

**MINUTES**

**TOWN OF LUDLOW  
BOARD OF SELECTMEN**

**PUBLIC HEARING AND  
REGULAR MEETING**

July 7, 2014

**BOARD MEMBERS PRESENT:**

Bruce Schmidt, Vice Chair      John Neal      Logan Nicoll

**BOARD MEMBERS ABSENT:**

Howard Barton, Jr., Chairman      Brett Sanderson

**STAFF PRESENT:**

Frank Heald      Ulla Cook      Rose Goings

**OTHERS PRESENT:**

Alan Couch      Ralph Pace      Terry Thayne  
Glenn Heitsmith      Jason Rasmussen      Sharon Bixby (LPC-TV)  
Alan Isaacson      Ted Reeves      Vincent Guerrero (LPC-TV)

**PUBLIC HEARING  
FLOOD HAZARD REGULATIONS**

- A. Bruce Schmidt called the public hearing to order at 7:00 p.m. He advised that Howard Barton and Brett Sanderson are absent due to continuing cleanup work from the storms this past weekend.
- B. Rose Goings advised that the Planning Commission had brought a proposed draft for updates to the Flood Hazard regulations a few months ago. The Select Board had requested some changes and the Planning Commission made those changes. In addition to the requested changes, the Planning Commission also added a FEMA guide to their website to help people understand what FEMA regulations are and how to get assistance. The Planning Commission also added definitions for “top of bank” for fluvial erosion and streams and changed the requirements with respect to changes in footprint for both residential and commercial properties. They also made changes with regard to “named streams.”
- C. John Neal asked that in one redlined document, there was reference to the setback being 25 feet.
- D. Rose Goings said that was for the village, but is now changed to 15 feet for named streams.
- E. Bruce Schmidt asked if the Trustees had made any changes.
- F. Rose Goings said the setback for named streams was changed to 15 feet and the definitions were added there also.
- G. Bruce Schmidt asked if all of the Trustees’ questions had been addressed.
- H. Rose Goings said yes.
- I. Jason Rasmussen said that one reason for updating the Flood Hazard Regulations was that they were not clear about the NFIP requirements and the Planning Commission amended the current

regulations using the ANR regulations as a model. They also clarified many processes. This draft is a whole new set of changes based on the ANR model.

- J. Bruce Schmidt asked about the time frame for approval of these regulations. He said that with 2 board members absent, he was concerned about getting their input.
- K. Rose Goings said that the Planning Commission would like to get this board's approval so they can move forward with other projects.
- L. Frank Heald advised that once a hearing is publicly warned, the regulations become law and stay that way until changed or approved.
- M. John Neal said that the Planning Commission has worked hard on these regulations and made the changes that this board requested.
- N. Logan Nicoll said that he stands behind the proposed regulations.
- O. **MOTION by John Neal and seconded by Logan Nicoll to adopt the Town of Ludlow Flood Hazard Regulations as presented.**
- P. Bruce Schmidt noted that the Select Board appreciates the hard work the Planning Commission put into these regulations.
- Q. **Motion passed unanimously.**
- R. Bruce Schmidt asked the status on the grant to cover the costs for Jason Rasmussen.
- S. Rose Goings said that they are working on several grants and one is done.
- T. Jason Rasmussen said that the one grant for the zoning regulations is done and they hope to finish updating them soon. He is still working on another grant with Rose Goings.
- U. Alan Isaacson asked about a grant for the lakeshore.
- V. Rose Goings said that she and Jason Rasmussen have been discussing that.
- W. Bruce Schmidt thanked Jason Rasmussen for his assistance and noted the hard work that Jason Rasmussen has put in.
- X. Bruce Schmidt closed the public hearing.

## REGULAR MEETING OF THE LUDLOW SELECT BOARD

### 1. **Call to Order**

- A. Bruce Schmidt called the meeting to order at 7:08 p.m.
- B. Howard Barton and Brett Sanderson absent, all other members present.

### 2. **Approve Minutes of Previous Meetings**

- A. Bruce Schmidt advised that the minutes to be approved are from the regular meeting of June 2, 2014.
- B. **MOTION by John Neal and seconded by Logan Nicoll to approve the minutes of June 2, 2014 as presented. Motion passed unanimously.**

### 3. **Comments from Citizens**

- A. Frank Heald said that, for the record, he wants to recognize the highway staff and Village Electric for the incredible job they have done over the last few days cleaning up after the storms. The EMS people also should be acknowledged. He said that there were some people

stranded and gotten safely to the shelter. Ron Bixby and Terry Fortuna staffed the shelter. Everyone did a great job.

