

**TOWN OF NORTHFIELD, VERMONT
SELECT BOARD REGULAR MEETING
Minutes of November 14, 2023**

- I. ROLL CALL.** Select Board Chair K. David Maxwell, Board members Charles Morse, Lydia Petty, Merry Shernock, and John Stevens. Also present were Manager Jeff Schulz, Acting Clerk Kenneth McCann, Jim Mackall (Shillen Mackall & Sheldon Law Office), Laura Coriell (Delorean Power LLC), Myra Sinnott (Delorean Power LLC), Mike Herbert (Delorean Power LCC), Kristin Pollard, Patty Manning, Alana Manning, Travis Allard, Nancy Peck, Margaret Smykal, Sally Davidson, Michael DeLary, Timothy Vile, Bethany Drum, Vicki Warfield, Joseph Leavitt, Ricky Elder, Stacy McKiernan, Gerard LaVarnway, Susan Stillinger, Don Doyon, Carolyn Stevens, and Elroy Hill.

Chair Maxwell called the meeting to order at 7:00 p.m.

- II. PLEDGE OF ALLEGIANCE.** Those persons present were asked to rise and recite the Pledge of Allegiance. The remote contingent also participated as much as possible.

- III. SET/ADJUST AGENDA.** There were no changes to the posted agenda.

IV. PUBLIC PARTICIPATION (SCHEDULED):

- a. Jim Mackall (Shillen Mackall & Sheldon Law Office): Dog Bite Incident.** Mr. Mackall represents Kristen Pollard, whose nine-year old son was bitten on July 11, 2022 by a dog owned by neighbors Alana Manning and Travis Allard. According to the report from the Northfield Health Officer at the time (Lawton Rutter), the bite did not break the skin but did result in large "egg sized" bruising on the child's right upper thigh. Mr. Mackall said the dog still runs at large on Parsons Lane. He said Mr. Pollard has approached various municipal employees since then to have this ongoing problem addressed but to no avail. That is why they are bringing this matter to the attention of the Select Board members at this time. Mr. Mackall said Ms. Polard's son was traumatized by the episode and cannot fully recover until the animal is no longer a constant presence. He added that the municipality's meter reader and fuel delivery persons will not go onto Ms. Manning's property unless the dog has been contained. In addition, the Northfield Police Department (NPD) has issued several "running at large" citations to Ms. Manning but this has not had the desired effect of putting an end to this problem. Ms. Pollard said the dog attack happened on her own property and she has spoken to the former Health Officer, the current one (Mitch Osiecki), and the former Police Chief (John Helfant) but nothing has been done. She added that due to the trauma, her son cannot be around any dogs, however small they might be. Ms. Pollard said the dog has behaved aggressively towards numerous persons and this vicious behavior has to stop. Chair Maxwell thanked Mr. Mackall and Ms. Pollard for bringing this matter to the Select Board members' attention. They will research this matter further to determine what steps need to be taken. Board member Morse said the Select Board members did receive copies of the NPD reports regarding the initial incident and subsequent site visits in response to calls about the dog running at large. He said he would like to see additional documentation from Ms. Pollard's attorney, etc., to further clarify the situation. Ms. Pollard said she could provide copies of reports from her son's therapist to show how the incident affected him. Board member Morse said that would be helpful provided that HIPAA confidentiality rules are not violated. It was noted on the initial reports that the child wasn't taken to a medical provider after the bite.

Ms. Pollard said she did email the former NPD Chief after the dog attack because the repeated citations issued by NPD officers did not provide any relief. She has subsequently contacted the Select Board Chair and the Town Manager as well as the new Health Officer, who didn't have access to his predecessor's documentation of the incident. Ms. Pollard said the dog only broke off the attack on her son because it saw a baby carriage being pushed nearby and went to harass them. She does have pictures and videos of the dog running at large after the incident. Ms. Pollard did not think it was right that her son has to see and hear this dog running around the neighborhood on a daily basis.

