

Royalton Selectboard
Bloss Ballou Rd. Discontinuance Proceedings – By Petition
Knights Opera House

June 14, 2011

Public Present: Sign in sheet

Selectboard Present: Chairman Larry Trottier, Ernie Amsden, Peggy Ainsworth, Joan Goldstein, Phil Gates

Chairman Larry Trottier opened the meeting at 5:05 p.m. Administrative Assistant N. Cleveland was asked to read an opening statement concerning the rules that would be used during the upcoming discontinuance proceedings. Mr. Cleveland read the following:

“Welcome to the public hearing portion of the discontinuance proceedings by a petition that was received on April 12, 201. This petition has asked the Selectboard to consider discontinuing a portion of the “Bloss Ballou Road” that lies on land owned by Perry and Carol Hodgdon. The specific section of the road is that section located between Post Farm Road immediately north of the Hodgdon barn and the common property line between the Hodgdon and the Bensons to the south. Notices of the discontinuance proceedings were sent via certified mail, to all who signed the petition as well as any abutting land owners along the entire length of the road. Notice of the hearing was also duly provided to the Royalton Planning Commission, and was duly posted throughout the town of Royalton in the designated notice locations, and was duly posted in the Randolph Herald on June 2nd and June 9th. The Selectboard and any interested parties have attended the site inspection on June 14, 2011 at 5:00 p.m. and observed the right-of way proposed to be discontinued.

This public hearing will allow for testimony from persons with statutory standing to have an opportunity to speak on this proposed discontinuance. These persons will be given a maximum time of 10 minutes to express their concerns. Anyone who wishes to present testimony should first identify themselves, state their residential address, and also state the address of any other real property they own which may be affected by the proposed discontinuance or what other interest they may claim to have in the right-of-way proposed to be discontinued. This is not a time to debate the proposed discontinuance. We are here to hear facts through testimony of individuals. This information will be used by the Selectboard to decide if the proposed section of the road should be discontinued. This decision will be made in writing and recorded with the Town Clerk within 60 days after this public hearing.”

Discontinuance Proceedings By Petition (Portion of the Bloss Ballou Road)

Interested persons and the Selectboard gathered at the Knights Opera House and then traveled to the location of the road that is being considered for discontinuance by a petition that was received on April 12, 2011. The parties inspected the portion of the road that is proposed.

Reconvened Public Hearing Portion of the discontinuance proceedings at 6:24 p.m..

Board member E. Amsden reiterated the rules that would be followed concerning hearing testimony.

Mr. Ronald Benson, residential address 1715 Rix Road, South Royalton, VT, with property that would be affected by the discontinuance. Mr. Benson spoke against the discontinuance of the proposed portion of the road. Mr. Benson noted that his father had installed a culvert on a field road to allow access to the property owned by his family. He noted that the field road had been used for 40 years prior to this. He noted that he and his family do not want to see the barn or pond to be removed but only want access to their property which could be done if the existing field road could be used again.

Carol Hodgdon, residential address 301 VT Route 12 N, Randolph, VT with property that includes the portion of the road that is being asked to be discontinued. They are asking that the road be discontinued from the barn through the pond to the property line with the Benson family. She noted that the Hodgdon family had offered to relocate the road to the “berm” or the lower side of the barn. She noted that it has been a year and a half and no one has done anything with the disputed road.

Delbert Thurston, residential address 332 Happy Hollow Road, S. Royalton, VT. Mr. Thurston noted that in 1973 he was road commissioner for the town of Royalton. At that time the Benson family was trying to get a harvest of logs off of their property, and they were denied access to their property. Also at that time the road was still a town highway, and it was agreed that the Benson family could go around the “high drive” to get to their logs out. It was a gentleman’s agreement at that time that it would be a permanent access to the Benson property rather than taking the high drive out of the barn. The agreement was not in writing.

Mr. Greg Lamson asked what was wrong with the right of way above the barn by the berm.

Eddie Benson, resident of Randolph Center, and co owner of some of the land that would be affected by the proposed discontinued portion of the road. This right of way that would be west of the high drive and west of the pond that would connect to the town road would be a way for anybody to get there. It is now a town road and should be three rods wide. 7-8 years ago they were told that they could not go through the field road. Tonight was the first time in 8 years that she has been to her family’s land. She would just like access to the land.

Carol Hodgdon, 301 VT Route 12 N., Randolph, VT – noted that 2 additional right of ways.

