

**Town of Londonderry, Vermont**  
**Selectboard**  
**Meeting Minutes**  
**Monday, October 4, 2021**  
**Twitchell Building - 100 Old School Street, South Londonderry, VT**

**Board Members Present:** Thomas Cavanagh, Vincent Annunziata, Taylor Prouty, Melissa Brown and James Fleming.

**Board Members Absent:** None.

**Others in Attendance:** Town Officials – Town Administrator Shane O’Keefe, Town Treasurer Tina Labeau, Town Clerk Kelly Pajala, Road Foreman Joshua Dryden, Town Lister Sandra Clark, Town Assessor Jeremiah Sund, Emergency Management Director Kevin Beattie and Planning Commission Chair Sharon Crossman. Others – The Collaborative Executive Director Maryann Morris, Neighborhood Connections Executive Director Nicole Wengerd, Okemo Valley Regional Chamber of Commerce Executive Director Carol Lighthall, West River Montessori School representatives Michael Bacon and Eva Pare’, Resident Brian Scott Denkman and Bruce Frauman (GNAT).

**1. Call meeting to order**

Selectboard Chair Tom Cavanagh called the meeting to order at 6:02 PM.

**2. Additions or deletions to the agenda**

[1 VSA 312(d)(3)(A)]

*Vincent Annunziata moved to adjust the agenda by moving the Development Review Board and Planning Commission appointments from the New Business part of the agenda to the Town Officials Business part of the agenda, as items 7.b. and 7.c., respectively, seconded by Jim Fleming. The motion passed unanimously.*

*Vincent Annunziata moved to add to the Town Officials Business part of the agenda, as item 7.d., “Town Clerk – Approval process for Town Zoning Bylaws”, seconded by Jim Fleming. The motion passed unanimously.*

*Vincent Annunziata moved to add to the New Business part of the agenda, as item 11e., “1st & 3rd Class Liquor License – Smith Food Service Hospitality, DBA Revival Kitchen”, seconded by Jim Fleming. The motion passed unanimously.*

**3. Minutes Approval – Meeting(s) of 9/13/2021**

*Jim Fleming moved to approve the minutes of the Selectboard meeting of September 13, 2021, seconded by Vincent Annunziata. The motion passed unanimously.*

**4. Selectboard Pay Orders**

*Taylor Prouty moved to approve the pay orders for payroll and accounts payable, seconded by Vincent Annunziata. The motion passed unanimously.*

## **5. Announcements/Correspondence**

O’Keefe noted that he had applied for \$448,000 of funding for the Spring Hill Road culvert replacement from the VTrans Mitigation Program, which requires a \$112,000 local match, and looks to hear back in November.

He added that the recruitment for the Road Crew position has not gone well, and despite very wide advertising the Town has not received any responses from qualified candidates.

He also mentioned that the Town received an additional \$1,600 for the Town Office renovation project’s design process from the BDCC Community Facilities program to match the previous \$5,600 received in December 2020

O’Keefe noted correspondence included in the Board’s meeting packet was as follows:

- The final report on PFAS monitoring at the former septage fields, dated 9/20/2021, which recommends ongoing annual testing.
- A structural review of the Town Hall, updated 9/22/2021, noting various repair needs and related estimates of cost.
- A notice of public hearing scheduled for 10/20/2021, and associated permit applications for a subdivision to be considered by the Development Review Board on land abutting Town property.
- A chart of Vermont Blue Cross and Blue Shield health insurance premium rates for 2022., which were noted to have gone down from 2021 rates.
- A letter of request, dated 8/27/2021, for an annual budget appropriation from the American Red Cross, along with a service delivery statement

Kelly Pajala stated that the informational meeting for the upcoming special Town Meeting vote is scheduled for Wednesday, 10/13/2021 at 6:00 PM at the Town Hall. She added that absentee ballots are currently available.

Melissa Brown noted that there is a meeting the following week at the Upper Pass Lodge at Magic Mountain regarding a proposal for a skating rink in the community.

Sharon Crossman spoke about upcoming presentation and information gathering meetings on 10/7/2021 regarding the North Village Master Plan and Main Street Study. The first meeting is scheduled for 3:30 PM and will be held via Zoom software, with the Town Office as the required in-person location, and the 6:30 PM meeting will be held in-person at the offices of Neighborhood Connections. She invited the public to attend one or both meetings.