Board member Morse said the Select Board members cannot make any decision based on the information that has been made available. He thought it best that Manager Schulz create a package of information that includes all communications between public officials on this matter, testimony from those who have had direct interaction with the animal, etc. It was noted that after being contacted recently by Ms. Manning, who is visually impaired, the Vermont Center for Independent Living (VCIL) has offered to pay for a fence to confine the dog. Board member Morse hopes this might resolve the matter but that might not address the dog's barking issues. Board member Petty noted that the Select Board would have been obliged to hold a public safety hearing had the initial incident had produced medical documentation of an animal bite. Manager Schulz said he had spoken to the Town Attorney and he had confirmed that such a hearing would require a documented animal bite. Although not required to hold this hearing, the Select Board member could still make a recommendation on this matter, such as the animal must be contained, muzzled, etc. The former Health Officer did not feel the initial incident rose to the level of characterizing the animal as a vicious dog.

Vicki Warfield has lived on Parsons Lane since February 2023 and her experiences with the dog have been all positive. The dog appears to have a normal temperament and is not vicious. Otherwise, she would not let her own children interact with it. Ms. Warfield said the dog can get excitable at times and barks. She only saw the dog running at large once and at that time it was quickly put under control. Alana Manning said there has been a lot of misinformation provided tonight about her dog. She confirmed that she has received some citations for the dog running at large but all of those tickets have been paid. Ms. Manning said her dog does wear a harness but that is only so it can be strapped into her car and not because of a hostile temperament. She said the dog is usually very friendly with children and the hostile interaction with Ms. Pollard's son was an isolated incident. Ms. Manning said her dog subsequently went to greet the baby in the carriage and not to attack it. She added that after the interaction with her dog, Ms. Pollard's son did not scream but instead calmly went back into his own house. Ms. Manning does feel bad for the child but that doesn't justify the numerous threats Ms. Pollard has made since then to harm her dog. She also feels she has done all she can do to resolve the situation and hopes when the new fence is installed that will be the end of the situation. Ms. Manning said the dog is part Sheltie so it does frequently bark but dog barking is a common sound in her neighborhood. Ms. Manning added that she has been contacted by the local Community Justice Center about resolving this matter through a meeting of all the involved parties. She is willing to take part in this process. Board member Petty thought perhaps this opportunity should be explored before having the Select Board members start the process for holding a formal hearing. Board member Shernock has experience with the remediation process and this usually involves at least one party taking responsibility for past actions followed by a commitment to not reoffend. Mr. Mackall and his client would not oppose going through the restorative justice process.

Chair Maxwell again stated that he was grateful that this ongoing matter has been brought to the attention of the Select Board members. Should they have to take further action on this, Manager Schulz will collect and distribute all the necessary documentation.

V. APPROVAL OF MINUTES

- a. **October 24, 2023 (Regular Meeting).** Motion by Board member Morse, seconded by Board member Stevens, to approve the minutes. Some errors were found and will be corrected. **Motion to approve the amended minutes passed 5-0-0.**

VI. APPROVAL OF BILLS

- a. **Approval of Warrant #09-24.** Motion by Board member Morse, seconded by Board member Shernock, to approve Warrant #09-24 in the amount of \$522,212.58. **Motion passed 5-0-0.**
- b. **Approval of Warrant #09-24A/#09-24B.** Motion by Board member Morse, seconded by Board member Stevens, to approve Warrant #09-24A/#09-24B in the amount of \$1,142.50. Manager Schulz explained that the Accounting Department recently had a new software system installed and that is why these two special warrants share the same signature page. A workaround for this should be found soon so this will not happen again. **Motion passed 5-0-0.**
- c. **Approval of Biweekly Payroll through October 29, 2023.** Motion by Board member Morse, seconded by Board member Stevens, to approve the biweekly payroll in the amount of \$105,537.65. **Motion passed 5-0-0.**

