

CITY OF RUTLAND, VERMONT
Board of Aldermen Minutes
Monday, May 3, 2021

Members present; President Whitcomb, Aldermen Gorruso, Neary, Franco, Savage, Doenges, Talbott, Gillam, Clifford, and Davis. Also present, Mayor Allaire, Attorney Bloomer and Deputy City Clerk Kapusta. Alderman DePoy arrived at 7:18 PM.

7:00 PM BOARD OF ALDERMEN MEETING

President Whitcomb called the meeting to order at 7:00 PM.

MINUTES OF PREVIOUS MEETINGS (April 19, 2021)

A motion was made and seconded (Davis, Gorruso) approving the minutes of the previous meeting.

Motion passed.

OUTSIDE THE RAIL

Bob Harnish, Al Wakefield, Lyle Jepson and Kim Rupe all spoke to the Declaration of Inclusion. A motion was made and seconded (Gorruso, Davis) to suspend the rules and take action on the item tonight.

Motion passed. A motion was made (Gorruso, Franco) to authorize the Board President to sign the City Declaration of Inclusion on behalf of the Board of Aldermen. Alderman Gorruso amended his motion to include the members of the Board of Aldermen and Mayor all sign the document. Alderman Franco seconded the amendment to the motion. **Motion passed.**

COMMUNICATIONS FROM THE MAYOR

Mayor Allaire updated the Board of Aldermen on the situation at the Quality Inn. Mayor Allaire has been in contact with the State and was told by July 1, there will be new criteria in place for qualifying individuals and families in the Homeless Hotel Program. The State determines that would decrease the population at the hotels by thirty (30) percent. There is still no concrete action(s) to address the crisis at these hotels in the short term or long term. No increased security, no lists of who is in the hotels, no holding the owners feet to the fire for health and safety violations. Mayor Allaire has instructed the City's Health Officer to do an inspection of the facility and once the report is done in the next couple of days, he will be ready to take some actions to relieve the pressure off of the adjacent businesses and home owners in that section of the city and really for all us in the city.

Mayor Allaire stated that he is comfortable with all the new recommendations set by the State for meeting in person. He held his first department head meeting in person last Thursday and all thought that it went very well. Mayor Allaire said City Hall is ready for meeting back in person as soon as the Board of Aldermen are comfortable. Overall consensus was positive.

ADDITIONS AND DELETIONS TO THE AGENDA

There were no additions and deletions to the agenda.

President Whitcomb noted that he would move Susan Schreibman and Paul Gallo up before Reports and letters from department heads and officials.

Susan Schreibman & Paul Gallo; Joint Use Agreement with GMP & Update on Rutland Creek Path

Susan Schreibman briefly explained the Joint Use Agreement with GMP, which has been reviewed by the City Attorney and is ready for the City's signature. The agreement is for a right of way for the Creek Path. Ms. Schreibman updated the Board on Segment 3 of the Rutland Creek Path. Segment 3 (from West Street to Meadow Street Park) includes a new pedestrian bridge across East Creek, currently the Engineering phase. The Right of Way phase construction is planned for late 2021-2022.

Paul Gallo noted the State recognizing us for in-kind donations, which is very unique for these funds and doesn't it sound like Rutland, we find a way to get things done. The in-kind will not fulfill the pledge alone. Mr. Gallo spoke about the Suburban Propane property which is on the north side as well as the south side. The north side runs about 290 feet in street frontage, the green fenced in area on West Street. It has been through a phase one environmental assessment, however it will need more studies done which the path money will fulfill. On the south side, Suburban owns the property next to the hair salon on West Street. Suburban is willing to donate these two properties. There is going to be a phase one environmental study on the south side, and the City will need to pick up the fee for that. It is not part of the path project but it will be donated to the City.

A motion was made and seconded (Gillam, Neary) to suspend the rules and take action on the item.