## **6. Visitors and Concerned Citizens**

### **a. Discussion with Okemo Valley Regional Chamber of Commerce representative**

Carol Lighthall spoke to the Board about the OVRCC’s effort last year to provide advertising mapping for area communities, and noted that there is an upcoming application process for funding for which they will seek to establish a village centers project, and hopes that Londonderry will participate. She described potential projects, including photography or informational kiosks, but plans are still in development. She mentioned that OVRCC is also

working on recreational grants, and spoke about potential tourism funding from the American Rescue Plan Act.

Lighthall asked that the Board eventually provide a letter of support for the village centers project when fully developed, and she will provide a draft letter to consider.

She left the meeting at 6:17 PM.

## 7. Town Officials Business

### a. Listers/Town Assessor – Report on market conditions and impact on assessments

Jeremiah Sund updated the Board on the Listers Office matters and likely issues with property assessments given recent trends in property sales. He noted that the Town conducted a reassessment in 2018 and that the Town is in good shape, with a Common Level of Appraisal (CLA) presently at 97.36. He noted that the recent high value sales will not be factored into the Town's next sales study but will begin to show up the following year.

If the CLA drops below 85% the Town will have to conduct another reappraisal, and the Listers Office is taking steps to address this such doing a statistical update in the coming years.

Sandra Clark discussed how to conduct a reappraisal when necessary. Some work can be done in-house, she mentioned, and assessment contractors will be in high demand from other communities in worse shape than Londonderry. She spoke about how the appraisal fund supports this work.

Increases in State education taxes in the coming years by virtue of the sales values were discussed. Pajala noted that the Department of Taxes may seek an increase to the per-parcel maintenance money that comes to the Town's reappraisal fund, and the Department of Education has reported a sizable surplus in the education fund that may be used to reduce the state-wide tax rate.

Cavanagh boiled it down to the point that assessments are increasing and as a result there will likely be increases in state taxes in the coming years.

### b. Annual appointments – Development Review Board

Development Review Board Chair Esther Fishman introduced Brian Denkman to the Selectboard, and he discussed his background and his interest in serving on the DRB.

*Vincent Annunziata moved to appoint Brian Denkman as a regular member of the Development Review Board for a 3-year term extending to September 30, 2024, seconded by Taylor Prouty. The motion passed unanimously.*

### c. Appointment to fill vacancy – Planning Commission

Planning Commission Chair Sharon Crossman introduced Maryann Morris to the Selectboard, and discussed her background, noting that Morris had attended a Commission meeting and the Commission voted to support her appointment. Morris spoke about her background, community involvement and interest in serving on the Commission.

*Taylor Prouty moved to appoint Maryann Morris to the Planning Commission for a term extending to March 31, 2024, seconded by Melissa Brown. The motion passed unanimously.*

**d. Town Clerk – Approval process for Town Zoning Bylaws**

Kelly Pajala mentioned that while researching the zoning bylaw adoption process and she found that in 1968 the Town Meeting voted to put future zoning bylaw changes to the Voters by Australian ballot. She referred to the following subsections of 24 V.S.A. 4442(c), Routine adoption:

- (1) A bylaw, bylaw amendment, or bylaw repeal shall be adopted by a majority of the members of the legislative body at a meeting that is held after the final public hearing, and shall be effective 21 days after adoption unless, by action of the legislative body, the bylaw, bylaw amendment, or bylaw repeal is warned for adoption by the municipality by Australian ballot at a special or regular meeting of the municipality.
- (2) However, a rural town as defined in section 4303 of this chapter, by vote of that town at a special or regular meeting duly warned on the issue, may elect to require that bylaws, bylaw amendments, or bylaw repeals shall be adopted by vote of the town by Australian ballot at a special or regular meeting duly warned on the issue. That procedure shall then apply until rescinded by the voters at a regular or special meeting of the town.

She noted that she has not reviewed all Town reports since 1968, but so far there is no evidence that the vote to require Town Meeting approval of zoning bylaw amendments has been rescinded. The last zoning bylaw approved by the Voters was in 2000, and subsequent amendments took place in 2007, 2009 and 2020 with only Selectboard approval.

Pajala indicated that at issue is which set of bylaws the Zoning Administrator should be following, and also what process must be followed to adopt the zoning bylaw amendments now in process. She mentioned that she will conduct further research and recommended that the Town Attorney review her findings for an opinion. Cavanagh agreed with the recommendation to send it to the Town Attorney, and there were no objections to this.

Sharon Crossman stated that minor changes may have been adopted without Town Meeting vote as the State may have mandated some changes. Changes since 2000 appear to be the following:

- 2007 changes to flood hazard regulations
- 2009 changes related to the change to the Development Review Board
- 2020 changes to development on private and non-maintained Town roads

Brown inquired whether there should be a hold on permit requests until the matter is clarified, and it was generally agreed that this would be the call of the Town Attorney.