VII. SELECT BOARD

- a. **King Street Battery Energy Storage System Project.** Manager Schulz said a private company (Delorean Power LLC) is planning to install a battery storage facility on King Street next to the substation. This would require an Act 248 permit so Delorean Power has submitted its application to the Public Utilities Commission (PUC). The public hearing on this matter will be held before the PUC but local officials and members of the public can request to become parties to the approval process. The Northfield Planning Commission is by statute a party to this application and is reviewing the application. Manager Schulz said Delorean Power has been working on this project for a couple of years and has been interacting with the Northfield Utility Commissions. This battery storage facility would work with the local electric grid system in order to provide additional power during peak use periods. This is cheaper than buying power on the spot market. These facilities have become more common nationwide as an alternative renewable energy source. Manager Schulz said having access to this new renewable power source would allow the Northfield Electric Department (NED) to diversify its energy source portfolio. The facility would be screened from the adjoining properties and this matter was discussed at length at the most recent (11/06/23) joint meeting of the Utility Commissions. One issue that was discussed was fire suppression in regard to the lithium batteries to be stored at the facility. Manager Schulz said one adjoining property owner (Margaret Smykal) attended the meeting to express her concerns about the project's potential negative effects on neighborhood property values. Manager Schulz said the Select Board members could become parties to the Act 248 application process just by writing a letter to the PUC. Motion by Board member Morse, seconded by Board member Stevens, that the Select Board obtain party status for this process.

Board member Morse serves on the Utility Commission and initially was supportive of this project as it would provide a steady and reliable source of power throughout peak usage periods. This also would help stabilize our energy costs. However, he then looked into lithium battery combustible concerns as there have been frequent media reports of these batteries overheating and starting fires in cellphones, e-bikes, electric cars, etc. He asked Northfield Fire Department (NFD) Chief Peter J. DeMasi about this and Chief DeMasi confirmed that these fires do generate extreme heat and must be allowed to burn themselves out. In fact, putting water on such a flame would only make the situation worse. Board member Morse hopes Delorean Power would take all safety precautions to address this concern but also felt the Select Board having party status could help insure this. Manager Schulz said any concerned individual has the right to state their views to PUC without party status. Chair Maxwell said the Select Board having party status would not deter anyone from doing so. He also noted that the deadline for submitting comments to PUC is Monday, November 27, 2023, which is the day before the next Select Board regular meeting. Board member Morse has written a summary of his concerns about this project that he has shared with the Select Board members and will serve as his comments to PUC. Board member Stevens asked what was the point of getting party status if any Select Board member can state concerns as an individual. Chair Maxwell said having party status would keep the Select Board members in the loop should there be any further PUC communications regarding this project as the approval process proceeds. Manager Schulz said this action would keep all our options open. Board member Morse said this also would provide some transparency on this matter. **Motion passed 5-0-0.**

- b. Rabbit Hollow Road Bridge Replacement Scoping.** Manager Schulz received a follow-up email from Laura Stone of the Vermont Agency of Transportation (VTrans) regarding the public discussion on this scoping project at a recent Select Board meeting (09/26/23). This email also included a summary of the project's purpose and community needs. Ms. Stone said that based on the public input at that meeting, there seems to be seven (7) distinct project alternatives that involve variations on either bridge rehabilitation or replacement. Ms. Stone said that the scoping project is continuing based upon the feedback received from the Select Board members and interested members of the public. Once the scoping project has further progressed, there will be another public discussion of this matter at a future Select Board meeting.

Board member Morse would like to be sure that there will be handicapped access for any pedestrians using the bridge. Board member Stevens would prefer installing a modern bridge on the site with a dedicated pedestrian bridge beside it. Board member Petty is concerned that should the Select Board members accept the VTrans recommendations to date, that might limit their future options. Chair Maxwell said the engineer at the meeting (Tom Knight from Stantec) seemed to favor bridge replacement. There probably should be more discussion before this determination is made. Board member Petty noted that Ms. Stone's email noted that there seemed to be divided views provided at the meeting by the Rabbit Hollow Road residents and this meant the Select Board members might have difficulty making a decision acceptable to everyone. Chair Maxwell would like more facts made available about the various options available. He then asked if any of municipal vehicles have any difficulty using the current bridge. Manager Schulz will have to check about NFD vehicles but said there have been no problem with Northfield Ambulance Service (NAS) units or any Highway Department trucks. Chair Maxwell said that this appears to contradict the VTrans argument that the current bridge is completely inadequate and must be replaced.

