

CITY OF RUTLAND, VERMONT
Board of Aldermen Minutes
Tuesday February 19, 2013

Members present; President Allaire, Aldermen Kiernan, Romeo, Notte, *Donahue, Siliski, Robinson, Sargeant, Wallstrom, DePoy and Davis, Mayor Louras, City Attorney Costello and City Clerk Heck.

*Alderman Donahue arrived at 7:39 PM.

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

MINUTES OF PREVIOUS MEETING (Monday, February 4, 2013)

A motion was made and seconded (Davis, Romeo) to approve the minutes of the previous meeting.

Motion passed.

OUTSIDE THE RAIL

Gale Courcelle of 50 Hazel St. spoke on the chloramine issue and specifically the ballot question proposed on election day. She asked the voters to vote no on adding chloramine to the City water.

Sam Gorruso spoke on the Regional Ambulance Service, a non-profit, and updated the Board on the services offered and the 8083 calls responded to within the 12 communities represented. Mr. Gorruso thanked the Board for their support and looked forward to working with them.

Kam Johnston of Rutland City spoke on the Tax Stabilization question on the ballot and asked for voters to not support the request based on his concerns of how it may affect certain individuals and property. Mr. Johnston then spoke on tax payer advocate issues. He also spoke on the homestead declaration and the importance of declaring. He also asked why the City Attorney could not give advisory opinions; he wanted the issue of a tax payer advocate to be discussed further.

Sean Pemrick of 49 Evergreen Ave. asked the Board to consider Mr. Johnston's request and sought a motion to refer the issue. Several Board members did respond to the question, with Alderman DePoy making a motion to refer the issue of home declaration to the Finance Committee. This motion was seconded by Alderman Wallstrom. **Motion passed.**

COMMUNICATIONS FROM THE MAYOR

Enroll new non-union hires in VMERS Pension

Mayor Louras explained his rationale in regards to moving new non-union employees to the Vermont Municipal Employees Retirement System, VMERS. There was a motion made and seconded (Davis, DePoy) to refer the issue to the General Committee. **Motion passed.**

Mayor Louras then spoke on the MS4 appeal. Mayor Louras noted that the firm hired to represent the City in its appeal had a conflict and stated that they would not be able to assist the City with their appeal. Mayor Louras stated after looking for other counsel, to recommend the firm of Kenlan, Schwiebert, Facey & Goss. A motion was made and seconded (Sargeant, Wallstrom) to suspend the rules and take the issue up that evening. **Motion passed.** A motion was made and seconded (Sargeant, DePoy) to approve the retention of Kenlan, Schwiebert, Facey & Goss, to assist the City in its MS4 appeal. No Debate, **Motion passed.**

President Allaire noted the large turnout in chambers and asked the Board to hear a committee report from Alderman Romeo dealing with a re-write of City Ordinances dealing with under 21 ban.

Charles Romeo; Chair Charter and Ordinance

Alderman Romeo read from his five page committee report. He noted that the issue was referred to his committee this past summer and there had been lengthy discussion. Over the next 97 minutes the

Board heard a motion from the Chair of the committee, amendments from fellow Board members, with lengthy debate from in and outside the rail. What follows is a chronological event of those issues.

Alderman Romeo read the entire report, noting the draft of the proposed ordinance. His report stated several attempts to amend the draft in committee, with a final motion passed to recommend the full Board adopt the proposed ordinance as amended. (See draft language below). Alderman Romeo so moved the committees' motion. Alderman Sargeant seconded. Debate.

§1000. Persons Under 21 Prohibited in Cabarets

The general laws of the State of Vermont or other Ordinances of the City notwithstanding, no person under the age of 21 is permitted on premises for which a cabaret license as defined in 7 V.S.A. §2 has been issued by the Vermont Department of Liquor Control except as provided below. This ordinance shall not apply to a club as defined in 7 V.S.A. §2, bowling alleys, or theatres.

§1001. Persons under the age of 21 are permitted on cabaret premises for the following:

- a) verifiable employment purposes;
- b) private events not open to the general public for which the premises have been rented by a person or entity other than the licensee; and
- c) as provided in R.O.R. § 1538.

§1002. Violations

In addition to the licensee, the person under 21 years of age violating this ordinance may be subject to the penalties set forth below.

§1003. Enforcement

This ordinance shall be enforced by:

- a) any officer of the Rutland City Police Department;
- b) the City Building Inspector or Zoning Administrator, or his or her designee, when acting in the course of lawful duty; and
- c) the City Fire Marshall, or his or her designee, when acting in the course of lawful duty.

This ordinance may be enforced by:

- a) any sworn police officer with jurisdiction in the state of Vermont; or
- b) agents of the Department of Liquor Control.

Copies of tickets issued for violations of the ordinance shall be forwarded to the Department of Liquor Control.

