

**TOWN OF DERBY, VERMONT
SELECT BOARD MEETING
Minutes
June 15, 2020**

Present: Brian Smith, Steve Gendreau, Grant Spates, Karen Chitambar, Beula Shattuck.

Others: Maureen Rodger, Jeff Johansen, Steve Cross, Faye Morin, Rod Lyon, Joe Profera, Bob Kelley.

MEETING CALLED TO ORDER - 6:00 P.M.

Warrants #12A in the amount of \$23,670.86 and #12B in the amount of \$81,052.23 were signed.

APPROVE MINUTES:

Beula moved to approve the minutes of June 1, 2020, with Steve seconding. Unanimous.

PUBLIC COMMENTS: None.

NEW BUSINESS:

Newport Ambulance – Jeff Johansen – Jeff explained that Newport Ambulance now has a satellite facility in Morgan which is officially called Morgan Rescue to distinguish it from their main facility in Newport for dispatch purposes. Portions of Derby can be serviced quicker if they are dispatched from the Morgan Rescue facility rather than from the Newport facility. The E-911 maps have to be revised to show this change and Selectboard permission is required. Jeff will work with Derby’s E-911 Coordinator, Steve Cross, to make the changes. Steve moved to change in E-911 lines to have a portion of Derby serviced by Morgan Rescue, seconded by Beula. Unanimous.

Dailey Memorial Library – Summer Event on Junior High Green – Librarian Maureen Rodger explained that the Library would like permission to use the Green in front of the Junior High for a trunk sale on August 1st. This would be a fundraiser for the Library, the cars would park around the perimeter of the Green with their trunks facing the center. Steve moved to grant the request for use of the Green, seconded by Karen. Unanimous

ATV Ordinance – The Board reviewed proposed changes to the Ordinance Regulating All Terrain Vehicles. Additional changes were made. Changes will go into effect 60 days from the date of adoption, unless appealed. Karen move to adopt the revised Ordinance Regulating All Terrain Vehicles, seconded by Brian. Unanimous.

ORDINANCE REGULATING ALL TERRAIN VEHICLES

SECTION I: AUTHORITY. Under authority granted in 24 V.S.A. Chapter 59, 24 V.S.A. §2291(4), and 23 V.S.A. §3510, the Selectboard of the Town of Derby hereby adopts the following civil ordinance regulating the time, manner, location and/or operation of all-terrain vehicles on property owned or controlled by the Town, including town highways and legal trails.

SECTION II: PURPOSE. The purpose of this ordinance is to protect the health and safety of operators of all-terrain vehicles and the residents of the Town and to protect the wildlife, real and personal property and environment of the Town.

SECTION III: DEFINITIONS.

- A: “All-terrain vehicle,” or “ATV,” means any non-highway recreational vehicle, except snowmobiles, *as defined in VSA Title 23 Chapter 31.* ~~having no less than three low pressure tires (10 pounds per square inch, or less), not wider than 60 inches, and having a dry weight of less than 1,700 pounds, when used for cross-country travel on trails or on any one of the following or a combination thereof: water, snow, ice, marsh, swampland and natural terrain. An ATV shall not include an electric personal assistive mobility device~~

- B. “Operate” shall include any attempt to operate and shall be construed to cover all matters and things connected with the presence and use of all-terrain vehicles whether they are in motion or at rest.
- C. **“Town Highway” or “Town Highways” means all class 1, 2, 3, and 4 town highways located within the Town of Derby.**
- D. **“VASA” means the Vermont All-Terrain Vehicle Association.**

SECTION IV: OPERATION OF ATVs. The following requirements shall apply to all ATVs operated on property owned or controlled by the Town, including town highways and legal trails.

- A. All ATVs must be registered, equipped and operated according to the requirements of 23 V.S.A. Chapter 31.
- ~~B. A valid Vermont ATV Sportsman’s Association (VASA) plate must be attached to the front of all ATVs.~~
- B. ATVs shall not be operated on any Town property, highway or legal trail unless the Selectboard grants permission to VASA/local ATV organization. **VASA/local ATV organization shall contract directly with law enforcement to ensure safe operations of ATVs on Derby Highways.**
- C. **ATV operators must have a valid driver’s license when operating an ATV on permitted Town highways or legal trails.**
- D. All Town highways or legal trails opened to ATVs operation by the Selectboard shall be so posted, and a list of highways and legal trails open to ATVs shall be maintained in the Town Clerk’s office. ~~Any traffic control signs related to ATV operation shall comply with the Manual on Uniform Traffic Control Devices in form and placement. The Town shall be responsible for the placement of any signs related to ATV operation on Town highways and legal trails.~~
- E. Speed limit signs and stop signs shall be posted at any location where an ATV trail enters or crosses a Town highway or legal Trail. Advance notice signs shall be erected approximately 250 feet prior to any location where the trails enters or crosses a Town highway or legal trail. These signs shall be approved by the Derby Selectboard. The expense of these signs and erecting, posting and maintaining of the signs on the trails shall be the responsibility of the adjoining landowner or local ATV Club. It shall be a violation of this Ordinance to access or cross a public highway or legal trail from an ATV trail that is not posted in accordance with this provision.
- F. ATV operators shall obtain and maintain liability insurance and shall carry proof of the same.
- G. Operators of ATVs on Town highways and legal trails shall comply with all traffic control devices.
- ~~H. ATV operators shall yield the right of way to all other motor vehicles, pedestrians and other users of Town highways and legal trails and shall stay on posted trails.~~
- ~~H. ATVs shall operate in single file. No racing shall be allowed., as far to the right as possible, with headlights on, and at a rate of speed not to exceed 15 MPH at all times while on Town highways or legal trails.~~
- I. **Hand signals are required to indicate all turns and stops, in the absence of street legal turn signal lights.**
- J. **ATV operators and passengers must wear a US Department of Transportation (DOT) approved helmet (unless operating an ATV equipped with seat belts).**
- K. Unless the Selectboard for any reason designates otherwise, ATVs shall not be operated between October 1st and May 15th of each year.
- L. ATVs shall not be operated between the hours of ~~9-10~~ P.M. and ~~8-7~~ A.M.
- M. ATVs shall not operate on any Town ~~highway or~~ legal trail within 50 yards of any year round residence, school, church, or nursing home, unless permission is granted by the property owner/resident.

