

Windham VT Selectboard Meeting Minutes
April 20, 2020 Regular Meeting

Present via Zoom web conference:

Maureen Bell, Selectwoman
Kord Scott, Selectman
Bill Dunkel, Planning Commission
Liza Eaton
Tom Johnson, Energy Commission
Kathy Jungermann, Emergency Management
Daniel Reilly
Kermit Woods

Peter Chamberlain, Selectman
Mike McLaine, Town Clerk
Joyce Cumming, Clerk
Sally Hoover, Auditor
Louise Johnson, Meeting House Committee
Robert Lakin, Law Enforcement Officer
Carolyn Rubin

Call to order

The meeting was called to order at 5:31 p.m.

Additions to Agenda/Announcements/Reminders

- Kord requested the addition of discussion re: the salt shed at the Town Garage.

Approve minutes of April 6, 2020 Regular Selectboard Meeting

Motion: To approve the April 6, 2020 Regular Selectboard Meeting minutes as presented—moved by Maureen—all in favor.

Public Comment

There was no public comment.

Old Business:

Windham Road Ordinance Policy

In response to a question from Maureen, Peter suggested that the warning for a Special Meeting on October 27, 1994 may have been for the purpose of disapproving the Road Ordinance adopted on August 11, 1994 in order to adopt the new one. Peter believes the Road Ordinance on file is valid. Kord suggested re-adopting the Road Ordinance after review and corrections. Officer Lakin reviewed the Road Ordinance and was impressed with its thoroughness; the only item he noted missing was the speed limit reduction to 30 mph in South Windham. Brief discussion followed regarding whether a traffic study would be required to reduce the speed on Windham Hill Road from 40 to 35 mph. Officer Lakin explained that the Selectboard has the authority to adjust speed limits within the Town by up to 5 mph. A traffic study would be required in order to approve a reduced speed limit of less than 35 mph. Kord inquired about whether the traffic counts conducted by Windham Regional Commission would constitute a traffic study. Officer Lakin noted the various factors and requirements considered in a traffic study. Because the Selectboard has the authority to reduce the speed limit by 5 mph (40 mph to 35 mph), the question of a traffic study was a mute issue.

Kord referred to correspondence between himself and Susan Senning at VLCT; he will forward the information to the other Selectboard members.

Peter reviewed the corrections he noted as needed. Article 6, Section 1 prohibits stopping or parking a vehicle within 150 ft. of a curve or on the brow of a hill. Peter noted that cars park along the road at the Meeting House for Town Meeting and social functions such as the chicken BBQ, etc. Article 3, Section 1, letter (f) refers to a "stop" sign at the junction of Town Road #20 (West Windham Road) and Burbee Pond Road. Peter noted that the sign at the intersection is a "yield" sign, not a stop sign. Brief discussion followed on stop and yield violations and whether the Town needs to adopt yield signs as it does stop signs. Peter suggested that the intersection in question may have originally held a stop sign, but because of the limited traffic involved, residents may have requested the change to a yield sign subsequent to adoption of the ordinance in 1994. Article 5, Section 4 cites speeding restrictions where children are gathered or there is apparent danger. The Section reads: It shall be unlawful to operate a vehicle at any time in any area where children are gathered or where there exists any condition of apparent danger, at an unreasonable rate of speed. Peter questioned what is considered unreasonable. Officer Lakin responded that if a motor vehicle operator is driving recklessly, he could cite the driver under the pertinent sections of the State law (negligent operation of a vehicle, driving too fast for conditions, etc.), not the road ordinance. The 1995 Amendment includes a list of officials authorized to issue tickets and Peter noted that the concept of unreasonable may vary from person to person. Officer Lakin explained that municipal officials and the constable can issue tickets on violations of the municipal ordinance. The question of what a reasonable prudent person would do in any given situation is a case to be argued in traffic court. Article 6, Section 3, letter (a) prohibits leaving a vehicle on property owned, leased or maintained by the Town, or parked on a street within the Town, for 12 hours or more continuously. Peter cited the use of the Town Office parking lot by residents who leave their vehicles there during mud season. A suggestion was made to amend this section or include stipulations. Officer Lakin recommended keeping it simple and not trying to cover every possible scenario. If a car is found parked where it shouldn't be, Officer Lakin would question the registered owner as to why it is there, etc. If necessary, the vehicle may be towed from private or Town property. Maureen interpreted Article 6, Section 3, letter (c) which prohibits parking of vehicles within the Town highway limits between November 1 of each calendar year and November 1 of the following year as a restriction against parking any vehicle in the road at any time. Article 8, Section 1 states that any operator of a vehicle on approaching a bus stopped for the purpose of taking on or discharging passengers shall slow down so as to safeguard passengers who are entering or alighting. Peter noted that it should comply with State law. Officer Lakin suggested that this section may have been intended to address ski traffic at Glebe Mountain when the ordinance was adopted in 1994. Peter agreed to make corrections/amendments as needed.

