

**STOWE SELECTBOARD MEETING**  
**Monday, August 9, 2010**  
**Akeley Memorial Building – Banquet Room**  
**AGENDA**

**Revised 8/9/10**

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|---------|---|--|
| 5:30 pm | 1 | Call To Order<br>-Sign Selectboard Orders  |
|         | 2 | Approve the Agenda   |
|         | 3 | Consent Items<br>A. River Rd Repair Closeout<br>B. Emergency Operations Plan<br>C. VLCT Voting Delegate<br>D. Award FY 11 Sand/Gravel<br>E. Amend Paving Contract re Park Place<br><b>F. VLCT PACIF Safety Grant</b> |
|         | 4 | Liquor Consent Item<br>A. Catering Permit – Kneale Family Ent.   |
| 5:35 pm | 5 | Public Hearing – 2011 Transportation Enhancement Grant   |
| 5:45 pm | 6 | Noise Ordinance Request  |
| 6:05 pm | 7 | Historical Building Bid Award  |
| 6:15 pm | 8 | Executive Session<br>A. Contracts<br>B. Personnel  |
|         | 9 | Other Business   |

Meeting times are approx. & subject to change.

Agenda Summary  
August 9, 2010

Agenda Item No. 3A  
River Road Project Closeout

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Summary: The River Road Embankment Failure Project is completed.

Town Plan Impact: N/A

Fiscal Impact: The total cost for the project was \$82,862.84.

Recommendation: Move to close out the River Road Capital Project.

**AGENDA SUMMARY**  
**August 9, 2010**

**AGENDA ITEM – 3B**  
**Emergency Operations Plan**

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**Summary:** Each year the Emergency Operation Plan is updated.

**Town Plan Impact:** None

**Fiscal Impact:** NA

**Recommendation:** Motion to approve the Basic Emergency Operations Plan as presented.

Agenda Summary  
August 9, 2010

Agenda Item No. 3C  
VLCT Voting Delegate

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Summary: The Town of Stowe is a member of the Vermont League of Cities & Towns. Annually they have a business meeting where they vote on the “2011 Vermont Municipal Policy (the Legislative Platform of the Vermont League of Cities & Towns).”

Enclosed is a memo with a “Delegate Designation Form.” VLCT is asking that each member municipality’s legislative body appoint a “voting delegate.”

Alison Kaiser, Town Clerk, is on the VLCT Board of Directors and has been Stowe’s voting delegate for the last couple of years.

Town Plan Impact: N/A

Fiscal Impact: N/A

Recommendation: Move to approve Allison Kaiser as the Town of Stowe’s voting delegate to the VLCT Business Meeting.

AGENDA SUMMARY

August 9, 2010

Agenda Item No. 3D  
2010 SAND AND GRAVEL PROCESSING BIDS

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Summary: The Highway Department proposes to process approximately 5,000 CY of Sand and 10,000 CY of Gravel for road maintenance from bank-run sources at the Town Gravel Pit on Nebraska Valley Road. In addition, we would like to process approximately 3000 CY of reclaimed bituminous paving stockpiled at the gravel pit which will primarily be used for roadway shoulder maintenance. Invitations to Bid under a unit price contract were publically noticed and mailed directly to 6 previous and other possible bidders. Two bids were received on 8/5/10. A bid summary is as follows:

<b>DALE E. PERCY, INC</b>			
<b>ITEM</b>	<b>ESTIMATED QUANTITY</b>	<b>UNIT PRICE (\$/CY)</b>	<b>EXTENDED TOTAL</b>
PROCESSED SAND	5,000 CY	\$1.87	\$9350.00
PROCESSED GRAVEL	10,000 CY	\$2.84	\$28,400.00
RECLAIMED BITUMINOUS	3,000 CY	\$3.47	<u>\$10,410.00</u>
<b>TOTAL</b>			<b>48,160</b>

<b>R.E. TUCKER, INC</b>			
<b>ITEM</b>	<b>ESTIMATED QUANTITY</b>	<b>UNIT PRICE (\$/CY)</b>	<b>EXTENDED TOTAL</b>
PROCESSED SAND	5,000 CY	NO BID	NO BID
PROCESSED GRAVEL	10,000 CY	\$2.85	\$42,750
RECLAIMED BITUMINOUS	3,000 CY	NO BID	<u>NO BID</u>
<b>TOTAL</b>			<b>NONE</b>

The bid from Tucker is not responsive in that all bid items required were not provided and there is an error in the extended total for the only item bid. The bid from Percy is constant with our expectations. Percy also has completed this work for the Town successfully in the past.

