

Town of Londonderry, Vermont
Selectboard
Meeting Minutes
Monday, January 9, 2023
Twitchell Building - 100 Old School Street, South Londonderry, VT

Board Members Present: Tom Cavanagh, Taylor Prouty, Jim Fleming and Melissa Brown.

Board Members Absent: Vincent Annunziata.

Others in Attendance: Town Officials – Town Administrator Shane O’Keefe; Town Treasurer Tina Labeau; Town Clerk Kelly Pajala; Road Foreman Josh Dryden; Planning Commissioner Chair Sharon Crossman, Town Hall Renovation Committee Chair Larry Gubb; and Village Wastewater Committee Chair Gail Mann. Others – Trout Unlimited representative Erin Rodgers; Business owner David Johnson; Residents Cindy Gubb, Jim Wilbur, Chad Stoddard, Trevor Dryden, Paul Hendler, Marcia Camp, Lisa Ward and Eryn Ryan; and GNAT camera operator Bruce Frauman.

1. Call meeting to order

Selectboard Chair Tom Cavanagh called the meeting to order at 6:00 PM.

2. Additions or deletions to the agenda

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

None.

3. Minutes Approval – Meeting(s) of 12/19/2022

Melissa Brown moved to approve the minutes of the Selectboard meeting of 12/19/2022, seconded by Jim Fleming. The motion passed unanimously.

4. Selectboard Pay Orders

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

5. Announcements/Correspondence

Shane O’Keefe noted the following:

- Wishing everyone a happy new year, he reminded the public that the next regular meeting this month will be on 1/23/2023.
- That day Town Office staff, along with Planning Commissioners Sharon Crossman and Larry Gubb, met with architect Jon Saccoccio to discuss and confirm the program and building improvements for the Town Office renovation project.
- Last week he sent out to staff and chairs of boards and commissions a link to a YouTube video produced by the Vermont League of Cities and Towns on compliance with the Vermont Open meeting Law.

- That week he planned to send out an email to all those with Londonderryvt.org emails about our cybersecurity program where we'll be sending out occasional fake phishing emails to help people to spot real ones and take necessary precautions.

And he mentioned the correspondence included in the Board's meeting packet was as follows:

- A 1/6/2023 memo from the Lister Office on the 2022 equalization study and their intent to try to regionalize a reappraisal, as well as a copy of the study itself, dated 12/23/2022. They'd be coming to a future Selectboard meeting to discuss this, he added.
- Regarding the Contos tax deed litigation, letters from the opposing attorneys requesting oral argument before the VT Supreme Court, dated 12/19 & 12/20/2022.
- A notice from VLCT, dated 12/20/2022, of allocation of additional local ARPA funds to come to the Town from State ARPA. Tina Labeau noted that it was approximately \$150.
- A 12/20/2022 letter from VTrans confirming the Vermont Traffic Committee's approval of the Selectboard's 8/29/2022 recommendation to establish lower speed limits on VT Route 100 at the northbound approach to VT Route 11.
- A thank you note from the Champion Fire Company #5 for the Town's annual contribution.
- A petition, dated 12/27/2022, filed on behalf of Green Mountain Power to the VT Public Utility Commission for a certificate of public good for upgrades to the Londonderry substation located on Thompsonburg Road. A notice on this project was mentioned to the Board on 8/15/2022, he added, and if the Town wishes to intervene it must do so soon.
- Windham County Sheriff's monthly report for December 2022.

6. Visitors and Concerned Citizens

None.

7. Town Officials Business

a. Village Wastewater Committee – Project updates

Gail Mann spoke on behalf of the Village Wastewater Committee. On the Library-owned land, soil percolation tests have been conducted which have confirmed the suitability of soils that can accommodate an inground system of approximately 6,000 gallons per day. Also the process uncovered an abandoned water line that needs further investigation.

Regarding the north village area, the soils are too wet to conduct auger tests at Pingree Park as previously hoped, and instead use of a piezometer is recommended to determine groundwater level, which is also a non-invasive process with very little site disturbance.

On the Custer Sharp property, she noted that the Town Attorney's deed research has determined that the property is limited to use as either a municipal park or forest preserve, and that a portion of the site will need to be designated as parkland to best accommodate the proposed wastewater system, which is expected to require only 3 of the 27 acres of the property. Test pits are hoped to be done there, with an archaeological consultant present, before the ground freezes, she added.