Pajala stated that the Town could vote from the floor to rescind the 1968 decision on Voter-approval zoning bylaws, in which case the adoption and the bylaw changes now in process could be approved by the Selectboard. She noted that Voters could still petition to have the approval considered at a Town Meeting by Australian ballot.

**8. Transfer Station/Solid Waste Management**

**a. Updates**

Esther Fishman reported that there was a successful hazardous waste collection day this past weekend, with 98 vehicles coming through, that went very smoothly.

Cavanagh noted that new tires for the loader will be coming the following week, and the Town purchased new rims for the backhoe to help expedite the process.

## 9. Roads and Bridges

### a. Updates

Josh Dryden noted the following usage for the month of September 2021:

Salt – 0 tons                      Sand – 0 yards  
Fuel (gallons): Vehicles – 258.3, Town Office Generator – 0, Transfer Station – 140

Regarding the road mower he said he expects delivery by the end of the week.. Dryden stated that he hopes to make at least one pass of all Town roads in the entire community with the roadside mower before the snow flies.

Taylor Prouty mentioned that the fire truck needed new batteries to get started, as well as some hydraulic repairs, and is ready to be sold. Sale of this and other items in the cold stage barn will allow for better winter storage of equipment. O’Keefe mentioned that sale of equipment would be on the agenda for the next regular meeting.

### b. Access Permit 2021-06 – Middletown Road, Parcel 062020.001(tent.) (Wurtz)

Dryden briefly discussed this application. O’Keefe noted that a DRB hearing is scheduled for 10/120/2021 on the proposed subdivision that would create the lot for which the access permit is requested. Prouty mentioned that there is already a field access at the proposed curb cut location.

*Taylor Prouty moved to approve access permit application No. 2021-06, submitted by Steven Wurtz, for tentative parcel #062020.001, located on Middletown Road, subject to subdivision approval for a new lot under Zoning permit #2021-33, seconded by Jim Fleming.*

Brown questioned whether, due to uncertainties with the validity of the existing zoning bylaws, there were issues with the subdivision.

*The motion passed 4-1, with Tom Cavanagh, Vincent Annunziata, Jim Fleming and Taylor Prouty voting aye, and Melissa Brown voting nay.*

### c. Review and adopt amendments to the Traffic & Parking Ordinance

Following up from the previous meeting, the Board reviewed possible amendments to the Traffic and Parking ordinance, primarily to establish speed limits on the following selected paved roads:

- Landgrove Road
- Winhall Hollow Road
- Hells Peak Road
- Springhill Road
- Winhall Station Road
- Goodaleville Road

After discussion on specific features of various roads, including keeping consistency with speed limits on some roads such as Winhall Station Road, it was agreed that Prouty and O’Keefe would drive the roads together to further assess the recommendations and bring final recommended speed limits to the next regular meeting for adoption.

**d. Funding reallocation for Road Surface Management System (RSMS) Study**

Following up on a discussion at the previous regular meeting, O’Keefe reminded the Board that infrastructure spending is not eligible under the American Rescue Plan Act (ARPA), and that the \$7,000 of ARPA funds previously allocated for a paving study needed to be reversed. He suggested that the project still proceed but that the funding come from the paving budget. The status of the paving budget was discussed, and it generally agreed that the budget could sustain this expense.

*Taylor Prouty moved, with regard to the Board decision on July 26, 2021 to conduct a Road Surface Management System study at a cost of \$7,000, to rescind the decision to fund the project with funds received from the American Rescue Plan Act of 2021, and instead fund the project under the Town Highway Fund paving budget, seconded by Vincent Annunziata. The motion passed unanimously.*

**10. Old Business**

**a. Discussion of use of funds from the American Rescue Plan Act (ARPA)**

Cavanagh handed out a list of ARPA funding eligibility categories. Annunziata started off by suggested that support for the My Community Nurse Program would be an eligible expense and a worthy recipient of ARPA funds, and Regina Downer should be contacted to work with the Town.

Nikki Wengerd noted that several local not-for-profits, such as Neighborhood Connections, were also eligible recipients and went on to describe her organizations’ efforts. Londonderry constitutes 50% of its clientele.

Cavanagh suggested that the organizations present the Board with proposals for use of the ARPA funds, which should be submitted to the Town Administrator. He added that because towns can pool funds that they inquire of other towns as well to potentially create efficiencies.

