



Town of Bolton
3045 Theodore Roosevelt Highway
Bolton VT 05676
Select Board Minutes
June 2, 2014

Board members present: Josh Arneson, Gene Armstrong, Jen Dudley-Gaillard, Ron Lafreniere, Chair, and Sharon Murray

Board members absent: None

Also present: Tom Benoit, Tom Longstreth, Wendy Hoffman, Phil Graff; Eric Andrews, Road Foreman, Mike Gervia, Fire Chief and Chris Laberge, Constable

Clerk: Sharon Murray, Acting

The meeting was called to order at 5:20 p.m. by Ron with a quorum present; Gene arrived at 5:35. There were no changes to the agenda.

Public Hearing: Draft Resolution re “Right of Bolton Town Residents to Keep and Bear Arms

Ron convened the hearing, noting that this resolution had been drafted in response to the petition that had been received by the Select Board, and the vote at March town meeting requesting that the Select Board consider it. The following testimony was received from those present:

- Mr. Benoit, who had circulated the petition, thanked the Select Board for drafting the resolution, stating that it reflected the petition’s stated intent to protect the constitutional rights of local residents.
- Mr. Longstreth noted his concern that the resolution was not balanced in its wording, and that it may not allow the town to take future measures necessary to protect public safety. On casual reading it appeared to support the language of the petition, as included in quotes in the findings. He recommended that the Select Board not adopt the resolution as unnecessary and potentially contentious; but, that if considered, it be amended to clarify under the third part that the town could enact ordinances as necessary to protect public safety and security, and offered proposed language to that effect.
- Ms. Hoffman, noting her direct relationship to a victim of gun violence, read a prepared written statement regarding alternative interpretations of the second amendment, as expressed by constitutional scholars and historians in a brief filed under the *District of Columbia v. Heller* decision cited in the resolution, and in relation to recent gun incidents and homicide rates. She asked that the Select Board not pass the resolution, as redundant and insensitive to innocent victims of gun violence.

In response to a question from Ms. Hoffman regarding the intent of the resolution, Sharon noted that the board was responding to the petition signed by 84 town residents, and a majority vote at town meeting for the board to consider the petition. She indicated that, in drafting the resolution, she had researched resolution language reflecting both sides of the issue. The intent of the resolution as drafted was to simply identify existing law in this area – under the federal and state constitutions, recent Supreme Court decisions and state statutes – as they apply to actions of the Select Board. This resolution addresses only the right to own guns; it would not preclude the town from adopting allowed ordinances to protect public safety – for example to define “no discharge” zones.

Sharon asked whether the town had received any other input on the draft. Jen reported that two other residents had noted their concerns to her. She indicated that she was also uncomfortable with the third part of the resolution, suggesting that it was too open to interpretation and should be struck. Josh questioned the need for the resolution, given existing federal and state law. Sharon wondered whether more public input was needed. Ron noted that the meeting had been publicized in advance. Jen felt that the range of public opinion had been represented in the petition and in the response to the resolution. Gene expressed his concern that this is a matter best addressed at the federal and state level.

Following a discussion of options to proceed under Roberts Rules, Gene made the motion that “*the Select Board not act on the resolution.*” This was seconded by Jen. The motion passed 3 to 2, with Ron and Sharon dissenting. Mr. Benoit expressed his disappointment, but again thanked the board for their consideration.

Appointments:

Eric Andrews presented department time logs for review and updated the Select Board on highway department work and equipment, reporting that:

- The end of a large culvert on the Bolton Valley Access Road, in the vicinity of Hummingbird Lane, was in bad shape. It extends outside of the road right-of-way, and the landowner had asked that it be fixed before they move a new mobile home onto the property.
- Gravel has been crushed and stockpiled for summer use.
- Notch and Stage Roads were recently graded.
- The lower half of Honey Hollow was ditched and one tree that had been damaged in a recent storm was taken down.
- Several culverts were cleaned out, including the culvert on Honey Hollow, but a rig will be needed to clear several others.
- Work on the truck was complete, and the mower was ready to go.
- He hadn't had time to work with Carol on entering culvert inventory information into the database, but hoped to get to it later this month.

Sharon asked whether the town had drainage easements for culverts outside of the right-of-way. Eric noted that all the culverts on the Access Road extend outside the right-of-way, if measured 25 feet from the centerline, indicating that the road was probably wider than three rods, but they haven't been able to document this. Jen asked whether the work on the culvert repair could be postponed until July, to be included in the next fiscal year. Eric noted that they already had the four feet of culvert needed to repair and cap the end. Gene said he'd check out the condition of the culvert with Eric, along with the bridges included on the bridge report, later in the week.

