

SPECIAL MEETING OF THE
SELECTBOARD & WATER COMMISSION

Thursday January 23rd 2025

6:30pm

Town Office (86 Mountain Road)

View Recording:

<https://us02web.zoom.us/rec/share/xhq75JTn4l5qsglpMEYHfkn2AnyApKA6969OvzV8D4EefdjiZgaVlc9oJkdp8-A.Jo97MSRhRrquwKmp>

Passcode: ZD5rzQ%5

In Attendance: Suzanne Dollois, Charlie Hancock, Emily Kimball, Leanne Barnard, Daniel Khan, Claudia Stauber, Charles Snidecor, Peter Locher, Lynn Locher, Teresa Almy, Kim Morrill, John Johnson, Chris Pattullo, Josh Howard, Jackie [last name?]

On Zoom: Barry Kade, Larry Letourneau, Brent Godin, Gabby Lumbra, Mike Sarnacki

1. Review and make any changes to the agenda
 - a. No changes to be made
2. Review/approve minutes of the January 6th meeting
 - a. Leanne made an amendment to change the date to reflect the accurate date of the meeting 1/6/25. Mark motioned to adopt the minutes as amended. Motion passed unanimously.
3. Public Works
 - a. Municipal Wastewater Project Updates
 - i. Voter Petition Received re: Town Charter & Revised Timeline
 1. Charlie reviewed the timeline to add this to the Town Meeting warning with Liz. Because this is a petition to change the Town Charter there are is a public hearing schedule that must be adhered to. The timing of when the petition was given to the clerk, the posted holiday office closure and the meeting schedule of the board, there is not time to hold the public hearings as they are written in the law (*see attached memo*). Charlie gave more context to the information that was provided by the Town Attorney.

- a. Chris asked about the board meeting on the 31st of December and if the petition could have been reviewed then. The board did meet for a brief meeting to take care of time sensitive administrative needs for ensuring ARPA funding was not re-absorbed by fed at year end, and this petition was not on the agenda at this point nor had the Town received guidance from Town Counsel at that time.
- b. Motion from the board to put forth a warning for a special vote to consider the proposed charter amendment articles on April 1st, 2025 was made by Suzanne, Mark seconded the motion. Motion carried 4-0-1.
- c. Suzanne asked to address the room and commented on the discourse that took place online today and read into record a letter to the community that she wrote.

ii. Easement Package and mailing

- 1. Board approval for “damages” framework and incentive payments
 - a. Easements would pertain to any portion of a property used to support system infrastructure. The value of the easement is based on a \$/square footage factor developed by commercial appraiser. Town can also include a \$500 incentive payment, which is standard practice for utility easements. This payment is billed back to project and does not come out of the municipal general fund. Total for all easements is \$168,049.80 plus an additional \$58,500 for potential incentive payments. Charlie moved to include the \$500 incentive payment to the landowner. The motion did not move forward as there was not a second.

iii. Loan Agreement

- 1. Motion to sign the loan agreement RF1-382-0 in the amount of \$200,000 (\$100,000 of which is subsidy). Motion was made by Suzanne and seconded by Mark. Motion carried 4-0-1.

b. Streetscape Project Update

- i. We may have made progress with VTrans with regard to the inaccurate designation of the ditch at the Rec Center being classified as a “wetland”, but now there is a need to complete a Historic Review of the area to make sure that there are not historic artifacts before the project can proceed. The Town is pushing for this work to be fast tracked to keep the project moving forward.
- ii. Hydrants on Main Street will need to be moved due to the streetscape project. These hydrants need to be replaced anyways and Mark is working closely with Doug to plan this action.

c. Public Safety Building/Town Office Renovation

- i. Revised Millbrook Proposal w/ Northeast Structural Engineering
 1. Authorization to allow Millbrook to work with Northeast Structural Engineering to design the vault with no change in expenditure. Suzanne motioned to approve this change, Leanne seconded. Motion carried 5-0-0.

d. General Updates

- i. Equipment Repairs
 1. New truck arrived, the truck with the blown engine is back at the town garage.
 2. Mark will check on the grader repairs.
 3. There will be future conversations about the current trucks the town owns and what direction to pursue to fix or sell these pieces of equipment.