Brief discussion followed regarding the speed limit on the small section of State Route 11 in Windham. After some discussion it was decided that because the traffic ordinance specifically refers to Town highways in Windham, Route 11 is excluded.

Nuisance Animal vs. Public Nuisance Ordinance

Kord reported that he received another call about Kermit's peacocks on the Badgley's property. Maureen noted that the State law prescribes the specific domestic animals that can be addressed via a nuisance animal ordinance. A public nuisance ordinance could be adopted to address other issues beyond those covered in the nuisance animal ordinance. Officer Lakin has spoken with Kermit in the past and appealed to his sense of decency in containing the peafowl. Without an ordinance, there is little more that can be done to address the problem. Officer Lakin noted that in the absence of an ordinance, his authority is limited, and residents may get frustrated when the problem continues to recur leading some to take issues into their own hands.

Maureen offered Kermit the chance to speak on the issue. Kermit said he felt horrible about it, and the animals are being contained now; eventually, he plans to build an aviary for the peafowl. Kermit explained that the peafowl are effective toward reducing the tick population and he wants to allow them out periodically for this purpose.

Kord referenced another complaint received from Buddy Behrendt about a dog. Kord doesn't want to hassle residents and would prefer that issues be addressed neighbor-to-neighbor if possible. Without the adoption of an ordinance, the only mechanism available to residents like the Badgleys is to file a civil lawsuit. Officer Lakin cited a case in Londonderry where horses caused \$1200 in lawn damage. Bill noted that he had a discussion with Kermit and would prefer not to have to involve the Selectboard in issues between neighbors. Officer Lakin likened the adoption of an ordinance to an insurance policy.

Maureen thanked Kermit for his cooperation and suggested that the Selectboard continue to review the issue. Peter would like to review ordinances adopted in other towns. Kord agreed to share Putney's ordinance. Kord will also reach out to VLCT for information. Officer Lakin noted that no law enforcement officer is seeking to pursue animal issues but having an ordinance does allow violations to be addressed when necessary.

Bill noted that the issue that prompted him to contact the Selectboard was not the birds but rather an incident involving Kermit's llama/alpaca. Bill reported that the animal charged at him while he was walking on Burbee Pond Road, and he is concerned about the potential threat to the safety of people walking on the road. When Bill discussed it with Kermit, Kermit was apologetic and surprised that the animal would act aggressively. Part of the issue may be that the animal is trying to guard its territory and because it is allowed to roam on the road, it is mistakenly considering the road as part of its territory.

New Business:

2020 Windham's Local Emergency Management Plan Adoption

Maureen received the Local Emergency Management Plan for 2020 from Imme and Kathy and shared it with the other Selectboard members. See attached. Kord and Peter agreed that the plan was well prepared. Maureen will sign it, make a copy of the signature page, and submit it to the Windham Regional Commission. Kathy will update the binders in the Town Office with the new plan. The Selectboard thanked Kathy and Imme for preparing the plan.

Wi-fi hotspot update

Kord reported that initially it was not clear whether the Town could designate just one or several locations for wi-fi hotspots. After learning that we could designate just one location, Kord determined that the Meeting House would be best due to its central location and responded accordingly. He hasn't heard back yet but believes there was an overwhelming response to this initiative. Maureen provided background by explaining that the Selectboard learned that Microsoft grants were available to enhance wi-fi capability through the placement of boosters. Reliable wi-fi is especially important now while so many are working and studying remotely. Kord added that the boosters are outdoor wifi extenders with a range of 250 to 300 feet and would allow for wifi access without entering the building or pulling up close to the building.

