

TOWN OF CHESTER  
BOARD OF SELECTMEN

June 15, 2016  
Minutes

PRESENT: John DeBenedetti; Heather Chase; Arne Jonynas; Ben Whalen; Dan Cote (via skype); Arne Jonynas; David Pisha

VISITORS: Julie Hance; Donna Allen; Ron Patch; Frank Bidwell; William Lindsay; Ken Barrett; Shawn Cunningham; Lillian Willis; David Willis; Suzy Forlie; Naomi Johnson; Jeff Holden; Barre Pinske; Leah Cunningham; Hugh Henry

The meeting was called to order at 7:00 p.m. by John DeBenedetti.

John DeBenedetti paid tribute to Cecil Waldo who recently passed away. He served Chester in many capacities throughout his life.

There were no deletions or additions to this agenda.

1. APPROVE MINUTES:

June 1, 2016:

A motion was made by Arne Jonynas to approve the June 1, 2016 minutes of the Chester Selectboard meeting as amended. Seconded by Heather Chase. The motion passed.

Page 2, Citizen's Comment, first sentence, should say "last meeting"

Last Page, change to say that the building was simple, functional and relatively attractive

Page 2, Old Business, type to change "they" to "the"

Page 4, 2<sup>nd</sup> to last sentence, should clarify that she wants the town to go through a formal process

Page 5, last sentence, change "it" to "them"

Conflict of Interest, should clarify that the town officials are both elected and appointed

2. CITIZEN'S COMMENTS:

William Lindsay thanked the board for putting money aside money for the 250<sup>th</sup> Celebration. He asked the town to change the gateway signs in town to reflect 1766 as the date for Chester. Ben Whalen suggested that the signs on the town trucks be looked at also.

Frank Bidwell asked if the website is on the old business list and if not, if it could be added. He asked for the town to commit to updating the website. John DeBenedetti stated that he would like to hear from the consultant about their recommendations for the website. David Pisha stated that the town is speaking with an individual to help with the website. There is town staff who is working on making minor edits. David Pisha stated that the major website improvements will be done in conjunction with the master plan. He also stated that Amy O'Brien and Lauren are working on the calendar. Heather Chase asked for an update of the calendar at the next meeting.

Frank Bidwell asked if the Selectboard followed through on finding out about conflict of interest and Executive Session rules. John DeBenedetti stated that Garrett Baxter from VLCT came down to do a presentation on Conflict of Interest. He stated that it would be nice to have them come again for a refresher on Open Meeting Laws.

Frank Bidwell stated his concern that there are policies in place that are not being followed and that the town is hand selecting items that they choose to abide by. John DeBenedetti stated that the town adopted the UDBs in 2014 and there are some changes that are being proposed involving signage, conditional uses, etc. John DeBenedetti stated that the town has made significant effort over the past few years to begin working on reviewing town policies.

### 3. OLD BUSINESS:

Master Plan: David Pisha stated that the town is very close to selecting a consultant for the Master Plan.

Water Project: David Pisha stated that Naomi Johnson is present to address the Board regarding the water project.

EMS Building: David Pisha stated that the Police Chief and John DeBenedetti will be visiting the Castleton EMS building and a date will be set. Heather Chase stated that she would like to know when they are going.

Yosemite Fire House: David Pisha reported that Jim Carroll is present to discuss his opinion regarding the Yosemite Fire House.

John DeBenedetti stated that there has been discussion regarding the Old Business List and if this format still works. David Pisha stated that there is a secondary list of old business items which have been Ben Whalen stated that he would like to keep the current list. Heather Chase indicated that she is fine with the current list. However, she would like to see a single list that identifies any loose ends. Arne Jonynas stated that he is fine with the list the way it is.

### 4. YOSEMITE LEGAL OPINION:

Jim Carroll, Esquire was present to discuss his legal opinion regarding the Yosemite Fire House.

Jim Carroll stated that his firm was asked to perform title work relative to the Yosemite Fire Station. Wanda Murray, the paralegal from his office, came to the Town Hall to perform the title search and gather information. He stated that the title left a lot of ambiguity. Jim Carroll stated that this title reveals that there is not marketable title, which means that this is not insurable title with a Title Insurance Company. He indicated that this could have an impact on grant funding as it would not be possible for an attorney to certify marketable title.

