



TOWN OF LYNDON
SELECTBOARD MEETING
September 30, 2019
5:30 PM

Selectboard

Dan Daley, Chair
Christian Thompson
Fred Gorham

Press

Todd Wellington
Taylor Girard (NVU)

Public

Dawn Dwyer, Justin Smith, Steve Gray
Paul Tomasi, Walter McNeil, Kermit Fisher
Larry Willey, Sarah Cousino

1. Adjustments to the Agenda:

*Remove item 4 & 6 *Listers Errors & Omissions *MOU for Public Wi-fi *Liquor License Renewal

2. Approval of minutes:

Motion made by Christian Thompson, seconded by Fred Gorham, to approve the September 16, 2019 minutes as amended. Motion carried 3 to 0.

3. Approval & Signing of Orders drawn on the Treasurer:

The Board approved and signed the orders drawn on the Treasurer for weeks # 39 & 40.

4. Northeast Kingdom Waste Management District (District) Host Agreement Discussion:

The Board reviewed the Benefit Analysis as submitted by Paul Tomasi and asked for clarification on some of the items. Christian Thompson questioned why Lyndon was the only town to benefit by the attendants and it was explained that other members of the District have transfer stations and pay for their own attendant. Mr. McNeil explained that they feel 90% of those using the Waste District come from the Town of Lyndon. Mr. Tomasi was asked if he knew what percentage of Lyndon residents use the service, now that many of them have contracted with a private hauler. Mr. Tomasi did not have that information. Mr. Tomasi explained that there are more services offered at the District that private haulers do not offer such as household hazardous waste, yard & leaf collection, scrap metal collection, tire and electronics.

Paul would like a confirmation from the Selectboard that the draft proposal from August could be used as a starting point for the Host Agreement. The agreement was summarized for those in attendance (filed in vault). The points of the draft agreement were shared with those in attendance and are as follows:

1. The District agrees to cap the Town of Lyndon's (Town) compost at \$2,400 (2018 charges were \$4,172)
2. The Town agrees to sand the District's parking lot 6-10 times annually.
3. The Town agrees to grade the District's parking lot one per year. The District will pay for any necessary materials.
4. The District will host the Town's Green-up day event free of charge. The Town will pay for the disposal of the waste collected.
5. The District will not bill the Town for the walk-in attendants.
6. The Town agrees to cap the per use charge for the Public Safety Building at \$25.
7. The Town acknowledges the District is exempt from taxes in accordance to 24 VSA 3216(b) and will not pursue property taxes in the future.
8. The agreement will be affective on January 1, 2020, for a term of five years with renewal as agreed by both parties.

It was discussed that with number 7, it has not been determined if the District is tax exempt, therefore could not be included.

Kermit Fisher discussed essential services provided by the Town and the benefits of the District. He doesn't feel it is unreasonable to ask the District to pay for these essential services. He equated it to him not having kids in school, but he still must pay education taxes. Mr. Tomasi doesn't feel it's an

unreasonable request but asks the Town to acknowledge the level of services the District offers the residents of Lyndon. Mr. Tomasi feels if they were close, then there should be some effort to make up the difference. He doesn't see that as being close at this point. He feels the services the District provides is higher than the services the Town provides.

Larry Willey again stated that any agreement would have to be voted on by the voters. He feels those voters that have hired private haulers or take their recycling to an easy trash location are not going to vote in favor of an agreement. It would result in those voters paying twice; their private hauler bill as well as the local agreement tax that is necessary to make up the unpaid education taxes.

The discussion went to whether the District is a tax-exempt entity or not. The District's legal council feels they are tax exempt and the Department of Taxes Property Valuation & Review feels they are taxable. The Town's legal council feels if both parties can agree to a Host Agreement, why would you spend money on legal fees to decide which way it comes out. If both parties fundamentally can't agree on the terms of a Host Agreement, that's the option that is left. The District can not admit any liability to the Town through taxes or they will be admitting they are not tax exempt. Their position is that they do not owe taxes. They can make an agreement; payment in lieu of taxes (PILOT).

Larry Willey had previously shared a ruling from the tax dept from 1991 that the Tax Commissioner at the time said if it's not in the charter, its not in the charter. He suggested the District ask the legislature for a charter change. Paul said his lawyer would argue that by statute they are exempt. The District is fully prepared to pursue this, if necessary, based on the feedback from their legal counsel, but he doesn't necessarily want to go that route.

It was asked how to address the taxes already assessed to the District and explained that an abatement would need to be requested according to State Statutes, and the Board of Abatement would make the final decision.

The Board would like more time to review the proposal and consider comments made by all attendees.

