



Town of Underhill

P.O. Box 120, Underhill, VT 05489

underhillvt.gov

Phone: (802) 899-4434

Fax: (802) 899-2137

SELECTBOARD REGULAR MEETING MINUTES

Underhill Town Hall – Remote Meeting

Tuesday, August 4, 2020, 4:00 p.m.

Selectboard: Dan Steinbauer, Bob Stone, Peter Duval

Town Staff: Jim Beebe-Woodard, Pat Sabalis, Laurie Graham

Public: MMCTV, Bridget Stone Allard, Martha Erickson, Steve Webster, Sandy Gillem, Nicole Thompson, Rachel Becker, Charles Alexander, Nancy Alexander, Peter Bennett, Arnold Thomas, Bob Heiser

4:00 p.m. Call Selectboard Meeting to Order Dan Steinbauer calls the remote meeting to order. This meeting is recorded by and is available through MMCTV.

4:03 p.m. Adjustments to the Agenda Old Business: Loan Approval and Dumas Road/FEMA Buyout added.

4:01 p.m. Public Comment Pat Sabalis of Irish Settlement Road: Comments relate to representations made by Peter Duval during the Selectboard Special Meeting on July 21, 2020. At the end of the meeting there was an Executive Session for a discussion with the Town's legal counsel about pending litigation, involving selectboard member, Peter Duval. During a discussion about whether it was appropriate for Peter Duval to participate in the Executive Session, Peter Duval suggested that the town, not he, initiated litigation and said it was absolutely false that he had sued the town, and he looked forward to the town relenting from its appeal of the DRB decision. Pat Sabalis says the statements are misleading and facts are that Peter Duval submitted a conditional use application to the DRB to convert single/accessory dwelling into 4 unit dwelling on Pine Ridge Road. After testimony, DRB denied the application. Peter Duval appealed DRB denial to the Environmental Division of the Vermont Superior Court, the town did not appeal the DRB decision. In 2018, after considering merits of the appeal, the Selectboard authorized the Town Attorney to enter an appearance on behalf of the town, as is common when an applicant appeals a decision from the DRB. The town, with Selectboard authorization, filed a motion to cross-appeal, allowing the town to make legal arguments to the court about the appeal rather than only responding to arguments. The selectboard also authorized the town attorney to file that motion to end the arguments efficiently and be cost effective; last month the Environmental Division granted the town motion for summary judgement and upheld DRB denial of application. Last week, Peter Duval appealed the decision of the Environmental Division to the Vermont Supreme Court and continued litigation. In the meeting, there was a long discussion in the meeting about conflict of interest, Peter Duval had a conflict of interest that prevented him from attending an Executive Session in which the town's attorney would speak with the Selectboard about the litigation that he is involved in. Pat Sabalis has had the privilege and good fortune to

work on the Selectboard, and notes that managing the town is difficult enough without the newest member casting dispersions on current and past selectboard, town staff and the town's attorney, and hopes this behavior ends to work collaboratively. Peter Duval will respond during the discussion of the meeting minutes from July 21, 2020.

4:06 p.m. Racial Justice Dan Steinbauer introduces this issue that has been on the agenda in previous meetings. Dan Steinbauer refers to the paint on the roads and aims to talk about the issues underneath the paint rather than the paint itself, even though that is an issue too. Welcomes all comments in the forum.

Martha Erickson of Paul Cook Road discusses that, as a BRMS teacher, there is opportunity in our schools to elevate conversation about equity and justice. Within the town, Martha Erickson has not seen the perpetuating negative mindset as seen on FPF in Jericho. Martha Erickson believes the paint on the road was done as a message of love and openness, and asks what the whole town can do to further the cause of racial justice, often it is the same people that show up every time. Martha Erickson suggests ways to get the town involved in education and mentions Jeff Lacey spoke eloquently at the Black Lives Rally at the high school, written columns in newspapers, outdoor film series and other creative ways to become more aware citizens.

Serena Sawyer, incoming 11th grader at MMU, discusses finding creative ways to integrate racial justice in the community. Serena Sawyer has integrated racial justice into clubs such as environmental and economics clubs, groups that are not focused on racial justice, and suggests integrating into town environmental groups. Serena Sawyer mentions the movie night The Black Perspective racial advocate group has done successfully in Burlington and believes this could be a comfortable place of education for people.