Mann referenced the timeline for use of ARPA funds for the project that had been provided to the Board, and noted that the project is under extremely tight schedule, with property

acquisition required by 12/31/2023 and overall construction completed by 8/31/2026. She noted that the timelines are State-mandated and non-negotiable, and that alternative sites are still being reviewed.

Mann asked for the Board's and the community's support for the project as this is a once-in-a-generation funding opportunity that should not be missed, and there appears to be a lack of understanding of its importance in the community. She stated that the project is critical to the town's future as it will support businesses and housing opportunities in the villages.

Melissa Brown moved to allow for a piezometer to make an exploratory hole at Pingree Park in the mapped area provided, to determine its sustainability for a community wastewater system, seconded by Jim Fleming. The motion passed unanimously.

Marcia Camp asked about ways that the community can be better informed about the project. Mann responded by saying there have been a number of public meetings in the past and planned for the future, and that the Village Wastewater Committee posts notice of its public meetings.

David Johnson also spoke about lack of public knowledge of the project, and Mann mentioned that in-person small group meetings with individual property owners are planned as well as a public information campaign assisted by the Windham Regional Commission.

Trevor Dryden inquired about the extent of the system and the costs of the project and impacts on taxpayers. Gubb spoke about the preliminary stage of the project and that much more information is needed before project costs are discussed in any detail.

Pajala inquired about how the Town would be raising the 10% matching funds for the project. O'Keefe spoke to this and the need for a bond, which could be paid back through user fees, and Pajala noted that timing of the bond would be important.

Johnson inquired about whether connection to a community wastewater system would be required of all property owners on the route, and it expressed that connection would be voluntary but may be necessary for business expansions or failed systems under State requirements.

Chad Stoddard spoke to issues he had with the number of users a community wastewater system could accommodate, and whether a system operated by the Town would be considered a municipal system. He expressed concerns about taxpayers having to pay for the project, and also spoke of a number of issues affecting the north village and timing of projects.

Mann suggested getting people together with the Town's engineer to help answer questions and address misperceptions, and Johnson stated he'd appreciate that.

b. Village Wastewater Committee – Consider proposal from Windham Regional Commission for Village Wastewater project coordination

The Board reviewed a proposal from the Windham Regional Commission to provide project coordination services for the Village Wastewater project. O'Keefe explained that the \$250,000 Clean Water Program grant from the State of Vermont includes \$15,000 for each of the villages for this type of service, which will be critical for moving the project forward for the Town, and that the Village Wastewater Committee voted to recommend that the Board approve this proposal. He added that the proposal includes public outreach to better inform

the community of the need and process for providing community wastewater treatment facilities, and that he anticipated that the actual amount spent on this contract will not likely approach the proposed budget.

Jim Fleming moved to 1) accept the proposal from the Windham Regional Commission to provide project coordination services related to the Village Wastewater project, estimated to cost \$29,966, 2) authorize the Town Administrator to execute any documents necessary for the hiring of the contractor to conduct the necessary work, including a service contract subject to review by the Town Attorney and approval of the Vermont Department of Environmental Conservation, and 3) authorize expenditure of up to \$30,000 for this effort to be reimbursed through the State of Vermont Clean Water State Revolving Fund program, seconded by Taylor Prouty.

Melissa Brown inquired about the cancellation provision included in the proposal that provides that either party can back out of the contract with adequate notice, and O’Keefe noted that this is a common provision.

The motion passed unanimously.

c. Town Hall Renovation Committee – Consider proposal for Town Hall structural repairs and use of Town Buildings Reserve Fund

Larry Gubb spoke of the ongoing efforts to restore the Town Hall to its former glory, with recent improvements to the roof and the next phase being structural work to allow for use of the balcony. He described the work proposal from All Seasons Construction Corp., which was arranged by the Town’s construction manager Chris Cole, and is based on coordination with the Town’s structural engineer. If approved, work can start later in the month Gubb mentioned.

