

Agenda
June 2, 2020
Warren Selectboard
6:00 PM
VIA Zoom

6:00 PM - Public Comment

6:15 PM - COVID -19 Update – Jeff Campbell

6:30 PM – Warren Public Library Trustees – Dave Ellison – Relative powers between the Selectboard and the Library Board.

7:00 PM – Adopt-A-Site Program – River Side Park – Corrie Miller, Friends of The Mad River

7:15 PM – Road Use Application – Round Tree Construction – O’Brien – Senor Road.

7:30 PM -Approval of Minutes from May ²⁻¹⁰19, 2020

7:31 PM – Approval of Accounts Payable and Payroll Warrant

7:32 PM – Other Business

Approve State Education Warrant for \$3,331,941.80.

Approve Lister Extension to June 15 to Lodge Grand List

Meeting ID: 456 874 542

Dial by your location:

1-312-626-6799 US (Chicago)

1-929-205-6099 US (New York)

1-346-248-7799 US (Houston)

1-669-900-6833 US (San Jose)

1-253-215-8782 US

1-301-715-8592 US

I am speaking today on behalf of the Warren Library Board.

I have been a member of the Library Board of Trustees for 15 years. Our board has always worked to function in a spirit of cooperation with the Warren Select Board in managing library functions and activities. However, it is important to recognize that both boards are comprised of officials elected by the town voters, with separate authorities in their areas of responsibility. Some recent actions by the select board have highlighted our concern that the select board does not recognize this separation of powers.

Over the past years, the Warren select board has assumed the right to review and modify the library budget prior to presentation of the budget at town meeting. A specific action taken in 2019 was the unilateral decision to remove the merit increase approved by the library board for our librarian in the 2019 library budget without seeking agreement from the library board. Another example of a recent select board action was their decision to defund hourly employees, believing that it included library employees. This decision was made without input from the library board or employees. While the Library Trustees agreed with defunding our part time circulation desk employee and the Select Board eventually agreed to keep our children's librarian on the payroll, those decisions legally fall under the legal jurisdiction of the Library Board of Trustees."

Under Vermont state law and court rulings, the Library board is classified as an entity independent of control by the select board. According to the Vermont Law of Public Libraries "The municipal public library is more than merely a department of the town. Unless a community has a charter or special law that provides otherwise, library trustees are given broad authority to oversee the library." (section 2: Municipal Libraries, c)Authority) Regarding the funding of public libraries the law states "Let's start with public money raised on the grand list for a municipal public library. The voters have agreed to an appropriation, and the money is dedicated to libraries. Part of the "full power" of library trustees includes the full power to spend this money. The selectboard or village trustees are not involved. The library trustees have the authority to order the town treasurer, through a voucher, to draw checks on the library's money to pay salaries and other bills." (C. Who is in Charge, 4. Money)

The Hartford Board of Library Trustees and Town of Hartford already took the time and expense to take the issue of separation of powers to the Vermont Supreme Court which ruled that the select board and town manager may not set the librarian's salary, determine hours of operation for the library or direct how the

library's money is to be spent. The court said, In fact, the town cannot, in the name of administrative efficiency, infringe upon the Library Board's full power to manage library operations. One element of this independence is cited in the supreme court ruling: "The fact that, for the sake of administrative efficiency, the library and Town have agreed to include the librarian as a town employee for the purposes of providing employment benefits such as worker's compensation and unemployment insurance does not mean that the Board has relinquished its statutory authority to manage the library and thus set the librarian's compensation".

At the 2019 town meeting, the town voters approved the library budget, which included a merit increase (1%, not defined in the narrative). I quote the narrative included in the town meeting book "we are recognizing this accomplishment (achieving librarian certification) with a merit increase reflected in the 2019 proposed budget". Given the confusion related to the number of weeks to be paid in 2019, there was no way for the public to even review the actual pay levels, but the budget was approved including the provision.

The library board will continue to work cooperatively with the select board to manage the library for the benefit of the town. However, it is important that the select board recognize the independence of library management. One specific action we shall be taking at this time is to direct the town treasurer to retroactively increase the librarian salary from the beginning of 2019 to reflect the 1% merit increase approved by the voters. This action would include a one-time payment to reflect the merit increase not paid from Jan 2019 to today. For your information, this action will not jeopardize the library's approved 2020 budget due to cost reductions related the current health crisis.

