**SELECTBOARD HEARING**

**September 16, 2019**

**CONCERNING THE DISCONTINUANCE OF LEGAL TRAIL 8**

**SITE VISIT**

**5:30 pm at the intersection LT 8 and Kidder Hill Road**

Present were: Selectboard members: Joe Pollio, Stan Mack, Cathy Siano-Goodwin and Chris Wallace. Also present: Hayden Lake and Don Dougall (Grafton Improvement Association).

The Chair opened the visit at 5:30 PM. Discussion, including the fact that the discontinuance would be for Kidder Hill Road to Route 121 E, approx. 1.10 miles. This visit ended at 5:30 PM.

**HEARING BY SELECTBOARD**

**6:00 pm @ Town Garage Meeting Room**

**220 Bell Road**

The Chair called the hearing to order at 6:00 PM.

Selectboard members: Joe Pollio, Stan Mack, Cathy Siano-Goodwin and Chris Wallace. Absent and on vacation: Al Sands.

Others present: Joan Lake, Don Dougall, Amber Stevens (for self and VAST), Nancy and Hardy Merrill, Dottie Cannon, Liisa Kissel, Sam Battaglino, Suzanne Welsh, Galen Pinkham, Frances Alford, Mark Hansel, Patrick Cooperman, Christine Tattersall, Charlie Hooker, Carol Lind, Camilla Roberts and James Silas of Windham Hill Pinnacle Association, Jane Lazorchak of VT Fish and Wildlife, Anna Vesely, Eric Stevens, Danny Taylor (Highway), Kim Record (Clerk) and Bill Kearns (Town Administrator).

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The Chair swore in the witnesses: Bill Kearns TA for the Town of Grafton. No one else asked to be sworn in.

The notice:

**Notice published in Grafton News and sent to interested parties as required by law states, in pertinent part:**

**As permitted by Title 19 Vermont Statutes Annotated Section 708 (19 VSA §708) on June 3, 2019 the Selectboard of the Town of Grafton, Vermont initiated the process to discontinue all of LT8 as stated below. On Monday September 16, 2019 - 5:30 PM the Selectboard of the Town of Grafton, VT, will view the layout of the existing public right-of-way known as Legal Trail 8. Length of the portion subject to this discontinuance is mapped on the current VTrans Grafton Official Map is 1.10 miles and will be discontinued in its entirety.** (Exhibit 1 and 3)

The Chair called on Bill Kearns to testify in the matter. Bill Kearns testified:

* **As to the law and compliance with the law:**
  + **19 VSA §708. Selectboard may initiate process.** Bill Kearns presented a copy of the minutes of June 3, 2019 Minutes in which the Selectboard by motion initiated the discontinuance of LT 8. (Exhibit 2) The Selectboard at the request of the landowner Hayden and Norah Lake initiated the process of discontinuance.
  + **19 VSA §709. Notice: 30 days to abutters of site visit and hearing send by certified mail, post copy of notice and publish notice 10 days before hearing and notice to Dept. of Forests, Parks and Recreation.** Bill Kearns presented the notice with proof of publication in Grafton News, certificate of mailing the Hayden and Norah Lake, written waiver of notice by certified mail by Grafton Improvement Association officers Dob Dougall, Pat Mack and Nancy Merrill, written notice to and letter of response from Forest Parks and Recreation stating they would not be appearing at the hearing, which did not contain any objection. Hayden Lake Nancy Merrill and don Dougall were present at the hearing. In addition, Bill Kearns presented a written statement from Michael M. Young waiving his notice and appearance provided all of the discontinued road ROW through his parcel per his subdivision note for Lot 3 went to his wife and him and acknowledging that the Lakes would have a ROW by law though his parcel. Proof of notice to the Planning Commission was also presented. (Exhibits 4, 5, 7 through 13)
  + **19 VSA 775 discontinued right-of-way lands revert to owners of abutting lands:** Bill Kearnsshowed the Parcel Map of the area of LT 8 and pointed out that the discontinued highway right of way went through and the ROW land reverted to Grafton Improvement Association as to Parcel ID No. 009056, to Hayden Lake and Norah lake as to Parcel ID No. 009054, except for the one half where this ROW is shared with Danny Young, one half to Danny Young the owner of Lot 2 of the Danny Young Subdivision Parcel ID No. 009047.3, entirely per subdivision notes for Lot 3 to Michael M. and Lorrie Young owners of Lot 3 of the Danny Young subdivision Parcel ID No. 009047.4 (Exhibits 4 and 9)
  + **19 VSA 717 maintenance of private right-of-way over Grafton Improvement Association lands, Danny Young land and Michael M. and Lorrie Young land for necessary access to Parcel ID No. 009054 and maintenance of the right-of-way.** Bill Kearns stated that by state law Hayden lake and Norah Lake retained a right of way over parcels 009056, 009047.4 and 009047.3 to their Parcel 009054 for access to and from and for maintenance of that right of way, citing 19 VSA 717. (Exhibits 4 and 9)
* **Discontinuance of a highway thought to have been laid out by the Selectboard and found in BK 1 (1B) page 150 and more precisely the discontinuance of the entirety (1.10 miles) of Legal Trail 8 as depicted on the Vermont General Highway Map, Town of Grafton, Prepared April 29, 2019.** Bill Kearns presented the 1825 layout description from Grafton Land Records BK 1 (B) page 150 and the layout on the Vermont General Highway map, Town of Grafton, Prepared April 29, 2019 of LT \* and stated that this LT 8 was proposed to be discontinued in its entirety. Bill Kearns stated that the public good, necessity and convenience of the inhabitants of the municipality require that the highway be discontinued and requested that the Selectboard discontinue LT 8 as so describer in BK1(B) page 150 of the Grafton Land Records and as depicted on the said Map in its entirety from kidder Hill Road to Route 121 E a distance of 1.10 miles. (Exhibits 3 and 6).

The landowners: representative of Grafton Improvement Association and Hayden Lake were present and offered no testimony, and no opposition to the discontinuance.

There were no other interested parties desiring to speak.

There being no further testimony, and no inquiries by the Selectboard, the Chair closed the Hearing.

The Chair asked the Selectboard whether it wanted to proceed to Findings and Decision or to go into deliberation at another time to make the findings and decision. The Selectboard after discussion indicated it wanted to proceed tonight.

The Chair then asked for finding of facts:

Motion by Stan Mack, second Chris Wallace to find:

* The Selectboard, at the request of the landowners, initiated these proceeding to discontinue the Legal Trail 8 from Kidder Hill Road to Route 121 East, a distance of 1.10 miles. 19 VSA §708.
* That all the notice requirements required by 19 VSA §709, including written notice to abutters Grafton Improvement Association and Hayden and Norah Lake, Michael M. and Lorrie Young, the Department of State Forest Parks and Recreation, publication and posting to the abutting landowners, named above and to the Grafton Planning Commission.
* All interested parties present, desiring to be heard, have been heard including Bill Kearns Town Administrator.
* All of Legal Trail 8 to be discontinued is 1.10 miles in length and is located on land belonging to Grafton Improvement Association, Hayden Lake and Norah Lake, Danny Young and Michael M. and Lorrie Young.
* The Tax ID Parcel Numbers of the parcels are Grafton Improvement Association Parcel ID No. 009056 and Lake Parcel Nos. 009054 and 009047.2, Danny Young Parcel ID No. 009047.3 and Michael M. and Lorrie Young Parcel ID No. 009047.4
* That the public good, necessity and convenience of the inhabitants of the municipality require that the highway be discontinued.
* That the discontinuance being upon the lands of the Grafton Improvement Association Parcel No. 009056 and Hayden and Norah Lake’s Parcel Nos. 009054 and 009047.2, and Danny Young Parcel No. 009047.3 and Michael M. and Lorrie Young Parcel No. 009047.4, the lands of the discontinued right-of-way revert to the ownership of the abutters pursuant to 19 VSA 775, which states that the discontinued right-of-way “shall belong to the owners of adjoining lands” thus the Grafton Improvement Association shall own the right-of-way passing through its parcel and, likewise Norah and Hayden Lake shall own the right-of-way running through their parcels, and Danny Young shall own the right-of-way running through his parcel, and Michael M. and Lorrie Young shall own the right-of-way running through their parcel.
* That Hayden Lake and Norah Lake retain a private right-of-way over the former town highway, Legal Trail 8, for any necessary access to their Parcel No. 009054 from Kidder Hill Road across the Grafton Improvement Association Parcel No 009056, Danny Young Parcel No. 009047.3 and Michael M. and Lorrie Young Parcel No. 009047.4, and for the maintenance of the right-of-way, pursuant to 24 VSA 717(c), which states in part, “shall retain a private right-of-way over the former town highway…for any necessary access to the parcel of land …and maintenance of his or her right-of-way.”
* That this discontinuance is of the entirety (1.10 miles) of Legal Trail 8 as depicted on the Vermont General Highway Map, Town of Grafton, Prepared April 29, 2019 and of the Town Highway described in Grafton Land Records BK1 (B) at page 150.

