

CITY OF RUTLAND, VERMONT
Board of Aldermen Minutes
Monday, August 15, 2016

Members Present: President Notte, Aldermen Allaire, Humphrey, Tommola, Larson, Bloomer, Robertson and Davis. Also present, City Attorney Romeo, Commissioner Wennberg, Treasurer Wilton and Deputy Clerk Kapusta. Depoy and Donahue were absent.

7:00 PM BOARD OF ALDERMEN MEETING

President Notte called the meeting to order at 7:00 PM

MINUTES OF PREVIOUS MEETINGS (July 5, 2016)

Alderman Allaire moved to approve the minutes. Alderwoman Davis seconded. Alderman Etori noted one correction and Alderman Larson noted one correction. Motion passed.

OUTSIDE THE RAIL

Gail Johnson, with Historic Southwest Rutland, invited the Board of Aldermen to the 3rd Annual Ice Cream Party, Sunday, August 28, 2016 from 2:00 PM to 4:00 PM at Monsignor Connor/Meadow Street Park.

COMMUNICATIONS FROM THE MAYOR

Request for Referral; LAZ Budget

Attorney Romeo indicated that he was under the impression that the Mayor's Office had forwarded a copy of the LAZ Budget to the BOA. Attorney Romeo stated he would follow up on that and make sure all receive a copy and asked that the budget be referred to the Finance Committee. A motion was made and seconded, (Alderwoman Davis and Alderman Allaire), for the LAZ Budget to be referred to the Finance Committee. Motion passed.

ADDITIONS AND DELETIONS TO THE AGENDA

President Notte would entertain a motion to add an Executive Session for probable civil litigation to which the City may be a party from Attorney Romeo, and then committee reports for Public Safety and Recreation both being reported out by Alderman Allaire. A motion was made and seconded, (Alderwoman Davis and Alderman Allaire). Motion passed.

Attorney Romeo stated that the Executive Session that is on the agenda for Confidential Attorney-Client Communication for Professional Legal Services was withdrawn.

Alderman Bloomer asked to add a referral to the Marketing Committee under new business. President Notte would entertain a motion to strike the first Executive Session on the agenda and add a referral to the Marketing Committee under new business. So moved Alderman Allaire, seconded Alderwoman Davis. Motion Passed.

REPORTS AND LETTERS FROM DEPARTMENT HEADS AND OFFICIALS

Josh Terenzini; Rutland Town Chair, Sewer Payment from Town to City

Mr. Terenzini read a statement to the BOA which included the following; on June 28, 2016, then Clerk and Treasurer Donna Zellar submitted a letter of resignation, this was an extremely abrupt resignation, which gave the Town only 10 day notice before her departure took effect. Ms. Zellar left with less than a full 2 week notice during the busiest time of the year. The week of July 18th, the Assistant Clerk and Treasurer went on vacation, and this vacation could not be changed as it was booked months in advance. During this week the Rutland Town Office was nearly closed besides for other Town employees and Select Board members sitting in to answer phones. Mr. Terenzini is here today representing the other Select Board members, businesses and roughly 4,000 residents of the Town of Rutland and admits that in this unique and untimely situation, the Town was late on a large sewer payment to the City. This late payment included many businesses located on the south end of Town. The Town first estimated that \$105,000 was owed to the City. After further calculation it decreased to \$88,190.73. The Town was assessed a late payment in the amount of \$4,409.53. The check did not include the late fee and Treasurer Wilton would not accept the check for \$88,190.73, which was surprising to Mr. Terenzini. Tonight, Mr. Terenzini has the check with him and would like to present it to Treasurer Wilton for payment. Mr. Terenzini asked that due to this unique unfortunate situation, he is requesting that the City waive the late fee.

The contract has no provision for dealing with people who are late in paying the Town. It only states that the full payment will be made on the date that it is due, the City due date. As of

today the amount due is \$105,685.20 in water and sewer user fees and \$5,285.31, in 5% penalty, for a total due today of \$110,970.49. Bills were sent at the end of June to the Town, and even though their Treasurer left on July 8, the City received a partial payment on July 19th, from the Town for General Electric's portion for about \$55,000. So someone at the Town, after the Treasurer left on July 8, paid a portion of the bill. So someone was aware that the bill had been received well in advance of the due date on August 1st.

Alderman Ettori, made a referral to the Inter-Municipal Committee to discuss this further. Alderwoman Humphrey seconded. After a lengthy discussion the Motion failed.

Commissioner Wennberg; the contract was signed back in 1984 and is long expired and there is no contract or master agreement between the Town and the City relative to water, other than a maintenance and operational agreement between the City and the Town, granting the City operational responsibility for the maintenance and operation of the system for the Town. There is a payment mechanism built into that. But in terms of the actual billing, collections, sale of the water to the Town users, that's essentially in control of the City. There is no contract with the City and the Town on that and I've had some personal knowledge of those historical facts surrounding that. So that contract is no longer effective.

