issue and the importance of proper signage to identify private roads and all residences. Next steps: Kate Gieges and Ken Manchester will do a census of signage.

NEW BUSINESS

- **Appointment to Cemetery Board** – Ben M. MOVED / Magna D. SECONDED a motion to appoint T. Tall to the Cemetery Commission. Motion passed. Sue J. said there is one more opening on the Cemetery board. An article will be placed in the next newsletter with information about all opening in Town positions.
- **Draft Road Ordinance** – Ben M. will circulate an example from Middlebury for the board to review in the next few weeks. The Road Ordinance in Cornwall needs to include full complete indemnity for any damage done by utilities.

Ben M. MOVED / Magna SECONDED a motion to find that premature general public knowledge of negotiations with Vermont Gas Systems will clearly place Cornwall at a substantial disadvantage by disclosing Cornwall's negotiation strategy. Motion passed.

Ben M. MOVED / Magna D. SECONDED a motion to enter into executive session to discuss the Town's negotiations with Vermont Gas Systems under provision of Title I, Section 313(a) (1) of the Vermont Statutes. Motion passed.

8:15 pm – Board went into executive session.

9:00 pm – Board came out of executive session.

The meeting was adjourned at 9:00 pm.

Respectfully submitted, Sharon Tierra, Clerk of the Select Board