§1004. Penalties

A violation of this ordinance shall constitute a civil violation subject to a fine of not more than \$500. Each person under the age of 21 in violation of this ordinance shall constitute a separate offense. Waiver fines are as follow:

- a) First Offence--\$50
- b) Second Offense--\$100
- c) Third Offense--\$200

Alderman Romeo stated that he spoke with several bar owners on the language presented and found that an amendment to the proposed ordinance would be needed. A motion was made and seconded (Romeo, DePoy) to amend the motion providing an exception for designated drivers. Debate.

Alderman Romeo stated the amendment noting section 1001 of the draft ordinance is amended by adding; section d) a person serving as a bona fide designated driver. The amendment defines "bona fide designated driver" and five sub requirements. Debate.

After five minutes or so of debate Alderman Romeo called the question. There was no second. **Motion failed** for lack of a second.

Debate continued with several members of the audience speaking, including Matthew Hart, attorney for the Local Night Club, and CJ Abatiell, owner of CJ's Suds South.

After Mr. Abatiell spoke there was no further debate. President Allaire called the question for the amendment to section 1001 section d). **Motion failed.**

The original motion was back on the floor. Immediately, Alderman Donahue made a motion that was seconded by Alderman Romeo, to amend the original motion allowing under 21 patrons into establishments with a legal guardian or parent. Alderman Donahue was asked by Alderman DePoy to allow Attorney Costello to draft language fitting his recommendation. Alderman Donahue agreed.

Chris Greeno spoke asking the Board to send the issue back to committee based on the Board's actions of several amendments. Jeff Dayton, owner of Pub 42 was offended that he was not informed of the Boards plans, as it would affect his four underaged children who need, at times to accompany him to work. President Allaire moved the debate back inside the rail. After several members of the Board spoke and the definition of a Cabaret license was defined by Attorney Costello, President Allaire called the amended question. Alderman Donahue's amended **Motion passed.**

President Allaire noted that the original motion was back on the floor. Alderman DePoy stated that he wanted to move an amendment that he had placed on the Boards desk and reviewed what the amendment contained. The amendment contained language that would allow the owner of a bar to request an under 21 night at their business. This request would be forwarded by the Clerk to the BOA, who would refer to Special Liquor Committee. Special Liquor would hear the request and then move to approve or deny to the full Board. The Full Board would have final say. Alderman Notte seconded the request. Debate.

Matthew Hart spoke briefly on the "DePoy amendment" asking the Board what they were trying to accomplish. He applauded the DePoy amendment, because it at least allowed his client an opportunity to address his desire to hold an International Night. Several other members of the Local as well as members of the audience spoke on the issue, most applauding Alderman DePoy's motion.

Debate moved back inside the rail. After several Aldermen spoke, a motion was made and seconded (Robinson, Davis) to refer the amendment and underlying motion to the Committee of the Whole. Debate. Alderman Romeo briefly explained the history of this issue and the time and energy expended. Several other Aldermen felt the same. **Motion failed,** to refer to the Committee of the Whole.

President Allaire noted that Alderman DePoy's amended motion was on the floor. Alderman Romeo called the question immediately; the request was seconded by Alderman Robinson. President Allaire noted that the question had been called and it was not debatable. **Motion passed**, on calling the question. The President restated that the motion on the floor was the amended motion presented by Alderman DePoy. A voice vote was taken; the President stated that the **Motion passed**. Alderman Sargeant called, division, the President asked if he wanted a roll call vote or a show of hands. A show of hands was called, 7 yes 3 no, Motion passed.

The President stated that the original motion presented by Alderman Romeo was back on the floor. Debate. Several Board members restated the history and guidelines of owning a bar. The question of when would the ordinance take place if approved was asked. Several Aldermen felt that the approved amendments had diluted the original motion to make it non-effective. Attorney Hart responded to allegations of issues presented by Alderman Sargeant stating that there were no issues at present pertaining to the Local.

Several Aldermen gave their opinions as to why or why not to approve the ordinance presented by Alderman Romeo's Committee. Upon further discussion, a motion was made and seconded (Romeo, DePoy) to call the question. President Allaire stated that the question had been called and called for the vote. **Motion passed**, on calling the vote. President Allaire stated that the question on the floor had been called and passed. Alderman Davis asked for the motion on the floor to be repeated. The President noted that the original motion with the approved amendments was on the floor. There was a request for the amendments to be read. The Clerk read Alderman Donahue's motion and started to read Alderman DePoy's motion when he was stopped. The vote was called, upon hearing the voice vote the president was unsure and asked for a show of hands. 4 yes 6 no, **Motion failed**. The President asked Alderman Romeo if he had anything else to report, he replied no.

President Allaire stated that he had one other issue to take care of prior to taking a 5 minute recess. He stated that Attorney Costello had requested an executive session, on a contract issue with Green Mountain Power and asked the Board to take the issue up.