5. Sign Resolution for Rural Edge's VCDP Application:

The application that Rural Edge is submitting requires a resolution to be signed authorizing Justin Smith, Municipal Administrator to sign all future documents relating to the grant. Motion made by Christian Thompson, seconded by Fred Gorham, to authorize Justin Smith to sign any future documents relating to the VCDP application. Motion carried 3-0.

6. Sign Resolution for our Municipal Planning Grant Application:

Annie McLean, Zoning & Planning Commissioner, has applied for funding for municipal and regional planning purposes. One of the requirements is to designate a Municipal/Authorizing Official for the Grant Electronic Application and Reporting System (GEARS) and to authorize them to execute the Grant Agreement and other such documents as may be necessary. Motion made by Christian Thompson, seconded by Fred Gorham, to authorize Justin Smith, Municipal Administrator as the designated Municipal/Authorizing Official. Motion carried 3-0.

7. Event Permit for Pavilion:

Kurt Hansbury would like to hold an event fundraiser on October 12, 2019 for the Chapel of the Holy Family at the Pavilion located on Darling Hill. Chief Harris has asked that the Selectboard approve an event permit to avoid a noise in the nighttime complaint. Zoning permits allow for up to four extension of time requests. Their permit allows for noise up to 10 PM and Mr. Hansbury is asking for an extension to 11 PM. Motion made by Fred Gorham, seconded by Christian Thompson, to approve a one-time waiver against their zoning permit, extending their noise allowance to 11 PM. Motion carried 3-0.

8. Utility Partners Contract Renewal:

The contract with Utility Partners is due to expire on March 30, 2020. With budget discussions coming up, they have provided their proposal for renewal. They have offered a three year and a five-year option. The Board will review the proposals.

9. Opioid Class Action Suit Discussion:

The Town has received information regarding an Opioid Class Action Suit. The Town must decide whether they wish to participate. The Board has asked Justin to have the Town Agent, Hanne Trudeau, to review it on behalf of the Town.

10. Police VIN Verification Policy:

Chief Harris has adopted a Vehicle Identification Number Verification policy and it was shared with the Board.

11. Errors & Omissions Certificate:

The Board was presented with an Errors and Omissions Certificate for their approval. There are two properties listed. Northeastern Vermont Regional Corp. is an entity of Northeastern Vermont Regional Hospital and owns 569 Main Street, Northern Physical Therapy. When the information was transferred from Patriot to NEMRC, it was flagged as taxed and they are tax exempt under 32 VSA 3832(2)(a). This will decrease the Town and Village Grand List by \$377,200.

Patricia B. Emery Revocable Trust owns a parcel of land on Darling Hill and appealed the listed value to the State in 2017. The decision was received after the tax bills were generated. The decision was to change the value to \$67,600, a decrease in the Town Grand List of \$41,900. Motion made by Christian Thompson, seconded by Fred Gorham, to accept the Errors and Omissions Certificate. Motion carried 3-0.

12. Memorandum of Understanding (MOU) for Public Wi-fi Downtown:

The agreements are between the entities that are hosting equipment and the Town. The agreements are with Parkway Realty and Rural Edge (Darling Inn and Faith In Action). Motion made by Christian Thompson, seconded by Fred Gorham, to approve the MOUs for the Town of Lyndon Downtown Public Wi-fi with Justin Smith to sign. Motion carried 3-0.

13. Liquor License Renewal Application:

The Pizza Man is renewing their Third-Class Restaurant/Bar License to Sell Spirituous Liquors for the second half of the year. The law has changed effective July 1, 2019 where all Liquor License will be approved by the Selectboard. Typically, licenses are good from May 1 to April 30th. Third class licenses are for hard liquor and the fee is \$1,095. Applicants can apply for seasonal licenses good for six months. The Pizza Man's seasonal license renewed for the period May 1, 2019 through November 30, 2019. Therefore, the next renewal falls under the new law. Motion made by Christian Thompson, seconded by Fred Gorham, to approve The Pizza Man's Third-Class Restaurant/Bar License to Sell Spirituous Liquors for the period of December 1, 2019 through April 30, 2020. Motion carried 3-0.

14. Other:

- a. Steve Gray informed the Board that the next NEKWMD meeting would be held on October 8th.
- b. Sarah Cousino shared her concerns that last weekend Vermont State Police (VSP) had only three officers on duty, covering from Bradford to Willoughby. It was a busy weekend with several domestic issues and burglaries.

15. Executive Session: Personnel:

Motion made by Christian Thompson, seconded by Fred Gorham, to enter executive session at 7:28 PM to discuss a personnel issue pursuant to 1 V.S.A. § 313(3)(a)(3). Motion carried 3-0.

Upon coming out of executive session at 7:50 PM, no decision was made.

Meeting adjourned at 7:51 PM

Minutes taken by Dawn Dwyer

Approved by the Selectboard: October 14, 2019