

Duxbury Selectboard Meeting, June 11, 2012, 6:00 pm

Members present: Mo Lavanway, Dick Charland, Craig Isvak, Maureen Harvey

Others: John Grenier, Lars Dickson, Bob Magee, Ken Scott, Jeff Poitras, Ed Patterson, Kristen Fountain, Ames Robb, Steve Manosh, Shawnee Perry

Meeting called to order at 6:01 pm

John Grenier, town engineer, on Pollander Brook culvert and contract: John has a preliminary set of plans with detailed specs for this project. Plans not quite ready to go out to bid yet, he needs a couple of additional details. Should be ready a week from today. Similar to plan for Morse Rd culvert replacement in 1998. Plans have been approved by Patrick Ross (at ANR), Fish & Wildlife, and AOT. Assuming board wants to move forward, John needs to go through some technical details. This project probably falls in the \$150-\$200k range; how much does the town want to do to put this out to bid? Does the town want a bond on the bid, for example? (Bid bond and/or performance bond). This can add 5-10% to the cost of the job. Bid bond is an insurance policy that they don't mess up the bid. Dick: let's do both types of bonds. Dick thinks we should send out invitations to bid rather than posting an open bid due to the timeline. John thinks this will be a one month job. The scope/timeframe will be requested in the bid. John suggests Parent, SD Ireland, Griffin & Griffin, Walker Construction, Kingsbury. Board agrees these are the companies that should be asked to bid. John recommends a meeting with adjacent landowners again with signed permission on the project from those landowners. Road will have to be closed during this construction (Crossett Hill Rd.).

John as Waterbury Selectboard Chair Re: Winooski Street Bridge Restriction Study. There is a choke point there now on the river. To determine if there is something that can be done to relieve future flooding threats, there needs to be an expanded flood study, including a study of the effects of the bridge, flood plains, even the Bolton Dam. Waterbury has developed an RFP to find a local consulting firm to expand on the work that has already been done by FEMA and the state, to study the flooding dynamics of Winooski St to the ice center. State Buildings & General Services, and Central Vermont Regional Planning Commission have committed to contributing to the cost as well as some other state and federal dollars. Waterbury may eventually be looking for support from Duxbury also.

Motion to accept May 28 Selectboard minutes by Craig, second by Mo. All in favor.

Citizens to address the board: Ed Patterson wondering about the fill (blue clay) from the town pit that he spoke to Dick about several weeks ago. There is a DRB meeting on Patterson trailer park scheduled for July 10. They want to bring the level of the trailers up and need to figure out their materials. Dick: due to the current situation at the pit and the review of the Act 250 permit, the board is inclined to think they cannot offer anything from the pit for Ed to use.

Highway Foreman Report: Steve Manosh. Backhoe is back and in use on Richardson Rd. 2003 truck is back, still needs doors. They also need wing parts for that truck. Also needs tarp for that truck. Dick: this was discussed at the road committee meeting. Summer tires are needed as well. York rake broke today and needs some welding. The road crew has been ditching and cleaning culverts on Richardson Rd. Added crushed gravel near Marshall Rd. bridge on Camel's Hump Rd. Dick: we need to address the brush at Winooski St bridge, it is a line of site issue for drivers. 2004 pickup: at the last road committee meeting they discussed \$1900 estimate for torsion bars and rear springs, Road Committee recommends

that the truck be sidelined and not used for safety reasons. No sense investing money in a truck with the degree of issues this truck has. If town crew needs to use their personal trucks, we will pay mileage. Bob/RC is looking into getting another truck through auctions or surplus that can be used short term until we know more about the town's financial picture based on FEMA reimbursements, etc. Jeff Poitras: There is a tree hanging over River Rd which needs to be removed before it falls into road. (Needs landowner permission.)

