

MINUTES

SPECIAL SELECTMEN'S MEETING REGARDING PROPOSED ATV ORDINANCE

TOWN OF BARNET, VT

MONDAY, MAY 17, 2010

Meeting convened at 7:00 p.m. in the conference room of the Barnet Fire Station.

Board members present: Selectmen Theodore Faris, Jeremy Roberts, and Gary Bunnell.

Meeting Chair: Co-Chair Theodore Faris acting as Chair for this meeting.

Others present: Town Clerk Benjamin Heisholt, Road Foreman & First Constable Timothy Gibbs, Harry Adamek, Benjamin Adams, Lisa Adler, Jason Bean, Jeffrey Bean, William Biddle, Marc Broughton, Andrea Bufka, Dixie Burns, Heidi Choate, Susan Clark, Sally Cook (Caledonian Record), Harry Crown, Scott Davis, Tammi Davis, Zachary Drown, Keith Emmons, Jan Enthoven, Elizabeth Everts, Peter Everts, John Fairchild, Kenneth Faris, Robert Farlice-Rubio, Wendy Fearon, Lee Fischer, Barry Fudim, Jeffrey Garnette, John Gilmour, Roxanne Goss, Wilma Goss, Jeanine Greenleaf, Danny Hale, Madeleine Hamilton, Mary Harrington, Steven Joliffe, Michael Kennedy, Michael Lamp, Jeffrey Larocque, Shawn Larocque, Jael Luomala, Dennis McLam, Duncan McLaren, Carter Melton, Maureen Mosher, Steven Mosher, Donald Nelson, Trina Nutter, William Nutter, Evan Perkins, Melville Pierce, Velma Pierce, Elaine Pollak, Emil Pollak, Timothy Quimby, Susan Robinson, Arthur Speed, Brooksie Stanton, Laura Jean Stewart, Lisa Von Kann, Gail Warnaar, and Rhiannon Wells.

PRELIMINARY ITEMS

- Faris addressed several preliminary items:
 - Read meeting warning.
 - Read Barnet Fire & Rescue document stating safety and general rules for use of the Fire Station.
 - Spoke regarding the purpose and ground rules of this meeting: Selectboard will vote regarding the proposed ordinance at its next regular meeting on May 24, 2010. This meeting is for the hearing of public comment in advance of that vote.
 - Read entire draft text of proposed ordinance for regulating all-terrain vehicles.

PUBLIC HEARING REGARDING PROPOSED ORDINANCE FOR REGULATING ALL-TERRAIN VEHICLES (ATVs)

- Steven Mosher, President of the Barnet Trailblazers ATV Club (Club) spoke: Gave background of Club. The Club is a member of the Vermont All-Terrain Vehicle Sportsman's Association (VASA), the statewide association of local ATV clubs, authorized by the State of Vermont to develop and manage ATV trails in Vermont. Explained trail maps on display at this meeting, including Town Highways the Club requests use of.
- Faris asked if VASA has the authority to regulate speed on Town Highways.
 - Steven Mosher responded: VASA gives guidelines for trail speed limits. The Town of Barnet has requested a speed limit of 25 miles per hour.

- Steven Mosher commented that the West Barnet Quick Stop is in no way affiliated with the Club or VASA.
- Michael Kennedy asked how many members are in the Barnet Club and in ATV clubs in neighboring towns.
 - Steven Mosher responded: There are currently 20 members of the Barnet Club. Concord's club has 400 members, but not all ride the trails.
 - Susan Robinson responded that the Danville club has 60 regular members.
- Michael Kennedy asked if the Club plans to coordinate "ride-ins."
 - Steven Mosher responded: The Club hopes to do this, but is not yet planning, pending approval of the proposed ordinance currently under discussion.
- William Nutter commented that the Sheffield club has at most 65 members.
- Michael Lamp asked how many ATV riders from out-of-state can be expected to use Barnet trails, and whether the Club can enforce its rules on people they do not know.
 - Steve Mosher responded: The number of out-of-state riders to be expected is unknown. The Club can patrol registered ATVs on its trails, but cannot control all ATVs in town.
- Dixie Burns asked what would be the protocol for enforcement and the logging of resident ATV complaints.
 - Faris responded: Residents should call First Constable Timothy Gibbs directly with any complaints. Mr. Gibbs will log complaints; there is no need to call the Selectmen.
 - First Constable Timothy Gibbs responded that he is available to field complaints twenty-four hours per day, seven days per week.
- Dixie Burns asked what number of complaints would cause the Selectboard to consider repealing the ATV ordinance.
 - Faris responded: There would be no set number of complaints that would cause this, but the Board will consider all complaints and respond accordingly.
- Barry Fudim asked if the proposed ordinance calls for an annual review of the entire ordinance or of just the section relating to specific Town Highways on which ATV travel is permitted.
 - Faris responded: The Board attempted to model the proposed ATV ordinance after the current system for regulating snowmobile use of Town Highways. This system incorporates an annual discussion between the Board and the president of the local snowmobile club regarding specific town highways to be used.
- Gail Warnaar asked about VASA requirements for registration, helmets, and age restrictions.
 - Steven Mosher responded: Registration, insurance, and helmets are all required by VASA. At thirteen years of age riders can ride off-road trails with passage of a safety course. The minimum age for riding on public highways, however, is sixteen.
- Faris commented regarding town liability assumed by permitting ATV use, stating that this matter was raised at a regular Selectboard meeting several weeks ago: Read the text of an opinion of the Vermont League of Cities & Towns' Municipal Law Center. This opinion states that as long as the Town does not charge for the use of the highway it does not assume any greater liability exposure than if it did not allow ATV use.
- Danny Hale, Executive Director of VASA, made several comments: Landowners near ATV trails should not expect to see more than 25 ATVs on any single day. Managed trail systems are the most effective means to discourage illegal ATV use, a point proven by the continued allowance of ATV use in towns that have adopted ATV ordinances. Most out-of-state users of Vermont ATV trails are second-home owners.
- Peter Everts asked if there is a maximum decibel limit for ATVs, and if the Club will place signage on Garland Hill warning of ATVs and dangerous or difficult sightlines.

