

Minutes of the September 14, 2009 Meeting of the Board of Selectmen.

Present: Neal Fox, Bill Richards, Joe De Freitas, Delbert Cloud, Geneva Gaiko, Mary Floyd, Christi Bollman, and Keith Bollman.

The meeting was called to order at 6:00 PM by Chairman Neal Fox, the Board first reviewing and approving the weekly payroll and payables. Chairman Fox asked if the members of the public had matters they would like to discuss with the Board before business on the Agenda might be taken up. Christi and Keith Bollman asked if there were any new information regarding the dogs that had recently been impounded. (The Town is still awaiting direction from legal counsel.)

Mary Floyd asked if there were any new information regarding the Town Hall rehabilitation project. Since this was an agenda item, the Board members agreed to change the order of the agenda and take the subject up at this time. Funds have now been drawn down by the lender, USDA Rural Development, and earmarked for the Town's project at the State level. Rural Development officials have also approved the form of contract whereby the services of the "Clerk of the Works" will be employed, and have advised of the changes necessary to make the Architect's contract for the construction phase services acceptable. The same Rural Development officials have now agreed that the project should go out to bid as soon as possible in order to get confirmation of costs and enable work to be contracted before winter. The methodology by which Federal handicap accessibility requirements will be addressed has also been agreed upon, and the Architect will now be able to finalize the plans and specifications as necessary to establish costs for these items. It is now anticipated that the bids will be opened and a contract offered not later than the week of November 9, 2009.

The Board then returned to the order of the agenda, first approving the minutes of the August 24, 2009 meeting of the Board of Selectmen by motion of Joe De Freitas, seconded by Bill Richards and unanimously carried.

Given that the time was slightly past 7:00 PM, Chairman Fox declared that an informational session should be called to order re. the Water Department project whereby the voters will be asked to approve the borrowing of additional funds to allow connection of the new mains on Peavine Boulevard to those on Main Street. This portion of work is only to be done if American Recovery and Reinvestment Act funds are available to provide financial assistance to the project. Originally a bond vote was intended to be held on September 15, 2009; Delbert Cloud informed the Board that publication had not been provided for in order to have the vote on that date. With that being the case, the following Resolution was made by Bill Richards, seconded by Joe De Freitas and unanimously carried:

"RESOLVED, that the public interest and necessity demand that certain public improvements be made, viz: replacement of water system mains beneath the railroad tracks and connection to the existing main on Main Street near the Route 12 and Route 107 intersection in the Town of Bethel, said improvements estimated to cost One Hundred Fifty Thousand Dollars (\$150,000.00).

"BE IT FURTHER RESOLVED, that the cost of completing said public improvements, after application of funds available from the United States of America and/or the State of Vermont, will be too great to be paid out of the ordinary annual income and revenue of the Town of Bethel; and

"BE IT FURTHER RESOLVED, that a proposal for providing such improvements and the issuance of general obligation bonds of the Town in an amount not to exceed One Hundred Fifty Thousand Dollars (\$150,000.00) to pay for its cost of the same, should be submitted to the legal voters of the Town at a Special Meeting thereof to be duly called and held on October 20, 2009; and

"BE IT FURTHER RESOLVED, that all acts relating to the proposition of incurring bonded indebtedness and the issuance of general obligation bonds of the Town of Bethel for the purpose of financing such improvements, as well as the

construction, maintenance and operation of such improvements within and without the corporate limits of the Town be in accordance with the provisions of Chapters 53, 89, and 120 of Title 24, Vermont Statutes Annotated; and

“BE IT FURTHER RESOLVED, that the attached Warning and form of ballot be adopted for use in connection with consideration of the above-stated propositions of making said public improvements and incurring bonded indebtedness therefor.”

The accompanying Warning for the bond vote was then endorsed by the Board members.

The Constables' reports for August 30, 2009 and August 31, 2009 were reviewed and placed on file, as were the Planning Commission minutes of August 19, 2009, the Recreation Committee minutes of August 19, 2009, and the Local Emergency Planning Committee minutes of August 20, 2009.

Neal Fox reported on the current business of the White River Valley Ambulance. One initiative being developed is to expand upon the rescue capabilities of first responders; it has been proposed that the Bethel Fire Department should be provided with “jaws of life” equipment which can be made available to the Department at no cost. Given the desirability of this, motion was made by Bill Richards, seconded by Joe De Freitas and unanimously carried, to accept this opportunity if it can be made possible.

