

Town of Londonderry, Vermont
Selectboard
Special Meeting Minutes - DRAFT
Thursday, June 20, 2024
100 Old School Street, South Londonderry, VT 05155

Board Members Present: Thomas Cavanagh, Taylor Prouty, and James Fleming.

Board Members Absent: Martha Dale.

Town Officials: Town Administrator Shane O’Keefe, Recycling Coordinator Esther Fishman, Transfer Station Supervisor Keith Barton, Transfer Station Staff member Steve Twitchell, Transfer Station Staff member Dana Griswold, Short-Term Rental Administrator Andy Dahlstrom, and Planning Commissioner Mimi Lines.

Members of the Press: Shawn Cunningham of *The Chester Telegraph*, and *GNAT-TV* videographer Bruce Frauman.

Others in Attendance: Anthony Boston, Judith Platt, Thomas Platt, Scott Ross, Pamela J. Spaulding, Anna Stoddard, Chad L. Stoddard, and Marty Trombetta.

Documents Presented at This Meeting:

- A letter of resignation from Dick Dale, dated 6/20/24, from his position on the Planning Commission.
- A notice of current Board, Committee, and Commission vacancies.
- A copy of the letter to property owners of parcel 103006.005 seeking to discuss conveyance of the property to the Town for flood control purposes, which was approved at the 6/3/2024 meeting.
- A letter of resignation, dated 6/4/2024, from Sarah Kiefer from her position as at-large member of the Mountain Towns Recreation Director Advisory Committee.
- A letter of thanks from the Health Care & Rehabilitation Services of Southeastern Vermont (HCRS) for the Town’s annual contribution as approved at Town Meeting.
- An Act 250 Jurisdictional Opinion, dated 6/14/2024, indicating that short-term rentals on Under the Mountain and Cross Roads are subject to Act 250, and the letter requesting the Jurisdictional Opinion, dated 4/4/2024 and written on behalf of a neighbor, is also attached.
- A 6/12/2024 stipulation and settlement agreement between the Town and Vermont Woodchips on a notice of zoning violation issued several years back, where the appellant will pay the Town \$14,000 in fines before the end of the fiscal year.
- A notice from the Vermont League of Cities and Towns (VLTC) on Act 133 regarding changes to the Vermont Open Meeting law.
- The monthly report from the Windham County Sheriff’s Office for May 2024.
- A letter about the possible amendment to the consultant contract for the South Londonderry Master Plan Task Force.
- An excerpt from the consultant contract for the South Londonderry Master Plan Task Force

1. Call meeting to order

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

2. Additions or deletions to the agenda

[1 V.S.A. § 312(d)(3)(A)]

Motion by Taylor Prouty to add to the agenda, as the last item under New Business, consideration of an additional request to use Town Hall. James Fleming seconded. Motion carried unanimously.

3. Executive Session – The appointment or employment or evaluation of a public officer or employee per 1 V.S.A. § 313 (a)(3)

3a. Motion by Mr. Prouty to enter executive session to consider the evaluation or employment of a Town employee, pursuant to Title 1 V.S.A. Section 313(a)(3), and invite Keith Barton, Dana Griswold, and Shane O'Keefe to attend the executive session. Motion carried unanimously.

The Board entered into Executive Session at 6:02PM.

Dana Griswold left Executive Session at 6:07PM.

Keith Barton left Executive Session at 6:10PM.

The Board came out of Executive Session at 6:11PM.

3b. Motion by Mr. Prouty to enter executive session to consider the evaluation or employment of a Town employee, pursuant to Title 1 V.S.A. Section 313(a)(3), and invite Keith Barton, Steve Twitchell, and Shane O'Keefe to attend the executive session. Motion carried unanimously.

The Board entered into Executive Session at 6:12PM.

Steve Twitchell left Executive Session at 6:27PM.

The Board rose from Executive Session at 6:32PM.

