

**Town of Ferrisburgh  
Selectboard Minutes  
March 15, 2016**

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

**Town officials present:** John Bull, road foreman; Garrit Smits, town treasurer; Gloria Warden, town clerk.

**Visitors present:** Carl Cole; Zeke Davisson; John Eisenhardt, Jr.; Craig Heindel; Richard Hiscock; Jeanne Kelly; Elizabeth Langfeldt; Bob McNary; Dorothy Muzzy; Daniel Pietersle; Bessie Sessions, Monica Tupper.

**1. 6:30 p.m. Regular meeting — call to order and reorganization of selectboard.**

**(a)** Gloria Warden, town clerk, called the meeting to order at 6:30 p.m.

**(b) Motion to elect chairperson.** Jim Benoit made a motion to elect Steve Gutowski as chairperson of the board. There was no second. MOTION FAILED. Red Muir made a motion to elect Loretta Lawrence as chairperson of the board. Jim Warden seconded. Red Muir, Jim Warden, and Steve Gutowski voted yes. Jim Benoit voted no. Loretta Lawrence abstained. MOTION PASSED.

**(c) Motion to elect vice chairperson.** Jim Warden made a motion to elect Red Muir as vice chairperson of the board. Steve Gutowski seconded. MOTION PASSED.

**(d) Motion to elect clerk.** Red Muir made a motion to elect Jim Warden as clerk of the board. Jim Benoit seconded. MOTION PASSED.

**(e) Appointment of minute taker.** Jim Warden made a motion to appoint Jean Silveira as minute taker. Red Muir seconded. MOTION PASSED.

**(f) Motion to adopt Robert's Rules of Order.** Steve Gutowski made a motion to adopt Robert's Rules of Order. Jim Benoit seconded. MOTION PASSED.

**(g) Motion to set the first and third Tuesdays as the meeting schedule.** Steve Gutowski made a motion to set the first and third Tuesdays as the meeting schedule. Jim Benoit seconded. MOTION PASSED.

**(h) Motion to designate the official newspaper.** Jim Warden made a motion to designate *The Addison Independent* as the official newspaper. Red Muir seconded. MOTION PASSED.

**2. Approve minutes — March 1, 2016.**

Red Muir made a motion to approve the minutes of March 1, 2016, as presented. Steve Gutowski seconded. All voted in favor. MOTION PASSED.

**3. Selectboard new business**

**(a) John Bull, road foreman's report.** John Bull discussed the damage sustained to the town's 2006 International tandem dump truck when it slid on ice on Ledge Road and went into a ditch. John, who was driving the vehicle, was not injured. Jim Warden commented that the towns of Shelburne,

Hinesburg, Williston, and Richmond all had severe weather conditions that morning which resulted in accidents. The estimate from Charlebois to repair the damage was \$23,567, which included towing. The town's insurance company has not reviewed the estimate yet. The deductible is \$500.00.

ENPRO Services, Inc., the lowest bidder, was selected to remove the sink with asbestos and windows with lead glazing from the old town garage. According to federal guidelines, there is a 14-day warning period; the job will start on April 4, 2016.

After discussion, John was asked by the board to come up with a plan and estimates to create a loop driveway to go back out onto Atkins Road and a gravel parking lot.

John gave an update on work currently being done around town. He will obtain bids for fencing to go around the Fuller Cemetery and the perimeter of the new town garage with bushes for screening.

Steve Gutowski informed John about the VTrans site visit to three town railroad crossings (Plank Road, Tupper's Crossing, and Town Line Road) and asked him to review the culverts at those crossings. In order for the trains going through those crossings to operate at 59 mph, each crossing will have warning signs, flashers, and closing gates.

Jim Benoit gave John a recommendation of Fournier Farm Equipment in Swanton to check for pricing of a trailer. Red Muir suggested Yandow Sales & Service in town.

**(b) Reschedule appointments to first meeting in April.** Jim Benoit made a motion to extend all appointments to boards and commissions expiring in March 2016, until April 5, 2016. Steve Gutowski seconded. MOTION PASSED.

**(c) Charlene Stavenow – zoning board minute taker.** Charlene Stavenow was unable to attend the meeting due to illness. After discussion, Red Muir made a motion to advertise for a minute taker position for the zoning board on Front Porch Forum, the town website, and other free sources.