Ron reported that speeding on the Duxbury Road was getting worse and asked Eric to look into the cost of installing horse or farm crossing signs. Mike Gervia noted that speeding was also bad on RT 2. Ron suggested that in the future the town may need to contract with the sheriff's department to help enforce speed limits.

Ron asked that highway department staff include more detail regarding the type and location of work being performed in their daily logs. He also noted that no overtime should be logged except as needed to address emergencies or storm damage. Jen asked about the log codes. Eric explained that they were shorthand for work being done, according to a schedule maintained by the former town clerk, and not tied to budgeting codes.

Animal Control Hearing: Vicious Dog

Ron convened the hearing at 6:45 p.m., held in accordance with Section 6 of the Bolton Town Ordinance for the Control of Dogs, to address a written complaint of a dog bite filed by Jen Dudley-Gaillard, as received by the Select Board on May 28th. Jen, as the complainant, recused herself from Select Board consideration. Mr. Graff, the owner of Sandy, the dog identified in the complaint, was also present. The following information compiled by the Town Clerk was submitted for the hearing record:

- A copy of the written complaint as submitted by Ms. Dudley-Gaillard stating the time, date and place that the attack occurred, the name and address of the victim, and the identity of the dog and the dog owner.
- A copy of the public notice of hearing, as posted at the Town Office, the Bolton Store and the Smilie School on May 29th, and as mailed to Ms. Dudley Gaillard and to Phil and Alaysha Graff on May 28th.
- A copy of the recommendations of Chris Laberge, the Town Constable who, in acting under the town ordinance had removed and impounded the dog.
- Copies of other reports regarding the dog in question.

Ms. Dudley-Gaillard testified that:

- She had been bitten on the thigh, around 3:00 pm on Tuesday, May 27th, while walking down Mill Brook Road to pick her daughter up from the school bus.
- She had been bitten by Sandy, one of two German Shepherds owned by Mr. Graff, off the property within the road right-of-way. Sandy was off leash. Mr. Graff's daughter, Alaysha, then corralled the dog and apologized for the attack.
- Because she was wearing heavy clothing, the bite only resulted in bruising. No medical attention was required.
- She contacted Mr. Graff about the incident prior to filing the complaint with the town.
- The next day Mr. Graff's other German Shepherd, Bentley, was running off leash. She tried to notify the family, but no one answered the door.
- She wants to be a good neighbor, but given that this is not the first incident involving the dog, she does not feel safe walking on the road, and is also concerned about the safety of other residents.

Mr. Graff testified that:

- He was truly sorry for the incident, and apologized to Ms. Dudley-Gaillard.
- The dog is protective of their property and his children. He is a single parent, and is away much of the time for work. The dogs are there in part to provide protection.
- They keep the dogs inside or on leash, but they sometimes get out.
- He had discussed with his children the possibility of euthanasia, given the attack on Ms. Dudley-Gaillard. They understood the seriousness of the situation.
- He indicated his intent, in response, to fence in the front yard to keep the dogs from running into the road, to keep them on leash, and to muzzle Sandy when she is outside.

The Select Board:

- Documented that Sandy's license and rabies certificates were current, as recorded at the town office.
- Noted that this is not the first reported incident involving Sandy – that the town had received complaints dating back to August 2011 and, following an incident last year in which another dog had been bitten, Mr. Graff had not acted timely in responding to Select Board calls and letters, and in

registering his dogs. The Select Board had also previously directed that Sandy be muzzled when outside of the house.

- Suggested that fencing just the front yard would not keep the dogs confined to the property; that at minimum a run would be needed.
- Noted the constable's recommendation that Sandy be evaluated by a professional with regard to the ability to modify her aggressive behavior, and that training be required as appropriate.

Mr. Graff reported that dogs were licensed, and that they had muzzled Sandy as asked, but that she couldn't tolerate it. The new muzzle they just purchased is designed to fit under her chin, and is working much better.

Sharon noted that, under the ordinance, the Select Board's options included required euthanasia, a muzzle, chaining, or confinement, but also suggested that the board could require that the dog be transferred to an animal shelter or rescue organization for rehabilitation, as listed on the form provided by the town clerk. Gene suggested that, given the number of complaints, at minimum the Select Board should require that Sandy, when outside of the house, be confined to the property on a run or be controlled on a leash, and wear a muzzle; and that, in the event of another reported incident, the dog be permanently removed from the home.

Ron indicated that the Select Board, following further review of the evidence and testimony submitted, would issue its decision in writing, to be sent to all parties by certified mail. Josh agreed to draft a decision and complete the form provided by the Town Clerk, for review by other board members.