4. Minutes Approval - Meetings of 6/3/2024 & 6/10/2024

Motion by Mr. Fleming to approve the minutes of the Selectboard meetings of June 3, 2024 and June 10, 2024. Mr. Prouty seconded. Motion carried unanimously.

5. Selectboard Pay Orders

Mr. Prouty moved to approve the pay orders for payroll and accounts payable. Mr. Fleming seconded. Motion carried unanimously.

6. Announcements / Correspondence

Town Administrator Shane O'Keefe shared and reviewed announcements and correspondence. They were as follows:

- Planning Commissioner Dick Dale resigned today.
- Elsie Smith resigned in January from the Planning Commission, effective June 1.
- There are many vacancies in Town Boards, Committees, and Commissions. The list is posted on the Town's website. Vacancies include:

- Selectboard
- Planning Commission
- representative to the Windham Regional Commission
- Town Hall Renovation Committee
- Village Wastewater Committee
- Housing Commission
- Mountain Towns Regional Recreation Director Advisory Committee
- Deerfield Valley Communications Union District Governing Board
- Southern Vermont Communications Union District Governing Board
- Deputy Health Officer
- Esther Fishman also announced the Development Review Board needs an alternate member.
- A notice to property owners of parcel 103006.005 seeking to discuss conveyance of the property to the Town for flood control purposes, which was approved at the 6/3/2024 Selectboard meeting.
- A letter of resignation, dated 6/4/2024, from Sarah Kiefer from her position as at-large member of the Mountain Towns Recreation Director Advisory Committee.
- A letter of thanks from the Health Care & Rehabilitation Services of Southeastern Vermont (HCRS) for the Town's annual contribution as approved at Town Meeting.
- An Act 250 Jurisdictional Opinion, dated 6/14/2024, indicating that short-term rentals on Under the Mountain and Cross Roads are subject to Act 250, and the letter requesting the Jurisdictional Opinion, dated 4/4/2024 and written on behalf of a neighbor, is also attached. Mr. O'Keefe noted the Selectboard may soon see a related Act 250 application come in.
- A 6/12/2024 stipulation and settlement agreement between the Town and Vermont Woodchips on a notice of zoning violation issued several years back, where the appellant will pay the Town \$14,000 in fines before the end of the fiscal year.
- A notice from the Vermont League of Cities and Towns (VLTC) on Act 133 regarding changes to the Vermont Open Meeting law. These changes are substantial, and further guidance will come out soon.
- The monthly report from the Windham County Sheriff's Office for May 2024.

7. Visitors and Concerned Citizens

There were none.

8. Town Officials' Business:

a) Short-Term Rental Administrator - Update on progress and discussion on procedures

Short-Term Rental Administrator Andy Dahlstrom gave his update. Highlights included:

- Only between 4.5-7% of the town's short-term rentals have been registered:
 - Six are complete.
 - Four inspections will be complete before Monday, June 24, 2024.
 - 11 applications will be finished by Monday, June 24, 2024.

- The Town has collected close to \$4,000 so far in inspection fees.
- If everyone who hosted short-term rentals registered and paid the associated fees, it would bring the Town approximately \$35,000 in revenue per year.
- If everyone who registered an unhosted short-term rental paid the associated \$500 fee, it would bring the Town close to \$100,000 in revenue per year.
- Right now, the ratio between hosted and unhosted short-term rentals is 4/1.
- Applications are due on July 1, which is when the registration requirements of the ordinance go into effect.
- The inspections required by the Fire Marshal began on March 1. This has had a significant effect on short-term rental owners. It has also brought necessary, and oftentimes expensive, repairs to the owners' attention.

Mr. Prouty asked Mr. Dahlstrom if there are a number of short-term rental units in a building that automatically triggers an inspection by the Fire Marshal. Mr. Dahlstrom responded: Yes. Originally, though, there was no number; all units were to be inspected according to the ordinance. But, that changed to 9-or-more with the most recent amendment to the ordinance, and this is consistent with the Division of Fire Safety's protocol.