Bart Johnson discusses graffiti on the roads and does not believe anyone should be able to paint our roads, other than for safety items. Bart Johnson believes it could lead to anyone painting anything they wanted on the road, including items like a confederate flag, etc. and if the town allows one, equal protection under the law states we have to allow them all, unless the Selectboard takes a firm stance against this. There is a first amendment, and anyone can say anything, but the venue doesn't have to be public property. Bart Johnson discusses Black Lives Matter as a Democratic political movement and does not want any signs posted on public property that put one party over another. Bart Johnson asks for questions at the end of his statement.

In response to asking for questions, Dan Steinbauer reminds this exercise is for everyone to speak, a recorder is taking everyone's statements and are organizing it from meeting to meeting, not a time necessarily for discussion because of the short time, and the input is all part of the end result we are trying to achieve as a town.

Arnold Thomas of Repa Road and Pastor of Jericho church asks how can Underhill as a community create an environment where everyone feels safe? This statement will be inclusive of all. Then, the graffiti won't be necessary because everyone feels like the town has acknowledged every individual and every resident as an important entity. Underhill needs to say racism is a priority that we need to address. How can we reflect that in planning our budget and living our lives as a community. As we look into innovative ways to answer that question, we will make Underhill a friendly and welcoming place for all. Arnold Thomas discusses vocational tech training and affordable housing. If you address the needs of the African Americans in our community, you address the needs of the whole community and lift the whole community up.

Sandy Gillem of Timber Ridge Road, former Assistant Principal at BRMS, agrees with Arnold Thomas and feels a great organizing question is, how can the town address/create an environment where everyone feels safe? Keep that organizing question in the back of minds when making decisions, especially around affordable housing options and transportation. Sandy Gillem would like to serve on a committee to continue this work.

Dan Steinbauer discusses Bridget Stone Allard's plan presented at the previous Selectboard meeting. Town Administrator, Jim Beebe-Woodard has been starting to work with Bridget Stone Allard on that. Peter Duval believes the town could address systemic oppression by predictably following all regular procedures people expect when reading law/town documents, traffic stops that are problematic/not effective, respect zoning and fair housing.

Martha Erickson looks for clarification on whether there will be a group of people looking to establish next steps, and how that communication will happen. Jim Beebe-Woodard discusses that he is going to bring a voice to the committee in creating actionable items the Selectboard can vote on and has been discussing this with Bridget Stone Allard and others. They are deciding if it is a formal vs. ad hoc committee. Bridge Stone Allard invites others interested in joining a conversation with Jim Beebe-Woodard tomorrow (Wednesday 8/5/20) and will collect their contact information.

4:40 p.m. COVID-19 update Bob Stone has signed up for masks for municipalities through the state emergency management, prepared to send 25% of the town's population in masks. Bob Stone discusses how to distribution them, and will reach back out when the masks arrive. Bob Stone discusses the purchase of a trailer the town could use as a testing site, for emergencies or for moving/storing voting equipment that is in the town hall balcony. Peter Duval suggests 2 trailers for the separate functions. Peter Duval suggests motion for finding face coverings for the other 75% of the town, possibly extras for each resident. Dan Steinbauer is not sure if it is needed as the town has purchased supplies and is on track. Peter Duval mentions money available that needs to be spent quickly. Peter Duval suggests getting more equipment for site visits and other tools for meetings. Bob Stone, previously suggested money for technology deficiencies. Bob Stone notes Peter Duval is tech-savvy and is the point person, and asks for vision or plan of what things the town needs to acquire. Discussion continues about technology for site visits including ipad with cameras and lidar, and thermal cameras. Peter Duval does not want to wait until there is a pressing need. Jim Beebe-Woodard supports a proactive response to Covid-19, but notes it does not make sense to chase grant funds when the need is not articulated. The town Finance Officer is keeping a spreadsheet of any purchases related to Covid-19 and may look for grant reimbursement. Bob Stone asks Peter Duval, how many face coverings would be needed and total cost. Peter Duval will look into this and confirm.