Katherine Hodgdon, resident of 837 Post Farm Rd., South Royalton, VT for 14 years. Ms. Hodgdon noted that a gentleman’s agreement is between the individuals and that

when one member of the agreement dies, and land gets transferred. She felt that permission should be asked to allow access across their land again. Her grandmother and grandfather died and the property went to her father. She asked that it would be correct to ask for permission to cross their property.

Delbert Thurston, responded that the agreement would be different if it was not a deeded town road. The High drive by state law maintained at 12 feet 1 inch and the pond was dug in the right of way without written permission from the elected road commissioner or the Selectboard.

Carol Hodgdon responded by saying that if it were a town highway, wouldn't the Selectboard have objected at the time the pond was installed. She also noted that the Royalton Selectboard did not object when access was denied to the Benson family 7-8 years ago.

Monica Clark, resident of 970 Post Farm Road, S. Royalton, VT, with property that abuts the road. She noted that she always believed the road was a town road and wondered why permission would be needed to use the road.

Carol Hodgdon, asked why would they have to go to court to take over the road. Chairman L. Trottier noted that we are not hear tonight to discuss the reason why we had to go to court. Mrs. Hodgdon asked if the town had someone perform research, and asked what they found. Board member Mr. E. Amsden noted that we are here tonight because there was a petition signed by a sufficient number of voters to require us to have this proceeding; we are not here to answer questions we are to take testimony.

Monica Clark – so you are throwing up the road, she asked where is the road that you are throwing up? She thought the road was always in the location that it is. Board member Mr. E. Amsden noted that the Selectboard is not decided if the board would discontinue the road. The Selectboard is only doing this because we are required by law, because a petition was submitted by the requisite number of voters in the town of Royalton. That is the only reason why we are here tonight, and the decision will be made within 60 days, and the decision might be yes or it might be no.

Mr. Perry Hodgdon, resident of 301 VT Route 12 N., Randolph, VT, with land that the proposed section of road to be discontinued is located on. Mr. Hodgdon asked if the town had positively identified the location of the road? Board member E. Amsden stated the survey pins identify where the road is, by order of the court. Mrs. Hodgdon stated that the court and Supreme Court (Vermont) went to the left of the barn to the berm area. Supreme Court said it went under the high drive. Mr. Hodgdon stated that when Lisa Ginet surveyed the road (the first time) she could have placed the road under the high drive or up as far as the berm, in that area anywhere and she chose to place the road under the high drive. He stated that before anything went too far he would like to identify the old road, and he did not think that the right background work has been done. He has been told that the location of the old road could be up by the berm or could have gone through the high drive. Board member J. Goldstein noted that the difficulty we are having is that

the Supreme Court has ruled that the road is located where the survey pins are located, and that the town is not going to go against that, and that if the Selectboard discontinue the road as is suggested by petition how, what would be the alternative way the Benson family can access their property. Mrs. Hodgdon responded by stating they have one from Slak Hill road and an audible road right of way given to them by their father Everett Benson through the wood lot from route 14 to their property and it is an audible road right of way given to them and they could build a road that way. Audience member noted there is no road there. Mrs Hodgdon responded by saying she has walked it. Chairman L. Trottier stated that we could talk about the Bensons or we could talk about whatever but this is a public right of way, a class 4 road going through there; and he thinks it does not specifically has a merit if the Bensons can go another direction or not. We are actually trying to make a determination that this is a public road and that the court has determined this. We must provide a way to access this public highway. Mrs. Hodgdon state

Bill Peterson, his wife and he own property on Slack Hill Road in Royalton, VT, and that the class 4 road would go through their property and end there. He and his wife are not keen on having access through their end of the class 4 road. He stated that he understood that this end has not been surveyed and there is probably a ½ mile of surveying to be done and that access to the Benson property would be 4 -5 times the distance as the route that was looked at tonight. He stated he did not see the merit to throw up a valid road in order to have access from a road that is not surveyed and is not developed and is 4-5 times as long.

Ron Benson, the right of way discussed from VT route 14 to their property runs through Mr. Angel's property and is impassable. He noted that this is a skid road that was used when he was a kid to get logs out.

Chairman Trottier noted this access is not what we are talking about, but we are talking about the discontinuance of a class 4 road where it has been surveyed.

Mr. Delbert Thurston stated that this is a family deal but this is not a family road but a public town owned highway that every person who is a legal licensed operator in the state of Vermont with a legal licensed motor vehicle has the right to travel that road, and there is no right to bar it, blockade it in any way, shape or manner.