Business and Action Items:

1. **Town Dog Impoundment:** Mike Gervais met with the Select Board to register a complaint regarding the location of the town's dog impoundment outside of the highway garage, noting that the night Sandy was impounded there was a bad storm, and she barked the entire night. Select Board members reported that they had also received several complaints from neighbors, and acknowledged that another site was needed. Ron suggested that the board look into the use of the property on Route 2 recently acquired by the town in the FEMA buyout. In the interim, dogs with identified owners would be impounded at home, as had been done in the past. Gene noted that the town had also purchased an Igloo, to place inside the pen to give a dog more shelter. He said he'd check with Eric to see if it was at the town garage. Chris LeBerge, Town Constable, joining the discussion late, indicated that he didn't know about the Igloo, but could construct something if it couldn't be found.
2. **Fire Department:** Mike reported that the department had been awarded the \$26,000 radio equipment grant, but the town would have to cover the cost of installation, estimated at \$600 to \$700 dollars. Jen asked whether the invoice he'd submitted for writing the grant was included as part of his stipend as Fire Chief. He noted that the invoice was separate. Normally he wouldn't invoice for grant writing, but it required that he miss four days of work to address related state and federal requirements with the Town Clerk. He also noted that the stipend was instituted this year. Sharon indicated that she had no issue with this, given Mike's level of responsibility and service to the town, but that the Select Board would have to figure out how to classify the stipend and payment, and should develop some sort of policy regarding reimbursement of volunteer versus employee services. Select Board members asked Mike about department budgeting and future needs. Mike indicated that a new truck would be needed at some point in the near future. Jen suggested that this be added to the list in preparing a capital budget.

3. Northstar Fireworks Permit: Ron noted that the Select Board was still considering a fireworks ordinance, but that Northstar had requested a permit for fireworks at the Ponds on July 19th, and had agreed to an earlier start time of 9:15 p.m. Gene made the motion “*to approve the Fireworks Permit for Northstar on July 19th with a start time of 9:15*”; seconded by Jen. The motion passed 4-0, with Josh recusing himself from the discussion and vote.
4. Meeting Minutes: Gene made the motion “*to adopt the minutes of the May 19, 2014 meeting as written.*” Seconded by Jen. Motion carried 5-0.
5. Warrants: Warrants were signed. Gene noted a question for Amy concerning Invoice #052514 from the Richmond Home Supply.
6. YTD Expenses: Board members reviewed and discussed the year-to-date expense report, noting that it was the last month of the fiscal year and that several line items were significantly over budget, but there may be offsetting revenues. This will be reviewed in more detail at the next meeting, with regard to how it may affect next year’s budget. Ron reported that in the past the Select Board has also done a mid-year check. Jen noted the need work with Amy to clearly separate out capital from operating expenses in future budgets and related reports.
7. Ancient Roads: Correspondence from VTrans regarding the final deadlines for mapping town highways and legal trails was received. There is one year remaining to get any highways or trails added to the town’s official highway map. Sharon provided a brief update on her research from old town highway maps on file at VTrans and available online, focusing on the three roads the Select Board had decided to look into at the last meeting – Town Highway 6 (Mill Brook Rd) and Town Highways 11 and 18 running south of RT 2 toward the river. It appears that sometime between 1965 and 1972 Mill Brook Road was reduced from 1.1 miles to 0.57 miles and pent. From 1972 on the eastern portion is indicated as a private road. TH11, which on old maps extends to the river, still exists as a Class 4 road, and there is still a rail crossing, but it appears that it was reduced in length prior to 1950 and again in 1973 when it was downgraded to Class 4 road, as shown on map revisions. It looks like TH18 next to the town office never extended across the tracks to the river – though the maps do show the Long Trail following this route, supported by the May’s ferry service. Jen noted that she had also spoken to Chris Haggerty about Mill Brook Road, who indicated that the box containing information on the road hadn’t been located.
8. RT 2/Storage of Materials in Floodplain: Sharon reported that, in Miron’s absence, she had contacted staff at Floodplain Management and VTrans’ Environmental Section via e-mail regarding the board’s recommendation that the landowner be noticed in violation in the event that the town received no documentation from the state by May 27th that the storage of materials was exempt from local flood hazard regulation. She didn’t know if anything had been received at the town office, but would follow up with Miron.

Closing:

- No other business was brought before this Board at this time. Gene motioned to close the meeting at 8:33 p.m. Jen seconded. There was no further discussion. Motion passed (5-0).

Attest: *Sharon Murray, Acting Clerk*

*Minutes are unofficial until approved. These minutes were read and approved by the Bolton Select Board on:
June 16, 2014, Ron Lafreniere, Chair, For the Board*