5:10 p.m. Old Business: Jeff and Nancy Alexander land transfer request, Approve Tomasi Meadow interim management plan, Underhill Flats sidewalk project timeline, Sheriff's contract 2021

Jeff and Nancy Alexander Land Transfer Request Charles Alexander discusses the land transfer request of his parents, Jeff and Nancy Alexander of Beartown Road, beside the new solar array. The town property line is about 20 feet from the Alexander's garage, and they are requesting a proposal for land transfer to maintain the

value of their home. They are concerned about lack of privacy due to the solar array, possible new roads or expansion to the solar array and the Alexanders have maintained the area of the land for many years. They invite the Selectboard to a site visit to see the area and its maintenance. It would benefit the town as they would pay tax on it. Jim Beebe-Woodard notes a point of clarification, as Kurt Johnson did bring this issue to the selectboard in the past, and at the time there was exploration of re-opening the gravel pit, but the selectboard did not circle back around to this after it was determined the gravel pit would not reopen. Bob Stone would like to continue to explore possibilities with planning and zoning, to make this work for the Alexanders. Jim Beebe-Woodard discusses that the Alexanders have also offered to purchase the land from the town, rather than just deed it to them. Jim Beebe-Woodard notes that even though there has been maintenance of the land, landowners cannot claim adverse possession against the town. Jim Beebe-Woodard continues that this change would make their lot more conforming and the town could agree to the responsibility of planting trees or a natural shield. Charles Alexander notes that there was no vote on the solar array and only knew about it because their property abuts it. The Alexander's offer to pay \$5,000 dollars on ~.6 of an acre for the land transfer. This offer will be discussed during the next meeting's Executive Session.

Approval of Tomasi Meadow Interim Management Plan Bob Heiser of Vermont Land Trust, notes that when towns take ownership of land, there may not be time to make a full plan for the land before the closing date. At closing, the Vermont Land Trust and Vermont Housing and Conservation Board are looking for an indication to the public about what is allowed, what is not, that will be in place for about a year or so, as the town continues to make a long-term management plan for the property.

Dan Steinbauer motions to approve the interim management plan for the Tomasi Meadow and authorize the selectboard chair to sign the plan so it can be in effect. Bob Stone seconds. Peter Duval discusses language in the plan, mowing a path around the "exterior" of meadow, and maybe the term "edge" would be more accurate. Peter Duval mentions the Easement in Section 3.9 about the parking lot; he would like that removed for future negotiation due to the soil and the view in the area. Discussion continues that the Easement documents are finished and they are only reviewing the Interim Plan which does not mention a parking lot, but does mention parking at Casey's Hill and the school. Bob Stone asks about the fire department using motorized vehicles on the meadow; Bob Heiser replies that public safety training could work. Bob Stone would like a clause about this, as it is a recreation area where the fire department may want to practice. Dan Steinbauer believes an interim management plan can be done for closing and discussion about the easement can continue. The motion to approve and sign the interim management plan is approved by a vote of 3-0.

Bob Heiser notes the closing date during the last week in August (possibly the 28th.)

Dan Steinbauer moves for Jim Beebe-Woodard to represent the Selectboard at the closing and to sign the closing documents. Bob Stone seconds. Peter Duval discusses the parking lot mentioned in the easement. Bob Heiser discusses the importance of community access and potential resource impacts of the lot. It is something the town can do in the future if that is what the community wants. Dan Steinbauer believes the easement is a done deal and signed document, now the motion is to appoint Jim Beebe-Woodard as the representative. Bob Heiser offers to forward additional details at the next meeting. Peter Duval asks if the town has the ability to

restrict access to just townspeople; Bob Heiser replies that the land needs to be open to the public because state funds are coming to the town. The motion is approved by a vote of 3-0.

Dan Steinbauer moves to have the treasurer expend the funds authorized by the town for the Tomasi Meadow \$20,000 contribution which was passed in an article in town meeting. Bob Stone second. Motion passed by a vote of 3-0.

Discussion continues about parking, possible plowing in during winter. Dan Steinbauer believes the first options for parking are at the school and at Casey's Hill lot.

Underhill Flats Sidewalk Project Timeline, Jim Beebe-Woodard has received advice from the engineering firm that this project should go out to bid late winter and get started in the spring of 2021. Dan Steinbauer agrees.

Dumas Road/FEMA Buyout Jim Beebe-Woodard updates that Brad Holden is continuing to work and research this, with no new development.

