

Windham VT Selectboard Meeting Minutes
June 17, 2019 Regular Meeting

Present:

Maureen Bell, Selectwoman	Kord Scott, Selectman
Hal Wilkins, Selectman	Vance Bell, Energy Commission
Dawn Bower, Various Commissions	Heath Boyer, Windham Center Cemetery Commission
Russ Cumming, Lister	Joyce Cumming, Selectboard Clerk
Bill Dunkel, Planning Commission	Everett Hammond, Hammond Engineering
John Hoover, Library Trustee, J.P.	Sally Hoover, Auditor
Tom Johnson, Energy Commission	Louise Johnson, Meetinghouse Transition Committee
Kathy Jungermann, Auditor	Richard Paré, Road Commissioner
Carolyn Partridge, State Representative	Kathy Scott, Treasurer
Alison Trowbridge, Conservation Commission	

Call to order

Maureen called the meeting to order at 6:30 p.m.

Additions to Agenda/Announcements/Reminders

Kord shared sad news on the passing of Bob Kehoe's son-in-law.

Act on minutes: June 3, 2019 Special Selectboard Meeting and June 3, 2019 Regular Selectboard Meeting

Motion: To accept the minutes of the June 3, 2019 Special Selectboard Meeting as presented—moved by Maureen—all in favor.

Motion: To accept the minutes of the June 3, 2019 Regular Selectboard Meeting with correction: p. 4, 1st paragraph, 2nd line, "Lincoln" should be "Lakin"—moved by Maureen—all in favor.

Public Comment

There were no comments from the public on topics not included on the agenda.

New Business:

Zoning Regulations and Enhanced Energy Plan—Bill Dunkel to explain changes; letters to homeowners; schedule hearings

Bill Dunkel explained that the Planning Commission has completed its revision of the Zoning Regulations and Enhanced Energy Plan. The proposed revisions to the regulations and plan will be formally submitted to the Selectboard, and the Selectboard must then schedule a public hearing.

Bill presented the proposed changes to the zoning regulations which include deleting reference to "prominent ridgelines" and instead focusing on protecting lands in Forest Districts above 2000 feet. This will be accomplished by creating a new section 201.7 High Elevation Resource Protection Overlay, rewriting Section

201.3 to delineate activities allowed below 2000 ft. and above 2000 ft., reclassifying the ski trails at Timber Ridge as part of the Commercial/Recreational District, and revising Section 201.5, Resource Protection Area Overlay, to eliminate reference to “ridgelines” and identify resource protection areas at or above 2000 feet in Forest Districts.

Creating a new Section 201.7, High Elevation Resource Protection Overlay, will protect fragile, ecologically important land, preserve forest blocks, and preserve Windham’s rural character and scenic landscape by permitting only commercial forestry (including maple sugaring) on land at or above 2000 feet in all (4) Forest Districts. Conditional uses under Section 201.7 are limited to pasturing livestock on existing open land, forestry for research, demonstration, education, etc., and private camps, which must comply with standards outlined in Sections 206 and 209 of the zoning regulations as well as any additional conditions imposed by Zoning Board of Adjustment.

Section 201.3 is re-written to specify those activities permitted on land above 2000 feet and activities permitted on land below 2000 feet. Previously, this section outlined permitted and conditional uses in Forest Districts. With the proposed revision, activities permitted on land above 2000 feet mirror proposed uses and conditional uses outlined in new Section 201.7 (see above). Activities permitted on land below 2000 feet include: agriculture, commercial forestry, forestry for research, demonstration, education, etc., private hunting or fishing camp, and accessory uses. Conditional uses on land below 2000 feet include: a single family dwelling with state approved septic system, a recreational comp for seasonal or occasional use for non-commercial limited outdoor recreation, such as trap and skeet shooting, cross-country skiing, hiking, picnicking and similar low-intensity recreational uses, extraction of earth resources (Town Plan language is in process of revision to conform with zoning regulations), and solar arrays and individual wind energy systems.

Revising the boundary of the Timber Ridge Recreational/Commercial District to include the ski trails (previously part of the Forest District) will acknowledge the current recreational use of the trails as well as allowing for possible solar or small wind projects without the need to create special zoning exceptions for the Timber Ridge Area.

Revision of Section 201.5, Resource Protection Area Overlay (RPA) will delineate overlay district boundaries and identify resource protection areas throughout the town including land at or about 2000 Feet in Forest Districts. The Resource Protection Areas include land in several zoning districts; as such, permitted and conditional uses are outlined in the pertinent underlying zoning districts.