Mr. Dahlstrom's update continued:

- He raised the question: How will the Town determine what constitutes a bedroom? Work continues on this issue.
- Inspections are going well. There has been no resistance from property owners. The only debate is regarding the bedroom-count.
- Something for the Selectboard to be aware of: the Town of Plymouth's short-term rentals ordinance is about to hit its three-year mark. They are filing their first batch of fines for non-compliance. This raises items for further discussion:
 - Should the Town offer grace periods or leniency?
 - More outreach is needed now that the ordinance has passed and will soon go into effect.
 - Mr. Dahlstrom spoke with Treasurer Tina Labeau about including a notice announcing the ordinance in the next tax bill mailing.

Mr. O'Keefe suggested the Town work with the Vermont Short-Term Rental Alliance to help with outreach to local members. Mr. Dahlstrom expressed reservations with doing this, because the VTSTRA is a business, and its model is to register every short-term rental in Vermont by charging the applicant a substantial fee to receive the VTSTRA's "approval." A discussion ensued.

Mr. Fleming asked how the Town can enforce the collection of fines. Mr. Dahlstrom responded: The Town will send them, as per the ordinance, a notice of violation for non-compliance. The fines increase the longer they are not paid. Mr. Cavanagh added: The property owners could lose their ability to have a short-term rental for a year if they are not in compliance.

A discussion ensued on what to do next after the ordinance goes into effect on July 1. Should the Town offer leniency or a grace period? The ordinance took longer to approve than anticipated. At their regular July 15 meeting, the Selectboard will take action on determining a grace period and leniency.

b) Recycling Coordinator - Consider amendment to the Ordinance to Regulate the Operation of Short-Term Rentals

Recycle/Transfer Station Coordinator Esther Fishman presented a suggestion to change the Short-Term Rentals ordinance, as well as signage related to it, to remind owners and guests about the town's trash and recycling requirements.

A discussion ensued.

Mr. Cavanagh opposed this suggestion because the ordinance is new and it could be confusing. Instead, he recommended providing information only for the first year, and then next year possibly changing the ordinance.

Ms. Fishman disagreed on the basis that making trash and recycling part of the ordinance now, from the beginning, is a better idea.

Mr. Cavanagh pointed out that changing an ordinance now would still take 60 days for adoption.

A discussion ensued on whether to change the ordinance, or to wait for state legislation to address the issue. The consensus among Board members was to keep the ordinance as-is for now, and provide short-term rental owners trash and recycling information. It was generally agreed to consider ordinance amendments next winter.

A discussion ensued on fire and safety concerns with short-term rentals, especially regarding ash cans.

c) South Londonderry Master Plan Task Force - Amend consultant contract

Mr. O'Keefe said the current contract indicates the work be completed by the end of June. The request is to amend the contract and change the end-date to November 30. This is so the Task Force does not have to meet in the summer, which presents challenges because of vacations.

Mr. O'Keefe referred to documents he provided the Selectboard on this subject. They are as follows:

- A letter on page 25 of the meeting packet.
- An excerpt from the consultant contract on page 26 of the meeting packet.

Planning Commissioner Mimi Lines pointed out the weather-related delays to completing the project. She said the Task Force wants to be thoughtful on the process and responsible to the public.

Motion by Mr. Prouty to accept the recommendation of the South Derry Master Planning Task Force to extend the completion date of the South Londonderry Master Plan through November 2024, and authorize the Town Administrator to amend the consultant contract accordingly. Mr. Fleming seconded. Motion carried unanimously.

9. Transfer Station / Solid Waste Management

a) Updates

Ms. Fishman asked if there was any response to the Request for Proposals that is due at the end of the month. Mr. O'Keefe responded: Not yet.

Recycle/Transfer Station Staff Steve Twitchell reported on the recent rat-eradication program: it is going very well. He said likewise for the compost program. Ms. Fishman cautioned about jumping worms.