The Chair askes for additional findings. None were presented. The Chair called for a vote on the Motion. Motion passed 4-0.

**Decision of the Selectboard:**

The Chair asks for a motion for a Decision.

Motion by Stan Mack, Cathy Siano-Goodwin second that: Having found that public good, necessity and convenience of the inhabitants of the municipality require that the highway be discontinued, the Selectboard hereby discontinues Legal Trail 8 from the easterly side of the Kidder Hill Road Right-of-Way a distance of 1.10 miles, that is, the entirety of the length of LT 8 from Kidder Hill Road to Route 121 East, as depicted on the Vermont General Highway Map, Town of Grafton, Prepared April 29, 2019, including all of the portion described in BK1 (1B) page 150 in the Grafton land Records, the discontinuance being upon the lands of the Grafton Improvement Association Parcel No. 009056, Hayden and Norah Lake Parcel Nos. 009054 and 009047.2, Danny Young Parcel No. 009047.3 and Michael M. and Lorrie Young Parcel No. 009047.4, the lands of the discontinued right-of-way revert to the ownership of the abutters pursuant to 19 VSA 775, which states that the discontinued right-of-way “shall belong to the owners of adjoining lands” thus the Grafton Improvement Association shall own the right-of-way passing through its parcel and likewise Norah and Hayden Like, Danny Young and Michael M. and Lorrie Young the right-of-way running through their parcels, and in addition Hayden Lake and Norah Lake retain a private right-of-way over the former town highway, Legal Trail 8, for any necessary access to their Parcel No. 009054 from Kidder Hill Road across the Grafton Improvement Association Parcel No 009056 and from Route 121 E across the land of Michael M. and Lorrie Young Parcel 009047,4 and Danny Young Parcel No. 009047.3 for the maintenance of the right-of-way, pursuant to 24 VSA 717(c), and this decision shall be recorded in the Records of the Town of Grafton and properly indexed. This decision, when faithfully transcribed, shall be executed by all the members of the Selectboard, who were present at this hearing, and bear the date of this decision, that is, September 16, 2018.

The Chair asked for discussion or corrections, if any, on the motion. There was none. The chair called for a vote on the motion for the decision. The Motion passed 4-0.

Bill Kearns will prepare the written findings and decision for the signature of the Board Members using today’s date, as set forth in the Motion.

The Hearing ended at 6:35 PM.

**MINUTES**

**GRAFTON SELECTBOARD**

**Monday, September 16, 2019**

**6:35 PM: Meeting of the Grafton Selectboard:**

The Chair called the meeting to order at 6:35 PM.

**Selectboard Members present:** Chair Joe Pollio, Stan Mack, Cathy Siano-Goodwin and Chris Wallace. Al Sands was absent on vacation.

