

**Town of Ferrisburgh
Selectboard Minutes
September 15, 2015**

Members present: Jim Benoit, Steve Gutowski, Loretta Lawrence, Red Muir, Jim Warden.

Town officials present: Gloria Warden, town clerk.

Visitors present: R.J. Adler, Ed Amirault, Chase Atkins, Dan Hawkins, Pete Hawkins, Craig Heindel, Jeff Jerger, Andy Kirkaldy, Shane Lawrence, Bob McNary, Robert Peisch, Catherine Richards, Bessie Sessions, Justin Soter, Nick Thomann, Sally Torrey, Zach Trono, Warren Van Wyck, Shannon Warden, Nancy Weber-Curth.

1. 6:30 p.m. Regular meeting — call to order.

Steve Gutowski, chair, called the meeting to order at 6:30 p.m. He then asked for a motion to amend the agenda to add:

Item No. 10: Discussion of privileged attorney/client information concerning TDI New England (possible executive session).

Adjournment would become item No. 11. Loretta Lawrence made a motion to amend the agenda as described. Red Muir seconded. All voted in favor. MOTION PASSED.

2. Approve minutes — September 1, 2015.

Red Muir made a motion to approve the minutes of September 1, 2015, as submitted. Jim Benoit seconded. All voted in favor. MOTION PASSED.

3. Selectboard new business

(a) Sally Torrey, delinquent tax collector – upcoming tax sales. Sally Torrey shared a list of eight property owners who have not paid their taxes in full for the past two years, and whose properties are subject to possible tax sales. She said she would like to be in touch with the town attorney about these possible tax sales, and asked the board to approve that. Jim Warden made a motion to approve having the delinquent tax collector contact the town attorney. Red Muir seconded. Jim Benoit, Loretta Lawrence, Red Muir and Jim Warden voted in favor. Steve Gutowski voted no. MOTION PASSED.

4. Selectboard old business

(a) Hall rental agreement review. Steve Gutowski circulated an updated draft of the town hall rental agreement. The major change from the previous draft, he said, was to add smoking to the list of prohibited activities in the building and on the grounds during rentals. He asked board members to review the latest draft and be prepared to discuss and vote on the agreement at the next meeting.

(b) Anbaric. Steve Gutowski said Anbaric Transmission, the company proposing a high-voltage direct-current power line under Lake Champlain, coming ashore in Ferrisburgh and traveling along town roads to a New Haven substation, had contacted him. He said Anbaric, which gave a presentation on the project at the September 1 selectboard meeting, suggested that the board appoint someone to work with Anbaric officials and a New Haven representative to hammer out a deal. Gutowski said he made it

clear to Anbaric that Ferrisburgh expected to have further discussions, including a town-wide meeting, properly warned, about the project before going further. He said it would be important to have input about the project from a broad cross-section of the town's residents.

(c) Anne Matthews – re: Middlebrook Road manure pit. Anne Matthews, who had asked to be on the agenda for this meeting to discuss a Middlebrook Road manure pit, did not attend the meeting. Ed Amirault, who said he was Matthews' partner at Flower Power Vermont, asked if he could speak for her. Steve Gutowski said that unless he had a letter from Matthews, the board could not allow him to speak for Matthews in the "old business" part of the meeting, but would be happy to hear what he had to say during the public comment section.

5. Selectboard general business

There were no items on the agenda under this section.

6. Public comment

Ed Amirault, who said he was speaking for Flower Power Vermont, asked if the zoning board of adjustment had held a meeting on the Middlebrook Road manure pit permit, and whether changes to the zoning laws had been required to approve the project. Selectboard members said they were unaware of a meeting on the issue, and that the permit appeared to have been handled properly by the town's zoning administrator. Board members pointed out that rules on construction of manure pits on farms are set by the Vermont Department of Agriculture, not by the town or any of its boards or commissions. A discussion ensued, during which some residents said they thought the notification process had been handled poorly, and that construction of manure pits should be subject to more scrutiny by the town and the state, possibly including changes to the town's zoning bylaws. Others said that manure pits like the one on Middlebrook Road are important tools for farmers.

Board members and town officials said the Agriculture Department is only required to notify neighboring property owners if the farmer is requesting an adjustment to required setbacks. Gloria Warden, town clerk, also pointed out that the town's zoning bylaws are trumped by state laws governing such agricultural projects. Board members repeated that while they thought it was helpful to have this discussion, these issues are handled at the state level, and that residents who have concerns should contact the Department of Agriculture and/or their state legislators.

Bob McNary asked whether the board had been able to arrange to have Bill Clark, Ferrisburgh school board chair, attend the meeting to talk about the school-town property swap being considered. Board members said they had not been able to set up a visit by Clark but hoped to have him attend a future meeting.

Bob McNary asked whether board members had spoken with the Planning Commission about including language concerning solar arrays in the town plan now under consideration. Steve Gutowski said that he had been in touch, and that given the stage of the process, such language would probably be best considered as an amendment once the final draft plan is completed.

Bob McNary asked who would be paying for the asphalt used on the skating rink at the town recreation area, across from the highway garage. The asphalt was included in a bid, approved by the board at its previous meeting, from D&F Excavating & Paving. Board members said the recreation committee would pay for the asphalt for the rink.

7. Other business

Loretta Lawrence said that she would not be able to attend the Vermont League of Cities & Towns meeting on October 8. (See "Correspondence," item d., below). Other board members were unsure whether they would be able to attend.

8. Correspondence

(a) Selectboard letter to Ms. Cowap Price re: due date for taxes. Steve Gutowski shared a letter he sent about the board's recognition that the town had never adopted the use of postmarks for determining whether taxes have been received on time. He also pointed out that Sally Torrey, as the town's elected delinquent tax collector, is the only one who can waive the assessment of penalties for late tax payments.