**(d) International Hunter Education Association (IHEA) – annual conference at Basin Harbor Club.** Daniel Pietersle of the Vermont Fish & Wildlife Agency discussed the details of the 2016 IHEA-USA Business & Conference to be held at Basin Harbor Club in Vergennes from May 23 to May 26, 2016. Discussion ensued about noise levels from skeet shooting and shotgunning scheduled from 1:15 p.m. to 4:30 p.m. on May 25, 2016. Daniel agreed that he will obtain a letter within the next two weeks from Bob Beach of Basin Harbor Club stating that the club is responsible to notify its neighbors about the noise levels in advance of the event.

**(e) Delinquent tax collector – set stipend.** After discussion, Red Muir made a motion to pay a stipend of \$3,000 to Sally Torrey, the delinquent tax collector, on a quarterly basis beginning immediately. Jim Warden seconded. MOTION PASSED.

#### **4. Selectboard old business**

**(a) Town Plan adoption date.** Discussion ensued as to whether or not the Town Plan adoption date would remain March 22, 2016, as warned, or be rescheduled for a future date, after the planning commission incorporates the remaining changes. Jim Warden made a motion to cancel the public hearing and wait to reschedule the Town Plan adoption date until the commission makes final amendments. Steve Gutowski seconded. MOTION PASSED.

**(b) Ron Smith – RHR Smith & Company’s auditor’s report.** Due to a miscommunication, Ron Smith was not informed about this meeting. He will be contacted and asked to attend a meeting at a future date.

**(c) Ordinance regulating open burning and incineration.** The first draft of the ordinance regulating open burning and incineration in the town of Ferrisburgh was read aloud by Red Muir and Loretta Lawrence per item #2 of the adoption history. Red Muir made a motion to approve the open burning and incineration ordinance. Steve Gutowski seconded. MOTION PASSED. [To read the full ordinance, please see the appendix at the end of this document.]

## **5. Selectboard general business**

**None**

## **6. Public comment**

Bob McNary asked if the town audit was completed. Loretta Lawrence replied that it has been completed and a copy is on file at the town offices.

Lead by Bob McNary, a discussion ensued regarding whether or not the town should sell the property located at the intersection of Route 7 and 22A, next to the commuter lot in Ferrisburgh. Bob stated that the town may need this property in the future. He cited many attributes of the land including that it is cleared land maintained by a farmer at no cost with a significant amount of septic and a dedicated 8” municipal water line. It also has a two-lane paved road maintained by the state. Bob will bring this issue up again at future meetings.

Monica Tupper asked if the schedule and routes have been set for the Addison County Sheriff’s Department patrols. Expressing concerns about instances of cars driving in the Round Barn Farm development between 1:00 a.m. and 3:00 a.m., Monica asked if the patrols could include this development. Discussion ensued about whether or not the department should patrol private roads. The board will suggest roads to be patrolled to the Addison County Sheriff’s Department.

Carl Cole commented that the continuing issue of parking and fishing on the “slang bridge” on Hawkins Road over Little Otter Creek has already begun. He is concerned that an accident will happen soon because the bridge is narrowed to one lane when cars are parked along most of its length. In the past, warnings have been given to consistent violators of the posted no parking sign. The board will ask the Addison County Sheriff’s Department to ticket violators.

Carl Cole also asked that the board revisit adding a turn lane at the town offices. Steve Gutowski commented that this issue has been continually pursued with the state, which used old data to come to the conclusion that not enough accidents have happened at that part of Route 7 to warrant a turn lane. The Transportation Advisory Committee will send the results of a recent traffic study to the board, which in turn will forward the information to the state.

## **7. Other business**

At the regular selectboard meeting held on March 1, 2016, John Eisenhardt, Jr. asked if there was some way the selectboard could express to the state his many concerns about delayed notice of raw sewage entering Lake Champlain. Loretta Lawrence shared with John her draft of a letter to Representative Diane Lanpher in support of Bill H.674, an act relating to public notice of wastewater discharges.

Steve Gutowski commented that a Memorandum of Understanding with Anbaric is being reviewed by the board and Jim Carroll, the town's attorney from the firm of English, Carroll & Boe. Anbaric has agreed to compensate the town for engineering and legal review.