e. Water Budget FY26

- i. Tabled until future meeting

4. Visitors

- a. John Johnson asked about who would move into potential new housing development which may be supported by the wastewater system, and feels that the “wrong” people would be enticed to move here bringing untold problems to the community

- b. Peter Locher spoke to disagree with what Suzanne shared. He then inquired about the timing of petition that was submitted.
- c. Daniel Khan asked about the meeting on 12/31/24, and the purpose of it, noting that it was 6 minutes long and the only thing dealt with was the ARPA funding.
- d. Teresa asked about the location of the 4/1/25 vote, it will be at the Town Hall.
- e. Peter asked about if the local option tax is struck down if the project would go forward. He asked Charlie if the board stands by the statement that the affordability metrics previously discussed would be the decision point, and that the local option revenue has a direct impact on that.
- f. Charles asked about the 1% option tax being linked to different departments and using that money collected to redo private septic systems. He also asked about possible housing issues and crime that would arise with a larger population base.
- g. Kim Morrill spoke to the housing crisis and the different types of voucher programs that are linked to grant funding that developers accept for project completion. She stated that then the state is able to push housing projects through because of the “strings that are attached to the funding”. Discussion ensued.
- h. Larry asked about absentee voting for the April 1st vote and the timeline allowed. Charlie advised Larry to contact Liz for specific details.
- i. Claudia spoke to the changes that are happening in Morrisville and that she hopes that Montgomery doesn’t follow a similar pattern of development.

5. Old Business

- a. Municipal ARPA Funds status follow-up and balance
 - i. Total ARPA fund was originally \$359,010.15, it is currently \$288,017.27
- b. FNRDC Flood Resilience and Hazard Mitigation Study
 - i. February 3rd presentation to Selectboard on their report
- c. Hazard Mitigation Plan
 - i. Next Steps following consultant selection-tabled until next meeting

6. New Business

a. Conservation Fund application – Montgomery Conservation Commission

- i. The conservation grant application is for Sweet Properties, Shannon Kane is the owner. The property is 395 deeded acres, that will connect with 735 acres that is already conserved. The Conservation Commission would like to allocate \$5,000 as a grant to help conserve this property. Emily motioned to allow the Conservation Commission to give grant funding to this conservation effort in the amount of \$5,000. Mark seconded the motion. The motion passed 5-0-0.

b. FY26 Budget – board(s) secretary function changes

- i. The goal is to cut expenses wherever possible and the selectboard is directing all committees/boards to have a member of their board take notes rather than hiring a secretary in an effort to save money.

c. FY26 Budget Adoption

- i. Significant increase in delinquent taxes, more than \$205,000 currently which is carried into the next budget. Kat is working to help property owners develop payment plans prior to the Town initiating Tax Sales in April.
- ii. Charlie reviewed the budget and discussed the agency requests and assessments
 1. Mark motioned to approve the budget as presented: FY26 Budget of 1,441,377.91, of which \$1,008,735.91 will be raised by taxes, resulting in a projected FY26 Municipal Tax rate of \$0.5947 (a 2.8% increase from FY25); Suzanne seconded the motion. Motion passed 5-0-0.

d. 2025 Town Meeting Warning (*review and potential board action*)

- i. Charlie presented the proposed Town Meeting Warning (*attached as amended*) and read through the language of each warning. Discussion ensued about articles 7, 8 and 9 regarding an article to suspend the Town Charter and instead impose a Local Option Tax via direct voter approval, as allowed for in recently passed legislation. The proposed article would drop the existing sales tax portion of the LOT while maintaining meals and rooms taxes.

- ii. Mark requested an amendment to the Warning to include language to ask the voters for approval for a new truck in two years, which will be Article 10:

Shall the Town vote to authorize the Selectboard to borrow up to \$300,000 for a term of five years to purchase a new 2026 or 2027 Western Star tandem truck with snowplow, wing, and sander; to replace the 2017 International Truck.

- iii. Mark motioned to approve the warning as amended and presented. Suzanne seconded the motion. Motion carried 4-0-1.

- e. Liquor/Tobacco Licenses (*board action*)

- f. Fleet Permits (*board action*)

7. Open Mail / Sign Orders / Administrative Matters

8. Review Action Items for Board Members

9. Adjourn

- a. Motion to adjourn made by Emily at 9:00, Suzanne seconded the motion. Motion carried 5-0-0.