10. Roads and Bridges

a) Updates

Mr. Prouty gave his report as follows:

- Mowing the roads is going well.
- A few culverts on Barker Road have been replaced.
- Other ongoing projects include additional culvert-replacements, which will be finished soon.

11. Old Business

a) Discuss participation in FEMA Hazard Mitigation Grant program (Building Elevation – 2486 & 2508 VT Route 11)

Steve Ross, property owner, spoke about his experience with the flooding of his properties at 2486 and 2508 VT Route 11, and trying to access government assistance with the damage. Highlights included:

- The FEMA Buyout program and whether he wants to participate in it.
- The disaster was a long ordeal which has greatly and negatively affected him.
- The buyout timeline does not work for him. He took out Small Business Administration loans related to the flood, and he must soon begin to pay them back.
- The FEMA Hazard Mitigation program allows for the Town to add to its tax base. Mr. Ross has a rental unit on the property that he wants to keep, and keep safe for his tenants.
- Mr. Ross only learned his properties were in the flood zone after he purchased them.
- Mitigation will raise the height of his cottage above the flood hazard zone. The other home, a modular home, should be removed because it is a hazard and it has been sitting there since last year's flood.
- The barn on his property is structurally good, but the foundation needs repair.
- Mitigation benefits both parties: him, and the Town.

Mr. Cavanagh noted the dam is a contributing factor, and a discussion for another day. He is not convinced that the elevation mitigation will happen faster than the FEMA buyout process. He wanted Mr. Ross to be forewarned about this.

A discussion ensued on the options for Mr. Ross's hazard mitigation projects, and others in town, and whether, and how much, the Town should be involved due to significant liability concerns due to the

mitigation program process. Mr. O'Keefe noted the FEMA and state program could provide the Town project-management funds, plus a 5% administrative allocation.

A discussion ensued on the previous denials of FEMA and state hazard-mitigation funds in Londonderry, and why that may have happened.

Motion by Mr. Fleming to authorize the Town Administrator to submit a written expression of interest and application with Vermont Emergency Management's Hazard Mitigation Grant Program for the elevation of property located at 2486 & 2508 VT Route 11 owned by Scott Ross. This application would be in place of and replace the buyout application authorized by the Selectboard on March, 25, 2024. Mr. Prouty seconded.

A discussion ensued. Mr. Ross asked about the process for removing the other home on his property. Mr. Cavanagh responded: He did not know.

Vote on Mr. Fleming's motion: Motion carried unanimously.

b) Discuss participation in FEMA Hazard Mitigation Grant program (Building floodproofing – 2116 & 2136 North Main Street)

Mr. O'Keefe said he was contacted by the Windham Regional Commission (WRC) and the Brattleboro Development Credit Corporation (BDCC) about Judith and Thomas Platt's interest in flood-proofing their two buildings. The mitigation program grant funding was previously for 75% of the project, but now it covers 100% of project costs. Mr. O'Keefe said he gave the Selectboard information on the two hazard mitigation programs: for buyouts and for flood-proofing. This proposal is for flood-proofing. The initial cost for this project in 2013 was \$350,000, and now it is likely quite a bit more. This project will help preserve these buildings from flooding.

Thomas Platt explained the process he and Judith Platt have gone through on this issue, including his attempts at working with local contractors, and the information they gave him on what would be needed to flood-proof their two buildings. He said the BDCC information was helpful. He noted he and Ms. Platt are providing rental housing to local workers and young adults.

Mr. Cavanagh recommended the Platts perform a benefit-cost analysis.

A discussion ensued on how the Selectboard and Town officials can support the Platts and other affected townspeople. Mr. O'Keefe pointed out that if anything goes wrong, the Town is liable due to the structure of the mitigation program. He also noted the Town must project-manage this, which includes issuing Requests for Proposals and other tasks.