- Danny Hale responded: There is a maximum decibel limit. Any factory ATV would produce decibel levels well within the limit. Decibel limits are difficult to enforce.
- Steven Mosher responded: The Club has access to signage, which it will use for safety of both ATV riders and other motorists.
- Harry Adamek commented that the proposed ordinance's ten o'clock p.m. time restriction on weekends seems too late, and suggested that eight o'clock would be more reasonable.
 - Roberts responded that the Board came to the ten o'clock restriction based upon concern for ATV riders who may become lost on the trails and need extra time to return home.
 - Lisa Von Kann commented that the occasional ATV rider who becomes lost is not her concern, but habitual use as late as ten o'clock is a concern.
 - Faris asked what time the Harvey's Lake Public Beach closes.
 - It was confirmed that the Beach closes at nine o'clock p.m.
 - Tammi Davis commented that it would be impossible to enforce an ordinance that allowed for occasional offenders, and suggested considering a seasonally adjusted schedule.
 - Faris commented that the Board will address late and occasionally late riders by through its continual re-evaluation of the ordinance.
- Michael Kennedy commented that it has been erroneously stated that the Town of Danville allows ATV travel on all town highways.
 - Melville Pierce responded that Danville's ATV ordinance allows for ATV travel on all Class III and Class IV roads and portions of some Class II roads.
- Susan Clark commented that the portion of West Main Street that the Club wishes to use is a dangerous paved road with much vehicle and foot traffic, especially during the summer.
 - Faris stated that the Board has discussed this matter with the Club and that the Board shares the same concerns.
 - Steven Mosher responded: ATV travel on this section of road is not more dangerous than any other kind of traffic. The Club is asking for this use on a trial basis.
- Steven Joliffe stated that he is not concerned about ATV use with regard to the Barnet Club, but is concerned about ATV riders from outside of Barnet being less conscientious.
- Steven Mosher stated that VASA registration stickers give riders access to all VASA trails in the state of Vermont.
- Dixie Burns stated her concern that this ordinance would result in residents being compelled to report illegal ATV use of neighbors when such minor use is considered permissible within the community.
 - Steven Mosher responded: Club members are told that in order to facilitate the credibility of the managed trail system they must not make exceptions in reporting illegal use by neighbors, friends or family members.
- Dixie Burns asked if there are any residents of Garland Hill Road who are members of the Club.
 - Steven Mosher responded that there are no such members.
- Jael Luomala stated her concern regarding ATVs using town highways; asking whether the Club could wait to open trails until they secure access to enough private land to have no need of public road use.
 - Steven Mosher responded: The Club has done everything within its power to use the least public road possible, but at this time it is not possible to create the trails without using any town highways.
- Laura Jean Stewart asked who is liable in the case of an accident caused by a motorist who is startled by an ATV.