Jim Carroll stated that when performing their title search, their objective was to find out who had title and if it was good title. In March, 1872 there was a conveyance from Heald to Richardson

of several parcels of land. That conveyance included the land under the Yosemite Fire Station as well as all adjoining lands. In 1873, the Yosemite Fire Station is built in its current location. In 1880, Richardson conveyed the piece of land on which the Fire Station stands to Fire District #2, subject to a reversionary clause to his heirs and assigns. In January, 1968 the Fire District #2 merged with the Town of Chester. All property owned by Fire District #2 went to Chester with some restrictions. This transfer may trigger the reversionary clause as Fire District #2 ceased to exist at that time. In 1974, the new Chester Fire Station is built and the use and occupancy of the Yosemite Fire Station ceases. A question then arises as to whether or not the second reversionary clause comes into effect. In 1976, Hazen conveyed to the Chester Historical Society the property dealing with the Fire Station. It is unclear what the Hazen's owned that they could have conveyed. When reviewing the Richardson chain, in 1888 he conveyed to Billings all property that surrounds the Fire Station which clearly excludes out the Yosemite Fire Station property. There is nothing on record showing this parcel coming into the Hazens. This means that the reversionary language remains in the heirs of Richardson.

Jim Carroll stated that title is clouded because there are many uncertainties. To get through these uncertainties will require a judgement from the Court. Heather Chase questioned what the town needs to do to move forward. Jim Carroll stated the best method would be obtaining a quiet title. This would require filing a complaint in Superior Court and requesting an issuance of quiet title proceedings. Jim Carroll stated that the Town and the Historical Society should approach the Court together as a joint filing.

Jim Carroll stated that the cost range for a quiet title process could be \$5,000 – \$10,000. Once the order of the quiet title becomes final, there would be clear title. The quiet title process would deal with the reversionary language as well as allowed uses. John DeBenedetti questioned if grants could be applied for if the title is unclear. Jim Carroll noted that most grants for significant funds require a lien on the property. The town would need to have clear title in order to provide a lien. Jim Carroll stated that the hope is that the Court would declare that the heirs of Richardson would no longer have an interest which would give the town clear title. Discussion ensued. Jim Carroll explained that the conveyance of the Hazen property has a description that starts at the boundary to the fire department but does not include the fire department.

Discussion ensued regarding the fire department entities. Shawn Cunningham questioned if the town fire department storing their material in the fire house makes a case. Jim Carroll noted that this is a good legal argument, but a Judge needs to make the determination in order to obtain clear title.

Shawn Cunningham asked if the town could take title and then resolve this issue. Jim Carroll noted that this is an option, in addition to others, that are available to the town. It was again noted that it is not anticipated that there would be much objection. He stated that there needs to be a conversation about the best way to proceed to a quiet title action. In response to Ben Whalen, the cost will not be driven by joint plaintiffs but by controversy. Frank Bidwell questioned the time frame. Jim Carroll explained that this is undetermined. There is no way to notify the heirs so publication for approximately 2 months would be required. The process could take approximately 6 months or more.

The Board discussed insurance issues that could arise due to unclear title. Ron Patch stated that the Historical Society wants nothing more to do with the building. It was noted that the Historical Society and the town need to work together.

Discussion ensued regarding whether or not the Board should make the decision to pursue quiet title or give it to the voters. Heather Chase stated her opinion that the Board should make the decision. Ben Whalen asked if the Historical Society would be willing to contribute the \$2900 towards this venture. Ron Patch stated that he will bring it before the Historical Society Board but he knows that there will be objection since those funds were raised for restoration.

Jim Carroll suggested that the Board vote on this on July 6. This would give him time to craft how the quiet title would be approached. Arne Jonynas stated that it is the town's obligation to follow through with the quiet title.

A motion was made by Heather Chase to authorize Jim Carroll to proceed with pursuing the Quiet Title action and report back to the Board prior to filing. Seconded by Ben Whalen. The motion passed. Dan Cote was absent.