Morris spoke on behalf of The Collaborative and described its work for the community. With regard to proposals sought by the Town, she inquired as to whether it should be for a project proposal, or for a capacity organizational support proposal, and also whether there was formal proposal process being set up. Cavanagh stated that this is the first night of real discussion on ARPA funding and there is no formal process, and that the Town is open to ideas.

Michael Bacon inquired about qualifications for funding, as well as timeframes for allocation and usage of ARPA funds. Funds must be obligated by the Town by 12/31/2024, and expended by 12/31/2026, and unexpended funds must be returned to the US Treasury.

Brown suggested that there be clarification about how the use of the ARPA funds would be differentiated from annual Town allocations. There was discussion about the impact of ARPA funds on other funding sources for not-for-profits.

There was a brief discussion about funding/grant tracking under ARPA.

Kevin Beattie stated that he did not have any specific emergency management needs at this time, and the O’Keefe suggested that the Emergency Operations Center portion of the Town Office renovation project may be eligible.

ARPA funds directed to the State of Vermont, including funds for local wastewater treatment and broadband projects, was briefly discussed and the Town will be eligible for that funding in addition to the local allocation.

Morris noted that lack of wastewater capacity stands in the way of opening up an early childcare center.

**b. Discuss upcoming Special Town Meeting and informational hearing**

There was a brief discussion about preparations for the upcoming informational hearing and special Town Meeting on the subjects of cannabis legalization and establishment of a 1 % local sales tax. The informational hearing is scheduled for 10/13/2021 at 6:00 PM at the Town Hall (139 Middletown Road), and the polls for Australian ballot voting will be open on 10/20/2021 from 7:00 AM to 7:00 PM at the Town Office (100 Old School Street).

**c. Platt Elevation Project – 2nd Extension of Memorandum of Understanding**

O’Keefe described to the Board some of the delays related to the FEMA-funded elevation of the former post office at 2152 North Main Street, and suggested that the amended Memorandum of Understanding for this project with the property owners be extended to the State-recommended project completion date. The property is close to completion, but it has been difficult for the contractor (also the property owners) to schedule electric and plumbing trades due to the construction market conditions.

There was further discussion about the project, the contract and the Town’s and property owner’s obligations.

*Jim Fleming moved to extend the effective end date of the March 2, 2020 Amended Memorandum of Understanding between the Town and Thomas and Judith Platt related to the Platt’s property at 2152 Main Street, from September 30, 2021 to November 30, 2021, and to authorize the Town Administrator or Selectboard Chair to execute an acknowledgement on the document on behalf of the Town, seconded by Vincent Annunziata.*

Fleming acknowledged that he was a subcontractor on the project and decided to withdraw his motion

*Vincent Annunziata moved to extend the effective end date of the March 2, 2020 Amended Memorandum of Understanding between the Town and Thomas and Judith Platt related to the Platt’s property at 2152 Main Street, from September 30, 2021 to November 30, 2021, and to authorize the Town Administrator or Selectboard Chair to execute an acknowledgement on the document on behalf of the Town, seconded by Taylor Prouty. The motion passed 3-1-1, with Tom Cavanagh, Vincent Annunziata and Taylor Prouty voting aye, Melissa Brown voting nay, and Jim Fleming abstaining.*

**d. Platt Elevation Project – 2nd Extension of Construction Contract**

It was generally agreed that the construction contract should also be extended.

*Taylor Prouty moved to extend the term of the May 10, 2021 Contract for Services between the Town and Derry Downtown Limited for the elevation of the building located at 2152 North Main Street to November 30, 2021, and to authorize the Town Administrator to*

*execute any formal documents on behalf of the Town related to this action, seconded by Vincent Annunziata. The motion passed 3-1-1, with Tom Cavanagh, Vincent Annunziata and Taylor Prouty voting aye, Melissa Brown voting nay, and Jim Fleming abstaining.*

**e. Review proposals and award contract for Williams Dam Study**

O’Keefe noted that in response to the Request for Proposals issued on August 10, 2021 the Town received four proposals from the following firms:

- Dubois & King, Inc., Randolph, VT
- Gomez & Sullivan Engineers, Utica, NY & Henniker, NH
- GZA Environmental, Inc., Norwood, MA
- Weston & Sampson, Inc., Waterbury, VT

He explained that he, Emergency Management Director Kevin Beattie and Conservation Commissioner Gary Hedman reviewed the proposals and agreed to invite the first three firms to an interview, which took place on 9/28/2021. O’Keefe stated that while the proposals from DuBois & King and Gomez & Sullivan were both excellent, it was the consensus of the three Town representatives to recommend that the Board accept the proposal from DuBois & King, Inc. due to the firm’s recent work in the vicinity of Londonderry, its extensive Vermont work and the feeling that the deliverable would best meet the Town’s needs.