- Danny Hale responded that the law views ATVs no differently than any other object causing a motorist to be startled (e.g. turkey, horse, or bicycle). In such cases the motorist is considered to be at fault.
- Barry Fudim asked if there is anything in writing stating that this ordinance is on a one-year trial basis.
 - Faris responded: The Board will monitor complaints and will respond accordingly at the first annual review of trails next spring.
- Melville Pierce commented that ATV traffic would be more dispersed if the Town chose open all town highways for ATV travel.
 - Faris responded: While this may be the case, the Board would like to start in a good position to move in the direction of having a trail system with no town highway use.
- William Biddle asked if the annual review of town highways on which ATV travel is permitted will be a public, warned meeting.
 - Roberts responded that this review would take place a regular Selectboard meeting – all of which are public with agendas available in advance.
- Michael Lamp asked if the Club would place signs indicating where ATV travel is prohibited.
 - Steven Mosher responded that the Club will put up such signage.
- Elizabeth Everts spoke: ATV use on Garland Hill is too dangerous. Dusk is late enough for a weekend time restriction. Asked if more town highways will need to be accessed in order for the Club to attain its goal of building a trail system into the town of Danville.
 - Steven Mosher responded that building a trail system to Danville would not necessitate the use of any more town highways.
- Laura Jean Stewart asked how much burden the taxpayers would bear for law enforcement.
 - Danny Hale responded: Although much law enforcement will be available, the town should not need to employ it. The Selectboard has indicated that if such a situation occurs it will repeal the ATV ordinance.
- Michael Kennedy commented that the negative impact of this of introducing ATV traffic into a rural village is too great a price to pay for a recreational activity.
 - Marc Broughton responded that ATV traffic will be slower than the general speed of motorists; therefore ATVs may actually have a positive impact on the village.
- Robert Farlice-Rubio asked if two-wheel dirt-bikes would be allowed on trails according to the proposed ordinance.
 - Danny Hale responded: The use of two-wheel vehicles is restricted to a particular type of wide-wheeled vehicles having full-time power to both wheels. This type of vehicle is extremely rare.
- Harry Adamek asked that the Board state exactly where on town highways they propose to allow ATV traffic.
 - Faris responded: The majority of the proposed route is on Garland Hill from the intersection with Whitehill Road to its westerly end in West Barnet Village. Additionally this route incorporates the portion of West Main Street from the end of Garland Hill in an easterly direction to the West Barnet Quick Stop.
- Steven Mosher commented that the Selectboard has requested that the Club use only existing driveways as access points onto town highways.
- Wendy Fearon commented that the proposed ordinance appears to only require registration plates on the front of ATVs.
 - Danny Hale responded that plates would be required on both front and rear of the ATV.

- Andrea Bufka asked, in reference to the Vermont League of Cities & Towns statement read by Faris, if the Town would assume liability by accepting reimbursement from the Club for Constable payment.
 - Faris responded that he does not believe that the Town would assume any liability in this case.
- Gail Warnaar made several comments regarding ATV research she has conducted: A website, ATVsafety.gov, gives several recommendations for safe use of ATVs. Statistics indicate ATV deaths and injuries increasing greatly in recent years, suggesting that ATV use is increasing greatly.
- Tammi Davis stated that Club membership should create a beneficial safety effect.
- Susan Clark commented that the section of West Main Street in question is a dangerous corner.
 - Steven Mosher responded that this corner is also dangerous when negotiated by motor vehicles other than ATVs.
- Steven Mosher stated that the Club desires to support the community, noting that twelve members used their ATVs in participating in Green-Up Day.
- Jael Luomala asked if the use of Garland Hill and West Main Street is necessary, since Club members can use ordinary motor vehicles to drive to the West Barnet Quick Stop and buy gasoline.
 - Steven Mosher responded that ordinary motor vehicles can do more damage to town highways than ATVs.
- Brooksie Stanton commented that it is important to allow legal use of ATVs, but equally important to be sensitive to the rights of neighbors living near trails.
- Evan Perkins stated his concern that ATV travel may introduce an increase in noise and traffic.
- Michael Kennedy asked if the Club would provide the Town with copies of ATV registrations and licenses.
 - Faris responded that the Club will do so, and that the Town already possesses this information for many of the Club's members.
- Michael Lamp asked how many trailheads the Club plans to use, and what would prevent ATV riders from using the parking lot in front of the West Barnet Village basketball court as a trailhead.
 - Steven Mosher responded: The Club will use three trailheads. VASA members receive trail maps that indicate where trailheads are; therefore there should be no ATV rider use of the basketball court parking lot.
- Dixie Burns asked if the currently proposed ordinance can be amended prior to the Board's vote.
 - Roberts responded: The proposed ordinance has not yet been approved, so it can be amended.
- Dixie Burns asked if she would be able to purchase and place signs for ATV and motorist safety.
 - Faris responded that these signs will be available for purchase.
- Robert Farlice-Rubio asked if bicycle, horse and foot traffic would be allowed on ATV trails.
 - Steven Mosher responded that at this time the Club is permitting only ATV traffic on its trails.
- Jason Bean, Club Trailmaster, spoke briefly regarding the Club's proposed trail into the town of Danville.

- Mary Harrington commented regarding the West Main Street section in question: This corner is difficult to maneuver. The Board must use proper signage and be mindful of the safety of children.
- Laura Jean Stewart asked how the public is to make recommendations to the Board for amendment of the ATV ordinance.
 - Faris responded that the Board will accept recommendations and comment via written, signed correspondence submitted to the Town Clerk at any time prior to the next Board meeting at seven o'clock p.m. on Monday, May 24, 2010.
- Gail Warnaar suggested that the Board amend the proposed ordinance to restrict ATV travel to no later than nine o'clock p.m. on weekends rather than ten o'clock.
- Faris commented regarding the cost of the law enforcement to the Town: Since his election in 2009, First Constable Timothy Gibbs has not submitted any bills to the Town for his time and expenses. The Board thanks Mr. Gibbs for his generosity and hopes that his patience will not be tried by this ATV ordinance.

ADJOURNMENT

Meeting adjourned at 9:10 p.m.

A true copy.

Attest: _____
Town Clerk