Likewise, the Enhanced Energy Plan includes proposed changes to eliminate reference to ridgelines and focus on protecting land 2000 feet in elevation or higher in Forest Districts from development including roads, building structures, utilities, wireless broadcast towers, and industrial wind turbines. Affected sections of the Enhanced Energy Plan include Policies 3.1, 4.7, and 4.12.

(See attached Changes to Zoning Regulations and Enhanced Energy Plan dated 6/17/19)

Bill suggested a special mailing to property owners with parcels of land that are both above and below 2000 feet in Forest Districts to advise them of zoning changes and the date of the public hearing. He estimates approximately 20 to 25 properties are affected and solicited assistance from the Listers. Brief discussion followed on the time window for the public hearing, after which the Enhanced Energy Plan can be forwarded to Windham Regional Commission. The date for the public hearing was tentatively set for August 19, 2019 to precede the regular Selectboard meeting scheduled for that date. Kord agreed that the special mailing to affected property owners would be prudent.

Vermont Council on Rural Development (Paul Costello)—meeting report from Carolyn Partridge

Carolyn Partridge reviewed the meeting on June 10 attended by Paul Costello of the Vermont Council on Rural Development. The purpose of the meeting was to solicit feedback from residents on the future of Windham and the impact of school issues facing the town. Carolyn explained the role of the Vermont Council on Rural Development (VCRD) as providing technical/financial assistance and coordinating resources. A follow-up event such as a community dinner was suggested for September 2020. She left materials provided by VCRD for review and recommended that the Selectboard send a letter requesting VCRD assistance. Brief discussion followed on the Community Values Mapping exercise conducted by Monica Pryzperhart of Vermont Fish and Wildlife. The Selectboard agreed that these were complementary initiatives and Maureen offered to contact Monica Pryzperhart to discuss working with VCRD. Kord agreed to draft a letter to VCRD on behalf of the Selectboard.

Windham Elementary School—update and next steps from Carolyn Partridge

Carolyn reported a good turnout at the recent vote on the school merger. As a result of the vote, Windham will not be forcibly merged into the West River Modified Union Education District (WRMUED). Windham Elementary School (WES) will continue as it is presently with its own School Board, property, bus, teachers' contracts, etc. A total of 17 or 18 students are anticipated for next year which will be Sally Newton's last year at WES. Carolyn warned about the potential impact of even a single family moving in or out of Windham. Brief discussion followed on the future of the school beyond next year, the option to sell the school to the Town, and possible downsizing to one classroom. Carolyn also discussed the future of education for students in grades 7 through 12 and the 50 year-old agreement re: Leland and Gray. The next vote on July 11 is open to residents of Jamaica, Townshend, Newfane and Brookline, but not Windham. If the other 4 towns vote to let Windham leave, students will have the option to attend either Green Mountain or Leland & Gray. Tuition costs would be covered up to the funding limit for public high school reimbursement. The Town would need to vote to approve funding for a more expensive school such as Burr & Burton.

In response to questions from Bill Dunkel, Carolyn explained that the lawsuit against the merger is proceeding, and that the State cannot force us to merge. In response to a question from Maureen regarding the school budget increase for Special Education costs and whether the student has moved out of Windham, Carolyn replied that the information is confidential, but that she will continue to advocate for Windham's interest and alluded to one of the child's parents possibly having moved to Brattleboro. The \$49,000 budget increase will remain in the budget and create a surplus for the following year *if no Special Education services are needed*. Kathy Scott reported that the Town, which did not have access to the bank records for the school previously, can now track school expenditures. She also investigated the notion that Windham Central Supervisory Union would be sending forms for signature in order for Windham to borrow up to \$100,000 and determined that there was no reason to borrow money.

Sheriff's Contract – review and sign

Kord reviewed the proposed contract discussed briefly at the last meeting. The amount of return on investment via revenue generated by traffic fines was not available. Kord believes it is sufficient to cover the majority of the cost, if not all. Kord suggested continuing the contract on the same terms as currently in effect, approximately 10 hours of patrol coverage. Joyce noted that the proposed contract provided for just 8 hours. Kord will make notation on the contract to correct number of hours to 10. Kathy Scott mentioned that a note was included with an invoice submitted in anticipation of contract acceptance. It was uncertain whether the contract needed to be signed and returned or if it would automatically renew unless cancelled. The invoice

referenced 13.75 hours and it was not clear whether an additional charge was due for the extra (3.75) hours. Maureen suggested holding off on contract acceptance and asked Kord to look into discrepancies. The effective date is July 1.

Delinquent Tax Sale – Town Agent and Sheriff's Officer

Maureen reported that Michael Simonds is available and will serve as Town Agent at the upcoming delinquent tax sale on June 26th. The sheriff's office has been contacted and an officer will be present during the tax sale. Cost is approximately \$300. Brief discussion followed on deducting fees and expenses from the proceeds. Kord will contact the Town attorney to review handling of fees and expenses.