*Taylor Prouty moved to accept the proposal from DuBois & King to provide consultant services for the Williams Dam Study, and to authorize the Town Administrator to execute all necessary documents to employ this consultant, including a service contract after review by the Town Attorney, seconded by Vincent Annunziata. The motion passed unanimously.*

**11. New Business**

**a. Discuss potential application for FEMA buyout of Parcel 102026.002 (Genser)**

The Board reviewed and discussed at length a letter from Bette and Walter Genser requesting to participate in a FEMA buyout of their property located at 2309 North Main Street, the former Shoe Barn. Crossman spoke to the proposal and noted that Ms. Genser had been in attendance at the meeting but had to leave.

Cavanagh stated that if this property becomes part of the program it would no longer be developable, except there is a chance it could be used for parking. He added that the Town should not have to come up with the local match. Crossman mentioned that the State of Vermont indicate that there is a possibility the State could cover it.

The potential for development of the property was discussed, and it appears limited due to a number of factors, including it being primarily in flood hazard area..

O’Keefe inquired of Tina Labeau about the administrative time requirements for project such as this, given the previous buyout projects. She responded that there can be considerable work depending on a number of project-related factors, but that the Town was reimbursed and these projects are not too complicated.

Site constraints such as highway right-of-way, the State-owned retaining wall, and the potential for site contamination were discussed. It was suggested that VTrans should be

contacted to determine if there were any issues that the agency may have, including any right-of-way matters. O’Keefe volunteered to handle this.

Crossman mentioned that the property owner would have to submit an application in January 2022 to be considered for the program.

Prouty inquired about whether administrative costs can be recovered if the owners decide to sell the property prior to the buyout proceeding. This needs further research. Cavanagh noted that there should be a thorough deed and permit review to determine if there any significant project constraints.

Other nearby buyout projects from years past were discussed.

Cavanagh mentioned that the Board needs to decide whether the Town should be involved with the project. Crossman mentioned that the site is in sad shape at this time and makes for an unsightly entryway into the village. It was agreed to discuss this request again at the next regular meeting.

**b. Approve job description for Conservation Commission Administrative Assistant**

The Board reviewed a proposed job description for the Conservation Commission’s administrative assistant position, which was drawn up by the Commission’s Chair and the incumbent assistant Andie Fusco, who is leaving the position. It was agreed to remove any reference to the job salary.

*Taylor Prouty moved to approve the job description of the Conservation Commission Administrative Assistant position, seconded by Vincent Annunziata. The motion passed unanimously.*

**c. 1st & 3rd Class Liquor Licenses – Smith Food Service Hospitality, DBA Revival Kitchen**

The Board reviewed and discussed this application for liquor licenses for a new business going into the former Gran’ma Frisby’s at 3928 VT Route 11.

*Vincent Annunziata moved to approve the 1<sup>st</sup> and 3<sup>rd</sup> Class Liquor Licenses for Smith Food Service Hospitality, DBA Revival Kitchen, seconded by Taylor Prouty. The motion passed unanimously.*

**d. Executive session – Pending or probable civil litigation or a prosecution, to which the public body is or may be a party, per 1 V.S.A. 313 (a)(1)(E)**

*Taylor Prouty moved to find, based on advice of counsel, that premature general public knowledge of attorney-client communications concerning probable litigation regarding property on Cross Road will clearly place the Town of Londonderry at a substantial disadvantage, seconded by Vincent Annunziata. The motion passed unanimously.*

*Taylor Prouty moved to enter executive session to engage in attorney-client communications and discuss probable litigation in a matter regarding property on Cross Road, to which the Board is a party, pursuant to Title 1, V.S.A. Section 313(a)(1)(E) and Section 313(a)(1)(F), and invite Town Administrator Shane O’Keefe to attend, seconded by Vincent Annunziata. The motion passed unanimously.*

The Board entered executive session at 8:35 PM.

The Board came out of executive session at 8:48 PM. No decisions were made.

## **12. Adjourn**

*Jim Fleming moved to adjourn the meeting, seconded by Vincent Annunziata. The motion passed unanimously.*

The meeting adjourned at 8:49 PM. The next regular meeting of the Selectboard is scheduled for October 18, 2021.

Respectfully Submitted,

Shane P. O’Keefe  
Town Administrator

*Approved October 18, 2021.*

**LONDONDERRY SELECTBOARD**

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Thomas Cavanagh, Chair