Jim Fleming inquired about some of the structural materials proposed., and Brown emphasized the need to maintain the aesthetic integrity of the interior O’Keefe noted that additional funds beyond the \$36,411 proposed will be needed for items such as finishing the flooring. He added that there is a need to remove the fixed seats from the balcony area for the needed repairs. Larry Gubb raised the question of whether to cart them off and replace them or to store them to see if it’s worth refurbishing them. The Preservation Trust of Vermont is being contacted to provide advice and possibly funding on the refurbishing alternative, he added, and that the Committee will come back to the Board on recommendations.

O’Keefe noted that there will need to be project coordination to ensure there are no impacts on Town Meeting, scheduled for 3/7/2023.

Trevor Dryden raised the issue of the possibility for unseen circumstances that could increase the scope of the project, and O’Keefe responded by saying that any increases beyond that approved by the Board would need to come back to the Board for approval, and that there are adequate funds in the Town Buildings Reserve Fund to accommodate increases.

Melissa Brown moved to 1) accept the quote from All Seasons Construction Corp. for structural improvements to the Town Hall, estimated to cost \$36,411, 2) authorize the Town Administrator to execute any documents necessary for the hiring of the contractor to conduct the necessary work, and 3) authorize expenditure of up to \$40,000 for this effort to be paid from the Town Building Reserve Fund, seconded by Jim Fleming. The motion passed unanimously.

8. Transfer Station/Solid Waste Management

a. Updates

Cavanagh mentioned that 2023 Transfer Station stickers are available at the Town Office. Brown inquired about what happens when someone goes the facility without a sticker, and Labeau mentioned that people are not necessarily turned away and are directed to come by the Town office to secure a sticker.

b. Discuss solar array construction and facility gate security

O’Keefe noted that the solar array project on the former septage fields is under construction for the next 6-8 weeks, and there have been issues with the facility gate being unlocked at times, and while the construction crew is under instruction to keep the gate closed there have been instances when it is open and it is disputed who is leaving it open: the construction crew or illegal users of the facility. The developer is suggesting installation of locks on the gate.

Esther Fishman provided a letter on the issue indicating reluctance to using combination locks, and suggested new signage and video surveillance. There was discussion about whether to use a lock and, if so, what type. Cavanagh noted he is working with Labeau on erecting no trespassing signs.

9. Roads and Bridges

a. Updates

Josh Dryden noted the following usage for the month of December 2022:

Salt – 176 tons Sand – 751 yards

Fuel (gallons): Vehicles – 1,566, Town Office Generator – 10, Transfer Station – 0

He noted that there are equipment troubles, with the small red truck needing to be towed away for repairs, and his truck has also been out for repairs, The replacement plow has been received, he mentioned. He discussed replacement of the little red truck and/or the Mack truck, and mentioned that he’d like to come to the Board at the next regular meeting with the truck specifications. Prouty agreed that both vehicles are overdue for replacement and are unreliable. Josh Dryden said his plan is to purchase a new tandem truck and a new 6-wheeler for small work that would be a backup vehicle. Prouty mentioned that the loader is also due for replacement.

There was discussion about the Town’s vehicle replacement schedule and the difficulty sticking to it. The availability of trucks due to supply chain matters was also discussed.

Fleming applauded the job of the Road Crew with addressing the recent snowstorm.

10. Old Business

a. Williams Dam Project – Discuss USDA-NRCS report and determination of program eligibility for Watershed and Flood Prevention Operations program

Cavanagh inquired whether Board members had had the opportunity to read the report from the USDA Natural Resources Conservation Service.

Read aloud a letter from resident Rachel Febbie on the report that expressed concern that no community committee was set up by the Selectboard to consider all options and their impacts for the Williams Dam, and suggested that the Town could appeal the hazard reclassification of the dam.

Larry Gubb spoke at length about the dam, and raised issues about the hazard classification matter and potential for downstream impacts if the dam were removed. He also questioned whether the Town's application should have classified it as flood control dam, and whether the dam should have been considered for hydropower. Cavanagh read from the report which suggested that this use would not be of substantial benefit.

Prouty spoke of the cost of repair of the dam, which would be required if the dam were to be used for hydropower. The differences in repair and replacement costs between this report and the previous report from DuBois & King, Inc. were raised by Brown. Prouty noted that the removal option had no cost and would restore the original river corridor.