Town Plan Impact: N/A

Fiscal Impact: The Unit Price Extended Total Cost of \$48,160 is anticipated and included in the FY11 Highway Department Budget.

Recommendation: Move to approve award of the 2010 Sand and Gravel Processing contract to Dale E. Percy, Inc in the amount of \$48,160.00 and to authorize the Town Manager to sign the Agreement.

AGENDA SUMMARY  
August 9, 2010

Agenda Item No. 3E  
2010 PAVING PROGRAM-PARK PLACE ADD

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Summary: Bids for the 2010 Paving Program were received on July 22, 2010 and the contract was awarded to Pike Industries, Inc on July 27, 2010 for an Extended Total Contract Price of \$172,545. This work is tentatively scheduled to be completed the week of August 16, 2010. Because of current market conditions, the bid prices for this work were extremely competitive and unusually low. Our FY11 Highway Department budget for paving is \$194,000. To take advantage of the unusually low bid prices, staff has evaluated other possible paving projects that might be undertaken with some of the remaining budget and recommends that Park Place from Depot Street to the entrance of Stowe Elementary School/Memorial Park be added to the 2010 Paving Program. The extents of the proposed work and photographs of the existing conditions are attached. The portion of Park Place from Depot Street to Park Street is very deteriorated and removal of the exiting paving and fine grading of the subgrade by the Highway Department prior to paving with a new 2 course paving section is proposed. Utilizing the contract unit price of \$67.33/ton for 105 additional tons of Type III overlay and a negotiated unit price of \$76.89/ton for 115 tons of Type II binder course, (Type II binder course not in original bid), the proposed addition for this work to the Extended Total Contract Price would be +\$15,912. This would leave approximately \$5,500 in the Highway Department budget for miscellaneous paving for the remainder of the year, which is deemed adequate. No change in contract time is proposed and it is anticipated that this work would be accomplished with the remainder of the paving program the week of August 16<sup>th</sup>, prior to the commencement of the school year.

Town Plan Impact: N/A

Fiscal Impact: Add \$15,912 to the 2010 Paving Contract for a revised Extended Total Contract Price of \$188,457, which is included in the FY11 Highway Department Budget.

Recommendation: Move to add Park Place to the 2010 Paving Program and authorize the a change order in the amount of \$15,912, increasing the Extended Total Contract Price to \$188,457.

Agenda Summary  
August 9, 2010

Agenda Item No.  
VLCT PACIF Safety Grant

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Summary: Enclosed is a 2 for 1 safety grant application to our insurance company to purchase and install a G2-60-1540-TP-38 1500 lb. Tommy Gate hydraulic tailgate lift for a Parks & Recreation vehicle. The intent is to use the gate to lift heavy objects into the bed of the truck to help prevent injuries and associated worker's compensation claims.

Town Plan Impact: N/A

Fiscal Impact: The cost is \$3,040 (\$1,520 VLCT PACIF / \$1,520 town). The money for the local match will come out of the Parks Department Budget

Recommendation: Move to approve the submission of the enclosed 2:1 VLCT PACIF Safety Grant for a hydraulic tailgate lift.

**AGENDA SUMMARY**  
**August 9, 2010**

Liquor Consent Item(s) 4

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Summary: The following item(s) for your review:

A. Catering permit – Kneale Family Enterprises – 9/17/10

Town Plan Impact: N/A

Fiscal Impact: N/A

Recommendation: Motion to approve as presented.

**AGENDA SUMMARY**  
**August 9, 2010**

**AGENDA ITEM 5**

**Public Hearing to discuss Route 100 sidewalks Enhancement Grant Application**

This proposed project, scheduled for construction in the summer of 2011 will provide sidewalks on Maple Street (between Cemetery Road and Shaw's) and on Lower Main Street (between River Road and Sylvan Park Road). At the Selectboard meeting on May 24, 2010, approval was granted to file an application for a 2011 Transportation Enhancement Grant. The primary purpose of the grant is to cover the cost of engineering services to observe the construction of the project.