Motion passed. A motion was made and seconded (Gillam, Talbott) to approve the Joint Use Agreement with Green Mountain Power for the bike path and approve the Mayor to sign. **Motion passed.** A motion was made and seconded (Gillam, Davis) for the Suburban Propane (Agway) property to go to the Recreation Committee. **Motion passed.** Alderman Gillam also made a comment that Rotary Club will be having a discussion about adopting the path and being responsible for cleaning the path up twice a year. Once a decision is made, Alderman Gillam will bring the decision back to the Board.

REPORTS AND LETTERS FROM DEPARTMENT HEADS AND OFFICIALS

Superintendent Peters:

1. Approval of Selling Maintenance Assets

A motion was made and seconded (Davis, Talbott) to suspend the rules and take action on the item. **Motion passed.** A motion was made to authorize the sale or disposal of the equipment listed as presented by the Recreation Superintendent (Davis, Gillam) and any funds be returned to the equipment replacement fund for recreation. **Motion passed.**

2. Program Updates

Some highlights are summer races and sports leagues will resume. The City Band will hold concerts in the park and the City Pool will be fully opening. The Halloween Parade will take place this year. Marketing for the parade will begin around July 4th. All recreation facilities will be re-opening as well.

3. Approval of Name for Shared Entrance for e911 Purposes

With the opening of the Recreation Center, the street that is the shared private entrance does need to be renamed for e911 purposes. The change would be from Clement Road to Community Drive. A motion was made and seconded (Davis, Gillam) to suspend the rules and take action on the item. **Motion passed.** A motion was made to provisionally accept the new street name, Community Drive, pending review by the City Attorney. So moved (Clifford, Davis). **Motion passed.**

4. Pine Hill Park Update

Pine Hill Partnership, in conjunction with the Rutland Recreation & Parks Department, has received an \$18,000 grant from the Recreational Trails Program. The grant will help pay for a three-week Vermont Youth Conservation Corp. trail-building crew in the summer of 2022.

Also noted that on May 9th, Pine Hill Park will be 100 years old.

Recreation Maintenance Director Peterson; Approval of Agreement with GMP for Three Phase Electrical at Community Center

This is a standard agreement that GMP requires to be the owners of the electrical line. The College of Saint Joseph had owned the powerlines and the transformers and if there are any problems it would be our responsibility to fix and a liability for the City to repair and pay for the cost. Once this change over is done, GMP will own the lines, so if there are any issues or problems, we simply call GMP to fix. A motion was made to suspend the rules and take action on the item (Clifford, Gillam). **Motion passed.** A motion was made to approve the agreement between the City and Green Mountain Power for Three Phase Underground primary distribution system electrical service and authorize the Mayor to sign. (Clifford, Gillam). **Motion passed.**

Attorney Bloomer; Request for Referral, Recommendation to Formulate & Adopt Procedural Rules for Electronic Meeting

There is a great deal of ambiguity in attempting to apply the Board's traditional rules to the electronic meeting medium. Attorney Bloomer recommends the Board immediately formulate and adopt the changes to the procedural rules they deem necessary to continue to conduct electronic meetings. A motion was made and seconded to refer this recommendation to the General Committee. (Clifford, Gorruso). Alderman Clifford withdrew his motion to refer to General Committee and made a motion that was seconded to refer to the Committee of the Whole. (Clifford, Gorruso). **Motion passed.**

Attorney Bloomer & Assessor Langlois; Settlement Proposal (Executive Session regarding pending litigation only if requested by BOA)

Alderman Clifford abstained from any discussion as his wife works directly for Attorney McPhee. A motion was made and seconded (Davis, Gorruso) to suspend the rules and take action on the issue. **Motion passed.** A motion was made and seconded (Davis, DePoy) to accept the settlement for the 2020 tax appeal of 80 West Street. **Motion passed.**

REPORTS OF STANDING COMMITTEES

There were no reports of Standing Committees.