What exactly is an electronic signature?

Kord explained that programs like Adobe allow users to create a digital signature which can be used on electronic documents. The signatures are marked as certified digital signatures by the software company.

Jamaica Local Hazard Mitigation Plan – review the draft and advise Windham Regional Commission

Jamaica's Local Hazard Mitigation Plan was shared with neighboring Windham for questions, comments, or concerns. Members of the Selectboard reviewed Jamaica's draft plan and did not have any issues with Jamaica's plan. Bill has not reviewed it. Maureen agreed to send it to Bill for his review before responding to Windham Regional Commission.

Roads:

VTrans TA-60 form –approve for signature

Meghan at VTrans prepared a draft TA-60 (Annual Financial Plan – Town Highways) for Windham based on information Kord provided on the highway budget from the 2019 Town report (see attached). Due to social distancing guidelines, Kord will sign the form as the duly authorized representative of the Selectboard and return it to V-Trans.

Motion: To appoint Kord Scott as the Duly Authorized Representative of the Windham Selectboard for the purpose of certifying the information in the Annual Financial Plan – Town Highways (TA-60) for Fiscal Year 2020—moved by Maureen, seconded by Peter—all in favor.

VTrans Annual Meeting – Grant applications

Kord explained that V-Trans is not conducting annual meetings due to the social distancing guidelines. Kord reported that the deadline for grant applications has been extended from April 15 to May 15. Kord has been working with Everett on the issue of the Chase Road culvert; Megan and Mark at V-Trans are aware of Windham's intention to submit a grant application for the Chase Road culvert. Windham will not receive a paving grant this year but should receive it next year. Discussion followed re: returning the structures grant and re-applying in the future. Kord also reported discussion with V-Trans about federal grant applications which may be available to cover the entire cost of the Rt. 121 culvert project. The grants require a Town match of 20%, or \$100,000 of a \$500,000 grant. Because the project will take from 3 to 4 years to complete, the Town has time to determine how to come up with its matching funds. Kord explained that the federal grant applications are not binding and not subject to the May 15 deadline. Kord will share the grant application with the other Selectboard members prior to submitting it.

550 update, discussion, possible decision

Kord reported another problem arose with the 550 last week and Richard suspects that the rear-end has gone. Kord had been in the process of finalizing the specs and getting quotes on a new truck when the COVID-19 crisis struck. At present, the Ford plant is shut-down. When the plant resumes production, there will likely be a backlog of orders. The new vehicle would not be available until fall.

Kord decided to call some of the local dealerships to see if any of them had a truck with the desired specs in stock. Claremont Ford has the cab and chassis in stock. Prior to the meeting, Kord distributed a spreadsheet to Maureen and Peter which listed the options available on the vehicle in stock at Claremont Ford (see attached—options highlighted in red are not included on the vehicle in stock at Claremont Ford). Claremont Ford's quote is \$49,400 which is \$1000 more than Lebanon Ford which quoted \$48,400, and \$600 more than Stewart's which quoted \$48,800. Brief discussion followed on stainless steel bodies which are becoming more popular with Towns for their truck fleets. At present, Iriquois is the preferred body company. Dump body production was also shut down but Iriquois anticipated resuming production today. Kord noted that once decisions are made on the dump body and company, it will likely require about 5 to 6 weeks before the dump body is available.

Kord wants to get back to Claremont Ford to let them know whether Windham wants the vehicle they have in stock. No discussion has been held with Claremont Ford about when payment would be due. The total cost for the cab, chassis, dump body and extended warranty is expected to come to approximately \$95,000. Kathy explained that the Town presently has \$60,000 in the equipment fund and another \$39,522 is being applied from last year's roads budget surplus monies. The Town approved an appropriation of \$30,000 at the 2020 Town meeting though it is expected that residents will have a hard time paying their property taxes this year. Kord suggested financing some or all of the cost and then reviewing cash flow at tax time.