Board member Petty asked if any of the heating fuel or other large delivery trucks were avoiding this bridge. Manager Schulz will check on this. Board member Morse said the bridge leading to his home on Thompson Hill Road has not had any problems in the past with any size of vehicle but recently VTrans posted it for a limited weight load. He noted that Rabbit Hollow Road Bridge has not been similarly posted. Manager Schulz said there still remains the question about the bridge's ownership, i.e., the municipality or the railroad. Chair Maxwell said this needs to be resolved as soon as possible.

Timothy Vile is a Rabbit Hollow Road resident and he believes that he heard at that meeting that given the historic nature of the current bridge, there must be compelling reasons to replace rather than rehabilitate it. He said most of the residents seemed to prefer the bridge's current appearance and the fact that its narrowness requires those driving on it to go slowly. Mr. Vile said if the current bridge does need to be replaced, he would prefer the new one to be similar in style. Nancy Peck lives on Clark Road and uses this bridge frequently. She said that due to the bridge's narrowness, it is difficult for one driver to back up should two vehicles try to cross it at the same time. Ms. Peck thought better bridge approach signage should be installed. Board member Petty thought improved signage should be added to the list of recommendations. Chair Maxwell asked what steps the Select Board members could take now. Manager Schulz said any concerns should be forwarded to VTrans so that project purpose and needs summary could be revised to take them into account.

- c. Northfield Town Common Redesign Study.** Manager Schulz said there has been a lot of discussion over the past few years on how best to upgrade the appearance and functionality of the Town Common. One frequent suggestion was to have a professional engineer look into its possible rehabilitation and to prepare a number of options for Select Board and public consideration. Manager Schulz has received a proposal from Emily Lewis from DuBois & King that provides timeline for public engagement regarding the various possibilities. There would be public meetings on the project design plans starting early next year and the public presentation of the final design would occur in May 2024. Motion by Board member Morse, seconded by Board member Stevens, to approve the consultant approach for the Northfield Town Common Redesign Study as provided by DuBois & King. Board member Morse noted that the cost of this engineering study would be about \$40,000. This would be a complete Town Common rehabilitation project that has been in the queue for quite some time. Board member Petty noted that there had been some rather divisive conversations when the topic of whether to replace or rehabilitate the Common Fountain was discussed. It would be good for the community to have a fresh approach to this and the DuBois & King proposal would allow for public input that would produce results benefiting the whole community. Chair Maxwell said American Recovery Plan Act (ARPA) funds could be used to complete the process. Board member Stevens would like a consultant for this project who knows what they are doing. Board member Petty believes some of the preliminary surveying work for this project was already done when the Depot Square rehabilitation project was completed about a decade ago. Perhaps those plans could be resurrected in order to save some money. In addition, the plan calls for engaging with Northfield public school students regarding project options but there is not much detail about how this would work. Chair Maxwell noted that DuBois & King were the project engineers for the previous Depot Square rehabilitation project so they should have that documentation on hand. Approving this proposal would start a public process to best determine how the Town Common should be rehabilitated.