Equalization Grand List Challenge Withdrawal (for 2018) and Extension to file Abstract (for 2019)

Maureen referenced efforts by Kathy Scott and Russ Cumming to get a better rate status on the Grand List. Russ met with Chris Landin, District Advisor for Property Evaluation and Review at the Vermont Dept. of Taxes, regarding closing out the Grand List challenge for 2018. Chris required a written notice signed by the Selectboard in order for the challenge to be withdrawn. As such, Maureen signed a letter to that effect. An extension to file the abstract for the Grand List for 2019 was also submitted to the Vermont Dept. of Taxes. Russ explained that Windham's education tax status as a sending town or gold town was determined almost 50 years ago when Timber Ridge/Glebe Mountain were in operation. Since then, the Town's economic status has changed but the education tax rate has not been adjusted. In order to effect a change, an interpretation must be made by the Ways and Means Committee.

Old Business:

Roadside Mowing – clarification of equipment contract and Conservation Commission plans

Maureen requested clarification on the rental term for the mower equipment approved at the last meeting. Kord explained that the equipment is not available until mid-August and suggested spot-mowing in the meantime to get control of invasive weeds such as wild parsnip and wild chervil. There will be a balance of \$1,500 available in the account after allowing \$8,500 for the rental contract with Tenco. Kord suggested renting Kurt's sickle bar mower and having Kurt run the equipment as a Town Employee. Richard has had preliminary discussion with Kurt, but all the details have not been decided. Alison recommended mowing wild parsnip in next two weeks. Kord suggested having Alison accompany Richard in identifying the areas of infestation on Windham Hill Road and Route 121. The first mowing should begin before July 1st. Ideally, a second mowing should be done in July if possible within the \$1,500 balance. Kord will contact Kurt in the next few days to determine cost for rental of his sickle bar mower and Kord will disseminate information to Maureen, Hal, and Richard. Selectboard members were warned to avoid violation of open meeting laws by responding or discussing information.

A suggestion was made to begin planning for mower equipment rental earlier next year. Kord noted that the equipment rental firms have already developed regular rental schedules with other towns. Windham would need to become one of the regular rental customers to get preferred scheduling for equipment rental.

The Meeting House—Committee Update:

Dawn reported that the Committee anticipates issuing its recommendation and findings to the Selectboard within the next month.

Roads:

Vehicle Accident – update (driver/equipment/road/insurance)

Kord offered a brief update on the accident involving the town truck driven by Kurt, who was lowering the truck body when it got tangled in telephone lines. The truck, which may have sustained frame damage, was driven to the dealer on Friday for repairs. No word yet on an insurance adjuster being assigned. The truck is still under warranty. Kord is looking into whether insurance coverage will provide for a replacement vehicle while repairs are done.

Exposed Culvert on Popple Dungeon Road

Maureen referenced an email and photo from Tan Bronson regarding an exposed culvert on Popple Dungeon Road. The email was received by the Town Clerk who forwarded it to Richard. Richard has addressed the problem.

Letter to Dan Diaz regarding vacation day status

The Selectboard prepared a letter to Dan Diaz clarifying the vacation leave benefit. The information has been provided to Dan verbally. The Selectboard signed the letter and requested the clerk send it to Dan.

Paving Bid Review and Award

Everett Hammond was present to offer guidance and answer questions about the paving bids. Prior to going out to bid, Everett estimated the project cost for paving Windham Hill Road Sections 4 and 5 and part of Section 6 at somewhere between the 2 bids received. Northeast Paving bid \$449,257; and Springfield Paving bid \$371,720. (See attached bids.) (Also attached: contractor requirements and specifications per RFP.) Brief discussion followed on the ownership and experience of the firms, as well as estimates for compaction testing and construction oversight. Russ asked whether aggregate testing would be appropriate and Everett offered to look into the source material and whether state-certified. Kord asked whether the Selectboard previously approved depositing the State Aid for Transportation into the paving fund. Kord explained that crediting the State Aid for Transportation funds to the paving account was not automatic, and because the paving account balance would be insufficient otherwise, he suggested a motion to approve assigning the money to the paving account.

Motion: To instruct the Treasurer to deposit the State Aid for Transportation funds into the restricted paving account—moved by Kord—all in favor.

With the State Aid for Transportation, approximately \$420,000 is available for paving. Maureen questioned whether there were sufficient funds to pave more of Section 6. Everett recommended stopping where planned. Brief discussion followed on V-trans specifications and the benefits of construction oversight.