REPORTS OF SELECT COMMITTEES

Alderman DePoy; Recreation Committee

The Recreation Committee met on Tuesday, April 27, 2021 to discuss the \$500 fee assessed to the Farmer's Market for their summer location downtown in Depot Park and Evelyn Street. The concern was whether or not the \$500 is covering the costs to the city to shut down Evelyn Street and prepare the park each Saturday. Alderman Gillam wondered whether the costs to the city are being met and Superintendent Peters told us that there was not much in costs to the Recreation Department. Department of Public Works would have to answer that question for themselves. Alderwoman Davis expressed that the traffic brought downtown was well worth the \$500 fee as people also shop at other businesses downtown. On a motion by Alderwoman Davis the committee recommends to the full Board that the \$500 fee be approved and unchanged. The Vote was 5-0 and Alderman DePoy so moves. Seconded Alderwoman Davis. **Motion passed.**

REPORTS OF REPRESENTATIVES

There were no Reports of Representatives.

PETITIONS, LETTERS, MISCELLANEOUS COMMUNICATION

There were no petitions, Letters, Miscellaneous Communication to come before the Board.

BOARD OF CONTROL COMMISSIONERS

There was nothing to come before the Board of Control Commissioners.

UNFINISHED BUSINESS

Alderman Franco brought up an open question from last session regarding whether Rule 7-9 of Board Rules, which states member must vote on a question if member is present unless there is a conflict of interest, whether or not that for some reason did not apply to two of the votes which were a perceived abstention. Attorney Bloomer felt like the Chair had made the decision to move on and then the meeting adjourned shortly after Executive Session, so there was not much more to research. It's difficult to know what was intended by the Board in 2012, when the Board Rules were updated, or whether this rule may have even existed long before 2012. Rule 26, which deals with secret ballot votes, states, "The vote that shall be by secret ballot shall be under such conditions as shall secure to each member so far as practicable the same or like rights and privileges as our now given under the election laws of Vermont to voters and State and City Elections". Generally in legal construction when looking at something that isn't clear and your trying to decide how to interpret it, reviewing if there is a rule or a law that is more specific to the issue at hand and in this case it could be argued at least that the secret ballot rule is more specific than the general abstention rule that exists in Rule 7. As everyone knows at an election in Vermont, you do have the right to abstain completely and you don't have to go to the polls, but if you do go to the polls, you do have the ability to abstain on a particular office and that doesn't invalidate your ballot. For example if there are six Board of Aldermen seats that are open, you can vote for just one, you can vote for none or you can vote for up to six. So in that way this Rule 26 mandated that the secret ballots be done in the same or provide like privileges as are now given under the election laws of Vermont, then it does cut towards the ability to abstain in a secret ballot and we did talk about, from his point of view when discussing it, he was approaching it from more of a practicable side. Attorney Bloomer also had an opportunity to go back and research the question about whether something could be reconsidered. Per Robert's Rules you can reconsider a secret ballot vote, you basically have to take folks at their word, that they were on the prevailing side even though nobody knows technically how everyone voted. So that was a mistake that he made as a parliamentarian last meeting that he wasn't aware that a secret ballot could be reconsidered, because it didn't make logical sense to him, but did since confirm that it is possible, but this is a little bit of a separate issue where our rule that is specific to secret ballots does mandate that the conditions and rights and privileges be the same as a normal election.

Alderman Franco just wanted to confirm that the rules and procedural actions adequately covered what was the rule that was stipulated here and Attorney Boomer feels comfortable that it did, that is the confirmation Alderman Franco was looking for.

MISCELLANEOUS MOTIONS, RESOLUTIONS, NEW BUSINESS

Susan Schreibman & Paul Gallo; Joint Use Agreement with GMP and Update on Rutland Creek Path Segment 3

This agenda item was moved up to after Additions and Deletions to the agenda.

A motion was made to adjourn at 8:48 PM, so moved and seconded (Gorruso, Davis). **Motion passed.**

Tracy L. Kapusta
Rutland City Deputy Clerk