Thank you for your time.

Minutes of June 2, 2020

Warren Select board

VIA Zoom

6:00 PM

Members Present: Luke Youmell, Bob Ackland, Camilla Behn, Randy Graves, (Mr. Cunningham joined later).

Members Absent: None

Others Present: Jeff Campbell, TV 44/45, Hadley (VR), David Campanelli, David Ellison, Ellen Kucera, Alex McClay, Laurie Jones, Corrie Miller, Ric Santan Maria & Cindi Jones.

6:00 PM – Public Comment – Mr. Campanelli inquired if all the Selectboard Members had received his email with questions regarding the pit ditch fill. Members of the board did not receive. His questions were:

1. How much fill is allowed to be taken by one person.
2. Is the pit open to anyone who wants ditch fill.
3. There is a loader there with a key in it and is it for anyone to use? He also commented that the protective berm on the south east side is nonexistent. Mr. Youmell commented that the small one belongs to Shane Elwell and that people can take as much fill as they want if they have something to load it with. Mr. Youmell stated that he did not believe that the two contractors were digging into the berm but would check.

6:10 PM – Covid-19 Update – Mr. Campbell – Mr. Campbell reported that there were 608 cases of covid with 21 cases since last Tuesday. There are multiple pop up sites around the state for people that can get tested for Covid. The State now has a traveler website giving information to out of state visitors and Mr. Campbell will link it to the Town's Website. The DMV is opening on Monday starting testing's for drivers that were cancelled. There is a food distribution happening in Berlin and information is posted on the Vermont Emergency Management website. The State is asking people to keep a list of those who you have been contact. There are links on the website about Vermont State Parks and gyms, hair salons, nail salons, massage services are opening up. In the last week there were 21 new cases. Ms. Behn asked about the 21 cases and are they attributing it to testing? Mr. Campbell responded saying that they have been doing 6000 tests which that number is about 15%. In Washington County the number has not changed since COVID started. The low cases are being contributed to people staying home, wearing masks, washing their hands etc.

Mr. Campanelli inquired with the warm weather and the gatherings of 25 if the Selectboard members would consider having public meetings outside at the Town Green if people maintained the social distancing. Mr. Ackland commented that the board has not found any failures with zoom meetings and will start to think about face to face.

6:15 PM – Warren Public Library – David Ellison and Members – Mr. Ellison read a statement from the Warren Public Library first. (Attached). They are coming to the board in the spirit of collaboration of the two boards and elected officials regarding recent activity. Discussing where the division of powers between the Library Board and the Selectboard stand. The Library Board statement and reference to Vermont Law states that the Library Trustees has power over their budget and their employees.

Two things came to light regarding that the Library *Trustees have the right to set salaries and last year the voters approved an extra 1% merit raise* for the Librarian who did not receive that. The Library Board would like to have that paid from January 2019 to present. Mr. Ackland commented that the Library has always presented a budget and they spend it how they want to. The library employees are connected because they get their benefits and salaries from the town. Mr. Ackland commented that the Selectboard has come a long way in recommending raise percentages to be fair with all the employees of the Town. (Mr. Cunningham Joined the meeting). Ms. Behn commented that shouldn't the library establish its own personnel policies separate from the town? Ms. Kucera commented that the Library does have an employee policy. Ms. Behn would like to see that policy. Mr. Ackland commented that the way the budget and raises has been done over the years there have been no issues until last year with the merit raise and the extra payroll period. Mr. Ackland commented that they want the staff all on equal footing and didn't think that they violated the boards power. Mr. Ellison made reference to the Covid-19 issue when the Selectboard made a decision on sending employees to work at home and temporarily not paying non-essential employees such as the library aids and children's programming director. Mr. Ackland commented they were just following the Governors orders, however, the Library board felt that it was within their powers to decide. There was no collaboration with the library board on this. However, issue was resolved a few weeks later.

Ms. Behn commented that it would seem that the libraries employees are lumped under the town to administer benefits. Should they specifically be exempt from the Town policies. Mr. Ellison commented that we don't want to be different but we would just like to have better communication. Mr. Ackland commented that the Selectboard could designate a representative as a liaison to the library and the library would designate a representative.

