

Minutes of the August 10, 2009 Meeting of the Board of Selectmen.

Present: Neal Fox, Bill Richards, Joe De Freitas, Delbert Cloud, Chris Jarvis, Eric Richardson, Sally Hull of the Regional Planning Commission, Peter Gibbs and Erik Christman of Engineering Ventures, Phil Gates, and the following members of the Royalton Selectboard: Peg Trombly, Peggy Ainsworth, Larry Trottier, and Joan Goldstein.

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. The minutes of the July 27, 2009 meeting of the Selectboard were approved by motion of Joe De Freitas, seconded by Bill Richards and unanimously carried. The Constable's report of August 1, 2009 was reviewed and placed on file, as were the Recreation Committee minutes of July 22, 2009, and the Local Emergency Planning Committee minutes of April 16, 2009 and June 18, 2009.

The Board next reviewed the following documents associated with the financing of the Town Hall rehabilitation project, these being documents utilized by USDA Rural Development: Standard Form 424, USDA Form RD 1940-1, Form RD 1942-46, Form RD 1942-47, and the "Certification of Approval." After due consideration of these, Joe De Freitas made the motion to authorize Chairman Neal Fox to sign all documents on behalf of the Board, and to enter the following Resolution within the Minutes:

"WHEREAS, it is necessary for the Town of Bethel (herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of \$984,000.00 pursuant to the provisions of Vermont State Statutes; and

WHEREAS, the Association intends to obtain assistance from the Rural Housing Service, Rural Business - Cooperative Service, Rural Utilities Service, or their successor Agencies with 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 required by State statutes and 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 Form RD 400-4, "Assurance Agreement," and Form 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 legal 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 at 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 contract or 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 if 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 service, 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 only be 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 the Government. 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 hereof 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 and maintained, disbursements from that account may be used when necessary for payments due on the bond if sufficient funds are not otherwise available. With the prior written approval of the Government, funds may be withdrawn for:
 - (a) Paying the cost of repairing or replacing any damage to the facility caused by catastrophe.
 - (b) Repairing or replacing short-lived assets.
 - (c) Making extensions or improvements to the facility.Any time funds are disbursed from the reserve account, additional deposits will be required until the reserve account has reached the required funded level.
15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain the Government'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 the N/A 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.”

This motion was seconded by Bill Richards and unanimously carried. Chairman Fox then executed the documents as referenced above, herein.

At 6:30 PM, Chairman Fox welcomed Sally Hull of the Two Rivers-Ottawaquechee Regional Planning Commission, she being present per appointment to provide the Board with information about the potentials for re-vitalization of petroleum contaminated sites through the so-called “Brownfields” program. She explained how the program could be available to address private property owners’ interests by coordinating site assessments and developing plans for cleanup of contaminated sites. Since this information was for the Board’s awareness and not relevant to any specific situation, no action was required or taken by the Board. Ms. Hull departed at 6:45 PM.

The Board then considered a request from the Bethel Fire Department for permission to conduct a coin drop fund raiser on September 5, 2009 on Church Street between the hours of 10:00 AM and 2:00 PM. After due consideration, motion to approve the coin drop was made by Bill Richards, seconded by Joe De Freitas and unanimously carried.

Eric Richardson was then asked if he wished to speak with the Board on any particular subject matter. Mr. Richardson replied that he wanted to impress upon the Board how important he believes it is for re-paving to be done on Pleasant Street. Chairman Fox said the Board has decided to expend Town funds to do that work, even though there may be Vermont Agency of Transportation responsibility for it, and he added that the work itself is scheduled to start the week of August 17th. Mr. Richardson voiced his support for this. Chris Jarvis introduced himself and spoke of his association with Pike Industries, that company doing around 80% of the paving done each year by the Agency of Transportation. He spoke of the need for Vermont Legislators to be aware of the State’s paving needs, believing that such awareness is a “driving force” in getting work done.

At 7:30 PM, Chairman Fox welcomed members of the Royalton Selectboard, they being present per appointment to discuss in joint session with the Bethel Board business of the Solid Waste Program. Motion was made by Joe De Freitas, seconded by Bill Richards and unanimously carried, to adjourn the business under the Bethel Board’s meeting agenda until reconvening after the joint meeting with the Royalton Board. Initially, Delbert Cloud provided the Boards with budget status reports for the year ended June 30, 2009, and for the month of July 2009 in the present fiscal year. Several members of the Boards voiced concern over the amount of receivables outstanding at the end of FY’09, and Cloud was asked to provide information in the future regarding the status of receivables, hopefully depicting a decline in outstanding amounts. The services provided through the solid waste program were briefly discussed, with no suggestion forthcoming of new initiatives being required.