- N. Nothing contained in this Ordinance shall authorize or create any cause of action to accrue or to be maintained against the Town of Derby, and the Town accepts no liability for the operation of ATVs on Town highways or legal trails.

SECTION V: PENALTIES.

- A. An Issuing Municipal Official shall have the authority to levy and collect a Wavier fee in lieu of a civil penalty from any person who declines to contest a municipal complaint and pay the Wavier fee. Offenses shall be counted on a calendar year basis and wavier fees are as follows:

First offense	\$100.00, waiver fee \$75.00
Second offense	\$200.00, waiver fee \$150.00
Third and each subsequent offense	\$500.00, waiver fee \$300.00

- B. Operators of ATVs shall be liable, in addition to the fees set forth above, for all repair costs incurred for damages to Town roads, legal trails and/or other municipally-owned lands caused by the operation of ATV on property owned or controlled by the Town.

SECTION VI: ENFORCEMENT. This is a civil ordinance and shall be enforced by the constable/sheriff/police officer or any person(s) duly appointed by the Selectboard as an Issuing Municipal Official through the Judicial Bureau in accordance with the provisions of 24 V.S.A. Chapter 59.

SECTION VII: SEVERABILITY. If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

SECTION VIII: EFFECTIVE DATE. This ordinance shall become effective 60 days after its adoption by the Derby Selectboard and shall supersede and replace all previous ordinances regulating the time, manner, location and/or operation of all terrain vehicles. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the effective date of this ordinance.

Town of Derby Selectboard

Date: June 15, 2020

Excess Weight Permit – United Natural Foods – Steve reviewed and signed as Road Commissioner.

Sign & Review Reports: Balance Sheet, Budget Status Report, Delinquent Tax Report, General Journal Report – All were reviewed and signed.

Sign Memorandum of Understanding – 6/01/2020 – The board reviewed and signed the Memorandum of Understanding

Beach House Opening – The Board decided to begin offering the Beach House for events only. It will not be open to the general public. Due to COVID19 a surcharge will be added to the rental fee to cover cleaning costs associated with sanitizing the building after events. Bob will check with our cleaner to see what they will charge to sanitize the building and add this cost to the normal rental fee. A port-a-potty will be placed outside

TA & ZA Update – DRB/PC: The DRB has next week off, but there are 2 permits in the pipeline for their July 6th meeting. The Planning Commission has scheduled a meeting for next week and a Public Hearing for July 6th for bylaw amendments. – Permits: 43 permits have been submitted year to date (see attached). - Johns River: Ruggles has finished changes to the plans the State wanted and the State is reviewing the changes. Ruggles has submitted the draft Bid documents to the State for review. Sara Davies is working on the R.O.W. certification. - Storm Damage FEMA: FEMA is splitting the work into 3 projects. 2 projects for the roads completed and 1 project for Dumas Road. - Town Offices: Next week we would like to open up to the public. Office doors would be locked so we can limit the number of customers that are in the offices at one time to maintain the social distancing guidelines. Staff will be required to wear masks within 6 ft of anyone. We would have a table set up inside the front door with a sign-in

sheet and hand sanitizer. Customers would be required to sign-in, have their temperature checked, wear a mask and use the hand sanitizer upon entering the building. – Reappraisal: The Reappraisal firm is slightly behind schedule which leaves the Listers with no wiggle room for their time schedule. - Zoning Violations: I talked to Sara Davies about Barrup. She said the courts are shut down because of COVID19 and nothing is moving forward at this time.

OLD/OTHER BUSINESS:

Legislative Update – They are scheduled to adjourn on June 21st and come back in August to finish the session.

ROAD REPORT:

Trevor Cleveland has submitted a letter of resignation effective June 28th. He has found a job with the Town of Irasburg which closer to home. Steve moved to accept with regrets, seconded by Brian. Unanimous. The new mower head for the excavator should be in next week and the part for the grader has been found. Trevor has offered to help out with the roadside mowing on Fridays if needed. A supply of stones for West St repair has been located but the ground is currently too wet to get to them.

EXECUTIVE SESSION:

At 7:09 Brian moved to go into executive session for a personnel issue, seconded by Beula. Unanimous.

Out of executive session at 7:20. No action taken

ADJOURNMENT:

The next regular meeting is scheduled for 6:00 p.m. Monday, June 29, 2020. Beula made a motion to adjourn the meeting at 7:21 p.m., with Karen seconding. Unanimous.

Submitted by Bob Kelley, *Unofficial until approved.*