

## **Minutes**

### **Town of Marlboro Select Board Meeting**

**Thursday, October 24, 2024 @ 6pm – Town Office & Via Zoom**

**Attendees:** Molly Welch – SB Chair; Jeff Skramstad – SB Vice-Chair; Kate Kirkwood – Member; Nick Morgan – Town Admin/SB Assistant; Andrew Richardson – Road Supervisor; Mary Sargent – Zoning Admin; Forrest Holzapfel – Town Clerk; Rebecca Sevigny – Treasurer; Bob Fisher – Town Attorney; John Marinelli, Bill Hannigan, Genny Beemyn, Jim Herrick, Thorin MacArthur – Residents.

### **BEGIN ZOOM RECORDING:**

**Call to Order @ 6:02pm**

**Sign Guidelines of Conduct - Done**

### **Regular Select Board Meeting Agenda**

Identify Any Changes to Agenda: *The order of the meeting was adjusted to more efficiently organize items and maximize Bob Fisher's time.*

#### **Scheduled Business:**

6:00-6:10p Unscheduled Open Public Comment: None

6:11p Approval of Minutes from October 10, 2024 (Welch/Kirkwood – Passed unanimously)

6:11p Signature of Pay Orders - Done

#### **New Business**

##### **Highway Department:**

*Review of Whittaker Farm Road Up-classification including legal discussion –*

Select Board Member, Kate Kirkwood, announced that as this item impacts her and in accordance with the Conflict of Interest Policy, she was recusing herself from the discussion (and any decisions) as a Select Board member and any comments would be made as a resident of Marlboro, not a Select Board Member.

Select Board Chair, Molly Welch, reviewed the status, situation, and history of this 0.4 miles portion of Whittaker Farm Road and the request by the Church Hollow Road Association to upgrade this section of road to a class 3 town road with the attended maintenance of the road by the Marlboro Highway Department (and what tax implications there may be).

At Molly's request, Town Attorney Bob Fisher outlined the legal process for making this decision, which falls under Title 7, Chapter 19 of Vermont Statutes, including the need for, a survey of the proposed roadway, notification to abutting landowners (by certified mail), a site visit, and public hearing (all noticed and warned at least 30 days in advance), prior to a Select Board decision. Bob noted that this process could be triggered in two ways: One a direct act by the Select Board to investigate the issue; Second, a petition signed by 5% of the residents for the Board to consider this. In answer to a question about this issue being included in the ballot, Bob noted that even if there is a petition to consider this upgrade, the decision still rests with the Select Board following the procedure delineated in Title 7, Chapter 19. Bob further stated that the Select Board decision, granting the road is brought up to Town standards, is "whether upgrading this portion of the road would comport to one or more of the following: Public Good, Public Necessity, and/or Public Convenience". He also reiterated his opinion that a survey needs to be done but acknowledged that he was open to investigating a differing opinion.

Bob discussed a possible scenario that the Board could acknowledge that the upgrade would be in the public good, necessity, and/or convenience, but insist that conditions be met, including, say, the need for a survey, the road be brought up to Town standards in all ways, etc. paid for by those requesting the upgrade. Should all conditions be met, then the decision for the Town taking over the road would proceed. Bob also advised that at any point when a decision is finalized there is a legal appeal process to the VT Superior Court, where the judge appoints a 3-commissioner panel to hear testimony, review documents, and create a report for the judge. The judge renders a decision or calls for further hearings.

## Marlboro Select Board Minutes – October 24, 2024 – Page Two

Highway Department: Whittaker Farm Road (continued)

Bill Hannigan, one of the residents on the road, expressed thanks for this meeting and provided his history with his residence in Marlboro (part time at present), and his interest is upgrading the road which would facilitate his becoming a permanent resident and moving his business to Marlboro.

At this point Andrew reviewed his current history with this project. Andrew asked the minute taker (Nick) to be very complete in the minutes regarding the following, so the following is a transcription of what Andrew said (*note, the following, while a transcription of what was said, has been slightly edited to take out extraneous words that normally occur when speaking – should a complete audio of this section is desired, it is available on the Marlboro Soundcloud page – time code of 12 minutes-15 seconds into the recording.*)

ANDREW: “Number one...The reason I offered to help in the way I did is because not being here when this issue was...brought up in the past. But just reading some of the correspondence. I guess you would call it some of the history of that I felt like they're...you know...The work that was done, whether it was to standard or not. It was done...under the expectation that...That portion road got taken over. So, it was me also trying to, you know...work with the Church Hollow Association and offer a helping hand...it's also going to be the cost of it. What I think we'll get into later. For the gravel that I've offered is also...a lot of money. It's also well under budget and I also want this **specifically in the minutes** that **I didn't make any promises.** I made this offer really out of the goodness of my heart...**with the understanding that this is upon Select Board approval** because I did not. I don't make. I don't make these types of decisions on my own. It's not my place, and it's really not my job. So, I just want that clear that I'm willing to help. **But that help that I've offered is not me saying, yes, we will do this. It's me saying, this is what...I'll offer if the select board decides to go with it.** And also, you know, the Select Board could also say, Yeah, sure, we'll take over the road. But the town's not paying for anything. So, there's that scenario, too. Right? I just wanna make that clear...That's how I've offered to help. That's not my decision.