Delbert Cloud gave a brief history and update of the capital projects he has been working on for the facility, specifically: scales upgrading, development of a water supply, and modest site grading/paving to correlate with the scales portion of the project. He introduced Peter Gibbs, P.E. and Erik Christman, P.E. of Engineering Ventures, and asked them to give a presentation of the work that company has done to date, and what service could be provided in the future, to advance the “scales” project. Mr. Gibbs did so, and answered various questions to the extent possible at this time. Upon completion of his presentation, Mr. Gibbs and Mr. Christman departed, and the Boards resumed discussion of the envisioned work, and the financial considerations necessary to accomplish it. Delbert Cloud informed the Boards that he believes funds will be

available from USDA Rural Development in support of the project(s), repayable over a five year term. Given anticipated costs, Cloud presented a recent survey of rates charged by various other programs for solid waste services, and recommended that the tonnage rate should be increased to \$145.00 per ton, and that the bag rates for loose trash should be increased to \$2.00/15-gallon bag, \$3.50/30-gallon bag, and \$5.25/45-gallon bag. Motion accordingly, to be effective as of October 1, 2009, was made by Larry Trottier, seconded by Joan Goldstein and unanimously carried.

Discussion then turned to specifics of the scale and water supply projects, to determine priorities and an appropriate course of action. Upon completion of this discussion, motion was made by Joan Goldstein, seconded by Larry Trottier and unanimously carried, to proceed with plans to install a new 70 foot hydraulic scale and evaluate the potential of eliminating the present scale such that it would not intervene with the setting of the new scale. Larry Trottier also made the motion that the development of the water supply should also be advanced if the available loan funds appeared to be sufficient for the purpose once costs become better known, this being seconded by Joan Goldstein and unanimously carried.

The Boards returned to a discussion of the collection of receivables. It was noted that outstanding accounts essentially are using the program as a lending institution, and that the program is not charging any interest to encourage prompt payments. After due consideration, motion was made by Larry Trottier, seconded by Joan Goldstein and unanimously carried, to charge accounts that are past due one percent a month interest, this to be effective as of October 1, 2009.

A brief review was then made of certifications for the former landfill, and the current program, as well as the recently adopted "Solid Waste Implementation Plan" (SWIP). The tasks identified in the SWIP were discussed, as well as the cost implications associated with carrying them out. It was agreed that Delbert Cloud should present recommendations as to how these tasks would be encompassed as part of the budget process for fiscal year 2011.

With no further business to attend, the joint meeting on solid waste program business concluded at 9:30 PM and the Royalton Selectboard departed at that time.

The Bethel Selectboard then returned to its own agenda, first discussing the pending water system project wherein the River Street Bridge water main is being relocated. Advice has come from the Town's engineering company that an additional amount of bonding approval is necessary if the portion of water main passing beneath the railroad tracks is to be replaced. Motion was made by Bill Richards, seconded by Joe De Freitas and unanimously carried, to approve the following "Resolution" and enter same in the minutes:

"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 September 15, 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 associated “Warning” was then endorsed by the Board members.

The Board next reviewed documents provided by the Law Office of Paul Giuliani relating to the potential of refinancing the bonds for the sewer system construction. Given the number of years remaining on the amortization schedule, savings in the amount of \$22,899.63 could be realized. Motion was made by Bill Richards, seconded by Joe De Freitas and unanimously carried, to approve and endorse the following “Municipality Certificate as to Municipal Bond:”

“We, the Treasurer and at least a majority of the Selectboard of the Town of Bethel (the “Municipality”) HEREBY CERTIFY as follows:

1. Reference is made to the Tax Certificate or Arbitrage and use of Proceeds Certificate, including Schedule A-2, and IRC Section 148 Certification (the “Prior Certificates”) given in connection with a certain “Municipal Bond(s)” as defined in the Prior Certificates. The covenants, certifications, representations and warranties made in the Prior Certificates with respect to each Municipal Bond and the project financed by the proceeds thereof continue to be accurate and complete in all material respects and the Municipality expects to continue to comply with the covenants in the Prior Certificates.
2. As to expectations expressed in the Prior Certificates concerning events that were to occur prior to the date of this Certificate, such expectations have been fulfilled in all material respects. All of the proceeds and earnings on the proceeds of each Municipal Bond have been spent substantially in accordance with such expectations.
3. As to expectations in the Prior Certificates relating to periods that have not yet occurred, such expectations (and the representations and covenants on which such expectations were based) are hereby ratified and confirmed as of the date of this Certificate.
4. Also attached here to is a new Internal Revenue Service Form 8038-G executed by the Treasurer of the Municipality. The information set forth in said Form is accurate and complete to the best of our knowledge. We have been instructed by the Vermont Municipal Bond Bank that each Municipal Bond is now treated as a “refunding bond” as of the date hereof for purposes of Form 8038-G.
5. With respect to each Loan Agreement between the Municipality and the Vermont Municipal Bond Bank (the “Bond Bank”), and all amendments thereto, under which each Municipal Bond was issued, within thirty (30) days following a request by the Bond Bank, the Municipality agrees to furnish the Bond Bank with its most recent financial statements, explanatory notes and other financial operating information as the Bond Bank may request. In addition, the Municipality agrees to notify the Bond Bank immediately of any material event which has or may have an effect upon its financial condition or its ability to perform fully and timely any covenant, obligation or undertaking set forth in each Loan Agreement or each Municipal bond. As used in this paragraph, a material event is any one of the following:
 - (a) Actual or anticipated delinquency or default of payment of principal or interest on each Municipal Bond or any other debt obligation of the Municipality;
 - (b) Any actual or anticipated default or breach on the part of the Municipality with respect to any term or provision of each Loan Agreement or like agreement to which the Municipality is a party; or
 - (c) Any release, substitution or sale of property securing repayment of each Municipal Bond.
6. No portion of the proceeds of each Municipal Bond have been or will be invested, directly or indirectly, in Federally insured deposits or accounts other than (A) investments of unexpended Municipal Bond proceeds for an initial temporary period until the proceeds are or were needed for the Project, and (B) investment of a debt service fund.

7. With respect to any amounts received from condemnation, insurance, or disposition of any part of the Project financed by each municipal Bond or any other amounts set aside by the Municipality, which are or were pledged to, expected to be used or used for the payment of debt service on each Municipal Bond, the Municipality will so notify the Bond Bank and will either invest such amounts in obligation of the State of Vermont or other State or of any political subdivision thereof, the interest on which is exempt from Federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1986, invest such amounts in obligations having a yield that is less than the lesser of the Municipal bond or the Bond Bank Bonds, or comply with the provisions of any Accounting Memorandum attached to the Prior Certificates, unless specifically advised in writing to the contrary by the Vermont Municipal Bond Bank.
8. The Project financed by each Municipal Bond is and will be owned by the Municipality and will not be leased to any person who is not a state or local government unit. The Municipality has not and will not enter into any contracts or other arrangements, including without limitation, management contracts, capacity guarantee contracts, take or pay contracts or put or pay contracts, pursuant to which such persons have a right to use or make use of the Project on a basis not available to members of the general public.”

Delbert Cloud then provided the Board with bid results for the RFP to resurface Pleasant Street. The low bidder was Bigelow Paving of North Haverhill, New Hampshire. The company has said the work could be done before the first of September. The Board members agreed that the work should be awarded despite the fact that the responsibility for such paving properly belongs with the Vermont Agency of Transportation. The Board advised Cloud that the costs should be presented to the voters in the next Annual Meeting as a supplemental appropriation which would be picked up under the budget for fiscal year 2011, this being formalized by motion of Joe De Freitas, seconded by Bill Richards and unanimously carried.

The following communications were then reviewed and placed on file: (1) streamwater quality reports submitted by the White River Partnership, (2) four memoranda regarding health insurance issues supplied by the Vermont League of Cities and Towns, and (3) information from the League of Cities and Towns re. the annual Town Fair. Regarding the latter, motion was made by Joe De Freitas, seconded by Bill Richards and unanimously carried, to designate Delbert Cloud as the “voting delegate” for the annual meeting.

The Board then reviewed a memo from the Board of Listers and concurred with the Board of Listers and the Town Clerk that a mistake had been made in the tax assessment for Margaret Daniel for the years 2007, 2008, and 2009 for which the Town should issue reimbursement.

By motion of Joe De Freitas, seconded by Bill Richards and unanimously carried, the Board entered executive session at 10:05 PM for purpose of discussing litigation in which the Town is a party. Delbert Cloud was the only person remaining with the Board for the executive session. No minutes were kept. Upon return to open meeting, no action was taken.

At 10:40 PM the motion to adjourn was made by Bill Richards, seconded by Joe De Freitas and unanimously carried.

Neal Fox

Bill Richards

Joe De Freitas