6:33 PM – Road Use Permit – O'Brien – Senor Road – Rick Santan Maria, Round Tree Construction – Mr. Santan Maria is asking for a Road Use Permit for digging up Senor Road and installing a Power Line under the road to the O'Brien's new home as per regulations and codes specified by Green Mountain Power. The board would like it at 4' in depth and compacted in 1'foot lifts and encased in cement. Mr. Santna Maria commented that it is installed by GMP Standards 3' down, 40' feet of schedule 40 pipe encased in concrete. Mr. Cunningham commented that 4' would be better and are you concerned about Frost? Would a layer of insulation help? Mr. Santan Maria commented that the insulation would be counterproductive as your whole road bed shifts with frost. Mr. Cunningham asked about time line and Mr. Santa Maria commented that it would late June/July before this would occur.

Motion by Mr. Cunningham to grant the Road Use Permit for O'Brien to stipulate that it is 4' down/trenched, encased in cement, compacted in one-foot lifts, second by Ms. Behn. All in Favor: Vote: 5-0.

6:38 PM – Approval of May 26, 2020 Minutes – Motion by Mr. Youmell to approve the Minutes of May 26, 2020, second by Mr. Graves. All in Favor: VOTE: 5-0.

6:39 PM – Approval of Accounts Payable Warrants as presented – Motion by Mr. Ackland to approve the Accounts Payable Warrant as presented for \$17,599.69, second by Mr. Youmell. All in Favor: VOTE: 5-0.

6:40 PM – Approval of Payroll Warrant – Motion by Mr. Ackland to approve the payroll warrant as presented for \$8,492.87, second by Mr. Youmell. All in Favor: VOTE: 5-0.

6:41 PM – Approval of State Education Warrant for \$3,331,941.80 – Motion by Mr. Youmell to approve the State Education Warrant for \$3,331,941.80, second by Mr. Graves. All in Favor: VOTE: 5-0.

6:40 – Lister Extension Request – The Listers presented a letter to the Selectboard asking for an extension of filing the Grand List until June 15. Motion by Mr. Ackland to grant that extension, second by Ms. Behn. All in Favor: VOTE: 5-0.

6:42 – Other Business – Picnic Area on RT 100 – Mr. Campbell will drive by and see if there are any over night people parking there.

Mr. Campanelli as if the decision of the grievance from the special meeting on May 28 after the 7 days as per policy would be made public and how? Mr. Cunningham commented that the Town will be informing Mr. Weston's lawyer and that the Selectboard would put it on the web and announce it at their next meeting.

June 16, 2020 – Mr. Ackland stated there would be a joint meeting with the Planning Commission on a presentation of the Mad River Housing Study.

Ms. Miller, Friends of the Mad River, in an email asked about the removal of a muffler in the stream at River Side Park. Mr. Youmell said he would look into it and see if he can remove it. Someone inquired can we remove it out of the stream? Mr. Campanelli commented that he received information from the state that a landowner can remove up to 10 cubic yards without violating state regulations. He also commented that in the Town Regulations section 3.1 Surface Water Protection 50' Buffer Requirement that the section is too restrictive and unenforceable and should be reviewed. Mr. Graves commented that the Planning Commission has done a lot of work on that topic from 2013-2020 in the zoning rewrite. He will have a response for Mr. Campanelli questions.

6:59 - Adopt-a-site – Corrie Miller, Friends of the Mad River – Ms. Miller came to the board to report that they are converting the mad river watch group to stewardship because the state has cut their funding on sampling. They are only testing 12 sites at the 12 swimming holes and limiting samples to E. coli. They are changing the program to stewardship and Ms. Miller said she had one volunteer who wanted to do maintenance stewardship at the Riverside Conversation Area. They all recognized the stewardship and that is a flood plain and there are specific regulations regarding that.

7:16 PM – Motion to adjourn by Mr. Youmell, second by Ms. Behn. All in Favor: VOTE: 5-0.

Minutes Respectfully Submitted by,
Cindi Jones Warren Town Administrator

The Warren Select Board

Andrew Cunningham, Chair

Bob Ackland, Vice Chair

Luke Youmell

Randy Graves

Camilla Behn