Jim Carroll will report back by July 6. Ron Patch will speak with his board.

5. EXECUTIVE SESSION:

A motion was made by Heather Chase that based on the recommendations of legal counsel for the Town of Chester, that premature general public knowledge attorney-client communications concerning legal options and strategy of a settlement proposal in the pending matters of *Town of Chester v. Jason Carrara, et al*, docket 60-5-15 Vtec and *in re: Carrara Conditional Use DRB appeal*, Docket No. 142-12-15 Vtec, will clearly place the Town of Chester at a substantial disadvantage should the pending matters proceed to trial. Seconded by Ben Whalen. The motion passed.

A motion was made by Ben Whalen to enter executive session with counsel and the Town Manager to discuss settlement proposals in the matter of *Town of Chester v. Jason Carrara, et al*, Docket No. 142-12-15 Vtec involving confidential attorney-client communications and legal advice concerning those settlement proposals. Seconded by Arne Jonynas. The motion passed.

The Board entered Executive Session at 8:38 p.m.

A motion was made by Ben Whalen to exit Executive Session at 9:04 p.m. Seconded by Heather Chase. The motion passed.

\*\*\*\*\*A motion was made by Arne Jonynas to authorize the town attorney to fine a Town of Chester vs. Carraraby stipulation of a judgment that would authorize the court \_\_\_\_ see tape. Seconded by Ben Whalen. The motion passed.

6. CHESTER TREE INVENTORY:

Arne Jonynas stated that the Chester Conservation Committee and Elise Schaeffer will be conducting a tree inventory at the pinnacle and in highway right of ways beginning in the center of town, and possibly the Brookside Cemetery. This will take place on June 21 and 22. This is no cost to the Town of Chester and the town will have access to it when finished. They will be identifying species of trees, location, condition of tree and recommendations if needed.

A motion was made by Heather Chase to acknowledge that the conservation committee will be conducting a tree inventory. Seconded by Ben Whalen. The motion passed. Arne Jonynas recused himself.

7. CHESTER SNOWMOBILE REQUEST:

The Snowmobile Club requested permission to repair a bridge on the \_\_\_\_\_.

\*\*\*\*\*A motion was made by Ben Whalen to authorize David Pisha to sign the Landowner Agreement of the Snowmobile Club to redeck the Smokeshire Road to Cavendish. Seconded by Arne Jonynas. The motion passed.

The Selectboard agreed that the second landowner form needs clarification as to where the bridge is located.

8. WATER PROJECT UPDATE:

Naomi Johnson stated that bids were opened for all 3 projects in May. All bids came in under estimate. The total construction costs at this time are \$2.6 million with a contingency of \$130,000. This leaves a remaining amount of \$346,000 which can be used for additional water improvements. Naomi Johnson confirmed that hydrants can be updated with this money which has a cost of \$35,000. The motor control center could be replaced at the well house for a cost of about \$100,000.00. She further clarified that these funds would not be used until the project is substantially complete. The electronic addition to the well house would be done as a change order while the electronics are being added to the new tank. Naomi Johnson also stated that another option would be the loop project on Coach Road.

Naomi Johnson stated that SUR West has started the water line replacement on Route 103 and Breezy Lane. The transmission line and storage tank will be done in the fall and next spring. The river crossing at River Street has been amended and does not need to be replaced as it has been determined to be cast iron piping under the river bed. The existing water line survived Irene and it is their opinion that this pipe does not need to be replaced.

9. AWARD POTASH BROOK CULVERT BIDS:

Naomi Johnson stated that the bids have been received for the culverts in Potash. The advertisement was done locally and in the traditional advertising companies.

John DeBenedetti questioned the low bid from M.A. Bean for the culvert on Potash. Naomi Johnson stated that this is a lump sum bid and there is a bonding agency involved. He did have the option to withdraw his bid.

A motion was made by Dan Cote to award the Farrar Culvert to Hunter Excavating, Inc. for \$349,000.00; Potash Brook Culvert #2 to M.A. Bean, Inc. in the amount of \$124,1\_\_\_\_; and Reservoir Culvert Replacement to Hunter Excavating in the amount of \$\_\_\_\_. Seconded by Arne Jonynas. The motion passed.