Peter pointed out that the 550 has already cost the Town a considerable sum in repair costs; and if Richard is concerned about the vehicle, it's time to replace it. Peter doesn't think that the Selectboard should wait for the Ford plant to resume production because the vehicle is needed sooner rather than later. In response to a question from Maureen, Kord explained that Kurt and Richard are okay with changes in specs on the vehicle in stock. Kord needs to follow-up with Richard on the dump body decision.

Motion: To order the cab and chassis in stock at Claremont Ford at the quoted price of \$49,400 plus the extended warranty at \$5,670, and order the dump body from Iriquois pending the Road Foreman's approval—moved by Kord, seconded by Peter—all in favor.

Kord also reported that in the process of dismantling the truck to assess the rear-end condition, Richard noted two broken wheel rims. Replacement rims were ordered at \$100 each.

YTD Budget Review

There was some confusion as to whether the review was to focus on the roads budget alone or the general budget as well. It was decided that a review of both roads and general budget will be included at the next meeting. Maureen noted that the roads budget report she received only contained expenses for January and February and did not include March. (Kathy noted later that the March information was contained in an email sent on April 10.)

Carrarra's Hold Harmless Agreement – are they ok with Bob Fisher's comments?

Kord called Richard Carrarra and explained that the Town's attorney has advised that the Selectboard does not have the authority to sign the hold harmless agreement as it cannot bind all future Windham Selectboards for as long as any potential liability might arise. The Town attorney shared work-around language which may be added to the agreement. Carrarra will send the Town attorney's suggestions to its insurance broker to see if it is acceptable. Brief discussion followed on possible environmental risks posed by oil undercoating. Maureen will consider the matter settled unless she is advised to the contrary.

Added item: Salt Shed Update

Kord noted that the rear wall on the sand side of the shed is showing cracks and starting to move. Pete Newton came out to look at it; he suggests placing buttresses/concrete supports to reinforce the wall and prevent it from deteriorating further. Record Concrete inspected the problem. Pete made a sketch of the proposed solution which Kord will scan and send to Record Concrete for a quote on repairs. Kord will copy the Selectboard members.

Discussion followed re: alternate means to access equipment i.e., backhoe, chipper, etc. stored in the shed. Kord also noted an issue with parking the loader and grader under a lean-to as proposed. The area in question is elevated higher than the salt-shed, and as a result the loader and grader won't fit. Richard will dig test pits to determine if the area is elevated due to ledge. Kord will continue to get information and formulate plans to present to the Selectboard.

Correspondence

Maureen noted that two paint bids were received for the Town Office exterior painting project. Mike confirmed that no additional bids were received. Maureen suggested she open the two bids received and read them aloud before scanning and sending the information to Peter and Kord for discussion at the next meeting. Mark Snyder of Bellows Falls quoted a total cost of \$4,599 including labor and materials. A certificate of insurance was submitted. Pikes Falls Painting of Jamaica quoted a total cost of \$3,132 including labor and materials. This bid was not accompanied by an insurance certificate.

Peter asked Kathy about the insurance certificate submitted by Mark Snyder and whether the box for workers' compensation was checked; it was not. Peter will contact both bidders re: insurance certificates including liability and workers' compensation. Further discussion will be held at the next meeting.

An excess weight permit was received from Chaves along with a check for \$10; Maureen will drop the check off for Mike at the Town Office, and leave the weight permit at the Town Office for Kord. An access permit was also received from Christianson on West Windham Road; Kord will review it with Richard. Maureen noted an email received from Frank Seawright with questions for Town Government to consider regarding the financial implications of the COVID-19 crisis. Maureen asked Peter and Kord to review the questions in the email which she forwarded. Maureen will forward Frank's questions to Kathy as well.

Payroll/Bills

Payroll and bills were submitted for review prior to the meeting. Kord was authorized to sign off on payroll and bills.

Adjournment

Motion: To adjourn the Regular Selectboard meeting at 7:25 p.m.—moved by Maureen—all in favor.

Respectfully submitted,

Joyce Cumming
Selectboard Clerk

Attachments:

- 2020 Local Emergency Management Plan (LEMP)
- 2020 Annual Financial Plan-Highways (Form TA-60)
- F550 Proposed Tabulation Worksheet