Sheriff's Contract 2021 Dan Steinbauer would like a representative present at a meeting for discussion. Dan Steinbauer moves to approve Sheriff's Contract 2021, agreeing to the new rate, for 6 hours per week, and authorize the chair of the Selectboard to sign the contract. Bob Stone seconds. Discussion ensues as Bob Stone would like to revisit after Pat Sabalis reviews ordinance as it relates to speeding in the town of Underhill. Once that is done, change the speeding ordinance update and amend contract; notes that if there are any tickets in the town of Underhill, he would like to maximize the amount of money that would come back to the town. Dan Steinbauer seeks to know the relationship between tickets/warnings and what really the sheriffs are seeing, from a conversation with the sheriff's department at the meeting. Bob Stone suggests quarterly updates from them. Discussion continues about 6 hours/week, effectiveness of traffic stops and Peter Duval suggests no enforcement and Bob Stone disagrees and supports traffic stops as a matter of safety. Jim Beebe-Woodard will invite a representative at the next meeting to provide statistics. Continuing discussion about data and statistics. Jim Beebe-Woodard reminds that the townspeople have approved the money to be spent in this way, as townspeople are asking for more speed control. Dan Steinbauer would like to explore some options of trouble spots and more adequate signage. Dan Steinbauer calls the question on the motion. Peter Duval calls a point of order and asks if there have been any competing bids; Bob Stone replies that the 50-56/hr and other law enforcement is 75/hr or more. Jim Beebe-Woodard notes they do not have mileage charges at this time. The motion passes by a vote of 3-0.

Loan Bob Stone motions that the town gets a loan from Union Bank for \$500,000. Discussion ensues, Dan Steinbauer asks why \$500k instead of \$750k as in the town article. Bob Stone replies that \$500k was the starting amount and they could borrow more as needed. Peter Duval believes it is more appropriate to borrow at the level the town approved, \$750 and proposes an amendment to the motion to increase the loan to \$750k. The Selectboard then votes to amend the motion to \$750,000. Dan Steinbauer and Peter Duval approve to amend the motion. The motion is amended by a vote of 2-0, Bob Stone abstaining. The selectboard votes on the main motion (now amended), to authorize the town of Underhill to borrow \$750k, as approved by the voters at town meeting. The motion passes 3-0.

Due to the storm, discussion about power outages begins and it is suggested that the town hall get battery back-up or generator and GMP has powerwalls.

6:31 p.m. New Business: Events and Nutrition, CEATS Demolition Range Environmental Assessment, TA-60 annual financial plan: Certification of Compliance for Town Road and Bridge Standards and Network Inventory

Events and Nutrition Peter Duval asks about Food Shed in Moore Park: did we authorize it, will it be there through the winter. Dan Steinbauer believes Sherri Morrin knew the plan, and thinks it is a nice addition that people like and doesn't feel a need to manage or approve/disapprove as it is just an initiative by residents. Peter Duval believes it is a structure erected on town property, but is interested in this initiative to get Covid-19 funding to people to provide more produce or food supplies, distribute Farmers Market coupons/tokens and have them in the Food Shed.

CEATS Demolition Range Environmental Assessment Peter Bennett discusses Demolition Range and Mr. O'Hara in charge of the Environmental Assessment report. Peter Bennett discusses the informal group that has met with the range, regarding noise and other items. Jim Beebe-Woodard will reach out and report back any findings. Discussion continues about contacting other bordering towns as their response to this proposed demolition range. Jim Beebe-Woodard and Peter Bennett will talk tomorrow to learn more.

TA-60 annual financial plan: Certification of Compliance for Town Road and Bridge Standards and Network Inventory Peter Duval notes that the town has not yet provided certification of compliance for town road and bridge standards network inventory to the Agency of Transportation, usually done after town meeting. Jim Beebe-Woodard will complete this paperwork.

6:43 p.m. Warrants and Minutes: Review/Approve

Dan Steinbauer moves to approve the warrants for this August 4, 2020 meeting. Bob Stone seconds. Discussion includes Peter Duval notes AP warrants and Payroll warrant came separately; Jim Beebe-Woodard clarifies payroll and meeting timing for Tuesday meetings. Peter Duval notes item on United Bank Credit Card, to godaddy.com for \$199.99, Jim Beebe-Woodard believes this is the domain hosting of our website. Warrants are approved by a vote of 3-0.