Financial report: May report provided by Ken. Employees contribute 2.5% and town contributes 4% to retirement fund. All employees over 30 hours are mandated to contribute. Dick: What accounts for the overage in Ken's budget? Ken thinks it is wrong and he will investigate. Dick: on monthly ledger sheet, why is sand & gravel only \$36,000? It should be \$82,264. Ken will investigate. Maureen: who has a pager? Someone on the town crew? Is it being used? To be investigated. Dick: moves to add line item to deal with waste oil disposal to town budget @ 138A. Second: Mo. All in favor. It will be an unfunded line, will run a balance. Maureen moves to allow employees to use personal vehicles for town business and be reimbursed @ .52/mile and that Steve be reimbursed for 20 miles already accrued; a line will be added to the budget for mileage reimbursement @ 149B. Second by Craig. All in favor.

Efficiency VT reimbursement of \$875 on town garage lights was received. Dick moved to direct the treasurer to put the money back into capital reserve. Mo second. All in favor

Dick and Craig met with auditor Bill Yacovone last week. The town has been audited every year, but the Selectboard had never been provided with the audit report. The auditor's reporting role is to the board. The Treasurer should not be signing the letter of engagement. Ken apologized for never presenting this to the board. Dick reviewed the 2010 audit report, which contained a number of issues that never made it to the board. Dick invited Bill to come to the next SB meeting so that everything is clarified going forward. The 2011 audit is still in limbo due to the reimbursements coming from FEMA not tying back to the project worksheets. Checking account has not yet been reimbursed the \$100,000 we used to pay SD Ireland. The Board needs a breakdown on FEMA reimbursement status. We will be holding a special town meeting to adjust the town tax rate up from the current .48 level when the board has all of the information it needs to do that.

Emergency Management (EM): they have drafted protocol for weather advisories. Requested that the Board review it and send comments to Lars and Bob. (This was based on recent tornado advisories.) A third proposal was received on the generators for the town site, which contains some good ideas. The amount of the grant request needs to be acted upon for submission of the grant by Friday. It is the consensus of the committee that the garage should run at full capacity on generators, and the town office is secondary. This meeting will be recessed for the board to meet again on Thursday morning at 8 am to decide on the amount of the grant application.

Shawnee: We will not get the grant if the road foreman does not take the ICS 100 course. This is critical. Needs to be done by Friday.

Request for bids for radios has a deadline of June 25 (next SB meeting is the scheduled opening). Ken has the paperwork.

EM recommendations for town offices: wireless router so that others can work in the office. Voicemail accounts or answering machine for people to call in and leave messages about the conditions around town in the event of an emergency. EM committee is looking for input around options for communication and notifications in the event of an emergency.

Historical Society – no updates

FEMA report: waiting on more info

River Rd. project: Dick is exploring an option for a better price

Old Business: Summer tires. Dick took this issue to the Road Committee. He was reminded that we need to do this because some tires and rims went missing last year. We need to replace 8 tires and rims. Recommended at the last meeting that we transfer \$3000 from 125A and \$600 from 126 to cover tires for the 2003 truck. So moved by Craig, second Maureen. All in favor. Maureen: is there a process in place to ensure this doesn't happen again? We should implement an at least annual inventory.

Maureen on Devlin Rd. research: The issue started in 1990. Maureen presented the board with a detailed, bulleted list. She found nothing helpful in the town's book of roads, many decisions from board meetings not recorded there. (Maureen's research notes are an appendix to these minutes). There is general agreement that Devlin Rd should go as far as Kilkenny's driveway, though it looks at though that was never properly documented. This morning, Linda Devlin shared with Maureen a notice of survey and a letter from her attorney, dated 2005. Maureen researched further and it doesn't appear that the survey and letter were ever filed or recorded. The original question arose around whether we would be providing any service on the last 2/10 mile, which was damaged this spring by someone in a car tearing it up. This will be reviewed by the board and taken up again at the next meeting.

There were two late submissions from companies interested in doing the town audit. Board has instructed Bill Yacovone to continue with the 2011 audit, and to also do the single audit.