(b) Curth to Vermont Public Service Board – motion to intervene. The town received a copy of a notice sent by Middlebrook Road residents Harry Curth and Nancy Weber-Curth of their intention to intervene formally in Public Service Board proceedings concerning approval of a 150-kilowatt community solar array proposed by SunCommon for 2538 Middlebrook Road.

(c) Vermont Department of Environmental Conservation – 220 North Road – lake encroachment permit application. The DEC sent the town a copy of its formal approval of a permit to repair a concrete dock on Long Point, belonging to Terence E. Kett.

(d) Vermont League of Cities & Towns Property and Casualty Intermunicipal Fund – annual meeting of the membership – October 8, 2015. The meeting will take place at the Killington Grand Resort and Conference Center from 10:30 a.m. to noon on October 8.

(e) Vermont Agency of Natural Resources – SunCommon CPD – 2538 Middlebrook Road – wetlands delineation required. The town received a copy of a letter from the ANR to the Public Service Board concerning the community solar array proposed for Middlebrook Road (see 8. (b) above). The letter recommends the PSB ensure that developer SunCommon addresses possible wetland issues and concerns about Indiana bat habitat before granting a certificate of public good for the project. SunCommon's R.J. Adler attended the selectboard meeting and said the company was working on the issues, and had completed a wetland delineation on the property.

9. Selectboard to approve or sign

(a) Listers settlement agreement – Button Bay-Z, LLC, vs. Town of Ferrisburgh. Loretta Lawrence made a motion to approve an agreement reached between the Town of Ferrisburgh's listers and Peter Zimmerman, director of Button Bay-Z, LLC, to establish the listed value of property on the west side of Button Bay Road at \$925,000. The town assessment had been \$980,400; the settlement followed a State Board of Appraisers hearing on August 31, 2015. Jim Warden seconded. All voted in favor. MOTION PASSED. All five selectboard members signed the agreement.

(b) Democratic Party Caucus – downstairs meeting room – September 21, 2015, 6:30-8 p.m. Loretta Lawrence made a motion to approve renting the downstairs meeting room to the Ferrisburgh Democratic Party Caucus for a meeting on September 21, waiving the rental fee and requiring a security deposit and proof of insurance. Red Muir seconded. All voted in favor. MOTION PASSED.

(c) Union Meeting Hall – contractor proposal for crawl space vapor membrane and insulation. Red Muir made a motion to pay Structural Energy Conservation Inc., a Middlebury firm, \$10,311.40 to install a vapor barrier on the crawl space floor and walls and spray foam insulation on the crawl space

walls to help deal with a moisture problem in the Union Meeting Hall. The work will also include sealing up crawl space vents, once the vapor barrier and insulation work has been completed. Loretta Lawrence seconded. All voted in favor. MOTION PASSED. The town hopes to reduce the cost of the project by applying for an incentive payment from Efficiency Vermont, estimated at \$1,148.80, which would leave the total cost at \$9,162.60.

(d) Selectboard warrant. Loretta Lawrence made a motion to approve the selectboard warrant, which details town expenses, for a total of \$1,704,070.42. Jim Warden seconded. All voted in favor. MOTION PASSED.

Steve Gutowski noted that Paul "Pete" Hawkins was at the meeting, and asked if he wanted to address the board. The town and Hawkins have been involved in legal proceedings concerning his failure to tear down the fire-damaged building he owned on the west side of Route 7. The board had suggested at a previous meeting that the town should suspend those proceedings, since Hawkins had sold his property to Northeast Farm Sales & Service and the building in question had been torn down. At the meeting, Hawkins asked whether the town was still suing him over the alleged zoning violation. Steve Gutowski said the town had suspended the legal proceedings, but was still determining whether to seek reimbursement of attorney's fees. Hawkins said that he also had attorney's fees, and he and relative Dan Hawkins suggested that Hawkins and the town call it a draw. For the town, that would mean paying \$1,700 in attorney's fees accrued during the legal proceedings seeking removal of the building. Some board members expressed support for that, but the board decided it could not vote on the proposal, since it had not appeared on the meeting's agenda. Board members asked that consideration of this proposal be added to the agenda for the October 6 meeting under "Selectboard new business."

10. Discussion privileged attorney/client information concerning TDI New England (possible executive session).

Steve Gutowski said the board had been approached by Adam Lougee, an attorney and executive director of the Addison County Regional Planning Commission, about the possibility of legal action involving TDI New England's plan to run a power line along the bottom of Lake Champlain. The town had previously received a note from the Vermont Department of Taxes suggesting towns did not have the authority under state law to tax underwater transmission lines. Loretta Lawrence made a motion that an executive session to discuss the TDI New England issue was called for because any discussion would involve privileged attorney-client information and that public disclosure of that information could jeopardize any future legal proceedings. Jim Warden seconded. All voted in favor. MOTION PASSED. Jim Warden made a motion to go into executive session at 8:10 p.m. to discuss privileged attorney-client information concerning TDI New England. All voted in favor. MOTION PASSED.

– End of minutes from before executive session. –

Respectfully submitted,

Tim Etchells

– Minutes from after the executive session follow. –

Jim Benoit made a motion to leave executive session at 8:25 p.m. Red Muir seconded. All voted in favor. MOTION PASSED. No action taken.

11. Adjourn

Red Muir made a motion to adjourn at 8:30 p.m. Jim Warden seconded. All voted in favor. MOTION PASSED.

Respectfully submitted,

Loretta Lawrence, board clerk