Chair Maxwell added that the \$40,000 engineering study cost is only an estimate at this time. Manager Schulz suggested that when the final agreement is drafted, a “not to exceed...” clause could be included. **Motion passed 5-0-0.**

VIII. TOWN MANAGER’S REPORT

- a. FEMA July 2023 Flooding Damage Reimbursement.** Manager Schulz said all the reimbursement paperwork has been completed and uploaded to the FEMA portal. The total reimbursement estimate is now \$700,000 but that figure might be slightly revised at a later time. This amount includes the flood damage repairs on Lovers Lane, Barrows Road, Jarvis Lane, and other locations.
- b. Highway Department update.** Manager Schulz reported that F.R. Lafayette Inc. will be installing the new guardrails on Lovers Lane later this week. When this has been completed, the road can be fully reopened. In addition, the Highway Department has completed the resurfacing work on Hallstrom Road and also installed some new culverts there.
- c. Main Street Water Main Replacement Project.** Manager Schulz said the engineering plans for this project are ninety percent (90%) complete. This matter will be discussed at the next Select Board regular meeting (11/28/23). This project also includes the replacement of the two (2) water storage tanks on Cheney Farm. Board member Morse, who serves on the Utility Commission, noted that a lead pipe removal program originally was supposed to pay for a large amount of this project’s costs. However, it seems this amount will be significantly reduced due to a recent EPA ruling. This development can be discussed further at the next meeting.
- d. Local Concerns Meeting: Northfield Pedestrian Path Scoping Study.** Manager Schulz reported that this meeting will be held in the Community Room on Thursday, November 16, 2023, starting at 6:00 p.m. This will be an opportunity for members of the public to learn about and ask questions regarding the local exploration of “options to create a continuous sidewalk or pedestrian path primarily along Wall Street, connecting Depot Square to Dog River Park, crossing Dog River and the railroad tracks.” Grant funds will largely cover any project expenses.
- e. ADA-Compliance Projects.** Manager Schulz said plans for improving handicapped accessibility to the Brown Public Library are being reviewed. Now that cost estimates have been obtained, this project should be moving forward.
- f. Cox Brook Road Covered Bridges.** The VTrans engineering surveys of each of these bridges were completed last week. The bridges were deemed safe for vehicle use but each will need some repair work. The cost of this will be covered through a VTrans grant program that focuses on historic bridges.
- g. Clark Road Zoning Violations.** Manager Schulz and Zoning Administrator Mitch Osiecki have been trying to resolve apparent zoning and public health safety violations on a parcel where numerous trailers have been relocated without proper permits. Mr. Osiecki has been working with the property owner on obtaining the needed state and local permits and the State of Vermont has been looking into the apparent lack of proper waste disposal on the site. Due to the lack of proper action taken on the part of the property owner, this matter probably will have to be referred to the state environmental court. Manager Schulz warned the Select Board members that this might result in some legal expenses for the municipality.

IX. BOARD MEMBERS' COMMENTS, CONCERNS, QUESTIONS

- a. Electric Vehicle (EV) Charger Installation Location Concerns.** Board member Shernock reviewed the site and did not see the curb cuts that had been requested at the last meeting (10/24/23). Manager Schulz has been working with the installation contractor on this possibility. He was informed by the contractor that installing curb cuts would require removing some of the nearby wall that provides event seating. Manager Schulz has requested that an access ramp be installed instead. He added that drivers looking for a charge would be able to either drive directly to the charger or back up to it. The charger is located at the edge of the curb and is low to the ground for easier access. Board member Shernock will test this herself after the installation.
- b. Winter Parking Ban.** Board member Morse noted that the seasonal ban on motor vehicles parking on Northfield streets or roads from 12:00 midnight to 6:00 a.m. will start on November 15, 2023. This overnight parking ban to facilitate snow plowing will be in effect until April 15, 2024.
- c. Prospect Street Sidewalk Installation.** Board member Stevens was pleased to see that after numerous delays, the curbing and concrete sidewalk have now been installed on Prospect Street.
- d. US Post Office ADA-Compliance Concerns.** There was a recent written request from the municipality to the local US postmaster to address some building access concerns a local resident (Mary Nadon Scott) documented at a Select Board meeting (09/12/23). Board member Stevens asked if there was any progress in addressing these concerns. It has been found that since this is a historic structure, there is no obligation to install automatic handicapped accessible doors. Elroy Hill has spoken to the postmaster and learned that he is looking to have such doors and other handicapped accessible feature installed in the near future even without a state and/or federal mandate to do so.
- e. Vermont Outdoor Recreation Economic Collaborative (VOREC) Grant Implementation Committee update.** Board member Petty reported that the committee members have nearly completed preparing the new Town Forest trail and town-wide maps for printing. Emily Lewis of DuBois & King has been the professional consultant for this project and she has been very helpful in incorporating the committee members' suggestions into the finalized product. The VOREC committee members will provide an update at an upcoming Select Board regular meeting.
- f. Recognition of Local Volunteers.** Board member Petty thought it might be a good idea to annually recognize a few local volunteers (five?) with gift certificates and perhaps mention in the Town Report.
- g. Local Zoning Regulations Revision Process.** Chair Maxwell noted that the Planning Commission (PC) has been working for several months on updating our local zoning regulations in order to remain in compliance with state law, etc. He asked about the status of this. Manager Schulz said the PC members held a special meeting last week (11/10/23) at which they approved a finalized draft of the revised document. The PC will hold its first public hearing on this document in conjunction with their next regular meeting (12/06/23).
- h. Halloween 2023.** Chair Maxwell wanted to thank the Northfield Activity Group (NAG) for organizing and holding the annual "Trunk or Treat" on the Common on Halloween night. This was a very well-attended event. He also noted there was a lot of trick-or-treating on Central Street that night and suggested for safety reasons the street should be closed to through traffic next Halloween.