New business: at town meeting we approved up to \$50,000 to get the equipment into shape. The Tenco job on the 2003 truck came in right on target. We are left with one plow and backhoe repair to cover. We discussed safety braces for town garage at the last meeting. We should invest in these. Estimated @ \$1200. This should come out of the capital reserve fund. Craig made a motion to purchase a pair of Dump Lock steel braces not to exceed \$1500. Maureen second. All in favor.

Keith Marino has resigned as E911 coordinator. Vacancy needs to be filled as soon as possible because we can't assign house numbers. In the interim we could ask Mark Morse. Lars will ask someone he thought of in N. Duxbury.

We received an email from CVRPC for integrated transportation enhancement projects. We will not pursue at this time.

At 8:22 pm, Dick moved to go into executive session for personnel issues. Maureen second. All in favor. It was requested by the board that the minutes taker remain.

Motion by Mo to come out of executive session at 8:40 pm. Second Maureen. All in favor.

Motion by Maureen that the Road Crew #2 position will be offered to Robert Catchpaw @ \$14.50/hour, pending favorable references and report from his doctor, with review at 6 months. Second: Mo. All in favor.

At 8:45, Craig made a Motion to recess the meeting until 8 am on Thursday morning. Will reconvene to discuss grant for generators. Second Mo. All in favor.

Reconvened on Thursday June 14<sup>th</sup> at 8:02 am

Selectboard Present: Dick Charland, Mo Lavanway, Craig Isvak and Maureen Harvey

Others Present: Bob Magee, Steve Manosh and Lars Dickson

The board reviewed two proposals for emergency backup generators from Reliant Electric Works and Brook Field Service. A decision was needed to provide specifications and a dollar amount for a grant proposal. Discussion ensued of what size generator we would need to operate and provide essential services in the case of a power outage. Since the town would have to provide half the money if the grant was approved they needed to weigh the benefits and associated costs.

A motion was made by Dick and seconded by Craig. All in favor to apply for a grant for based on the estimate from Brookfield:

- 20KW LP Kohler Generator garage \$6,700
- 8.5 KW Generator for town clerk office \$5,000
- Two Surge protectors \$ 350
- Two precast concrete pads \$ 330
- TOTAL \$12,380

Bob Magee raised concerns that the gravel that was spread from bridge 41 to the top of Camel's Hump was a very thin layer and just spread it in select spots. He would prefer that it be spread until it ran out and just stop when it ran out. Steve Manosh relayed that not all the gravel could go to Camel's Hump as other areas of the town were in need as well. Dick said he would contact the state to see if they had made any progress on their decision on the gravel pit so that we could move forward.

Dick asked if the york rake was being used to remove larger stones on roads still needing top dressing with crushed gravel? Steve said that we had been using it and it had been broken while they were using it. It was now repaired and they would resume using the rake.

Motion to adjourn Maureen; Second by Craig; All in favor. Meeting adjourned at 8:40 a.m.