Alderman Bloomer; if I could follow up on that, so in your opinion would you say that you would like it to remain a hand shake deal or would it make sense to talk about maybe some of the things that came up today as far as how the billing happens. Commissioner Wennberg; that is certainly up to the BOA in terms of how to handle the current situation. Essentially the BOA and the Administration have the authority over how these things are going to be handled in the future. I will observe that prior to the expiration of the old contract there was a near continuous set of controversies and litigation between the communities over that contract, none of which had persisted since the contract has expired. The current system is currently superior to the later in terms of maintenance and operations.

Mr. Terenzini will go back to his Board to further investigate what has occurred the past 18 months that full payments have not been made to the City and the verbiage in the contract. He stated that the bill would be paid in full relatively soon.

Attorney Romeo; Request for Executive Session, 1) Civil Action 2) Probable Civil Litigation
President Notte moved these items to the end of the meeting.

Commissioner Wennberg; Three (3) Items:

1. Disposal of DPW Vehicles

Alderwoman Davis moved to suspend the rules, Alderman Allaire seconded. Motion passed. Alderwoman Davis will move to authorize on the disposal of the vehicles as listed. Alderman Allaire seconded. Alderwoman Davis amends her motion to authorize the disposal of vehicles 1, 7, 15 & 42, with any money returned to the equipment replacement fund. Alderman Allaire was ok with the amended motion. Motion passed.

2. Mondella Wood Lot Temporary ROW

Alderman Allaire moved to amend the rules and take up the issue tonight. Alderwoman Davis seconded. Motion passed. Alderman Allaire will move to authorize the Mayor, DPW Commissioner, City Forester and the landowner to execute the attached Temporary Right of Way Agreement with Mondella Woodlot, to facilitate logging on his property adjacent to a city owned parcel on the Notch Road. Alderwoman Davis seconded. Motion passed.

3. Recommendation for Ponds Modification Study

Alderwoman Davis moved to suspend the rules and Alderman Allaire seconded. Motion passed. Alderwoman Davis move to request the authorization to execute the agreement with Milone and MacBroom, Inc., to provide engineering and outreach services for Moon Brook impoundment modifications consistent with the consultant's proposal dated July 26, 2016. Alderman Allaire seconded. After a brief discussion the Motion passed.

REPORTS OF STANDING COMMITTEES

Alderwoman Humphrey; Chair Charter & Ordinance Committee, Pension Ordinance Revision

Alderwoman Humphrey reported that Attorney Romeo presented the group with amended language to the Pension Ordinance Revision and explained the amendments were result of discussions at the Pension Board and the Pension Deficit Committee. Contributors to the amended language included Treasurer Wilton, Peter Amons, Bill Meub and review from other municipalities. Wilton and Amons expressed support of the composition of the seven member pension board as proposed in the amended language. Committee discussion focused on four of the seven members being pension participants, and were expected to make decisions regarding what is best for the maintenance or sustainability of the pension fund rather than acting as representatives of their participant subgroup. All recognized this expectation, some expressed concern. There was additional committee discussion of adding carve-out in the revision to declare any authority and decisions that may be reserved solely for the BOA and/or School Board. Suggestions were made to Attorney Romeo and he will add this carve-out to a future draft for review. This topic remains in committee for further discussion and a follow-up meeting has been warned for Thursday, September 8 at 5:30 PM.

Alderman Bloomer; Chair Finance Committee (2) Reports August 10th and 11th

Alderman Bloomer; August 10th meeting, Alderwoman Davis made a motion to recommend to the full Board that \$475,000 of the Unassigned Fund balance be committed to potential MS4 litigation expenses and \$315,000 be committed to pension debt. The motion passed 4-0, and Alderman Bloomer so move. Alderwoman Davis seconded. Alderman Larson abstained from voting. Motion passed.

Alderwoman Davis then made a motion to recommend to the full Board that the disposition of any funds remaining of the \$475,000 amount at the end of FY17 should be referred to the Finance Committee for discussion as to its use at that time. The motion passed 4-0, and Alderman Bloomer so moved. Alderwoman Davis seconded. Motion passed.

Alderman Allaire made a motion to recommend to the full Board that it entertain a proposal by the Mayor for an increase to the Fire Equipment Replacement Fund's mil rate and to refer the truck replacement schedule to the Public Safety Committee. The motion passed 3-0, and Alderman Bloomer so moved. Alderwoman Davis seconded. Motion passed.