**Others present:** Joan Lake, Don Dougall, Amber Stevens (for self and VAST), Nancy and Hardy Merrill, Dottie Cannon, Liisa Kissel, Sam Battaglino, Suzanne Welsh, Galen Pinkham, Frances Alford, Mark Hansel, Patrick Cooperman, Christine Tattersall, Charlie Hooker, Carol Lind, Camilla Roberts and James Silas of Windham Hill Pinnacle Association, Jane Lazorchak of VT Fish and Wildlife, Anna Vesely, Eric Stevens, Danny Taylor (Highway), Kim Record (Clerk) and Bill Kearns (Town Administrator).

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Adopt Agenda. The Chair asked for a motion on the Agenda. Cathy Siano-Goodwin wished to add two items:

1. Comments from WRC on the Town Plan and October 17th Hearing on the Town Plan – the make-up of the Agenda. The Chair suggested that those be added as items 8A and 8B. Stan Mack moved the adoption of the Agenda as amended, second Chris Wallace. Motion passed 4-0.
2. Approve Minutes: September 2 and September 5, 2019. Stan Mack moved, second Cathy Siano-Goodwin to approve the minutes of September 2, 2019 as presented. Motion passed 3-0 with Chris Wallace abstaining. Stan Mack moved, second Cathy Siano-Goodwin to approve the minutes of September 5, 2019 as presented. Motion passed 3-0 with Chris Wallace abstaining.
3. Warrants, as signed, presented to Selectboard
4. Action on LT8 - Confirm the discontinuance of 0.3 of TH #35 per the decision made at the hearing. Motion by Chris Wallace, second Cathy Siano-Goodwin to adopt the Findings and Decision to discontinue LT8. Motion Passed 4-0.
5. Jane Lazorchak, Land Acquisition Coordinator, VT Fish and Wildlife Department. Also speaking Camilla Roberts of Windham Hill Pinnacle Association (WHPA) Grantor of the conservation easement to VT Fish and Wildlife (F&W). This is the former Goodrich property in southern Grafton and in Athens. This conservation easement is in mitigation of the Deerfield Wind project. There are 158 acres in all 94.5 in Grafton abutting Turner Hill property. Primary purpose is bear habitat conservation where F&W will study bears, in conjunction with the study at Deerfield Wind, protecting land and Birch tree mastings for the bears. The State F&W will administer the WHPA land. As per the easement, outdoor activities including VAST trail use will be preserved, and the area will be open for outdoor recreation. This land remains in private ownership with no change in taxes. So VAST can maintain trails and much of the land will be under forest management. All historic access to the land is maintained, including hunting. Amber Stevens asked about trail maintenance, and use, and was told that will all be as it is now and preserved by the conservation easement. Camilla Roberts reiterated the hiking, VAST and pedestrian use of the land. Camilla Roberts stated the land is not in trust but rather under State management through a conservation easement. Bill Kearns asked the Chair if he could obtain a copy of the conservation easement so that he could peruse before sending the requested letter of support. Jane Lazorchak stated it would be sent the next day. MOTION by Stan Mack second Chris Wallace to sign the letter of support after the review of the Conservation Easement provisions. Motion passed 4-0.
6. Highway Report
   * Discussion regarding retreatment surplus and what to do with it considering Art 21 of the March 6, 2018 Town Meeting. Need decision at Oct 7th meeting. Discussion as to the intent and the amount of money the SB wants to transfer into the Highway Retreatment separate account set up by the approval of Article 21. [“To establish a reserve fund to be called “The Highway Retreatment Fund” to be used for highway retreatment in accordance with 24 VSA 2804.”\*] There was discussion about mandatory amounts going into this fund or discretionary. Kim Record stated that Sullivan and Powers like the wording of the Article in that it left the amount to be put into the fund discretionary. Stan Mack stated he thought is should be all the funds received for retreatment that were not expended during the year, and discussion of this ensued including the danger of going into a deficit budget situation if all the retreatment money received was put into this Fund this year. Kim Record stated per the CPA, the surplus funds from highway had to remain highway funds, but could be put into Capital Budget items, Retreatment, or use to reduce any budget shortfalls, that is, any deficit. Danny Taylor stated whatever surplus in highway funds should go to retreatment but should not result in a deficit. Stan Mack and Joe Pollio agreed with Danny Taylor. More work would be done on this and consultation with Kim Record as Treasurer and Decision would be made at SB meeting on October 7th.
   * Discussion regarding request for Road Safety Audit Report from VTrans for Cambridgeport Bridge / Rte. 35 intersection. Action to be taken, if decide to request audit. Discussion. MOTION by Stan Mack, second Chris Wallace that the Town request VTrans to do a Road Safety Audit on the intersection of the Cambridgeport Bridge and Rte. 121/35. Motion passed 4-0.
   * Ongoing-work report: Hauling winter sand, Grading, Mowing, Work with Conservancy to clean up Danny young’s property – Don Dougall: cash match is being provided by Grafton Improvement Association
7. Discussion of Selectboard Policies and Procedures. A copy of the procedures was present at the meeting. The Chair stated:
   * Procedures were adopted February 19, 2018. Roberts Rules are not part of meeting procedures.
   * The procedures apply to the Board. SB meetings are the Board’s meeting held with the public present. SB meetings are not a Town meeting. The public can speak when recognized and they will be recognized as provided in the Rules of Procedure. The chair stated that he had been lenient with the Rules but will be less so in the future. When the public is allowed by the Rules to participate, the comments will be germane and material to the discussion, or not allowed.
   * At a recent meeting a point of order was made, which was out of order because not made by a member of the Board and, in fact, was more discussion not a point of order. He said he has been lenient in the past but now will control the discussion per the Rules. The Board needs to help keep him and themselves in order per the Rules of Procedure.
   * As for the Agenda: if you wish an item on the agenda call Bill Kearns with the item, remembering the Chair, by Rule has the discretion to include it or not.
8. Gravel Pit update; search for sites. Stan Mack reported that for the last few years we have been purchasing our sand and gravel, while previously we had our own pit. With that in mind the SB has been looking for pit property. Thus, he and Joe Pollio visited with Arol and Luann Ward, and viewed the land where the Ward’s live. This was preliminary discussion but included permission from them to go ahead with our research including entering the land to look and surveying that portion of the land we would be interested in, if any. Bill Kearns and Danny Taylor will proceed to try to find out what is there and where. Kim Record is concerned that we put the matter in our budget. And the SB members agree.