Cavanagh noted that there were no other funding sources for repair or replacement that he could find.

Potential for flooding impacts with or without the dam was discussed at length.

Cindy Gubb spoke about the use of the mill pond for firefighting purposes, and upstream wetlands impacts. O'Keefe noted that the Connecticut River Conservancy is working with the Town of Wilmington on a dam removal with firefighting water source impacts and have offered to meet with Londonderry representatives on solutions.

Erin Rodgers noted that the Williams Dam is essentially a run-of-the-river dam and that there would be little change in flooding potential by removal of the dam. She added that there is significant funding available for dam removal at the State and federal levels that can assist the Town with removal.

Recreation and tourism opportunities related to the dam were discussed.

Stoddard asked the Board to opine on its preferred alternative. It was noted by Prouty that the Board had not settled on a preferred alternative yet, and that no funding is available at this time for anything but removal.

b. Williams Dam Project – Discuss next steps

Cavanaugh suggested that there should be a floor vote at some point on which way to proceed.

O'Keefe suggested a bond vote for the reconstruction of the dam to get a question to the Voters that finalizes a decision on the matter.

Rogers noted that costs for reconstruction are likely to have increased significantly over the past year or so. Prouty noted that probably everyone in town wants the dam to stay but that the cost is the big issue.

Whether to include something on the Town Meeting warning was discussed. The matter was passed over at last year's Town Meeting. Brown suggested looking at all the options and coming up with a more reasonable option to consider. Prouty recalls that people were encouraged last year to form a group on the matter. It was noted that no formal invitation to

form a committee came from the Selectboard. Brown suggested that the Board discuss forming a group or committee at its next regular meeting.

Cavanagh noted the significant efforts he has made to reach out to interested parties on this and he estimates that either the Town raises funds to repair or replace it, or remove at no cost. If the Town does nothing then the State will likely force the Town to make a decision, he added.

Trevor Dryden suggested a Town Meeting poll to inquire whether the Voters want to address this at a future meeting Town meeting.

It was agreed to keep this matter on the agenda for the next regular meeting.

c. Septage Fields Project – Consider annual PFAS groundwater sampling plan

O’Keefe reminded the Board of the annual groundwater sampling and reporting requirement for Per- and Polyfluoroalkyl Substances (PFAS) at the former septage fields required of the State-approved corrective action plan. He noted that the monitoring results for 2022, which had been provided in the meeting packet, showed continued presence of PFAS but no indication of migration to the West River or the drinking water well at the Riverside Condominiums on Boynton Road across the river. The sampling plan for the coming year proposed by Waite-Heindel Environmental Management was reviewed and discussed, and it was noted that the cost had increased due in part to the State requiring an additional sampling well location. Engineer hourly costs also increased, O’Keefe stated, and Prouty raised the fact that the solar array annual rent will fall short of the annual PFAS sampling and reporting costs.

Taylor Prouty moved to 1) accept the estimate of cost for 2023 groundwater monitoring estimate of PFAS at the former septage fields from Waite-Heindel Environmental Management, to cost approximately \$7,660, and 2) authorize the Town Administrator to execute necessary documents to employ the consultant firm for this service on behalf of the Town, seconded by Jim Fleming. The motion passed unanimously.

d. Discuss regulation of short-term rentals

O’Keefe noted no recent progress with short-term rental (STR) ordinance research due to the holidays.

Sherwood Forest resident Eryn Ryan spoke to the Board at length about difficulties she was having with an STR unit next door to her home that shares a driveway and well. She noted a recent incident involving nighttime gunfire that required State police response, and a pattern of tenants being disruptive and disrespectful. She mentioned that the house and residential garage contain 7 bedrooms with 16 beds for up to 26 people in the house at one time. She asked the Board to do something about this, and said she has no issues with long-term rentals or STR’s with on-site owners, only those with absentee property owners that don’t have a connection with the community.

South Londonderry resident Lisa Ward also spoke to the Board at length in opposition to uncontrolled STRs and described a similar situation, with a shared driveway to a newly-build cabin listed as an STR. She mentioned safety and congestion concerns, and requested that the Board establish an ordinance to provide some controls and oversight.