Alderman Bloomer; August 11th meeting, the Chair made a motion to recommend to the full BOA that it direct the City Attorney to draft and post an RFP from Real Estate Brokers for the marketing of certain City-owned properties. The motion passed 4-0, and Alderman Bloomer so moved. Alderwoman Davis seconded. Attorney Romeo said to comply with the Charter requirements, should read, to authorize the Mayor to invite proposals. Alderman Bloomer amended the motion to recommend to the full Board of Aldermen to authorize the Mayor to invite proposals from Real Estate Brokers for the marketing of City-owned properties. Alderwoman Davis seconded. Motion passed.

Alderman Tommola made a motion to recommend to the full Board of Aldermen that, prior to hiring a Real Estate Broker, certain City-owned properties be put up for sale, using a process to be recommended by the City Attorney. The motion passed 4-0, and Alderman Bloomer so moved. Alderwoman Davis seconded. Alderman Bloomer did get a chance to email the City Attorney with some of the committee's questions, but did not specifically ask about recommendation for process. After some discussion the motion passed.

Alderman Allaire made a motion to refer the Telecommuter Incentive Program for City-owned tax sale properties to the Community & Economic Development Committee. The motion passed 3-0, and Alderman Bloomer so moved. Alderman Allaire seconded. Motion passed.

Alderman Allaire; Chair Public Safety

Alderman Allaire; after some discussion, motion was made to authorize the mayor to sign the Fire Chief Contract's. The motion passed unanimously and Alderman Allaire so moved. Alderwoman Davis seconded. Motion passed.

Alderman Allaire; Recreation Committee

Alderman Allaire; discussion of Giorgetti Facilities Upgrade Project. No motion was made as no quorum was present.

REPORTS OF SELECT COMMITTEES

There were none.

REPORTS OF REPRESENTATIVES

There were none.

PETITIONS, LETTERS, MISCELLANEOUS COMMUNICATION

S.E.P. Request; Wonder Paws Festival, Sept. 24, 2016 10AM to 1PM

Alderman Allaire moved to suspend the rules and take the issue up tonight. Alderwoman Robertson seconded. Motion passed. Alderman Allaire moved to approve the special event permit request for Wonder Paws Festival to be held on Sept. 24, 2016 from 10AM to 1PM. Alderwoman Robertson seconded. Alderman Etori recused himself from the vote. Motion passed.

S.E.P. Request; Humane Society Coin Drop, October 8, 2016

Alderwoman Davis moved to suspend the rules. Alderwoman Robertson seconded. Motion passed. Alderwoman Davis moved to approve the special event permit request for the Humane Society Coin Drop on October 8, 2016 from 10AM to 2PM. Alderman Allaire seconded. Motion passed.

S.E.P. Request; Walk for Life Walk-A-Thon; August 27, 2016 1-4PM

Alderman Allaire moved to suspend the rules and take the issue up tonight. Alderwoman Robertson seconded. Motion passed. Alderman Allaire moved to approve the special event permit request for Walk for Life Walk-A-Thon to be held on August 27, 2016 from 1-4PM. Alderwoman Davis seconded. Motion passed.

GMP; Installation of Buried Conduit and Wiring Application

Alderwoman Davis moved to suspend the rules. Alderman Allaire seconded. Motion passed. Alderwoman Davis moved for approval with the standard conditions. Alderman Allaire seconded. Alderwoman Humphrey and Alderman Bloomer abstained from voting. Motion passed.

BOARD OF CONTROL COMMISSIONERS

Alderwoman Davis moved to go into the Board of Control Commissioners. Alderman Allaire seconded. Motion passed.

Second Class Liquor License Request; Olivia's Market (Corporation Change)

Alderwoman Davis moved to circulate for signature. Alderman Allaire seconded. Motion passed. Alderwoman Davis moved to go out of the Board of Commissioners. Alderman Allaire seconded. Motion passed.

UNFINISHED BUSINESS

Alderwoman Davis; Rail Car Roof Invoices

Alderwoman Davis reminded the BOA that \$33,000 in the Zamias Fund was earmarked for the repair and maintenance of the rail car at the Farmer's Food Center. There were invoices sent to the City Treasurer's Office and were not paid. Treasurer Wilton did not feel comfortable paying these invoices without the BOA approval. Alderwoman Davis moved to suspend the rules. Alderman Allaire seconded. Motion passed. Alderwoman Davis will authorize the payment of the invoices to the total of \$7,384.80 and \$2,920.00, and she so moved. Alderwoman Davis seconded. Motion passed. Attorney Romeo, in addition to the \$33,000 at the BOA meeting on September 8, 2015, \$2,800 that was left in an account from some fund raising measures that we made and the motion was to include the \$2,800 for the building of a cover structure over the train car and that motioned passed. So there is \$33,000 plus the \$2,800. Alderwoman Davis moved to suspend the rules. Alderman Etori seconded. Alderwoman Davis moved to authorize the Treasurer to pay any invoices presented in regards to the Construction of the rail car roof in amount not to exceed \$35,800. Alderman Allaire seconded. Alderwoman Davis moved to authorize the Treasurer to pay from the \$35,800 what is left from payment of the outstanding invoices to the Farmer's Food Center for the construction of the rail cover. Alderman Etori seconded. Motion passed.