- 5-12-1990 Plans to consider reclassification of several roads including Devlin Road
- 9-12-1994 Mention of Steve Grace letter in support of town take over of road to Kilkenny property.
- 10-22-1994 Notice of public hearing to be held 11-7-1994 to discuss Devlin Road
- 11-7-1994 One paragraph in selectman's minutes. "Public Hearings were conducted – Devlin Road Extension: We received a letter from State Agency on Oct 5<sup>th</sup> seeing no issues with this road extension being taken over by the town. There was no opposition stated to this section of road. In favor of the take over were Mr. & Mrs. Kilkenney."
- No report of findings found
  - Nothing in the roads book
  - Linda Devlin said she did not issue an easement – She bought her property from Rocky Vermont and didn't know if there was a right of way issued there. Others believe Villeneuve retained ownership of the road all the way. Need to obtain deed research.
  - Town records have not been updated to reflect any change in length of Devlin road
- 8-8-1999 Found letter from Mary and Ken Spencer discussing the discontinuing of Devlin driveway without proper process.
- 8-30-1999 Memo to town clerk from Selectboard regarding road classification of five roads including Devlin driveway. The memo changes the Devlin driveway from a class 3 road to a town trail.
- Need to research selectboard minutes to see if hearing/meetings were held
  - Town records do not been updated to reflect any change of portion of Devlin rd to trail status
  - Memo of decision was not recorded in the town roads book
- 7-12-2004 Joanne reported that she and Barbara Ripley (attorney) would meet in the next few weeks to discuss the process the board should follow to take up Devlin Roads and other roads.
- 8-23-2004 Barbara Ripley briefed the board on the process of taking over Sunrise Ave, Mountain View and Devlin Road extended. *This is from the typed version. The handwritten version attached references a survey plat being done – check list prepared – getting a survey and two motions with no mention of what the motions were. No attachments of checklist or survey found.*
- Public Notice Hearing and site visit for Devlin Road Ext. - Sunrise Road – Mountainview Road – Ward Hill Ext.
- 10-11-2004 Barbara Ripley discussed process of reclassifying a Class 4 road to a Class 3 road. The process had started years prior however the final step needed to be done in order to bring roads legally into classification. Linda Devlin expressed concern regarding turnaround area and the use of private land. Next step is to hire a surveyor. Board went into executive session to discuss survey contracts.
- 11-8-2004 Report of Findings and Order - Devlin Road as Class 3 beginning where the town highway ends and ending at "at the gate beyond" scratched out without initials.

2-8-2005 Steve Grace letter stating that the town should be very concern with an attorney basing her findings on the false premise that the town “has been maintain the road as town road for some time...” and that the opposite was true. He agreed with the findings to the Kilkenny driveway but beyond that the claim was baseless.

1-25-2006 Steve Grace letter to DRB regarding Sherman subdivision. He restated his concern that the town had incorrectly assumed a portion of the road that it had no legal claim to do so.

2-13-2006 Selectboard minutes - DRB requested that a pin be placed to know where Devlin Road ends.

NOTICE OF SURVEY OF HIGHWAY – Unsigned notice provided by Linda Devlin with survey info laying out the path of the road along with a letter from Barbara Ripley dated 1-28-2005 stating the purpose to was establish the ownership of the road. Ken has no record of this being filed.

- Joanne Burno was going to forward an email to the attorney at the time and have them get in contact with me to see if they have any more info
- Track down easements from Devlin and Kilkenny if they exist
- See if this Notice of Survey was ever recorded. There is no listing in Ken’s index cards.



BARBARA G. RIPLEY  
bripley@drm.com  
Direct: (802) 225-5508  
Fax: (802) 229-5017

January 28, 2005

Linda P. Devlin Living Trust  
162 Devlin Road  
Duxbury, VT 05676

Re: Survey of Devlin Rd.

Dear Sir/Madam:

You were previously notified that the Town of Duxbury intended to perform a survey of Devlin Rd. so that the boundaries could be established and recorded for the purpose of clarifying the Town's ownership of the road. As I had said, the Town has been maintaining the road as a town road for some time, unaware that the legal process for taking over the road had not been completed.

The survey has been completed and it is now available for viewing at the office of the Duxbury Town Clerk. It will be formally recorded in the Town records on or after March 27, 2005. The purpose of this letter is to inform you that you may seek damages for the loss of property or an interest in property, if you are dissatisfied with the survey by filing an appeal in the Washington County Superior Court within 120 days from the date the survey is filed with the Town Clerk.

We trust that this process has not inconvenienced you. Again, the purpose is to clarify legal rights and responsibilities that the Town has already assumed with respect to Devlin Rd. If you have any questions, please do not hesitate to call.

Sincerely,

Barbara G. Ripley

Enclosure

BTV.425423.1

# NOTICE OF SURVEY OF HIGHWAY

## DESCRIPTION OF SURVEY

### DEVLIN RD.

Pursuant to 19 V.S.A. § 33, the Selectboard of the Town of Duxbury hereby provides notice that it caused a survey to be completed of the existing highway known as Devlin Rd. This survey was performed and notice hereby provided at this time order to establish record Town ownership of the road, since at the time the road was actually taken over, the legal process for taking the road over was not completed. The purpose of the survey is to establish for the record that Devlin Rd. as described below is a Duxbury Town Road with all the rights and responsibilities appurtenant thereto.