**It should be noted that there may be a slight interruption in recording around 8:50pm as the camera from Northwest Access ran out of battery power and the recording then switched solely to Zoom.*

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MEMORANDUM

****CONFIDENTIAL: ATTORNEY – CLIENT COMMUNICATION****

TO: Town of Montgomery Selectboard
FROM: Sarah E. Buxton, Esq.
RE: Issues related to citizen petition for changes to the Town charter
DATE: January 23, 2025

BACKGROUND

On Monday, December 23, 2024, the Montgomery Town Clerk received a petition to amend the Town charter in two ways. The first repeals Section 3 of the Town charter while the second adds a new section which would permit property owners served by a wastewater system not deemed as failed to opt out of connecting to the municipal wastewater system. At the top of the petition, the following words appear:

"In accordance with 17 V.S.A. §2645, we the undersigned legal voters of Montgomery hereby petition the Selectboard to properly warn and hold for vote at the March 4, 2025 Annual Town Meeting the following Articles, to wit:"

The clerk verified 127 signatures, meeting the threshold requirement that such petitions include signatures of at least five percent of the voters of the municipality. The clerk certified the petition on the same day it was received, December 23, 2024. The town office was closed beginning the following day and reopened on Thursday, January 2, 2025. The selectboard considered the petition at its next meeting, two business days later, on Monday, January 6, 2025.

REQUIREMENTS & TIMELINE CONSIDERATIONS FOR CHARTER PROPOSALS BY PETITION

- Petitions to adopt, repeal, or amend a municipal charter may be made by petition of five percent of the voters of the municipality.
- The town clerk must certify the date on which they received the official copy, file as a public record in the office, and make dated copies available to members of the public upon request.
- The selectboard can make technical corrections to the petition but may not revise the proposal.
- Two public hearings must be conducted.
 - The first must be at least 30 days before the vote.
 - The second must be not more than 10 days after the first hearing (if proposed by petition).

- Both hearings must be warned not more than 40 and not less than 30 days from the date of the hearing.
 - This means that the warning for the first hearing needs to be posted between 60-70 days before the vote.
- Selectboards are the public body that warns and calls the public hearings, and any special or annual meeting required in this section.
- After the warning and hearing requirements are satisfied, charter proposal *put forth by petition* “shall be submitted to the voters *at the next annual meeting, primary, or general election.*”
 - Note: A strict reading of this requirement would mean that this charter proposal could not go before the voters until Town Meeting 2026, because of the need to comply with notice and warning requirements.
 - However, 17 V.S.A. § 2645 permits charter changes to be approved at special meetings.
 - At their discretion, the Selectboard may call special meetings.

When the town clerk certifies a petition, they are certifying that the petition meets the legal signature requirements of the law. The Selectboard, not the clerk, is the body that is actually “petitioned.” It alone has the authority to determine whether the petition can be accepted and advanced – or if there is reason to reject it.

ISSUE

As stated in the language of the Petition (copied above), petitioners wished for the charter changes to be voted on Town Meeting Day – March 4, 2025. The petition was submitted on December 23, 2024. The Town Office was then closed (as scheduled) until January 2, 2025. The next meeting of the Selectboard was scheduled for January 6, 2025. This means that there were only *three business days* between the date when the petition was submitted and the first opportunity for the Selectboard to take any action to begin advancing the petition. Even if this had been enough time to complete the administrative tasks and coordination required for the Selectboard to consider the petition and warn the first public hearing at its next meeting (January 6, 2025), the earliest date that a vote could have occurred would be March 7, 2025.

ANALYSIS

Because the Petition was not submitted in time to meet the warning and notice requirements applicable to charter changes to have the vote called on Town Meeting Day, there are three actions the Selectboard can take.

1. Reject the petition because it doesn’t meet the legal requirements of the warning and notice provisions for a charter change.

2. Exercise its power to make a technical correction to the petition and change the date of the vote to *“next annual meeting, primary, or general election”* pursuant to 17 V.S.A. § 2645(a)(5)(B).
3. Exercise its power to make a technical correction to the petition and change the date of the vote to the date of a special meeting it may call for this purpose pursuant to 17 V.S.A. § 2645(a).