Bill noted at this point that the Church Hollow Road Association took Andrew's comments to them exactly as Andrew explained (see above).

Bob, noted at this point after reviewing the current road ordinance that it is a bit “chicken and egg” situation, that once the Board determines if the upgrade is in the “public good...”, then going strictly by the ordinance, the work to bring the road up to standard should be done before a decision, but that the Board could elect to set up conditions to be met for approval, and the upgrade would be finalized once all conditions were met. Bob noted that the Board does have that power to create exemption to the ordinance or even make adjustments to the ordinance to fit this situation. Jeff posed the questions about how to know what condition the road is currently in and then follow on to make sure that the work was being done and would meet standards. Bob suggested that there be some form of “Road Engineer” would need to be hired by the Association who would do an initial assessment before any work would be done, and then this engineer, along with Andrew advising, could and would evaluate the road during improvements and ultimately certify that the Town's standards have been met.

Kate Kirkwood (as a resident with interest, not as a Select Board member) noted that Andrew and Thorin that been working together to asses the road and map out improvements, which to her understanding would put the road well up to Town standards and actually more closely match those standards than many other Town roads. And due to the potential cost, hiring an “engineer” was daunting but realized that the Board would have to make the ultimate decision.

## Marlboro Select Board Minutes – October 24, 2024 – Page Three

### Highway Department: Whittaker Farm Road (continued)

At this point, those in attendance reviewed and discussed the many elements of this issue, including:

- Andrew and Thorin reviewing what work needs to be done, both in terms of prepping the road, replacing material, laying “fabric”, replacing the base and top layers, and fixing any ditching that might be needed.
- Resident Jim Herrick brought up several issues for discussion, including: What benefit to the town taxpayers this upgrade will provide; Does there need to be DRB review; With the increasing amount of heavy rain events, what consideration to potential costs to the town may be generated in the event of a ‘wash-out’ or other major road issue; What approving this upgrade would mean to the other 15+ roads in similar circumstances (Town Clerk – Forrest Holzapfel provided the meeting with a town road map showing potential examples); Is there any past precedent for this, and will this create such a precedent; and questioned whether in the current “ever-increasing” tax burden on residents, is taking on more expense wise.
- Kate Kirkwood & Bill Hannigan, speaking for the Church Hollow Road Association, and noting that as Town taxpayers as well they realize that this is a difficult issue, reiterated that the Association is doing everything in its power (and at what will be - considerable expense) to bring the road up to “premium standard”. In fact, better than many of the town’s existing roads, and feel if the Association meets all standards set by the Board (and any other entity providing advice), then the upgrade should be approved.
- Kate & Bill further noted that a very similar situation was addressed in 2012-13 on Whittaker Farm Road and even after extensive improvements and expense, the upgrade was denied by the then Board and Road Supervisor.
- Addressing the issue of “public good”, the Association noted that should the road be upgraded then two more homeowners would take up permanent residence, which would also bring their business with them. And having an “up to standard” maintained road, would make working out of their homes more productive and potentially provide employment opportunities for residents.
- The Board queried Bob and Andrew on process and how the road standards are set, including input from the “Orange Book”, the Wilmington Road Standards the board adopted as “guidelines”, direction from the Road District 1, and VTrans.
- Discussion on making sure that the road standards did not just include the actual road surface (and sub-surface), but also the arc of curves in the road, slope of the road, and the overall geometry.
- Finally, the Board asked, and Bob answered on how to proceed with getting the current Road Ordinance in order, bringing the Town Planning Commission in on discussions, and whether revisions to the Road Ordinance would need to be brought to a town vote. (Briefly, Bob responded that a vote was not needed but should there be a petition objecting to the change(s) signed by 5% of eligible votes, then there would need to be a vote.)