Based on the Town Tax Map, the following abutting landowners were notified according to statute of the survey: Brusa, Spencer, Devlin, Kimball, Kilkenney, Sherman, and Voss.

Devlin Rd. is hereby described as follows:

As a Right Of Way being 24.75' either side of the center line of Devlin Rd. being shown on a Map of Survey recorded of even date herewith in the Town of Duxbury Land Records and more particularly described as follows:

Right of Way being 24.75 feet either side of the center line of Devlin Road, more particularly described as follows:

Commencing at an iron pipe located northeasterly of the intersection of Devlin Road and a trail to the Crossett Hill Cemetery, thence S 68°11'13" W a distance of 39.62 feet to the POINT OF BEGINNING. Thence along a line having a bearing of N 62°08'46" W a distance of 203.66 feet. Thence along a curve to the right having a radius of 515.00 feet, a chord of 119.59 feet and a chord bearing of N 55°28'44" W. Thence along a line having a bearing of N 48°48'42" W a distance of 34.77 feet. Thence along a curve to the right having a radius of 350.00 feet, a chord of 23.59 feet and a chord bearing of N 46°52'50" W. Thence along a curve to the left having a radius of 445.72 feet, a chord of 200.89 feet and a chord bearing of N 57°58'25" W. Thence along a curve to the left having a radius of 350.00 feet, a chord of 208.52 feet and a chord bearing of N 88°19'40" W. Thence along a curve to the left having a radius of 776.12 feet, a chord of 225.25 feet and a chord bearing of S 62°53'46" W. Thence along a curve to the left having a radius of 586.83 feet, a chord of 83.03 feet and a chord bearing of S 49°09'36" W. Thence along a curve to the left having a radius of 250.00 feet, a chord of 42.13 feet and a chord bearing of S 40°16'13" W. Thence along a line having a bearing of S 35°26'14" W a distance of 173.87 feet. Thence along a curve to the left having a radius of 150.00 feet, a chord of 23.50 feet and a chord bearing of S 28°41'00" W. Thence along a curve to the right having a radius of 350.00 feet, a chord of 136.41 feet and a chord bearing of S 35°25'37" W. Thence along a line having a bearing of S 46°39'50" W a distance of 354.42 feet. Thence along a curve to the left having a radius of 500.00 feet, a chord of 45.04 feet and a chord bearing of S 44°04'58" W. Thence along a line having a bearing of S 41°30'05" W a distance of 144.83 feet. Thence along

a line having a bearing of S 39°24'45" W a distance of 40.90 feet. Thence along a curve to the left having a radius of 500.00 feet, a chord of 61.96 feet and a chord bearing of S 35°51'37" W. Thence along a curve to the left having a radius of 1602.72 feet, a chord of 141.25 feet and a chord bearing of S 29°46'57" W. Thence along a line having a bearing of S 28°05'14" W a distance of 67.93 feet. Thence along a line having a bearing of S 25°39'44" W a distance of 195.12 feet. Thence along a curve to the left having a radius of 500.00 feet, a chord of 62.55 feet and a chord bearing of S 22°04'33" W. Thence along a line having a bearing of S 18°29'22" W a distance of 54.89 feet to the POINT OF TERMINUS, said point being S 59°46'19" W, 2149.64 feet from the POINT OF BEGINNING.

Dated at Duxbury, Vermont, this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by the Selectboard of the Town of Duxbury, Washington County, State of Vermont.

\_\_\_\_\_  
Jill Smith

\_\_\_\_\_  
Paul Brusa

\_\_\_\_\_  
JoAnn Berno

\_\_\_\_\_  
Fred Collins

\_\_\_\_\_  
Harry Rook

BTV.426668.1