



**Town of Berlin  
Municipal Office Building  
108 Shed Road**

**Berlin, VT. 05602  
Regular Select Board Meetings  
1<sup>st</sup> & 3<sup>rd</sup> Monday of Each Month**

**Monday, February 7, 2011  
6:15 PM**

Selectboard Members: Nancy Driscoll, Vice Chair; Roberta Haskin, Secretary; Brad Towne, and Jonathan Goddard. Absent: Susan Gretkowski, Chair. Present: Jeff Schulz, Town Administrator; Patti Lewis, Town Treasurer. All items are unanimous unless otherwise noted.

### **APPROVED MINUTES**

#### **Executive Session- Contract**

**Nancy Driscoll** stated that the Board had conducted an executive session to discuss a contract. She then asked for a motion. Motion by **Jonathan Goddard** to accept the Assessor Hiring Committee recommendation and to move forward with discussions concerning the individuals who expressed interest in the assessor position. Second by **Roberta Haskin**. Motion carried 4-0.

**Nancy Driscoll** called the meeting to order.

#### **Public Comment**

**Robert Wernecke** stated that as the representative to the Central Vermont Regional Planning Commission he has been appointed to a committee to look at ways that CVRPC and Economic Development may collaborate to save money.

#### **Treasurers Report**

**Patti Lewis** stated that she did not have anything for the Board.

#### **Old Business**

##### **Montpelier Health Ordinance – Berlin Pond**

**Nancy Driscoll** stated that the Board has invited the City of Montpelier to discuss the Montpelier Health Ordinance governing land around Berlin Pond. **Bill Fraser**, City Manager, and **Paul Giuliani**, Montpelier's attorney addressed the Board. **Mr. Fraser** stated that **Mary Hooper**, Montpelier Mayor, may be attending as well. **Jeff Schulz** asked **Mr. Fraser** and **Mr. Giuliani** to give the Board some background regarding the ordinance such as the authority to enact this ordinance and what enforcement of the ordinance would consist of for the property owners surrounding Berlin Pond. **Mr. Giuliani** stated that the ordinance was not enacted to prohibit the property owners from developing their properties, but to further protect the water source. He stated that this ordinance was to protect the public health from occurrences that are not governed by Berlin's Zoning Regulations, such as a failed septic system within 200 feet of the pond, incorrect agricultural use, and storage of hazardous materials in violation of State and Federal laws. **Mr. Giuliani** stated that the Montpelier City Council has kept the Berlin Town Attorney apprised of the process in enacting this ordinance. He stated that the City of Montpelier has been working on the protection of Berlin Pond for approximately 10 years. **Todd Law** stated that the reason for the ordinance was to provide water source protection around the pond. He stated that the health order from a century ago was recently upheld in Superior Court and the City realized that it needed to be updated. **Robert Wernecke** stated that Berlin's Health Ordinance covers failed septic systems. **Mr. Giuliani** stated that Montpelier can not rely on another municipality to enforce the protection of Montpelier's water source. **Todd Law** stated that Montpelier routinely tests the surrounding properties' leach fields to ensure the protection of the pond as is set forth in the source protection plan. He stated that Montpelier would defer to Berlin to enforce any

issues that may crop up. **Jeff Schulz** stated that there are concerns regarding section 7-603 of the Montpelier ordinance which states that “existing structures and improvements and land uses within the Berlin Pond Source Protection Area may continue in their present use, location and condition, and may be altered for purposes of mitigating, correcting or removing potential sources of contamination or pollution. An existing structure or other improvement located within the Source Protection Area shall be removed immediately if it is determined to be, or is likely to be, causing any condition adversely affecting water quality”. He asked for examples of structures that could adversely affect the water quality and who makes that determination? **Mr. Giuliani** stated that if a property owner was conducting a repair shop that has hazardous materials that may be stored incorrectly, those materials could make it to the drain and eventually to the Pond. He stated that Montpelier could not wait for that eventuality and must take action before any hazardous materials reach the pond. **Mr. Giuliani** stated that structures approved by the Zoning Regulations in Berlin would not trigger enforcement under this ordinance, but that an issue would need to provide eminent danger to trigger enforcement under this ordinance. **Jeff** stated that that paragraph is broadly stated and not clear on what structures would trigger enforcement.

**Tom Willard** stated that the concerns he has are with clarification of the ordinance and suggested that the Montpelier Council take another look at the language in the ordinance. He stated that the first section of the ordinance suggests that any entry upon or activity within the Source Protection area is prohibited. **Tom** stated that the maps that delineate the Source Protection Area’s are not correct. He stated that in section 7-601 existing structures and improvements are grandfathered in, but does not say anything about current uses of these properties. **Tom** stated that 7-608 says that any person violating the ordinance would be subject to the monetary penalty established in 1-9 of this Code, but does not state the monetary value. **Mr. Giuliani** stated that he believed the monetary penalty is \$100 per day of the violation, but no criminal penalty is involved. **Tom** stated that the Town owns property within the Source Protection Area and this ordinance prohibits Berlin from harvesting trees and other uses on that property. He suggested that Montpelier City Council rescind this ordinance and to work with the Town of Berlin to adopt an ordinance that benefits both municipalities. **Tom** stated that Berlin has always worked hard to preserve the protection of the watershed areas. **Mr. Fraser** stated that he does not take offense at the concerns that **Tom Willard** has brought forward and acknowledges that **Mr. Willard** is reading the ordinance correctly. He stated that hearing the language this many months later, the Montpelier Council could probably word some of the ordinance a little better than has been done. **Mary Hooper** stated that the City Council asked themselves many of the same questions that the residents of Berlin are asking. She stated that Montpelier could take into account the residents concerns and work with Berlin to address those concerns. **Ms. Hooper** suggested that a committee of residents from Berlin read the ordinance and bring some suggestions forward to the Montpelier City Council on how to clarify the ordinance. **Jonathan Goddard** stated that this ordinance came to fruition shortly after some individuals expressed interest in kayaking on Berlin Pond, and asked how an individual, in a non-motorized vehicle, would constitute a health hazard? **Mr. Giuliani** stated that the ordinance has been in the works for a number of years, and kayaking on Berlin Pond has been resolved by the Superior Court. He stated that Montpelier is trying to protect against milfoil, trash, litter and mussels that could be brought in from different vehicles and individuals. **Mr. Giuliani** stated that the ordinance is not about who owns property in Berlin, but that Montpelier has a legal obligation to protect the water source and there could be Federal and State ramifications if Montpelier fails to protect that water source. **Nancy Driscoll** asked the residents that are interested in this ordinance, sign in with their email addresses to expedite the process of staying in touch on this issue. **Mr. Fraser** stated that he is more than happy to keep in touch with Berlin on this issue however is best for the residents.

#### VAOT Proposed Water and Sewer lines along VT Route 12

**Jeff Schulz** stated that VAOT representatives had discussed the proposed water and sewer lines along Route 12 with the Board at an earlier meeting. He stated this proposal was mainly to serve the Green Mountain Transportation building and the proposed salt brine facility on that property. **Jeff** stated that VAOT wanted to open this discussion to include Berlin residents that live near that property to see if there was any interest in hooking up to the lines. **Alec Portalupi**, VAOT engineer, and **Chris Galipeau**, Civil Engineering Associates, stated that VAOT has had a Federal earmark to develop a facility that houses public transportation and a maintenance facility. **Mr. Portalupi** stated that the salt brine facility is to make the brine to use on the winter roads. He stated that the brine is trucked to garages for use on the roads. He added that the building needs to be renovated and water and sewer lines are part of that renovation. **Mr.**

**Portalupi** stated that the water aspect is what is needed for the salt brine facility. He stated that Federal Highway will pay for the water and sewer lines for VAOT uses, but will not pay for a larger line to be put in for the Town's use. **Mr. Galipeau** stated that VAOT knows what size line needs to be installed for their uses and needs to know if there is any interest from the Town to participate and use the water/sewer lines. **Mr. Portalupi** stated that the Town would need to cover the cost of the bigger lines to be installed, either from Town funds or through user fees from the residents who connect to the line. **Jeff Schulz** asked if the Town was not interested in participating in the project, what type of line would be installed and what the next steps for adding capacity? **Mr. Portalupi** stated that there is an option of putting something in place for adding capacity for future use. He stated that VAOT has met with the Sewer Commission a few times and is aware that there is concern of the sewage becoming septic in the lines. **Mr. Portalupi** stated that if the lines were going to be used only for VAOT, the line that would be installed would be approximately 2-3 inches in size. He stated that VAOT has looked into installing two force mains and capping the larger force main to have it installed for future capacity. **Robert Wernecke** asked what capacity the State was expecting? **Mr. Portalupi** stated that the GMTA facility currently uses 600 gallons of water per day, and the brine facility was expecting to use approximately one million gallons of water per year during the winter months. He stated that during the summer months the brine facility would be idle. **Mr. Wernecke** stated that with so little water usage, he is surprised that the State would need municipal water and sewer at that location. **Mr. Portalupi** stated that currently the facility has two mound systems, one for sinks and toilet usage and one for floor drains in the wash bays. He stated that currently the mound system for the wash bays is in violation of State regulation and putting in municipal water and sewer would bring that facility into compliance. **Mr. Portalupi** stated that the State has found that they really need municipal water for a brine facility as there is not enough water from a well. **Nancy Driscoll** asked **Norb Rhinerson** if the Sewer Commission was still worried about an odor problem in the proposed sewer lines? **Mr. Rhinerson** stated the State has purchase allocation in the amount of approximately 300 gallons per day, but the Sewer Commission is concerned about the material going septic in the pipe before it gets to the Montpelier sewer system. **Mr. Portalupi** stated that VAOT is addressing that concern by putting in a two inch force main so that the material will get to the Montpelier system before going septic in the lines. **Leslie Skinner**, Capital City Grange, stated that he would like to know what the potential costs to users might be and that installing the water/sewer lines would encourage development along the Route 12 corridor. **Brian Morse** stated that his property has the potential to be developed commercially and he is interested in connecting to this proposed system in the future. He stated that his well has an unlimited amount of water as does the trailer park on Route 12, and he believes that the State would have no problem getting water in that area. **Ellery Packard** stated that he has had discussion with GMTA regarding connecting the trailer park onto a municipal system and there was much interest in pursuing such a system. He stated he is still interested in connecting to a municipal system. **Mr. Packard** was concerned about the potential contamination of the brine making facility on the trailer park's wells. **Mr. Portalupi** stated that there will be containment systems for the salt brine and he will research the contamination potential of that facility. He stated that VAOT will be pursuing all of the permits required to build this facility and if the permits are denied, the facility would not be built in this area. **Jeff Schulz** asked if there was funding available to install two lines? **Mr. Portalupi** stated that decision has not been made as yet, but that the cost of laying two lines will be negligible. **Mr. Packard** asked if the proposed route was based on VAOT's proposed volumes? **Mr. Portalupi** stated that the route was based on both VAOT's proposed volumes and that the water and sewer lines could possibly be expanded in the future. **Todd Law** stated that Montpelier is interested in working with VAOT to install these lines, but that there is no interest in providing water and sewer at lower costs without having Berlin's inputs involved. A resident asked if abutting property owners would need to help pay for the system if they were not interested in connecting onto the system? **Norb Rhinerson** stated that the question of fees would need to be decided by the Sewer Commission and the State. **Mr. Law** stated that in order for residents to hook onto the system, a collection system would need to be installed. **Mr. Packard** stated that the initial project was to install a pump station on the trailer park property. He stated that he would need to know if Montpelier has the capacity and does Berlin have the allocation available for the trailer park to connect to this system? **Norb Rhinerson** stated that Berlin has some allocation available, but he does not know if it would be enough for the trailer park. He stated that there are a couple of issues that restricts the amount of allocation that Berlin has left.

#### Streetlight Inventory – Andrea Chandler

**Andrea Chandler**, Energy Coordinator, stated that the Board had asked for an inventory of streetlights. She stated that Berlin currently has 83 streetlights and pays approximately \$10.14 per month, per light, which amounts to approximately \$900 for streetlights. **Andrea** stated that the goal is to have an attractive, well-lit nighttime environment. She stated that with the higher cost of electricity, Berlin may want to reevaluate the municipal needs. **Andrea** stated that Berlin may want to look at providing less lighting in some areas. She stated that she has come up with some recommendations to replace or eliminate street lights. **Andrea** stated that these recommendations are based on criteria set by Efficiency Vermont. She stated that one of the criteria is to come up with a project scope by July 1<sup>st</sup>, 2011. **Andrea** stated that this does not mean that Berlin must remove or replace any lights at this time, just draft a project list of what the Town wants to see done. She suggested that the Board, either as a whole or individually, look at the recommended lights and discuss their observations at the next Board meeting. **Andrea** stated that additionally, these recommendations could be posted on the website or in the newspaper, and have residents submit their input on the street light issue. She stated that after the list of recommendations has been revised, Green Mountain Power could turn off some of the lights for a period of time to see if eliminating those street lights is feasible. **Andrea** stated that after the observation and revising the recommendations, the Board consider replacing any remaining street lights with LED lights. She stated that the LED lights are more energy efficient and would cost the Town less over time. **Robert Haskin** indicated interest in observing the lights. **Jeff Schulz** stated that he would be willing to drive any Board member around to observe the lights on **Andrea's** recommended list. **Andrea** asked to be put on an upcoming Agenda to discuss this issue further.

#### Personnel Policies

**Jeff Schulz** stated the Board has reviewed and was comfortable with the revised Personnel Policies with the exception of comp time for salaried employees. He asked **Rob Halpert** for his input into this issue. **Rob** stated that he understands why the Town would want to give comp time to salaried employees, but that he did not think it was a good idea. He stated that the Board could discuss this issue generally within public meeting, but that specific information with this issue would be better served to be discussed in Executive Session. **Rob** stated that the Town might be better served to offer some form of bonus instead of comp time. He stated that if the Road Foreman's figures are correct in the amount of time spent on working versus managerial duties he would not be an exempt employee. **Rob** stated that it is what an employee does that determines how the Town should be treating that employee. **Nancy Driscoll** asked how other towns have solved this issue and what are some alternatives to comp time for salaried employees? **Rob** stated that he is not sure how other towns have dealt with this issue, but one of the alternatives would be periodic cash bonuses. He stated that the Town has provisions in the personnel policies for merit bonuses which is a good alternative for comp time.

#### New Business

##### VAOT Certificate of Highway Miles

**Jeff Schulz** stated that each year VAOT asks the towns to certify the amount of highway miles there are in each town. He stated that this is to determine how much State aid each town is qualified to receive. **Jeff** stated that there is no change to the amount of highway miles. He stated the only change is to the Class 4 road miles, due to the discontinuance of the Snow Road in West Berlin. **Brad Towne** asked when Partridge Farms Road was adopted? **Jeff** stated that will add Partridge Farm Road to the Certificate of Highway Miles, but asked the Board to approve the Certificate of Highway Miles and sign the document. Motion by **Brad Towne** to approve the Certificate of Highway Miles with the inclusion of Partridge Farm Road. Second by **Jonathan Goddard**. Motion carried 4-0.

#### Town Administrator Report – Jeff Schulz

**Jeff Schulz** reminded the Board that Town Meeting is coming up soon and the Board will need to discuss Pre-Town Meeting and how they want to present the budget. He suggested putting together a budget spreadsheet and use Power Point to present the budget.

**Jeff** stated that he has contacted Fair Point and invited them to the next Board meeting on February 21<sup>st</sup>. He stated that the West Hill issue will also be on that agenda and letters will be going out to the residents of

West Hill Road notifying them of the meeting. **Jeff** stated that there has not been any new issues with that road and the meeting could be held off until after Town Meeting if the Board was so inclined.

**Jeff** stated that he is working on a draft Smoking Ordinance for the Municipal Building and should have that ready for the Board at the next meeting.

**Jeff** stated that he continues working on the Town Plan and the Planning Commission is moving forward with that update.

Approval of Licenses, Permits, Vouchers and Applications

Motion by **Roberta Haskin** to approve the licenses, permits, vouchers and applications as presented. Second by **Brad Towne**. Motion carried 4-0.

Approval of Minute(s) of Previous Meetings

After review of the minutes of January 3<sup>rd</sup>, motion by **Jonathan Goddard** to approve the minutes as presented. Second by **Roberta Haskin**. Motion carried 4-0.

After review of the minutes from January 17<sup>th</sup>, **Nancy Driscoll** noted that there was a grammatical error on page 2 that should be corrected. Motion by **Jonathan Goddard** to approve the minutes with corrections. Second by **Roberta Haskin**. Motion carried 4-0.

After review of the minutes from January 20<sup>th</sup>, motion by **Jonathan Goddard** to approve the minutes as presented. Second by **Roberta Haskin**. Motion carried 4-0.

Roundtable

There was no round table discussion.

Executive Session - Contract, Personnel

Motion by **Brad Towne** to enter into executive session to discuss contract and personnel issues. Second by **Jonathan Goddard**. Motion carried 4-0.

Motion by **Roberta Haskin** to exit out of executive session and adjourn the Selectboard meeting. Second by **Brad Towne**. Motion carried 4-0.

For the Select Board:

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Rebecca Richardson, Administrative Assistant