*As this was a free-flowing conversation (moving from topic to topic) and the purpose of these minutes is not to provide a “transcript”, such a “transcription” is not provided here. Should a full accounting of this free flowing conversation (and actually the entire meeting), be desired, an audio recording of this meeting is available on Marlboro’s SoundCloud page (Link -> <https://soundcloud.com/marlboro-select-board/2024-10-10-select-board-meeting-audio> . A general link to the Marlboro Soundcloud page can be found on the Select Board page of the Town’s website -> <https://marlborovt.us/boards-minutes/select-board/> .)*

Once the discussion on this topic concluded and there being no other Highway issues to discuss, the Board moved on with the agenda and moved into the Executive Session.

**Marlboro Select Board Minutes – October 24, 2024 – Page Four**

**Motion to move to Executive Session @ 7:30p (Welch/Skramstad – Passed unanimously)**

**EXECUTIVE SESSION**

**Motion to return to regular order @ 8:02p (Welch/Skramstad – Passed unanimously)**

Items arising out of the executive session:

Several items pertaining to personnel issues were discussed in the Executive Session resulting in the following:

There being no further discussion on the item: **Motion to approve the Retirement Health Benefit to be added to the Town’s Personnel Policy (Welch/Skramstad – Passed unanimously)**

There being no further discussion on the item: **Motion to approve the revised Paid Holiday Policy of the Town’s Personnel Policy (Welch/Kirkwood – Passed unanimously)**

In an effort to upgrade the handling of Zoning issues and start the process of training a new Zoning Administrator, the Board interviewed a candidate vetted by current Zoning Administrator Mary Sargent and agreed that John Marinella would be a great addition to the town. As an initial effort to move forward with training the Board agreed to hire John Marinelli at a rate of \$18.00/hour for a total of 80 hours through the end of calendar year 2024. **Motion: Approve an 80-hour period for the remainder of calendar year 2024, to hire John Marinelli at a rate of \$18.00/hr to train with the current Zoning Administrator (for a total of \$1,500.00). (Skramstad/Kirkwood – Passed unanimously.)**

Treasurer Report for Informational Meeting: Tabled

Review Agenda for 10/26/24 Info Meeting: Done

Decide on and Approve 2025 health plan:

Nick presented a new Town Health Plan through insurance broker, Acrisure. The new policy along with providing HRA’s for employees will provide the same coverage as being currently received with the Town’s existing policy (with some improvements on co-pays). The new coverage will be through BCBS-VT and CS1 (HRA administrator) and is referred to as Blue Edge. In addition to a savings of roughly \$16,000 over what the Town’s current BCBSVT policy would have costed in 2025, due to the nature of the policy (a “Captive Plan”), there could be additional savings should the Town’s claims come in lower than the premiums. Nick advised the benefit of this plan is that while the Town could see money returned, there are no increased costs, should Town claims exceed premiums. **Motion: Accept the Blue Edge Medical Insurance program (Welch/Kirkwood – Passed unanimously)**

**Old Business**

Town Administrator Report:

*General Informational Updates* – The Board briefly discussed the Emergency Management exercise that was held. Nick reported that the analysis report was a bit delayed by the disasters down south, but he would find out the status and report back. He anticipated hearing something the week of 10/28/24.

*Non-Saturday Info meeting* – Nick reported that there had been a request to possibly hold an extra info meeting on a non-weekend day. The Board noted the request and would review the possibility of doing so.

*DV Fiber Annual Report* – Nick reminded the Board that DV Fiber had sent out their annual report and would be holding their annual meeting on November 6<sup>th</sup>, 2024.

## **Marlboro Select Board Minutes – October 24, 2024 – Page Five**

*Update on GMP Battery Wall* – Nick updated the Board that Southern VT Solar had done their inspection and are ready to proceed with getting two sets of battery walls (providing approximately 96 hours of emergency power) at \$110/mo over 10 years then nothing for the remaining five years of the life of the batteries. The “walls” will have to be installed outside due to space and ventilation issues, but the battery packs are able to handle that as they are designed for use in our environment. They will also be establishing a plug and inverter switch so, if need be, we can plug in a generator should a power outage last longer than the 96 hours of power the “battery walls” will provide the Town Office building. GMP will be coming out to check the transformer to ensure it is the right size, but even if work is needed the town will receive a \$4,000 credit so there should be no cost impact if GMP has to switch out the transformer. Nick advised that all is moving forward, and installation should take place in February or March, depending on the supply chain.

*Update MERP* – No word yet on whether our submission was approved, but we should hear something shortly. Nick advised that he would follow up with the WRC to see what the situation was. As the timeline for accepting the MERP grant is short, in lieu of holding a special meeting to accept the grant the following motion was approved. **Motion: Approve in advance accepting the MERP grant when the Town is advised their application was approved. (Skramstad/Kirkwood – Passed unanimously)**

**Motion to Adjourn @ 8:23p (Welch/Skramstad – Passed unanimously)**