Commissioner Wennberg clarified his earlier statements, in discussing the issue with Rutland Town, there are two contracts, one is for sewer and one is for water, he was speaking specifically and exclusively and entirely about the water contract, however the dollars owed are under the sewer contract. That contract is in effect.

MISCELLANEOUS MOTIONS, RESOLUTIONS, NEW BUSINESS

Alderman Bloomer made a motion to refer to Marketing Committee. When we created the Marketing Committee earlier this year, one of the objectives was to create a short-term

marketing strategy to attract more visitors and transplants to Rutland City. One of the first steps was to begin a revision of the current City website, which is now approximately 75% complete and will have an update coming up next Monday. We also held a Marketing Committee meeting a few months ago with the Downtown Partnership, I Love Rutland, RRA, Chamber of Commerce and REDC to start to understand what they are working on and whether they have ideas they need help putting into action. Based on that conversation and ideas gathered from the Board members during the past two years, a list has been developed as a proposal to be discussed in committee. The items are intended to benefit several groups, including employers trying to recruit employees, organizations trying to recruit businesses and telecommuters considering a move to Vermont. It would help us to highlight attractive aspects of Rutland, including the quality of life, affordable housing, schools and recreational opportunities. Some of the proposed deliverables are welcome packet for people new to the area, develop a video, some social media strategy as well. There are nine things on the list that he has for the Marketing Committee to begin and talk about some of them. So moved Alderman Allaire. Seconded Alderman Ettori. Motion passed.

The Chair will entertain a motion that finds that premature general public knowledge discussions relating to pending litigations for which the City is a party and place the City at a substantial disadvantage. So moved Alderwoman Davis and seconded Alderman Allaire. Motion passed.

The Chair will also entertain a motion to go into executive session to discuss relating pending litigation to which the City may be a party. So moved Alderwoman Davis and seconded Alderman Allaire. Motion passed.

Attorney Romeo, Commissioner Wennberg, and Attorneys' Cooper are to remain for the first executive session.

Executive Session

Attorney Romeo; Request for Executive Session

Attorney Romeo; first motion would be to suspend the rules and take up the matter of the State MS4 tonight. So moved Alderwoman Davis and seconded Alderman Allaire. Motion passed.

Attorney Romeo; and then a motion to authorize the attorneys to pursue settlement in the State MS4 appeal as discussed in executive session and to bring back a final settlement document to the Board for its approval. So moved Alderwoman Davis and seconded by Alderman Allaire. Motion passed.

The Board went into Executive Session at 8:35 PM. A motion was made, Alderwoman Davis, and seconded by Alderman Allaire to go out of Executive Session at 9:25 PM.

Attorney Romeo; Request for Executive Session

The Chair will entertain a motion that finds that premature public knowledge of discussion relating to probable litigation to which the City may be a party would place the City at a substantial disadvantage. So moved Alderman Allaire and seconded Alderman Ettori. Motion passed.

The Chair will entertain a motion to move to go into executive session to discuss relating probable litigation to which the City may be a party. So moved Alderman Allaire and seconded Alderman Ettori. Motion passed.

Attorney Romeo; first would be a motion to suspend the rules. So moved Alderwoman Davis and seconded Alderman Bloomer. Motion passed.

Attorney Romeo; the second motion would be to authorize the City Attorney to enter into an appearance on behalf of the City in the Dana School's zoning appeal and to keep the Board informed of future developments. So moved Alderman Allaire and seconded Alderwoman Davis. Motion passed.

The Board went into Executive Session at 9:27 PM. A motion was made, Alderwoman Davis, and seconded by Alderman Allaire to go out of Executive Session at 9:40 PM.

Alderman Tommola; before we adjourn would the Chair allow me to jump back into unfinished business to ask a question through the Chair to the City Attorney. Charles have we received any word back from the department of State yet on their request to documents.

Attorney Romeo; from the Department of State, no. Alderman Tammola are we beyond the legal timeframe from what they were supposed to respond by. Attorney Romeo would need to look at, he sent the letter out last Friday by certified mail and has not received return receipt back yet.

Alderman Bloomer; asked if there is an exception that the government would use. Attorney Romeo stated until the government makes their determination as to what basis they're either going to deny or record redaction then we can respond accordingly.

At 9:45 a motion was made to adjourn by Alderwoman Davis and seconded by Alderman Tammola.

Respectfully Submitted,

Tracy L. Kapusta, Deputy City Clerk