Andrew Costello; City Attorney, Request for Executive Session-Contract

The issue was handled in open session. President Allaire stated that the City and GMP were entering into a contract to lease land at the City landfill. Attorney Costello noted that one of the requirements that GMP wanted the City to have was an Environmental Impairment Liability rider, paid for by the City insuring GMP. The Policy was not attainable through VLCT and an outside policy was very expensive with not enough coverage. A motion was made and seconded (Wallstrom, Davis) to suspend the rules and take the issue up that evening. **Motion failed**. A motion was made and seconded (Davis, Robinson) to refer the issue to the Community and Economic Development Committee. **Motion passed**.

At 9:21 PM the President called for a five minute recess.

At 9:29 PM the Board reconvened.

REPORTS AND LETTERS FROM DEPARTMENT HEADS AND OFFICIALS

Evan Pilachowski; DPW Commissioner, Request for RFP City Hall

President Allaire briefly introduced the item requested by Commissioner Pilachowski. A motion was made and seconded (Sargeant, Notte) to suspend the rules and take the issue up that evening. **Motion passed**. A motion was made and seconded (Sargeant, Robinson) to authorize the Mayor to go out for an RFP. There was some debate in the funding of this request. Alderman Wallstrom asked the Commissioner to look into insurance options. **Motion passed**.

Evan Pilachowski; DPW Commissioner, Alpine Pipeline

President Allaire briefly restated the request from the Commissioner, authorizing the Mayor to sign the agreement. A motion was made and seconded (Notte, Robinson) to suspend the rules and take the issue up that evening. **Motion passed.** A motion was made and seconded (Notte, Robinson) authorizing the Mayor to sign the agreement. There was brief debate on the request of the agreement and the need to refer the issue to Intermunicipal Committee. **Motion passed.** A motion was made and seconded (Davis, Romeo) to refer the issue of the City and the Alpine pipeline contract to the Intermunicipal Committee. **Motion passed.**

Evan Pilachowski; DPW Commissioner, Road and Bridge Standards

President Allaire read the request from Commissioner Pilachowski, stating that this was an yearly exercise and the Commissioner was asking the Board to adopt the newly revised "Town Roads and Bridge Standards" A motion was made and seconded (Robinson, Romeo) to suspend the rules and take the issue up that evening. **Motion passed.** A motion was made and seconded (Robinson, Davis) authorizing the Chair to sign. **Motion passed.**

Andrew Costello; City Attorney, MS4 Appeal

Issue was taken up under Communications from the Mayor.

Andrew Costello; City Attorney, Request for Executive Session-Civil Lawsuit

The President asked the Board to move the Attorneys request to the end of the meeting. There were no objections.

REPORTS OF STANDING COMMITTEES

Christopher Robinson; Chair, General Committee

Alderman Robinson read his report noting the Board had approved a request from Commissioner Pilachowski for a blanket authorization on the sale of City property valued at less than \$200 back on November 5, 2012. The Board also referred the issue to the General Committee to review their action and to see if a blanket authorization could be used across City Hall.

The Committee felt after their review and the fact that these request when made did not happen often there was no need for a blanket authorization for DPW to sell City property valued less than \$200. A motion was made and seconded (Robinson, Romeo) to rescind the blanket authorization made for DPW on November 5, 2012. **Motion passed.**

Sean Sargeant; Chair Public Safety

Alderman Sargeant read his committee report which dealt with the downtown 2 hour parking meter violators. The Committee met with downtown merchants and City police to discuss ways to get people to observe the 2 hour limit. The committee discussed the current enforcement practices. The committee and those present also debated possible solutions. A motion was made and seconded (Sargeant, Davis) to "Request that DPW work with Officer Tobin and the Traffic Committee to serialize the meter poles, sticker the meter heads and develop a plan to warn parkers prior to implementing any changes in enforcement , once the Saturday parking policy is determined by the BOA". **Motion passed.**

William Notte; Chair Public Works

Alderman Notte read his committee report stating an early vacation request from David Shortsleeve. After a brief explanation of the request, a motion was made and seconded (Notte, Davis) to approve the early vacation time request from David Shortsleeve. There was brief debate, with a request for the minutes to reflect that the union was approached on the issue with no concern and waived any grievance. **Motion passed.** The committee also discussed the issue of "favoritism" and a motion was made and seconded (Notte, Romeo) requesting at the next contract negotiations with DPW that the issue of requesting early vacation time be included. **Motion passed.**

REPORTS OF SELECT COMMITTEES

There were no reports

REPORTS OF REPRESENTATIVES

There were no reports

PETITIONS, LETTERS, MISCELLANEOUS COMMUNICATION

21st Annual Vt. Sports Medicine Center Road Race

A motion was made and seconded (Davis, Romeo) to suspend the rules and take the issue up that evening. **Motion passed.** A motion was made and seconded (Davis, Robinson) approving the 21st Annual VT Sports Medicine Center Road Race for Kids on the Move, 5K race/walk, on April 27, from 7AM to 12:30 PM, pending proof of insurance. **Motion passed.**

A motion was made and seconded (Davis, Romeo) to move into the Board of Control Commissioners. **Motion passed.**

BOARD OF CONTROL COMMISSIONERS

Henry Heck; City Clerk, Liquor and Tobacco Renewal Applications

City Clerk Heck asked the Board to authorize him to sign all renewal application for alcohol and tobacco licenses. The Board decided to break the license down into groups starting with liquor renewals.