## 8. Correspondence

**(a) Ferrisburgh GLC Solar, LLC – Fast Track Analysis not provided.** The town received a procedural order from the Public Service Board (PSB) stating that a copy of Green Mountain Power Corporation's Fast Track Analysis was not provided with the application for a 500 kW group net-metered photovoltaic electric generation facility submitted by Ferrisburgh GLC Solar, LLC. The company has 30 days to file a Fast Track Analysis. Once the PSB and other persons entitled to receive notice of the application receive the Fast Track Analysis or a System Impact Study, the 21-day comment period shall begin and the PSB will resume processing the application.

**(b) Addison GLC Solar, LLC – Fast Track Analysis not provided.** The town received a procedural order from the Public Service Board (PSB) stating that a copy of Green Mountain Power Corporation's Fast Track Analysis was not provided with the application for a 500 kW interconnected group net-metered photovoltaic electric power system submitted by Addison GLC Solar, LLC. The company has 30 days to file a Fast Track Analysis. Once the PSB and other persons entitled to receive notice of the application receive the Fast Track Analysis or a System Impact Study, the 21-day comment period shall begin and the PSB will resume processing the application.

**(c) US Coast Guard – Private Aids to Navigation (PATON) requirements.** In a letter from BMCS Eric P. Baruzzi, the town was informed that throughout the upcoming boating season Coast Guard Station Aids to Navigation Team Burlington and the Coast Guard Auxiliary will be undertaking an initiative to verify that all PATON on Lake Champlain are properly permitted.

**(d) Santander Leasing, LLC – copies of financing documents.** Included with a letter from Michael Paez, senior vice president of Santander, were copies of financing documents detailing the lease-to-buy agreement for the new town fire truck.

## 9. Selectboard to approve or sign

**(a) Cystic Fibrosis Lifestyle Foundation bike event – July 17, 2016, from 7:00 a.m. to 2:00 p.m.** By letter, Brian Callanan requested the board's approval for use of town roads for the 10<sup>th</sup> Annual Champ's Challenge for Cystic Fibrosis. Since no representative from the Cystic Fibrosis Lifestyle Foundation was present, Loretta Lawrence tabled this agenda item until the next regular selectboard meeting on April 5, 2016.

**(b) Multiple Sclerosis Society bike ride – August 6, 2016.** By letter, Drew Davis, Director of Logistics for the National Multiple Sclerosis Society Greater New England Chapter, requested the board's approval for use of town roads for the Green Mountain Getaway MS Bike Ride. Since no representative from the Multiple Sclerosis Society was present, Loretta Lawrence tabled this agenda item until the next regular selectboard meeting on April 5, 2016.

**(c) Kelly Brush Foundation bike ride – September 10, 2016.** Elizabeth Langfeldt informed the board that the Kelly Brush Foundation will hold its 11<sup>th</sup> Annual Bike Ride through Addison and Chittenden Counties. She requested permission to host a water station at 6 Little Chicago Road, current home of the Historical Society. After discussion, Steve Gutowski made a motion to allow the Kelly Brush

Foundation to host a water station at 6 Little Chicago Road. Jim Warden seconded. All voted in favor. MOTION PASSED.

**(d) Selectboard warrant.** After review, Steve Gutowski made a motion to approve the selectboard warrant, which details town expenditures, for a total of \$1,600,717.07. Red Muir seconded. All voted in favor. MOTION PASSED.

**10. Adjourn**

Steve Gutowski made a motion to adjourn the meeting at 8:40 p.m. Red Muir seconded. All voted in favor. MOTION PASSED.

Respectfully submitted,

Jean Silveira

## ORDINANCE REGULATING OPEN BURNING AND INCINERATION

The [Selectboard of the Town of Ferrisburgh hereby ordains:

### SECTION 1. Authority

This ordinance is enacted pursuant to the authority granted to the [Town, Village, City] to adopt, amend, repeal, and enforce ordinances by 24 V.S.A. § 1971, to promote the public health, safety and welfare by 24 V.S.A. § 2291 (12) and (14), the power to prohibit the throwing, depositing, burning, and dumping of refuse by 24 V.S. A. § 2201, the power to manage and regulate solid waste disposal within its boundaries by 24 V.S.A. §2202a, the power to establish and administer a local air pollution control ordinance by 10 V.S.A. § 564, and the power to enforce a solid waste ordinance by 24 V.S.A. §§2297 - 2297b. This ordinance shall be a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

### SECTION 2. Purpose.

It is the purpose of this ordinance to regulate the disposal of solid waste through the open burning and incineration of waste in the [Town, Village, City] of \_\_\_Ferrisburgh\_\_\_\_\_ in order to protect the public health, safety, and welfare, and to promote the responsible use of resources and protection of the environment. The disposal of solid waste through the open burning and incineration of waste is deemed to be a public nuisance.