Ryan and Ward each spoke of the detrimental effects of the STR tenants, that these are businesses and not residences, and each mentioned they had to increase their property insurance.

There was discussion about State of Vermont oversight of STRs and lack of inspections. Prouty mentioned ordinances being proposed by other communities and that the Selectboard has been working toward establishing one for Londonderry. Funds raised through STR registration fees and a 1% rooms tax, if approved by the Voters, could be used toward regulation and enforcement it was noted.

Pajala noted that State law and precedents in Vermont courts provide that STRs are considered to be residential uses of properties and not commercial uses, and that Londonderry’s zoning bylaw doesn’t address this. She suggested that changes should be made at the State level on definitions of STRs, differentiating between residential and commercial uses.

Brown supported establishing an STR registry with fees to better know what is taking place in the community. Prouty suggested getting a draft ordinance for the Board to review and approve, and it was generally agreed an ordinance should address both the impacts of party houses and the impacts on local housing resources.

Ward raised the idea of requiring consent between neighbors on impacts on STRs on rights such as shared driveways. Ryan briefly mentioned negative impacts of the STR on the National Forest lands adjacent to her property.

It was agreed that a draft of an ordinance should be available for review by the Board at the next regular meeting, and O’Keefe will work with the Town Attorney on this.

e. Review and discuss proposed FY2024 Budget

Labeau presented the Board with the latest version of the proposed FY2024 budget and noted that per the discussion at the previous meeting employee salaries were calculated using a 9% cost-of-living increase. There was discussion about the overall budget strategy and the need to slowly address deferred maintenance that has had negative effects on equipment and facilities. Brown asked to meet one-on-one with Labeau on some specific questions she had.

Labeau distributed spreadsheets showing a preliminary tax rate calculation showing a 5-cent rate increase, and provided a 4-year comparison of tax rates.

O’Keefe suggested holding a special Board meeting to go over the budget line-by-line. It was agreed to do It was agreed to schedule a special meeting to coincide with upcoming employee evaluations.

11. New Business

a. Consider proposals for Town Meeting appropriations to agencies and community services

The Board reviewed requests from organizations previously funded, as follows (with changes from previous year underlined):

Londonderry Conservation Fund	500
Champion Fire Company #5	20,000

Phoenix Fire Company #6	20,000
Londonderry Volunteer Rescue Squad	15,000
South Londonderry Library Association	<u>15,000</u>
American Red Cross	\$500
Flood Brook Athletic Association	\$2,500
Grace Cottage Foundation	<u>\$1,000</u>
Greater Northshire Access TV	\$2,000
Green Mountain RSVP	\$415
Green Up Vermont	\$100
Health Care & Rehabilitation Services	\$1,513
Londonderry 4th of July	\$1,500
Mountain Valley Health Council	\$5,000
My Community Nurse program	\$2,500
Neighborhood Connections	\$6,000
Senior Solutions	<u>\$970</u>
SVEDS	\$5,307
SEVCA	\$1,700
The Collaborative	\$1,000
Valley Cares	\$2,742
Visiting Nurse Assoc. of VT & NH	\$7,000
Vermont Rural Fire Protection	\$100
West River Montessori School	\$3,000
Windham County Youth Services	\$315
Women’s Freedom Center	\$800

Requests not on the previous Town Meeting Warning proposed to be included as special stand-alone articles on the draft warning as follows:

Londonderry Arts and Historical Society	\$1,000
Londonderry Transport - Neighborhood Connections	\$1,000
Windham County Humane Society	\$500

Labeau mentioned that she had one new unspecified request from an organization called the Safe Place, which was assumed to be \$1,900, but that no follow up documentation has not been received. Pajala noted that the Brattleboro-based organization provides services and support for youth and families that have experienced domestic and sexual violence. It was suggested that its request was late so the organization should have to petition to get on the Warning.

Labeau also mentioned that she had received a late funding request from the Friends of the West River Trail, and the organization was told that a petition would be required.