X. PUBLIC PARTICIPATION (UNSCHEDULED)

- a. Elroy Hill: Winter Sidewalk Maintenance.** Mr. Hill was disappointed the downtown sidewalks weren't salted after the snowstorms last week. He also would like the snowplow operator to not deposit snow in front of the post office this winter. Manager Schulz will speak to the Highway Foreman about this. Chair Maxwell asked about the status of the sidewalk snowplow. Manager Schulz said a new one was purchased and should be operational next week.
- b. Sally Davidson: Northfield Town Common Redesign Study Questions.** Ms. Davidson asked if the possibility of replacing the current fountain with a splashpad was still a consideration. Board member Petty said all options would be on the table when the public discussion starts. Ms. Davidson said that the last time the NU design students prepared a proposal, they seemed to focus solely on installing a splashpad to the exclusion of other options. Board member Petty said there would be a very different approach taken this time regarding the future of the fountain. Mike DeLary asked if there wasn't already a plan to rehabilitate the Common. Chair Maxwell said a three (3) phase plan was developed some time ago and the third phase would now be explored. Manager Schulz said the previous plans focused more on the roadway and sidewalks of Depot Square, not the interior area, i.e., the Common. Board member Petty said any old engineering plans could be reviewed to avoid redundancy. She added that a major part of the DuBois & King proposal is to obtain public consensus on the best way to proceed. There also may have been updates to ADA compliance laws, etc., since the old plans were developed.

- XI. EXECUTIVE SESSION.** Motion by Board member Morse, seconded by Board member Stevens, to go into executive session, in accordance with 1 VSA 313 (a)(1)], in order to discuss a legal matter with Manager Schulz and Town Attorney Mick Leddy present. **Motion passed 5-0-0.**

The Board went into executive session at 9:21 p.m.

Motion by Board member Morse, seconded by Board member Stevens, to come out of executive session. **Motion passed 5-0-0.**

The Board came out of executive session at 9:38 p.m.

Motion by Board member Morse, seconded by Board member Petty, that based on the advice of council and the Vermont League of Cities & Towns (VLCT), the Select Board members will approve and consent to the settlement of the matter *Kew v. Town of Northfield*. **Motion passed 5-0-0.**

- XII. ADJOURNMENT.** Motion by Board member Morse, seconded by Board member Stevens, to adjourn. **Motion passed 5-0-0.**

The Board adjourned at 9:50 p.m.

Respectfully submitted,

Kenneth L. McCann

Kenneth L. McCann, Acting Clerk

An audio recording of this meeting is available in the Town Manager's Office.

These minutes were revised and approved at the Select Board regular meeting of November 28, 2023.