Motion by Mr. Fleming to authorize the Town Administrator to submit a written expression of interest and application with Vermont Emergency Management's Hazard Mitigation Grant Program for the floodproofing of property located at 2116 & 2136 North Main Street owned by Thomas and Judith Platt. Mr. Prouty seconded. Motion carried unanimously.

c) Ratify 6/3/2024 decision to issue a 2nd Class Liquor License – Derry Downtown, Limited (The Garden Market & Restaurant)

Motion by Mr. Fleming to ratify the Board's 6/3/2024 decision to approve a 2nd Class liquor license for the Garden Market & Restaurant, related to property located at 2116 North Main Street. Mr. Prouty seconded. Motion carried unanimously.

12. New Business

a) Consider request to use Town Hall

Mr. O'Keefe explained the reason for request. This is a one-day event, hosted by the BDCC, to try to convince newcomers to move to Vermont by introducing them to people who already live here.

A discussion ensued on a potential conflict with the Playhouse's use of Town Hall. There is none; the Playhouse people will be gone by then.

Motion by Mr. Prouty to authorize use of the Town Hall for a day-long meeting by the Brattleboro Development Credit Corporation on Thursday, August 8, 2024, and to authorize the Town Administrator to sign the facility use agreement on behalf of the Town. Mr. Fleming seconded. Motion carried unanimously.

b) Consider request for use of Pingree Park and use of alcoholic beverages in a public place – Community lunch/event by James Ameden, Jr. & Anthony Boston

Mr. Boston presented his request. Highlights included:

- The purpose of this event is for the community to have a nice party.
- Mr. Boston's efforts to organize it.
- Other community parties Londonderry has had.
- Party details, such as food and beverages, the hours of the party (and the permit), insurance coverage, activities at the party, community collaborations, and possible fundraising.

Motion by Mr. Fleming to authorize the use of Pingree Park by, and grant a permit allowing the use and consumption of alcoholic beverages to, James A. Ameden, Jr. and Anthony Boston for a Londonderry Community Lunch on Sunday, June 30, 2024 from 12PM to 8PM, subject to the conditions that 1) the permittee shall adhere to all local regulations and ordinances, including the Town's Ordinance Relating to the Use of Alcoholic Beverages in Public Places and the Town's Facility Use Policy, and 2) provision prior to the event of an acceptable certificate of insurance indicating adequate liability insurance and which names the Town as an additional insured. Mr. Prouty seconded. Motion carried unanimously.

c) Consider request to use Town Hall

Mr. O'Keefe explained the Weston Theater Company's request. Highlights included:

- This group has used the building before, and they treated it well.
- The Selectboard had previously approved their usage for last month, with the stipulation that if it all went well, the Town would allow them to use it again.
- Everything went well.
- They are aware that on July 13, the Town has to set up for Town Meeting.

Mr. Cavanagh noted the Weston Theater Company had offered to pay for the day's electric bill, and they had alerted the Town to a leak in the building and they cleaned up the leak.

Motion by Mr. Fleming to authorize use of the Town Hall for a meeting of the Weston Theater Company on Saturday, June 22, 2024 from 9:00AM to 1:00PM, and to authorize the Town Administrator to sign the facility use agreement on behalf of the Town. Mr. Prouty seconded. Motion carried unanimously.

GNAT-TV videographer Bruce Frauman asked if the Town was planning to host a Candidates' Night. A discussion ensued, with Mr. Twitchell participating, on options, and who should host and organize it.

13. Adjourn

Mr. Fleming moved to adjourn the meeting. Mr. Prouty seconded. The motion passed unanimously.

The meeting was adjourned at 8:18PM. The next special meeting of the Selectboard is scheduled for 6/20/2024. The next regular meeting of the Selectboard is scheduled for 7/01/2024.

Respectfully Submitted,

Wendy M. Levy
Minutes Taker

Approved July 1, 2024

LONDONDERRY SELECTBOARD

Thomas Cavanagh, Chair

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