10. CONTINUATION OF QUARRY ROAD REQUEST:

All Selectboard members indicated that they have reviewed the property. It was also noted that setting the public hearing does not guarantee that the town is giving up the road.

A motion was made by Arne Jonynas to set a hearing date of July 20, 2016 at 7:00 p.m for a public hearing for the discontinuance of Quarry Road. Seconded by Ben Whalen. The motion passed.

11. SIDEWALK PROJECT UPDATE:

This agenda item was moved for discussion prior to item 10 so that Naomi Johnson could be available to answer questions.

Naomi Johnson and Julie Hance explained that VTrans has now indicated that if the scope of the project changes, the project will have to be rebid. Therefore, the recommendation at this time is to reject all bids and rebid the entire project in December/January. This will allow for a better bidding climate as well as an opportunity for the Selectboard to budget additional funds.

The Board agreed to rebid at the end of 2016 with an alternative for Grafton Street.

12. FINANCIAL UPDATES:

General Fund: David Pisha stated that revenues are ahead by \$93,000 over last year due to taxes. Expenses are down by \$117,000 primarily due to public works. Budget review shows the town ahead over anticipated. Transfers are ahead of last year into the Capital Fund. The Balance Sheet shows total current assets down due to sewer paying back what it owes. The bottom line shows total equity growing by \$50,000. Ron Smith will be in Vermont in July and is willing to attend the next meeting. Water meters are paid off. The Due from Sewer does not include the June payment. The Andover payment should be coming in soon.

John DeBenedetti questioned the communications line. Julie Hance noted that there were credit incentives for the first year with AT&T. Water and Sewer payroll is still owed to the General Fund.

Water: David Pisha stated that fees and collections are ahead of last year by \$9,102.00. Expenses are up \$56,000 due to contractual services for the water project. These are reimbursed through the loan fund. Actual to Budget review shows \$4300 ahead of anticipated. Balance Sheet shows their net income down slightly.

Sewer: David Pisha stated that sewer is ahead due to delinquent collections increasing. Expenses are up due to interest payments on bonds. Lab equipment is up as well as UV disinfecting which are unique expenses. Actual to Budget shows down slightly. The excess BOD is still due to Drews. David Pisha will check out the status of the new system at Drews.

Delinquent Taxes: David Pisha reported that collections are up compared to last year. There will be a second tax sale in October.

Ambulance: David Pisha reported that there were 14 dispatched calls and Chester was able to respond to all 14 calls at a quicker response time, This is due to the addition of the full time position.

Solar Farm: David Pisha reported that the final net is \$1469.11. The revenues follow the cycle of the sun.

25<sup>th</sup> Celebration Fund: David Pisha stated that there is a balance left of approximately \$200.00. They have paid for the banners and received various contributions. The town has only contributed about \$400.00 of its committed money.

13. NEW BUSINESS/NEXT AGENDA:

The Selectboard agreed that Ron Smith will be present to review the audit. Deb Daniels should be available to provide a cemetery update. Julie Hance stated that the tax rate will need to be set.

Arne Jonynas stated that he has an item for the July 20 meeting. He has learned of a potential for someone giving the Rainbow Rock land to the Town of Chester. The Conservancy would like to come before the Board to explain the process and their intentions of this land.

The Conflict of Interest Policy needs to be on an upcoming agenda as well as a Yosemite Fire House update.

It was also noted that Bob Flint is ready to discuss the Vermont Futures project when the town is ready.

David Pisha announced that Chester has been appointed the 4<sup>th</sup> safest town in Vermont based on crime statistics.

14. ADJOURN:

A motion was made by Ben Whalen to adjourn. Seconded by Arne Jonynas. The motion passed. The meeting adjourned at 10:01 p.m.

Julie Hance  
Secretary of the Select Board

Heather Chase  
Clerk of the Select Board

The SAPA-TV recording of this meeting is hereby made a part of the permanent minute record of this meeting.