A motion was made and seconded (Romeo, Notte) authorizing the Clerk to sign all First Class Restaurant Applications. There was brief debate. **Motion passed.**

A motion was made and seconded (Romeo, Donahue) to refer the First Class Cabaret Licenses to Special Liquor Committee. Debate was brief. **Motion failed.**

A motion was made and seconded (Wallstrom, Davis) to refer the Clerk's new licensing process to the Special Liquor Committee for further review. **Motion passed.**

There was brief debate on how to proceed with the First Class Cabaret licenses.

A motion was made and seconded (Notte, Donahue) to refer the approval of the Local's liquor license to Special Liquor Committee. There was brief debate. **Motion failed.**

A motion was made and seconded (Romeo, DePoy) to approve the First Class Licenses as presented by the Clerk. A motion to divide the question was made and debated. Motion to divide was seconded by Alderman Davis. **Motion to divide passed.**

There was brief debate on how to precede with the approvals of the First Class Cabaret licenses.

A motion to approve **3D's Café** was made and seconded (Romeo, Davis) **Motion passed.**

A motion to approve **Center Street Alley** was made and seconded (Notte, Davis) **Motion passed.**

A motion to approve **Center Street Saloon** was made and seconded (Davis, DePoy) **Motion passed.**

A motion to approve **CJ's Suds South** was made and seconded (Davis, DePoy) **Motion passed.**

A motion to approve **Downtown Tavern** was made and seconded (Davis, DePoy) **Motion passed.**

A motion to approve **Magoo's** was made and seconded (Davis, Notte) **Motion passed.**

A motion to approve **Muckenschnabel's** was made and seconded (Notte, Davis) **Motion passed.**

A motion to approve **Paramount Theatre** was made and seconded (Notte, Davis) **Motion passed.**

A motion to approve **Rutland Bowlerama** was made and seconded (Romeo, Davis) **Motion passed.**

A motion to approve **Saints of Pub 42** was made and seconded (Romeo, Davis) **Motion passed.**

A motion to approve **The Local** was made and seconded (DePoy, Notte), Alderman Romeo moved to refer the Local to the Special Liquor Committee. Alderman Notte seconded. Alderman DePoy raised the question to whether the motion was out of order. It was determined that the issue to refer had already been moved and failed, thus out of order. A motion to table was made by Alderman Romeo. There was no second. Motion failed for lack of a second. There was brief debate from Alderman DePoy on singling out the local. Alderman Romeo, again asked to table the issue, there was no second. The motion on the floor is to renew the first class cabaret license of the Local. There was no further debate. **Motion passed.**

A motion to approve **Two Sheas** was made and seconded (Romeo, Notte) **Motion passed.**

A motion to approve **Uncle Sam's Pub** was made and seconded (Romeo, Notte) **Motion passed.**

A motion was made and seconded (Notte, Davis) to authorize the Clerk to sign all First Class Club Licenses. **Motion passed.**

A motion was made and seconded (Notte, Davis) to authorize the Clerk to sign all Second Class Liquor Licenses. **Motion passed.**

A motion was made and seconded (Notte, Davis) to authorize the Clerk to sign all Tobacco renewal Licenses. **Motion passed.**

A motion was made and seconded (Davis, Romeo) to come out of the Board of Control Commissioners. **Motion passed.**

At 10:30 PM a motion was made and seconded (DePoy, Romeo) to suspend the rules and extend the Board hours past 10:30 PM. **Motion passed.**

UNFINISHED BUSINESS

There was no unfinished business

MISCELLANEOUS MOTIONS, RESOLUTIONS, NEW BUSINESS

President Allaire asked for the issue of water and sewer and property tax payments be referred as he has gotten a lot of feedback on the issue lately.

A motion was made and seconded (Davis, Romeo) to refer the issue to the Finance Committee. **Motion passed.**

There was brief discussion as to Attorney Costello's executive session request. Attorney Costello stated that the issue was "moot" as the issue was already discussed.

At 10:34 PM a motion was made and seconded (Robinson, Davis) to adjourn. **Motion passed.**

Respectfully Submitted,

Henry A. Heck
Rutland City Clerk