Dan Steinbauer motions to approve minutes for July 21, 2020 Special Meeting of the Selectboard, Bob Stone seconds. Discussion begins as Peter Duval feels it is important to indicate that just Bob Stone and Dan Steinbauer entered the Executive Session and Peter Duval was excluded from the Executive Session. Dan Steinbauer agrees, and notes Peter Duval had a conflict of interest. Peter Duval adds he was concerned about the number of other people invited into the Executive Session- just Town Attorney was indicated, the other parties and other elected officials invited was not appropriate and notes that whenever there is a conflict of interest, it is for the person with the conflict to deal with it. Bob Stone discusses that they need to use the resources of the town to help with decisions. Discussion about Peter Duval's appeal, cross-appeal, application of the DRB continues. Jim Beebe-Woodard, point of order, reminding of the purpose to amend the minutes. Peter Duval would like to add a sentence after, "moves into Executive Session". Bob Stone does not want to add any

statements into the minutes without reviewing with the legal counsel about what the legal ramifications are. Bob Stone supports how the minutes were presented. The selectboard votes on the motion to approve the minutes; Dan Steinbauer and Bob Stone approve. Peter Duval does not approve. The minutes are approved by a vote of 2-1.

Dan Steinbauer motions to approve minutes for July 23, 2020 Regular Meeting of the Selectboard. Peter Duval seconds. Discussion: None. The minutes are approved by a vote of 3-0.

Dan Steinbauer motions to approve minutes for July 31, 2020 Special Meeting of the Selectboard. Bob Stone seconds. Discussion: None. The minutes are approved by a vote of 3-0.

7:02 p.m. Member Items, Correspondence, Announcements, Schedule, The next regularly scheduled Selectboard meeting will be Thursday August 20, 2020 at 6:00 p.m.

VTrans Bicycle/Ped Program: Jim Beebe-Woodard discusses the 2021 VTrans grant money available for Bicycle/Pedestrian Program. New initiatives as bike lanes or other sidewalks. Bob Stone relates back to the sidewalk project. Jim Beebe-Woodard will attend the informational meeting on the 11th and report back at the next meeting on the 20th.

Anton Kelsey, of the recreation committee asked where the town is in terms of reopening the Crane Brook Trail and asked about a kiosk and signage. Jim Beebe-Woodard is wondering about litigation and impact on reopening. Dan Steinbauer suggests Jim Beebe-Woodard checking with the Town Attorney and will get back in touch on the 20th at the next meeting.

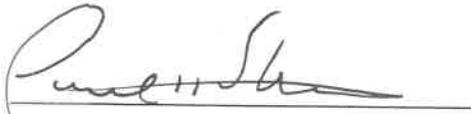
Jim Beebe-Woodard discusses the town hall improvement project that was presented at the last meeting. Jim Beebe-Woodard researched the oil tank at the town hall, finding that it is a Category 3 Underground Tank holding <1,100 gallons. Jim Beebe-Woodard spoke with someone who had done a bid on removing the tank, information provided by Rick Heh, about feasibility about inspection on the tank. Jim Beebe-Woodard learned that a 275 gallon is very uncommon to have been placed underground in less than 50 years and most likely it is an above-ground tank that was buried, and removal was recommended. Jim Beebe-Woodard found that the tank had not been recorded with the state. Peter Duval believes removal and switch to kerosene would be reasonable. Discussion continues that the tank is not failing at this point but we can plan on how to fix it. Jim Beebe-Woodard met with Rick Heh and shared all of the information they gathered for the grant funding; Jim Beebe-Woodard asks if the selectboard would like to review this information to proactively look at the heat in the town hall. Peter Duval is not interested in switching to propane and would like a zero carbon and suggests kerosene tank because he suspects it is the least cost.

Bob Stone discusses Phil Jacob's land is going to disappear and could be an opportunity for recreation, possibly a swimming pool, for the town, in the flats. Jim Beebe-Woodard will send Bob Stone Anton Kelsey's contact. Peter Duval supports town-owned land, even if it doesn't have a big goal, reserve land or town forest and notes that densely populated areas need reserve land.

7:24 p.m. Adjournment Bob Stone moves to adjourn. Peter Duval seconds. Meeting is adjourned by a vote of 3-0.

Submitted by Laurie Graham, Record Keeper.

Read and approved as submitted/amended:



Dan Steinbauer, Chair

8/26/2020
Date Signed

8/20/20
Date Approved