The Board next reviewed an August 21, 2009 letter from USDA Rural Development which advised that funds will be available to complete certain improvements at the Bethel/Royalton solid waste facility in the amount of \$145,000.00. Motion was made by Joe De Freitas, seconded by Bill Richards and unanimously carried, to approve the following “Resolution” and to authorize Neal Fox to endorse same on behalf of the Board:

“WHEREAS, it is necessary for the Bethel Town of (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of One Hundred Forty-Five Thousand and xx/100 Dollars (\$145,000.00) pursuant to the provisions of Vermont State Statutes; and

“WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

“NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with From RD 400-4, “Assurance Agreement,” and From RD 400-1, “Equal Opportunity Agreement,” including an “Equal Opportunity Clause,” which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be

payable from the same source of funds pledged to pay the bonds or any other legally permissible source.

5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government as its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government as such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt services, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may be only retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.
11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereon and of the instruments incident to the making or insuring of the loan.
14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities, and replacement of short lived assets.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide

services which are feasible and legal, such person shall have a direct right of action against the Association or public body.

16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
17. To accept a grant in an amount not to exceed \$0.00 under the terms offered by the Government; that Select Board Chair and (N/A) of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.”

At this time, Delbert Cloud updated the Board on the status of the bridge deck replacement project which will be completed with assistance of American Recovery and Reinvestment Act funds through the Vermont Agency of Transportation. No action was required or taken by the Board on this matter.

The Board next reviewed bids received for potential sale of two fire trucks which are no longer used by the Town's Fire Department. It was agreed that the high bid should be accepted in both instances: the 1954 General Pumper at \$500.00, and the 1981 Chevrolet 3500 at \$1,550.00. Delbert Cloud was authorized to complete the sales on behalf of the Town; the proceeds will be deposited in the Fire Department Safety & Equipment Fund.

An August 31, 2009 letter from the Bethel Board of Listers to the Vermont Department of Taxes was next reviewed at the request of the Chair of the Board of Listers, this being relative to the taxable status of a property owned by the Green Mountain Bible Conference. It was agreed that the Town should support the Listers' position on this matter, subject to an opportunity to review anticipated costs if an appeal becomes necessary; motion accordingly was made by Bill Richards, seconded by Joe De Freitas and unanimously carried.

By motion of Bill Richards, seconded by Joe De Freitas and unanimously carried, the Board approved a request from the Parks and Public Spaces Committee for permission to conduct a coin drop fund-raiser on October 3rd on Main Street between the hours of 10AM and 3PM. The Board members discussed an August 24th letter from the Committee regarding the Linden trees at the Main Street Parking Lot, and agreed that the Lindens should not be cut since they provide a significant greenery effect to the streetscape and it is understood that they do not pose a structural threat to the stonework of the parking lot at this time.

The Board then authorized Delbert Cloud to return requested forms to the Bureau of the Census on behalf of the Board.

Budget Status Reports for the first two months of the current fiscal year were reviewed and discussed, these being for the Town General Fund and the Enterprise Funds (Water, Wastewater, and Solid Waste). No action was required or taken by the Board.

Delinquent tax reports were also examined, and Delbert Cloud informed the Board of collection efforts and pending tax sale scheduling. This matter was informational only for the Board, and no action was thus required or taken.

The following communications were reviewed and placed on file: (1) an August 16, 2009 letter from Herb Campbell, Executive Director of the White River Valley Ambulance, commending Kaleb Orr and Jesse Richards of the Bethel Fire Department for the outstanding service they provided at a recent accident scene, as well as crediting the Department as a whole for the quality of its assistance, (2) a September 1, 2009 letter from Dan Weintraub re. economic circumstances, and (3) a Windsor County Courthouse newsletter dated August 23, 2009.

At 9:45 PM the motion was made by Bill Richards, seconded by Joe De Freitas and unanimously carried, to enter executive session to discuss issues associated with litigation in which the Town is a party. Delbert Cloud was the only person remaining with the Board during the executive session. No minutes were kept. Upon return to open meeting at 10:15 PM, the only motion was that to adjourn, this being made by Bill Richards, seconded by Joe De Freitas and unanimously carried.

Neal Fox

Bill Richards

Joe De Freitas