### SECTION 3. Definitions.

- a. "Air contaminants" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.
- b. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any ground or surface waters.
- c. "Emission" means a release of air contaminants into the ambient airspace.
- d. "Enforcement Officer" means the municipal fire warden and any [*deputy fire warden, constable, police officer, administrative officer, health officer, selectboard member, etc.*] appointed by the [Selectboard, Trustees, Council] to enforce the provisions of this ordinance.
- e. "Hazardous waste" shall mean any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form, including those which are toxic, corrosive, ignitable, reactive, strong sensitizers, or which generate pressure through decomposition, heat, or other means, which in the judgment of the Secretary may cause, or contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, taking into account the toxicity of such waste, its persistence and degradability in nature, and its potential for assimilation, or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on

the health of persons or other living organisms, or any matter which may have an unusually destructive effect on water quality if discharged to ground or surface waters of the State. All special nuclear, source, or by-product material, as defined by the Atomic Energy Act of 1954 and amendments thereto, codified in 42 U.S.C. § 2014, is specifically excluded from this definition.

- f. "Incineration" means the burning of solid waste in an enclosed container, such as a furnace, stove, incinerator or similar device.
- g. "Natural wood" means trees, including logs, boles, trunks, branches, limbs, and stumps, lumber including timber, logs or slabs, especially when dressed for use. This definition shall also include pallets which are used for the shipment of various materials so long as such pallets are not chemically treated with any preservative, paint, or oil. This definition shall not extend to other wood products such as sawdust, plywood, particle board and press board.
- h. "Open burning" means the burning of any type of combustible material in the open where the products of combustion are emitted directly into the ambient air space without passing through a stack, chimney, or other enclosure. Burning shall include ignition, permitting or causing ignition and suffering, allowing or maintaining burning.
- i. "Person" means any individual, partnership, company, corporation, association, unincorporated association, joint venture, trust, municipality, the State of Vermont, or any agency, department or subdivision of the state, federal agency, or any other legal or commercial entity;
- j. "Secretary" means the Secretary of the Vermont Agency of Natural Resources.
- k. "Solid waste" means any discarded garbage, refuse, septage, sludge from a waste treatment plant, water supply plant, or pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining, or agricultural operation and from community activities but does not include animal manure and absorbent bedding used for soil enrichment; high carbon bulking agents used in composting; or solid or dissolved materials in industrial discharges which are point sources subject to permits under the Water Pollution Control Act, chapter 47 of title 10. For the purpose of this ordinance, solid waste shall also include marketable recyclables.
- l. "Waste" means a material that is discarded or is being accumulated, stored, or physically, chemically, or biologically treated prior to being discarded or has served its original intended use and is normally discarded.

#### **SECTION 4. Requirements.**

- a. Unless a permit is obtained pursuant to this ordinance, the disposal of solid waste through open burning or incineration is prohibited in the [Town, Village, City] of \_\_\_\_\_ Ferrisburgh \_\_\_\_\_ unless the practice has been approved by the Vermont Department of Environmental Conservation.
- b. Nothing herein shall prevent the use of: campfires, barbeque pits or bonfires [*insert size (if*

*desired) such as "less than thirty inches in diameter"*]; the burning of natural wood or virgin fuel for the purpose of preparing food; the recreational burning of natural wood outdoor fireplace and chimineas or other similar containers; or the burning of natural wood or non-woody vegetation, including bonfires [*insert size (if desired) such as "less than thirty inches in diameter"*], when the ground surrounding the area where the burning is to take place is covered with snow.

c. To the extent allowed by the Vermont Air Pollution Control Regulations, a Permit to Kindle Fire may be granted by the municipal fire warden for the following types of open burning, provided no public nuisance is created:

1. The open burning of natural wood fires in conjunction with holiday and festive celebrations, campfires, and fireplaces that do not meet the criteria found in Section 4, subsection (a) of this ordinance.
  2. The open burning of leaves, brush, weeds, grass, natural wood waste resulting from property maintenance, logging operations and clearing operations, and similar materials for agricultural improvement, forest or wildlife habitat management.
  3. After providing the required notice to the Air Quality and Climate Division of the Department of Environmental Conservation, the burning of solid or liquid fuels, or structures for bona fide fire training provided that materials other than natural wood are removed to the greatest extent possible prior to the training.
  3. With the prior written approval in the form of a permit from the Air Quality and Climate Division of the Department of Environmental Conservation, the open burning of natural wood demolition or construction materials and natural wood commercial wastes such as pallets or skids.
  4. With the prior approval of the Department of Environmental Conservation, burning authorized by the [*Selectboard, Trustees, Council*] of \_\_Ferrisburgh\_\_\_\_\_ for the protection of public health or to thwart a hazard.
  5. The open burning of natural wood and non-woody vegetation at a designated place within the municipality, as authorized by the [*Selectboard, Trustees, Council*] of \_\_\_\_\_Ferrisburgh\_\_\_\_\_ in accordance with 10 V.S.A. § 565.
- d. To obtain a Permit to Kindle Fire, the applicant shall establish that no hazardous or nuisance situations will be created by open burning at the time the permit is issued, and that the application is for open burning that is permitted under this ordinance. Permits to Kindle Fire must provide for the specific date, time and location of the burning and indicate the specific materials that the permittee is authorized to burn. Failure to meet the conditions of the Permit to Kindle Fire, once it has been issued, will render the permit invalid and subject the permittee to enforcement pursuant to this ordinance.

- e. Individuals possessing a Permit to Kindle Fire shall attend the fire until extinguished and shall have sufficient means readily available to them to keep the burn under control and to extinguish the burn immediately. The municipal fire warden can enter the property of the permit holder, or non permit holder to investigate a fire and order the fire be extinguished. If the permit holder or non permit holder refuses to extinguish, the municipal fire warden may call the fire department to extinguish the fire. Any cost associated with the fire department extinguishing the fire is the responsibility of the permit holder.
- f. The provisions of this ordinance shall not apply to the burning of natural wood or any virgin fuel in a furnace, fireplace or stove to produce heat.

**SECTION 5. Enforcement and Penalties.**

a. A violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Superior Court, at the election of the [*Selectboard, Trustees, Council*]. Each day that the violation continues shall constitute a separate violation of this ordinance.

- 1. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. A civil penalty of not more than \$[*insert amount of up to \$800*] per violation may be imposed for violation of this ordinance.

A. A municipal ticket will be issued by the Enforcement Officer if the violation has not been corrected in accordance with this ordinance.

B. For purposes of enforcement in the Judicial Bureau, the designated Enforcement Officer shall issue tickets and may be the appearing officer at any hearing.

- 2. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Enforcement Officer or [*Selectboard, Trustees, Council*] may pursue all appropriate injunctive relief. In addition, a civil penalty of not more than \$[*insert amount of up to \$800*] per violation may be imposed for violation of this ordinance. A civil action may be initiated by the Enforcement Officer if the violation has not been corrected in accordance with this ordinance.

b. Waiver fee from municipal complaint: An issuing municipal official is authorized to recover civil penalties in the following amounts, or as established by the Judicial Bureau, for each violation of this ordinance:

1st offense	\$50.00
2nd offense	\$100.00
3rd offense	\$150.00
4th offense	\$200.00
5th & subsequent offenses	\$300.00

**SECTION 6. Severability.**

If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance. If any statute referred to in this ordinance shall be amended, this ordinance shall be deemed to refer to such amended statute.

**SECTION 7. Effective date.**

This ordinance shall become effective sixty (60) days after its adoption by the [*Selectboard, Trustees, Council*], or at such time following the expiration of the 60 days from the date of its adoption as is determined by the [*Selectboard, Trustee, Council*] per 24 V.S.A. § 1973. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by the [*Selectboard, Trustees, Council*] of the [*Town, Village, City*] of \_\_\_\_\_

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**ADOPTION HISTORY:**

1. Agenda item at regular meeting of the [*Selectboard, Trustees, Council*] held on , Feb16,2016\_\_\_\_\_.
2. Read and approved at regular meeting of the [*Selectboard, Trustees, Council*] on \_\_\_\_\_ and entered in the minutes of that meeting which were approved on \_\_\_\_\_.
3. Posted in public places on \_\_\_\_\_.
4. Notice of adoption published in the \_\_\_\_\_ newspaper on \_\_\_\_\_ with a notice of the right to petition.
5. [*Other actions such as petitions, etc.*]: