

**TOWN OF CASTLETON
SELECT BOARD MEETING
MINUTES OF DECEMBER 11, 2017
TOWN OFFICES**

MEMBERS PRESENT: J. Bruno, Z. Holzworth, R. Combs, J. Leamy, R. Spaulding

Meeting called to order at 7:00pm by Chairman, J. Bruno.

APPROVAL OF AGENDA

MOTION: Z. Holzworth made a motion to approve the agenda. Seconded by J. Leamy
All in favor. Motion Carried.

MINUTES FOR APPROVAL- NOVEMBER 27, 2017

MOTION: Z. Holzworth made a motion to approve the minutes of November 27, 2017, with one spelling correction, pg 4 line 4- speck to special. Seconded by R. Spaulding. All in favor.
Motion Carried.

TRANSFER STATION- ETHAN BARNES

E. Barnes stated that he has been temporarily hauling construction debris and mattresses to Finch Waste, it is about a 1 ½ hour trip each way. He presented the members with 4 bids.

J. Bruno asked who E. Barnes was recommending to the Board.

E. Barnes replied that he would recommend Ace Carting in Fort Ann, NY.

R. Combs asked what the time was for a trip there.

E. Barnes replied it was anywhere from 30 to 40 minutes.

MOTION: R. Spaulding made a motion to use Ace Carting for construction debris and bulky materials. Seconded by Z. Holzworth. All in favor. Motion Carried.

M. Combs asked if there was a contract involved.

E. Barnes replied that there was not a contract.

R. Spaulding suggested that he receive a written contract from Ace Carting, and also continue to utilize Finch Waste for possible with a large number of mattress

M. Combs informed the members that the Town is now paying 100% of the Waste Management.

R. Spaulding replied that there will be about an addition of \$8,000.00 in the Rutland Solid Waste district surcharge. The town was only 10% because Waste Management was using the materials to recycle.

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R. Combs asked what Rutland Solid Waste was doing for the Town. He asked that someone from that organization be invited to a future meeting.

REQUEST OF TOWN LAND USE- CASTLETON LIONS CLUB (40TH ANNIVERSARY FISHING DERBY)

MOTION: J. Leamy made a motion to approve the use of Crystal Beach on Feb. 17 & 18, 2017 for the annual Castleton Lion's Club Fishing Derby. Seconded by R. Combs. All in favor. Motion Carried.

APPOINTMENT – RECREATION COMMISSION (3 YEARS)

MOTION: R. Combs made a motion to appoint Michael R Hall to the Recreation Commission for a period of 3 years. Seconded by R. Spaulding. All in favor. Motion Carried.

CITIZEN'S COMMENTS – NONE

BEGIN 2018-19 BUDGET REVIEW

J. Bruno stated that next Monday, 12/11/17 there will be a meeting just for the budget review.

R. Combs asked how there was an anticipation of revenues and taxes going down 4%.

M. Combs replied that it might be due to the fact that there will not be a construction loan payment for the new Town Hall, as two payments were made this year. So, that amount of money does not need to be budgeted for.

J. Bruno asked that the Board review the draft budget and bring all concerns and questions to next Monday's meeting.

SELECT BOARD CONCERNS

MOTION: Z. Holzworth made a motion to approve the name change in the 2017 Grand List for parcel # 04-02-02 from Knutsen to Pine Pond LLC. Seconded by R. Spaulding. All in favor. Motion Carried.

R. Combs updated that Board on the sidewalk project. He and R. Spaulding met with J. Burke concerning the driveway on the Moore property. J. Burke noted at the last meeting that if the Town did the right thing both parties would sign the easements.

R. Combs and R. Spaulding asked J. Burke was he meant by "the right thing". J. Burke wants the Town to apply for a permit for a curb cut for the afore mentioned driveway, if the permit is denied, the Town should apply for an appeal. Win Lose or draw on the appeal, both parties will sign off on the easement.

R. Combs did speak to T. Tillman, VTRANS, and was told that the initial permit would definitely be denied. The cost to have the Town Counsel apply for an appeal would cost approximately between \$1,500.00- \$2,000.00.

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R. Combs has a call into the sidewalk project manager to see if there would be additional costs to proceed without the easements.

R. Spaulding that the driveway has been there since 1953, years before permits were needed. The Town should have the opportunity to show the State our side of the story.

R. Combs stated that J. Burke has volunteered to complete permit free of charge.

MOTION: J. Leamy made a motion to refer the issue to Town Counsel for a legal opinion. Seconded by R. Spaulding. All in favor. Motion Carried.

Z. Holzworth spoke about the request for information from the Rutland Herald. He stated he felt that the Town should just deny the request.

R. Spaulding asked about the lights in the Town Offices.

J. Bruno stated he would call McClure's and see if they can be adjusted or changed to regular on/off flip switches for the lights.

WARRANTS

MOTION: R. Combs made a motion to approve warrants #1211R for \$650.00, #1211 for \$65,402.17, #1210 for \$35.57, #1207 for \$7,315.23, #1205 for \$10,278.36, #1130 for \$5,899.79, #1207P for \$12,045.60, #1130P for \$12,314.09. Seconded by Z. Holzworth. All in favor. Motion Carried.

MOTION: Z. Holzworth made a motion to approve warrants # 1206P for \$544.06 and #1129P for \$547.16. Seconded by J. Leamy. R. Combs- abstain.. All in favor. Motion Carried.

EXECUTIVE SESSION - Collective Bargaining {1 VSA §313(a)(1)}

MOTION:

J. Leamy made a motion to go into Executive Session for Collective Bargaining 7:40 pm where premature knowledge of union negotiations will clearly place the town at a substantial disadvantage by disclosing its strategy. Seconded by Z. Holzworth. All in favor. Motion Carried.

I move we enter executive session to discuss the union negotiations under the provisions of Title 1, §313(a)(1) of Vermont Statutes. Seconded by Z. Holzworth. All in favor. Motion Carried.

J. Leamy withdrew the motion. Z. Holzworth withdrew his second. All in favor. Motion Carried.

J. Bruno asked for a motion to go into Executive Session for Personnel matter upon the arrival of J. Biasuzzi.

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J. Biasuzzi evoked the fact that this Executive Session involves me is going to be on public record. I have the right to do that.

J Biasuzzi stated just for the Board's information, I am making my own recording of this meeting.

J. Bruno noted that it was on TV anyway.

J. Bruno started by saying what we asked you and you were given emails to come to an Executive Session to discuss a recommendation by the Planning Commission for disciplinary action for you. It has been at least 3 months maybe 4. You have been too busy, there has been a conflict with other towns and you were unable to make it. The Planning Commission is here.

J. Leamy asked J. Biasuzzi if this was going to be discussed in open meeting, is this your request? Or what is your request?

J. Biasuzzi stated he was requesting this on the advice of his attorney.

B. Longtin stated that back in April, there was permit for C. Ryan, that J. Biasuzzi acted in the capacity on that permit as both the designer of the property as far as layout, dimensions, basically making the building specs for that permit as well as acting as the Zoning Administrator for the Town. The Commission was asked to look into it. We looked at the Conflict of Interest policy for the Town. He acted in the capacity of the Zoning Administrator for the Town and designer for the C. Ryan property. He was financially compensated in his role as both the Zoning Admin for the Town and for the designer of the property.

B. Longtin noted that the Conflict of Interest policy it states that if there is any direct personal or financial interest of a public officer in the outcome of a cause, proceeding, application or any other matter pending before the officer or public body in which he holds office. There was an application permit he was financially compensated for and he was compensated for the design of the same property. We found a clear cut violation of the Town's Conflict of Interest policy.

In addition, the Commission recommended that he was not to be part of the deliberative sessions and not write the decisions. This is still happening, but he has not been given any clear directions from his superiors telling him not to do that.

B. Longtin continued stating that the ZA's handbook states that the ZA not however confuse the clerks duties with those of the ZA. The Board should make their decisions on their own without the ZA present and they should write their own decisions. His recommendations of the Planning Commission for disciplinary action per the Conflict of Interest policy as well as clarification of the role of the ZA for the purposes of the DRB deliberative sessions and writing of the decisions.

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J. Bruno asked what the Planning Commission recommendations were as far as disciplinary actions.

B. Longtin replied a recommendation of a formal written disciplinary action against the Zoning Administrator.

J. Biasuzzi addressed the two points brought up. First the issue of getting to a meeting, he stated he has a 3 page document he will enter into testimony and hit the high points. He did shorten the document from 5 pages to 3 pages. His conflict with getting to a meeting, this meeting was given enough notice, he was able to schedule to attend. In the past he was given either little or no notice to attend. He does have a number of other obligations to other municipal panels of which he is required to attend. They all tend to be on Monday or Tuesday.

J. Biasuzzi states that regarding the recommendations of the Planning Commission to the Select Board this is an example of getting this information a little bit late, I only received the decision of the Planning Commission on Nov. 28, apparently this document was produced around late May. If I had this document sooner, I think I would have been able to respond at least in writing sooner.

J. Bruno asked the date he received the letter.

J. Biasuzzi replied it was Nov. 28.

J. Bruno asked if J. Biasuzzi had seen it before Nov. 28th.

J. Biasuzzi replied that something like this would have caught my attention.

J. Bruno asked if it was in an email.

J. Biasuzzi replied he doubted it, but he would have to check, but I don't necessarily see all my emails. If you don't receive a confirmation that I received it, how do you know that I got it.

J. Biasuzzi read from the letter he handed to the members as testimony the C. Ryan permit. "The first "justification" for the PC recommendation questions my design services as a conflict of interest in the eventual application by the Ryan family(to remove an existing camp and replace with a year round structure in the existing foot print, with the exception of a mud-room addition). Before initiating the permit application process, Mr. Ryan requested I design a structure that accommodates their future requirement. This was not an assignment dependent on a town permit being approved but a "fixed" assignment to draft a floorplan and offer design suggestions. There is "NOT a financial interest by the public officer in the outcome, proceeding, application or other matters pending". My assignment involved simply an independent design, compensated by a straight hourly fee; regardless what the Owner used the design for. The assignment was not dependent on any permit process outcome. Regardless, I clearly disclosed my activity as a design draftsman at the start of the Hearing for the Ryan application.

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R. Combs asked if J. Biasuzzi was asked to design the house.

J. Biasuzzi stated that he designed the house, received the permit application and denied the application.

R. Spaulding asked if he recused himself from the application.

J. Biasuzzi stated he took the application, recused himself from deliberative session.

J. Leamy asked if it was common for J. Biasuzzi to sit on deliberative sessions.

J. Biasuzzi replied that yes, he did sit in on deliberative sessions at one time.

J. Leamy asked if the DRB asked him to be there.

J. Biasuzzi replied yes for clarification. I now ask if they want me to stay.

J. Bruno asked if he ever went into DRB meetings and asked them what do we need to do to get this permit approved.

J. Biasuzzi replied "ever, I don't recall", with the C. Ryan case I don't think so.

J. Bruno asked for J. Biasuzzi to supply him with all the applications where there were charges for demolition.

J. Biasuzzi stated he would supply those to J. Bruno.

J. Bruno asked if the new bank had gotten a change of use permit, as there rental units above the bank.

J. Biasuzzi stated he had contacted the lawyer, G. Kupferer for the building and was assured that the application for Heritage Family was exactly the same as for Citizens bank and therefore did not require a permit.

J. Biasuzzi asked J. Bruno if he was suggesting that he have reason to doubt the word of the property owner's attorney, who also serves occasionally as the town attorney, who we all know here.

J. Bruno stated that J. Biasuzzi should be able to make his own decision and not be influenced by an attorney.

J. Bruno asked if J. Biasuzzi was called J. Bruno and asked him if he was doing something to his building and he blatantly tell you what you want to hear you would not investigate it.

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J. Biasuzzi replied that yes he would if you were a court appointed representative, who was also a counsel for the town, I would probably not question you.

R. Spaulding stated that J. Biasuzzi is being inconsistent in his picking who needs a permit and who does not.

R. Combs asked to have the Board receive copies of J. Biasuzzi's paperwork.

R. Spaulding noted that it was only 3 pages, and how do they know what the original paperwork said, as he had cut out 2 pages of information.

J. Bruno stated that the Planning Commission has requested an Executive Session, it is on the agenda, and the Zoning Administrator has been invited and has refused to attend.

J. Bruno asked if the Planning members had anything else to add.

B. Longtin did note that the outcome would/could have been affected if the Ryan permit needed to go to the Environmental Court for any reason. He would not have been able to fulfill his obligations as the ZA for the Town, as he was compensated for the design. Therefore, creating a conflict of interest.

B. Longtin also stated that he had a past conversation with the ZA regarding demolition fees. The discussion included the ZA stating that the Town does not currently have any regulation regarding demolition. He asked B. Longtin to have this included in the discussion about new zoning regulations get updated.

EXECUTIVE SESSION

MOTION: R. Spaulding made a motion to go into Executive Session at 8:20 for Personnel 1 VSA §(3)(a)(3) with the Planning Commission and Board. Seconded by Z. Holzworth. All in favor. Motion Carried.

MOTION: Z. Holzworth made a motion to exit Executive Session at 8:42 with no action taken. Seconded by R. Spaulding. All in favor. Motion Carried.

MOTION: Z. Holzworth made a motion to enter into Executive Session for Personnel. Seconded by R. Spaulding. All in favor. Motion Carried.

MOTION: Z. Holzworth made a motion to exit Executive Session with no action taken at 9:15 pm. Seconded by R. Spaulding. All in favor. Motion Carried.

MOTION: Z. Holzworth made motion to go into Executive Session for Collective Bargaining 9:16 pm where premature knowledge of union negotiations will clearly place the town at a

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substantial disadvantage by disclosing its strategy. Seconded by Z. Holzworth. All in favor. Motion Carried.

I move we enter executive session to discuss the union negotiations under the provisions of Title 1, §313(a)(1) of Vermont Statutes. Seconded by Z. Holzworth. All in favor. Motion Carried.

MOTION: Z. Holzworth made a motion to exit Executive Session at 9:25pm with no action taken. Seconded by R. Combs. All in favor. Motion Carried.

ADJOURN

MOTION: Z. Holzworth made a motion to adjourn at 9:26pm. Seconded by R. Spaulding. All in favor. Motion Carried.

Respectfully,

V. Waldron

DRAFT