- B. Bruce Schmidt noted that HydroQuebec was present assisting Green Mountain Power.

4. **Set FY2015 Tax Rate**

- A. Frank Heald advised that there was a data sheet included in the packets. The town rate increase was .2860 that would be added to the state education tax on residential and nonresidential properties. The state is up a point and a half plus.
- B. Bruce Schmidt said that the estimated, unaudited surplus for FY2014 is \$143,806 and the available FY2013 audited surplus is \$27,837 for a total of \$171,633. He noted that the recommended use of surplus is \$0.00.
- C. Frank Heald said that is correct. Staff does not recommend use of surplus as the auditors recommend retaining a surplus balance.
- D. Bruce Schmidt said that historically, this board has used the surplus to buy down the tax rate. He understands that they can either save it for a rainy day or help the taxpayers. They can also put some aside and use some to buy down the tax rate.
- E. Frank Heald said that last year, the \$27,827 on a \$3,000,000 budget.
- F. Bruce Schmidt said that he believes that the taxpayers should get some benefits.
- G. Frank Heald said that in this case, they are not buying down the local rate; they are buying down the state rate.
- H. John Neal asked what the auditors recommend.
- I. Ulla Cook said they recommend that they should keep 10% of the total budget set aside.
- J. Frank Heald said that the unaudited \$143,806 may come down after the end of the fiscal year and all books are done.
- K. John Neal asked how much they would have to set aside to bring the tax rate down 1¢.
- L. Frank Heald said about \$132,000. He said that he expects the unaudited amount to decrease slightly and the auditors will make adjustments based on the delinquent taxes. He said that we have carefully pared the budget every year.
- M. Bruce Schmidt asked what 1¢ would save the owners on a \$200,000 property.
- N. Ulla Cook said about \$200.
- O. Bruce Schmidt said that he understands that the auditors would like to see more put aside, but we have always worked hard to keep the tax rate down. If they take the 1¢, it will leave \$50,000 in the account.
- P. John Neal said the Select Board has always bought down the tax rate, but he gets nervous when the auditors suggest putting more aside. He does believe they should buy down the tax rate.
- Q. Bruce Schmidt asked what the board wants to do.
- R. John Neal said 1¢.
- S. Bruce Schmidt said if they get into a bind, they must deal with it.
- T. Frank Heald said that his concern is that Branson had to raise the taxes because they had no money. That is the downside risk of using the money now. What about the future.
- U. Bruce Schmidt suggested they use \$100,000 to buy down the tax rate.
- V. **MOTION by John Neal and seconded by Logan Nicoll to use \$100,000 of the unaudited surplus to buy down the tax rate. Motion passed unanimously.**
- W. Ulla Cook said that would make the tax rate .2785.
- X. Frank Heald said that 1¢ on \$200,000 would not be \$200, but \$20.00.

- Y. **MOTION by John Neal and seconded by Logan Nicoll to set the tax rate for FY2015 at .2785. Motion passed unanimously.**

5. **Board of Listers June Grievance Update**

- A. Terry Thayne advised that the Grand List increased slightly, from \$1,331,000,000 to \$1,333,000,000. There were 17 grievances, 9 adjusted and 8 denied. Of the 8 denials, the BCA must be notified by tomorrow if the property owners wish to contest. None have come forward yet. The CLA is 98.92 and the COD is 12.7, up from 10+. The listers will continue to make adjustments as needed.