Taylor Prouty moved to require the Safe Place and the Friends of the West River Trail to provide a signed petition to get on the Town Meeting Warning and to approve all other requests that had their paperwork in in a timely manner, seconded by Jim Fleming. The motion passed unanimously.

b. Review draft Town Meeting Warning

O’Keefe gave an overview of the draft of the Town Meeting warning. He noted that, regarding the bond vote for the Town Office restoration, the bond counsel has recommended a separate warning for a special Town Meeting that would take place at the same time as the annual Town meeting. This is because of the very different requirements for public notice for bond votes. As a result, the bond would be removed from the Annual Meeting warning, leaving one Australian ballot matter: a vote on whether to allow the Selectboard to appoint the 1st and 2nd Town Constables instead of the position being elected.

Regarding the Constables, in addition to the vote on appointing the positions, the 1st Constable and 2nd Constable positions are still listed with those officials up for election. O’Keefe clarified that if the Australian ballot measure were to pass, those elected to the positions would be replaced by those appointed by the Selectboard.

Also included on the draft Warning, for the sake of providing the Board with all of its choices with regard to the Constable positions, was an article proposing to eliminate them based on new statutes passed in the last year. It was noted that even if the positions were eliminated the Board would have to appoint someone to handle the Constable duties.

O’Keefe was asked to reach out to the Windham County Sheriff to see if that office could handle Constable responsibilities under contract. Another option would to have a regional Constable.

It was generally agreed to seek to have the Constable positions elected and to drop the article seeking to eliminate the positions.

Budget and appropriations articles were briefly reviewed.

An article proposed by O’Keefe seeking approval for a new part-time minute-taker position was considered.

The article for funding the Windham County Sheriff shows an increase of \$5,000 to \$55,000.

The article for the Highway Improvement Reserve Fund shows an increase of \$40,000 to \$260,000 in keeping with the Town highways capital plan.

The Board discussed at length the proposed article to fund a new fire truck for the Phoenix Fire Company #6. The proposed article is based on the 2013 purchase of a truck by the Champion Fire Company #5 in 2013 and was approved by the Town Attorney. Prouty mentioned that Chief Ameden requests an article similar to that in 2009 where the Department was given a large lump sum to purchase a truck on its own. It would take two years to build and deliver the vehicle, he added, though interim payments would be required. Labeau pointed out that in order to finance the vehicle purchase the Town would have to be the owner until such time as the vehicle note is paid off. The Town would lease the apparatus to the Department in the meantime, with the department insuring and maintaining it. Raising all of the funds in one year to hand over to the Department would add 8-cents to the tax rate, Labeau stated. In addition to funds independently raised by the Department, funds from the

Town of Landgrove would offset the amount to be financed by the Town it was noted. Labeau was asked to work with Chief Ameden to clarify the article and amounts to be raised and financed.

O’Keefe noted that he had retained the Williams Dam article from last year so the Board could either keep it, remove it, or amend it. He added that it could be changed to allow for some engineering assistance but not to make a recommendation for its use. Prouty suggested wording to the effect of “allocating \$20,000 for engineering costs related to the Williams Dam”, and there was general support for this.

On the proposed article for a regional recreation director, there was discussion about including only Londonderry’s share or the entire cost of the position in the article. It was the consensus to include the entire cost for the sake of transparency. Brown noted that amount as \$95,386.

The Board briefly discussed an article seeking approval of a 1% local option tax for rooms (only) was discussed, with proceeds directed toward reduction of taxes. The Board members generally supported this.

Pajala raised whether a bond vote for renovation of the Williams Dam was to be considered, and there was discussion about this. Brown spoke against having a bond vote without additional community input.

c. Schedule special meeting for annual performance evaluations

O’Keefe noted that annual evaluations for he, Zoning Administrator Will Goodwin and Assessor Jeremiah Sund were due to be scheduled as each has an anniversary date of January 1st.

Schedules were discussed and it was tentatively agreed by the Board members to hold a special meeting on the budget and evaluations on Thursday, 1/19/2023 at 5:00 PM. O’Keefe will contact Annunziata, Sund and Goodwin to confirm their availability.

12. Adjourn

Jim Fleming moved to adjourn the meeting, seconded by Melissa Brown. The motion passed unanimously.

The meeting adjourned at 9:44 PM. The next regular meeting of the Selectboard is scheduled for January 23, 2023.

Respectfully Submitted,

Shane P. O’Keefe
Town Administrator

Approved January 23, 2023.

LONDONDERRY SELECTBOARD

Thomas Cavanagh, Chair