Projected costs are as follows:

Construction cost (incl. 15% contingency)	\$ 758,000
Engineering fees	142,000
Inspection fees	<u>75,000</u>
Total Cost	\$ 975,000

Current funding is as follows:

Federal share	\$ 709,750
Local share	<u>177,437</u>
Total Available Funding	\$ 887,187

The funding shortfall is:  $\$ 975,000 - 887,187 = \$ 87,813$  Say \$ 90,000. Twenty percent (\$18,000) will be funded by the Town, leaving a balance of \$72,000 to be funded by an enhancement grant.

The purpose of the public hearing is to inform the community and solicit comments about the project and the request for a 2011 Enhancement Grant Application.

**Town Plan Impact:** This project is consistent with goals set forth in the Town Plan.

**Fiscal Impact:** The major portion of the Town funding was previously approved. The proposed FY12 Capital Budget will include the 20% Town share of the \$90,000 (\$18,000).

**Recommendation:** Listen to any comments the public may have regarding the project and the proposed additional funding.

## AGENDA SUMMARY

August 9, 2010

Agenda Item No. **6**  
Noise Regulations

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Summary: Enclosed is an email from Paige Savage stating, in part, "I'd like to issue a formal complaint and find out how to issue a noise ordinance for Stowe." Also, enclosed is an email from Laurie Baas stating, in part, "While I have no problem with the resorts / Inn's making a living during the prime summer vacation time, the noise is getting increasingly loud during these events." Finally, enclosed is an email from Janet Savage stating, in part, "My ideal solution would be to stop all amplified noise for parties going on outside at 10pm and before that keep the noise at a reasonable decibel...I understand that noise level ordinances limiting loudness can spread to chain saws, big equipment, etc. I think that specifying that the ordinance pertains to resort celebrations at night will handle the issue.

According to the police there has been 57 complaints of all kinds in the past year, three of which were from resorts adjacent to Edson Hill where the persons who wrote the aforementioned emails reside. Enclosed is an email from the Town Attorney providing general background on regulating noise. It states, in part, "When a community decides to regulate a "type" of noise, it must generally apply the regulation to all persons who generate that type of noise. Consequently, an attempt to regulate electronically amplified noise only at commercial establishments (and not at churches, public buildings and private residences) could be challenged as being discriminatory."

For the Selectboard's reference, enclosed is a memorandum from Rich Baker, Zoning Administrator, regarding the "Management and Enforcement of Noise Issues through Zoning." It states, in part, "Under zoning, noise levels can only be regulated for new uses or possibly changes of existing uses. Existing noise generation is grandfathered and is best not regulated through zoning." Accompanying his email is "documentation showing typical noise generation by various uses, the World Health Organizations recommended guidelines for noise in residential areas, and OSHA requirements for permissible noise levels over extended hours."

Also enclosed is a memo from Chief Kaplan regarding how the Stowe Police Department currently regulates noise in the nighttime and the accompanying statute (13 VSA 1021). The statute regulates noise between dusk and dawn. The Chief memo states, in part, "For the past twenty years, the standard practice of the Stowe Police Department has been to handle noise complaints on a case by case basis, giving any band or parties until 10 PM at which time the noise has to cease...Responsible parties at the location are given a warning at that time and told that if the officer has to respond a second time, they will be cited."

Finally, I have enclosed copies of Essex Junction's Noise Regulation in order to show the Selectboard examples of noise regulation. Section 718 (B.) of Essex Junction's Land Development Code (Zoning Regulations) establishes noise limits by time of day and decibel limits.

Essex Junction also has a Noise Ordinance pertaining to noise limits outside of land development (e.g. construction, radios, exhaust, dogs, vocal disturbances). It regulates certain types of noise that is "plainly audible at a distance of 50 feet."

According to the enclosed email by the Town Attorney, "Ordinances that regulate noise continue to be frequent targets for constitutional challenges. In addition to customary vagueness challenges, ordinances that regulate loud music or speech, can be impermissibly invade conduct protected by the First Amendment. That said, reasonable regulation of particular types of noise is permissible. The term type when used in a noise ordinance generally refers to the physical component that produces that noise. Common types of noise include operation of machinery, natural voices (vocal chords), sirens and alarms, and electronic amplification of sound...it is our general recommendation that a community considering adoption of noise regulations, obtain assistance from a qualified noise expert"

Town Plan Impact: N/A

Fiscal Impact: N/A

Recommendation: Move to instruct the Manager to send the inn owners adjacent to Edson Hill the enclosed letter notifying them of the noise in the nighttime statutes and ask for their cooperation in complying.