6. **Award 2014 Town Summer Paving Bid**

- A. Frank Heald advised that bid results are in the packets. The committee recommends that the bid be awarded to Fuller Sand and Gravel, the low bidder. The Trustees also approved Fuller Sand & Gravel at their meeting. There is a significant difference in price between Fuller and the next lowest bidder, Wilk.
- B. **MOTION by John Neal and seconded by Logan Nicoll to award the paving bid to Fuller Sand & Gravel for \$64.00 per ton. Motion passed unanimously.**

7. **Authorize Transfer of \$17,067 from Vault Preservation Fund to General Fund**

- A. Frank Heald advised that a request has been made by Ulla Cook to transfer \$17,067 from the Vault Preservation Fund to the General Fund to cover the cost of 1/3 of Pam Todt's time and 1/8 of Ulla Cook's time to computerize the land records. This would leave a balance of \$39,127 in the fund.
- B. **MOTION by John Neal and seconded by Logan Nicoll to approve the request from Ulla Cook to transfer \$17,067 from the Vault Preservation Fund to the General Fund to cover the costs of staff time to computerize the land records. Motion passed unanimously.**

8. **Review Changes to Open Meeting Law and Confirm New Open Meeting Law Postings RE: Town Office, Berkshire Bank Bulletin Board and Ludlow Post Office**

- A. Frank Heald advised that the legislature had recently passed changes to the Open Meeting Law. Ludlow town and Village is going to insist that all boards and committees post meeting notices on the town hall bulletin boards, the Berkshire Bank bulletin board and the Ludlow Post Office. The law also requires that all meeting minutes be posted within 5 days. There are also changes to Executive Session and Deliberative Session. This is a burden on small towns without sufficient staffing.
- B. Bruce Schmidt said that the Recreation Committee will also have to comply.
- C. Frank Heald added the Bike Path Committee.
- D. Ted Reeves said that this applies also to all entities that are receiving state funds. He added that meetings will be open to all.
- E. Frank Heald said that Ludlow posts draft or preliminary minutes.

- F. **MOTION by John Neal and seconded by Logan Nicoll to approve the town hall bulletin boards, the bulletin board at Berkshire Bank and the Ludlow Post office as locations for posting Open Meeting notices. Motion passed unanimously.**

9. **DRB Appointments**

- A. Bruce Schmidt advised that a letters have been received Phil Carter, Linda Petty and John Boehrer to continue serving on the DRB. He noted that Phil Carter is Logan Nicoll's uncle and asked if Logan Nicoll would be able to vote.
- B. Ted Reeves said that as long as there is transparency, he would be okay with it. He noted that he often represents Okemo at DRB hearings.
- C. Bruce Schmidt said that Linda Petty is applying for a 1 year position, Phil Carter for a 3 year position and John Boehrer for a 1 year position.
- D. **Motion by Logan Nicoll and seconded by John Neal to reappoint Phil Carter for a 3 year position, and Linda Petty and John Boehrer for 1 year positions. Motion passed unanimously.**

10. **Review Mutual Aid Agreements**

- A. Frank Heald advised throughout the county, many of the towns have signed into a highway mutual aid agreement for towns to help each other with heavy equipment. The agreement is in place and this is an updated copy. It works much like the Fire Department mutual aid agreement works.
- B. Bruce Schmidt said it is a good thing.

11. **Ludlow Economic Corporation/Community Assessment Update**

- A. Frank Heald advised that will be applying for a \$100,000 grant to assess and develop a plan for business in the village and industrial park. The Ludlow Development Corporation will fund the 10% matching local portion.

12. **Consider & Approve Outside Consumption Permits/Okemo Food & Beverage, Inc.**

- A. Frank Heald advised that Okemo is applying for outside consumption permits for the Toll House Wedding Garden at Jackson Gore and the Ice House.
- B. Bruce Schmidt asked if he should vote or not. What is the procedure with 2 members absent?
- C. Ralph Pace said that based on Roberts Rules Revised, his understanding would be that Bruce Schmidt could vote.
- D. Bruce Schmidt said he could abstain from the vote.
- E. **MOTION by John Neal and seconded by Logan Nicoll to approve the outside consumption permit for the Toll House Wedding Garden at Okemo. Motion passed, 2 in favor and one abstain.**
- F. **MOTION by John Neal and seconded by Logan Nicoll to approve the outside consumption permit for the Ice House at Okemo. Motion passed, 2 in favor and one abstain.**

- G. Ted Reeves said that he checked online and this was in order.