Mr. Hodgdon stated that this road is not suitable for travel; there are wetlands by the berm, and a little brook that would need a culvert put in if a road was to be located where he would consider putting one in, if he was to do that then cut some trees to access the lane. It is not a car road, it is a 4 wheeling road or a jeep road. Chairman L. Trottier noted that the road is an unimproved class 4 road and that anyone who owns property may ask the town to improve the road if they wish to use it, and the town is not obligated to do that but a logger or resident may do so with town permission.

Mrs. Hodgdon asked why the Bensons have not done so. She stated that this is stated in the town's Highway policy that she attached to her handout.

Board member E. Amsden stated we are talking about whether or not a road should be discontinued and not about building a road.

Monica Clark stated that since we are talking of discontinuing a portion of the road how would this be done?

Chairman L. Trottier stated that he was unclear as to the process but there are people who would be contacted with authority and knowledge on all of this stuff and that is what we will be doing next after this fact finding meeting tonight and the public hearing, and that's what we are doing; we are trying to evaluate what you folks have to say and then we can go on further to know what our obligations are legally as well as other ways. Chairman L. Trottier asked for further comments, and hearing none thanked the people in attendance for their thoughts, and view points, on this difficult time consuming subject. At this point the public hearing portion of the discontinuance proceedings were closed.

Larry closed the public hearing portion at 6:43 p.m.

Chairman L. Trottier opened the regularly scheduled portion of the Royalton Selectboard meeting at 7:04 p.m.

Noted that there were 2 vacancies open on the planning commission. Discussion ensued on the appointment process.

Public Concerns

Selectboard Minutes of May 24, and June 7th. Tabled.

Inter-Municipal Policing Contract

Chief of Police, Bob Hull opened discussion on the contract that needs to be renewed with the Town of Sharon for policing services provided by the Royalton Police Department.

JG/PG motion to approve and sign the contract with the town of Sharon for policing services provided by the town of Royalton. The motion passed unanimously.

Discussion on need to update the traffic ordinance to allow the unloading zone on Chelsea street to be enforced.

South Royalton Village Green – Electrical Service Proposals

N. Cleveland presented proposals for the proposed relocation and replacement of the electrical service to the south Royalton village green.

EA/PG motion to award contract for electrical service to the South Royalton Village green. Motion passed unanimously.

Mr. Bob Slatery

Mr. Slatery addressed the Selectboard concerning his interest in serving on the Royalton Planning Commission. He provided a background on his work experience and interest in

serving the town. He also noted that he would like to know what the goals of the Selectboard would like to see. J. G noted that without zoning and subdivision bylaws there is a lack of guidance. The key is that the proposed zoning bylaws have been presented to the Selectboard for consideration and feedback for potential town wide vote of approval in March 2012.

Discussion continued concerning the role of the planning commission and its relationship with the Selectboard, as well as the role of the Town Plan as it relates to project development.

Town Clerk – Blanket Approval of Fitz Vogt Enterprises, and Approval Authorization

Administrative Assistant N. Cleveland opened discussion on the request for a blanket approval of Fitz Vogt Enterprises for the purpose of catering VLS events on private property. He noted that Leanna Zick the Town Clerk has requested to be authorized to grant approval for the state's permit requirements.

JG/EA made a motion to grant Fitz Vogt Enterprises a blanket approval for the remainder of the 2011 year and authorize town Clerk Leanna Zick to approve the applications submitted.

Vermont Law School – Proposed Fitness Center

PG/EA approve interim connection. Motion passed unanimously.

Mr. Tom Simmons – Request for parking variance (Catering Trailer)

Discussion ensued on Mr. Simmons request to grant a parking variance to allow his catering trailer to remain on the south Royalton village streets overnight. Mr. Simmons was asked to attend the next meeting to discuss is request.

Fire Department

Request for open container variance for Old Home Days (July 14 – July 16)

Fire Chief David Whitney has requested that the Selectboard lift the open container ordinance for Old Home Days.

PA/PG motion to lift the open container ordinance for old home days (July 14 – July 16). Discussion ensued on the request. The motion passed with J. Goldstein abstaining.

Reconstruction of bean hole on South Royalton Village Green

PA/EA motion to approve the reconstruction of the bean hole.

Crawford Property

Brownfield assessment is expected within a week.

Excess weight

PG/EA motion to accept. Motion passed unanimously.

Minutes of May 24, 2011

JG/PA motion to approve the Selectboard minutes of May 24, and June 7. The motion passed unanimously.

PG/EA Motion to enter into executive session to discuss pending litigation inviting N. Cleveland.

Entered at 8:51 p.m.

Exited at 9:25 p.m. with no action taken

Additional business

Meeting adjourned at 9:48 p.m.

Respectfully submitted by:
Nathan P. Cleveland