Motion: To sign the Construction Oversight Agreement appointing Everett T. Hammond, P.E. Consulting Engineer for paving Windham Hill Road Sections 4, 5 and part of 6 per terms of Oversight Agreement (see attached)—moved by Kord—all in favor.

Motion: To utilize M & W Soils Engineering of Charlestown, NH for 40 hours of compaction testing on Windham Hill Road paving project Sections 4, 5 and part of 6 at a cost of \$2,500 (see attached)—moved by Maureen—all in favor.

Motion: To award the contract for paving Windham Hill Road Sections 4, 5 and part of 6 to Springfield Paving per proposal received 6/3/19 at a cost of \$371,718 (see attached)—moved by Kord—all in favor.

Maureen asked about contacting Northeast Paving regarding notification of unsuccessful bid. Everett offered to do this and copied contact information for Northeast Paving.

Route 121 culvert planning

Kord stated that the replacement of the culvert on Route 121 remains open until funding can be secured. The project cost is estimated at \$350,000. A grant in the amount of \$175,000 has been secured. In addition, at the last meeting notice of a grant award of \$60,000 was received from Better Roads. Funding is short by approximately \$115,000.

Based on bids for culverts received at the last meeting, Richard has placed an order for culverts (approx. \$12,000) which need to be replaced before paving can begin. This work is a priority and the culverts are expected to be delivered either Friday or Monday. Brief discussion followed regarding the need to subcontract an excavator to assist in the project. Kord reported that there is approximately \$45,000 in the account for bridges and culverts.

Kord mentioned that Ralph Wyman reported another large culvert across from the Town Garage that needs replacement. Kord has a call in to Mark Pickering of V-Trans to look at it. Richard estimated the culvert size at 5 ft. high and 4 ft. wide. The area affected is not part of the sections to be repaved this year. Everett also offered to look at it.

YTD Budget Review

Kathy Scott presented the YTD budget expenditures for review and remarked that the budget is in relatively good shape. Salt usage is down considerably this year at 249 tons compared to up to 1000 tons in the past. Kathy requested clarification from Richard regarding stone—Richard will review and advise. A suggestion was made to exercise greater caution in the General Fund. Brief discussion followed regarding legal fees associated with the tax sale. Kord stated his understanding that the attorney is paid out of the proceeds of the tax sale. In addition to the attorney's fees on the day of the tax sale, invoices have been received for legal consultation with the delinquent tax collector in preparation for the tax sale. Kord will contact the attorney and report back at the next meeting.

Other—Road-related

Kord reported calls received from residents on Burbee Pond Road about vehicles traveling at excessive speeds and a vehicle hitting a dog belonging to the Faraces. Kord suggested the residents (Kermit Wood and Therese Farace) send a letter to the Selectboard regarding the matter. Hal asked whether Mike McLaine filed the registration of roads with the DMV; Hal will check into this. Kord referenced the 1994 traffic ordinance which establishes a town wide limit at 40 mph. Kord suggested lowering it to 35 mph. The results of the recent traffic study are available and will be presented at the next meeting.

Correspondence/Payroll/Bills

Correspondence, payroll and bills were reviewed and approved as necessary. Among correspondence was a summary of changes in Vermont Recording Fees (see attached).

Brief discussion followed on correspondence from Windham County Humane Society, specifically an agreement to accept stray animals. In addition to a flat annual fee of \$350, Maureen recalls an exorbitant monthly charge specified previously. Kathy will look into this.

A complaint was also received regarding an unleashed dog in Timber Ridge. Mike McLaine spoke with the complainant.

Executive Session for Personnel Issue

Motion: To enter Executive Session at 8:50 p.m. for purpose of discussing a personnel issue—moved by Maureen—all in favor.

Motion: To exit Executive Session at 8:54 p.m.—moved by Maureen—all in favor.

No decisions were made.

Maureen asked if the Selectboard had any objections to the next meeting date: July 1, 2019. No one objected.

Adjournment

Motion: To adjourn the regular Selectboard meeting at 8:55 p.m.—moved by Maureen—all in favor.

Respectfully submitted,

Joyce Cumming
Selectboard Clerk

Attachments:

- Changes to Zoning Regulations and Enhanced Energy Plan
- Bids from Northeast Paving and Springfield Paving (rec'd 6/3/19)
- Additional Contractor Requirements, Scope of Work, Specifications and 2019 Paving Plan (Part of RFP)
- Construction Oversight Agreement with Everett Hammond signed 6/17/19
- Compaction Testing Estimate from M&W Soils Engineering (email rec'd from Everett Hammond)
- Contract with Springfield Paving signed 6/17/19
- Certificate of Liability Insurance for Springfield Paving
- Summary of VT Recording Fee Changes