13. **Review Occupancy Agreements with Black River Senior Center & The Vermont Journal**

- A. Frank Heald advised that there are 2 occupancy agreements in the packets. He has found out that there is no paperwork in the files to certify occupancy of the Senior Center. It appears to have dropped off the map in 2001 or 2002. The Historical Society donated the old school building to the town with the condition that the Senior Center may occupy the ground floor as long as they want to. The upstairs was occupied by the superintendent's office. They moved to Fletcher Farm and the town is responsible for the costs of that portion. Frank Heald said that he recently rented the upstairs to THE VERMONT JOURNAL. He has drawn up 2 occupancy agreements, one for the Senior Center and the other for THE VERMONT JOURNAL. The rent for THE VERMONT JOURNAL is \$850/month and covers the occupancy costs and some minor repairs.
- B. **MOTION by John Neal and seconded by Logan Nicoll to accept the Occupancy Agreements for the Black River Senior Center and THE VERMONT JOURNAL as presented.**
- C. Frank Heald said that the agreement for the Senior Center runs until they wish to terminate it or until the town terminates it for just cause. He said that the agreement with THE VERMONT JOURNAL allows for 60 days' notice of termination for either party.
- D. Bruce Schmidt said that the agreement for THE VERMONT JOURNAL does not list the rental rate.
- E. Frank Heald said that the final document that he signs will include the \$850 per month rent.
- F. **Motion passed unanimously.**

14. **Review Police Phone & Dispatch Console Issues**

- A. Frank Heald advised that the last meeting, they discussed upgrade to the police phone system. It is 7 ½ years old and they would take \$4000 out of their equipment fund to upgrade it. Since then, the hard drive went and the old console is being used. They sent the hard drive to NY for repairs and to see if they could recover any of the code. That will cost about another \$4,000 to \$5,000. If they can reformat it, it will run about \$9,000. They are applying for a communications grant to replace the entire console. That will run about \$25,000 to \$28,000.
- B. John Neal asked if the hard drive is backed up anywhere, maybe the Cloud.
- C. Frank Heald said they would not back up the Police information on the Cloud and there is not duplicate hard drive. That will be included in the next process.
- D. Bruce Schmidt asked Frank Heald to keep this board informed.

15. **Review KJK (US Cellular) Application at the PBS for De Minimis Modification to the Mid Mountain Tower Facility**

- A. Frank Heald advised that a de minimis modification is a very minor modification that should be no issue for Ludlow.

16. **Department Head Reports**

- A. Bruce Schmidt advised that all reports are in.

17. **Other Business**

A. **Transfer Station**

- i. Bruce Schmidt asked why the Transfer Station charges for stoves or washers and dryers.
- ii. Frank Heald said to cover fuel and labor costs and use of the backhoe. He said that the town sends the backhoe up 2 or 3 times per week to crush these things and it goes into the metal container.
- iii. Bruce Schmidt asked why Ludlow does not go to Zero Sort.
- iv. Frank Heald said that over the next year we will be looking into those options. At present, we source separate and take in about \$25,000 in recyclables, less trucking costs. If we go to Zero Sort, we would no longer be getting that \$25,000 and would still have to pay for trucking. We would also be paying slightly more, about \$80/ton and we now pay \$78/ton. We would be spending more money for Zero Sort. He added that with the new Act 148, there will be new dynamics in the Village. The Pay to Throw process does not work in the village. The village would have to purchase the totes. It will be a whole new world. We will be discussing it more over the next year.

18. **Set Date for Next Meeting**

- A. Bruce Schmidt advised that the next regular meeting would be August 4, 2014 at 7:00 p.m.

19. **Sign Warrant Orders**

- A. Warrant orders have been signed.

20. **Possible Executive Session/Personnel/Contracts/Legal**

- A. Frank Heald advised that an Executive Session is needed.
- B. **MOTION by John Neal and seconded by Logan Nicoll, in accordance with the provisions of 1VSA§ 313 (1)(B) to move that the Ludlow Select Board enter into Executive Session to consider a proposed labor relations agreement with certain Municipal Employees. The premature public knowledge of this proposed agreement would place the Town & Village of Ludlow at a substantial disadvantage. This motion is for executive session and includes the members present and the Municipal Manager. Motion passed unanimously.**
- C. Board entered into Executive Session at 7:59 p.m.
- D. Board exited Executive Session at 8:20 p.m. No action taken.

21. **Adjourn**

- A. **MOTION by John Neal and seconded by Logan Nicoll to adjourn. Motion passed unanimously.**
- B. Meeting adjourned at 8:21 p.m.

Respectfully submitted,

Lisha Klaiber

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Howard Barton, Jr., Chairman

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Brett Sanderson

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John Neal

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Bruce Schmidt

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Logan Nicoll