RECOMMENDATION

While the Board has the authority to take any of the above actions, I recommend that it make a technical correction to the date in the petition language and call a special meeting to vote on the charter amendments. This seems to address the request of the petitioners in the most expedited manner. A corrected proposal should be filed with the original, along with an explanation for the change, and made part of the record available to the public.

WARNING
TOWN OF MONTGOMERY TOWN MEETING – 2025

The legal voters of the town of Montgomery in the County of Franklin are hereby notified and warned to meet in the Town Hall in said Town on Tuesday, the 4th day of March, 2025 AD, at 9:00 o'clock in the forenoon to act on the following business to wit:

1. Elect a Moderator for the ensuing year (Jacob Racusin, expires)
2. Elect the remaining Town Officers as required by law:
 - a. Selectperson- two (2) year term to expire in 2027 by ballot (Emily Kimball, expires)
 - b. Selectperson- three (3) year term to expire in 2028 by ballot (Charlie Hancock, expires)
 - c. Lister- three (3) year term to expire in 2028 by ballot (Kenny Miller, appointed)
 - d. Collector of Delinquent Taxes- remainder three (3) year term to expire in 2026 (Kat Barnard, appointed)
 - e. First Constable- two (2) year term to expire in 2027 (Brent Godin, expires)
 - f. Village Cemetery Commissioner- five (5) year term to expire 2030 (JoAnne Lanphear, expires)
 - g. Village Cemetery Commissioner- remainder four (4) year term expiring in 2028 (Vacant)
 - h. Center Cemetery Commissioner- five (5) year term to expire in 2030 (Jade Dixson-Boles, expires)
 - i. Library Trustee- three (3) year term to expire in 2028 (Jane Presler, expires)
 - j. Library Trustee- three (3) year term to expire in 2028 (Cheryl Wisell, expires)
 - k. Library Trustee- three (3) year term to expire in 2028 (Marijke Dollois, expires)
 - l. Fire Commissioner- two (2) year term to expire in 2027 (Joseph Zartarian, expires)
 - m. Planning Commission- three (3) year term to expire in 2028 (Alissa Hardy, expires)
 - n. Planning Commission- three (3) year term to expire in 2028 (Peter Locher, expires)
3. Shall the voters approve a one-time term adjustment for Library Trustee Seats 7 & 8 correcting the current term expiration from 2025 to 2026 to ensure the Trustee term lengths are staggered per 22 V.S.A. § 143b?
4. Shall the voters authorize the Treasurer, pursuant to 32 VSA 4791, to collect Current Taxes?
5. Shall the town vote to approve a half cent increase in the tax rate to be allotted to the Conservation Reserve Fund (established by the voters in 2018) in accordance with 24 V.S.A. §2804.

6. Shall the voters accept a fiscal year 2026 Budget of expenditures not to exceed \$1,441,377.91 of which an estimated \$1,008,735.91 shall be raised by taxes and authorize the Selectboard to set a tax rate sufficient to provide the same?
7. Shall the voters of Montgomery authorize the suspension of section 3 of the Town of Montgomery Charter from April 1, 2025 to March 31, 2028, pursuant to 17 V.S.A. §2645a, and instead authorize the assessment of local option taxes as follows: one percent meals and alcoholic beverages and one percent rooms tax, pursuant and according to 24 V.S.A. §138, in lieu of section 3 of the Town of Montgomery charter, beginning April 1, 2025?
8. Shall the Town establish a reserve fund to be called the Wastewater Reserve Fund to be used for payment of financial obligations related to the Municipal Wastewater System in Montgomery Center, in accordance with 24 V.S.A. §2804?
9. Shall the Town appropriate the revenue generated from all local option taxes to fund the Wastewater Reserve Fund for the purpose of repaying debt obligations related to the Municipal Wastewater System in Montgomery Center?
10. Shall the Town vote to authorize the Selectboard to borrow up to \$300,000 for a term of five years to purchase a new 2026 or 2027 Western Star tandem truck with snowplow, wing, and sander; to replace the 2017 International Truck.
11. To do any other business proper to be done at said meeting.

Dated at Montgomery, Vermont this ___th day of January, 2025 AD

Selectboard:

Charlie Hancock, Chairman

Leanne Barnard

Mark Brouillette

Emily Kimball , Vice Chair

Suzanne Dollois

Attest: _____ Date: _____

Elizabeth Reighley, Municipal Clerk, Town of Montgomery