8A Town Plan – WRC review. John Bennett has it and we were told two weeks or so to review. Bill Kearns will check. Liisa asked if the Report of the PC had been sent. Bill Kearns said no, because no report was ever delivered to the Selectboard as required under 24 VSA 4385.

8B Agenda for Oct 17 Hearing: Bill Kearns stated it would be simple, open the meeting, open discussion of the Town Plan for comment by the Public. We need a 4385 Report from the PC by the hearing date.

1. Public Comment.
   * Liisa Kissel said there was a concern on the Planning Commission about a conflict. [Note: Planning commission has never raised this issue to the SB] Response by Chair: Checked with VLCT and there is no legal conflict and State Law, per VLCT, does not list the offices as incompatible. Ana Vesely further commented on the issue.
   * Kim Record addressed the property tax bills. The blue bill is the next due and that payment is due October 15. The Chair stated he wanted Carolyn Partridge and Matt Thieber at the next meeting to address the issue from the legislature’s point of view. Also asking Dave Clark to give an update on the state of the lawsuit.
2. Other Business - None
3. Date of Next Selectboard Meetings: October 7, 2019 at the Town Garage, 6 PM.
4. Adjourn. Motion by Stan Mack, second Chris Wallace to adjourn the meeting at 7:35 PM. Meeting adjourned.

Respectfully submitted,

William G. Kearns

**\* § 2804. Reserve funds; use**

(a) At an annual or special meeting duly warned, a municipality may establish a reserve fund to be under the control and direction of the legislative branch of the municipality. The reserve fund shall be kept in a separate account and invested as are other public funds and may be expended for such purposes for which established, or when authorized by a majority of the voters present and voting at an annual or special meeting duly warned, for other purposes.