



Town of Shelburne, Vermont

SELECTBOARD MEETING AGENDA

Tuesday, March 10, 2020

Shelburne Town Offices, 5420 Shelburne Road, Shelburne, Vermont

Call to Order	7:00 P.M.
*Approve Agenda	7:00 P.M.
*Organizational Meeting	7:00 P.M.
a. Elect Chair	
b. Elect Vice-Chair	
c. Confirm regular meeting dates/times/location	
d. Designate accounts payable and payroll warrants for Selectboard	
e. Designate newspaper of record	
f. Adopt Rules of Procedure	
g. Appoint Tree Warden	
*Approve meeting minutes of February 25, 2020	7:10 P.M.
Public Comments	7:10 P.M.
Selectboard Comments	7:20 P.M.
Welcome to new businesses	7:25 P.M.
Town Manager Report	7:30 P.M.
*Update Personnel Policy re: vacation time earned	7:35 P.M.
*Update Selectboard Policy regarding waiver of penalty for late payment of taxes	7:40 P.M.
*Charles & Anne Joseph – late tax payment penalty waiver, request to reconsider	7:45 P.M.
*Reappoint CBC members who wish to be reappointed	7:55 P.M.
*Liquor License renewals	8:00 P.M.
*Short-term rentals – review of research to date; request of the Planning Commission	8:05 P.M.
Economic Development – initial discussion of possible uses for FY 2021 budget	8:15 P.M.
*Expenditure of Selectboard discretionary funds recognizing Colleen Parker's service	8:30 P.M.
*Executive Session – Police Union contract negotiations	8:35 P.M.
*Adjourn	9:00 P.M.

* Decision Item

Times allotted to each agenda item are approximate and may vary depending on the discussion.

Reasonable accommodations will be provided upon request to ensure that this meeting is accessible to all individuals



Town of Shelburne, Vermont

SELECTBOARD MEETING

ANNOTATED AGENDA

Tuesday, March 10, 2020

Shelburne Town Offices, 5420 Shelburne Road, Shelburne, Vermont

Call to Order	7:00 P.M.
*Approve Agenda	7:00 P.M.
*Organizational Meeting	7:00 P.M.
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d. Designate accounts payable and payroll warrants for Selectboard	
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*Approve meeting minutes of February 25, 2020	7:10 P.M.
Public Comments	7:10 P.M.
Selectboard Comments	7:20 P.M.
Welcome to new businesses	7:25 P.M.
<i>Tracey Stolese of Arabesque will join us to describe her newer business model and location.</i>	
Town Manager Report	7:30 P.M.
*Update Personnel Policy re: vacation time earned	7:35 P.M.

It is a helpful goal, to the extent possible, to harmonize statements of policy and benefits for employees, whether Union or non-Union. To date, there are slightly different approaches to vacation time benefits. Currently, both Unions receive 15 hours/month of vacation time after ten years of service, where non-Union staff receive 13.2 hours/month of vacation. While overall, the array of "time off" benefits offered is very generous as it is, it seems reasonable to try to be consistent for all employees where we can. Proposed here is to amend the Personnel Policy to increase vacation time for non-Union staff to 15 hours/month after ten years

of service, making this consistent with what both Unions receive. In order to simplify the record keeping involved, I suggest making this effective on April 1, 2020.

***Update Selectboard Policy regarding waiver of penalty for late payment of taxes**

7:40 P.M.

This is an unusual matter that came to light upon further consideration of a recent request for a waiver of this penalty (the Josephs' case, which may be reconsidered below). Historically, it has been the Selectboard's practice to review and consider any such requests, no matter when they came in, these would be reviewed pursuant to our adopted policy 18-01 (please see proposed amended Policy, included in this packet).

However, upon conferring with the Town Attorney, it is clear that under the Town Charter, the only such requests that the Selectboard may consider are those where the tax payment was no more than seven days late. Although this differs from statute, that's what charters are for – to give municipalities unique powers unto themselves. Absent these, then the standard "Dillon's Rule" applies, that we may only do what the State authorizes us to do. Therefore, when considering our charter and policy as a whole, the Selectboard may consider these penalty waivers when tax payments are no more than seven days late; otherwise, standard statute applies, and such requests are properly heard by the Board of Abatement. Absent our specific Charter provision, all such requests would go to the Board of Abatement.

That said, in relation to the Joseph's specific case, the Town Attorney agrees that since this matter was first heard by the Selectboard according to historical practice and understanding, it is sensible and reasonable for this matter to continue to be heard by the Board at this level. If the waiver request is granted, then the matter will be concluded; if not, then the Josephs may seek to make their case before the Board of Abatement.

***Charles & Anne Joseph – late tax payment penalty waiver, request to reconsider**

7:45 P.M.

This matter came before the Board at a recent meeting. At that time, and based upon the limited information available then, the Board declined to grant the waiver. The Josephs have continued to press their case, which they believe is justified under criterion 3 of our policy (serious medical condition of close family members). Understandably, they do not wish detailed personal medical information to be disclosed publicly (which could also risk violating HIPAA regulations). I will say here for the record that the Josephs are new property owners in Shelburne, have signed up for automatic payments to prevent any future late payments (and as required in our policy when seeking a waiver), and their family member issues appear to satisfy criterion 3.

***Reappoint CBC members whose current terms expire and who seek reappointment**

7:55 P.M.

We have a host of CBC members who in the opinion of their respective Chairs, have served the Town well, and who wish to be reappointed so as to continue their public service. In no particular order, these include:

Water Commission: John Day, Pete Gadue

Ethics Committee: Bill Deming

DRB: Anne Bentley, Michael Major

Dog Park: Bob Owens

Bike/Ped/Paths: Jeff Zweber, Joplin James

Tree Committee: Tod Warner

NRCC: Peggy Rosenau, Fred Morgan

HPDRC: Ann Milovsoroff

Veterans: Paul Goodrich

Cemetery: Stuart Morrow, Deborah Belcher, Jennifer Martin Brown

Parks & Recreation: Peggy Coutu, Susan McLellan

Library Trustees:

NRCC: Michael Schramm

Once we've confirmed these, then we will advertise for open positions.

***Liquor License renewals - placeholder in case of late breaking applications. 8:00 P.M.**

It's that time of year when renewals are due, so keeping this on the agenda will help keep this moving forward smoothly for everyone. As of this writing, I have no applications in hand. If any are received, then we'll itemize these as always by business name and type of license.

***Short-term rentals – review of research to date; request of the PC**

8:05 P.M.

This appears to have risen to a certain level of priority for action sooner than later. When this was discussed at a recent Selectboard meeting, the consensus appeared clear that the Board would like the Planning Commission to put this topic on its workplan/agenda for consideration. That message was communicated to PC Chair Jason Grignon and Planning Director Dean Pierce. In the meantime, it was asked to be placed back on the Selectboard agenda for further discussion and a possible, more formal request of the Planning Commission.

In the meantime, to help accelerate consideration of whether regulation is warranted, and if so, of what type, I have initiated research by asking planners in the Northern New England region how and whether these are handled in various municipalities. Responses were somewhat limited, and are summarized briefly below:

The City of Portsmouth, NH won a court case prohibiting short term rentals in a certain residential district. As often occurs, such decisions cannot be generalized, but rest upon specific language in a zoning ordinance. Here, the definition of “[d]welling unit” established by the ordinance expressly excludes “such transient occupancies as” hotels, motels, rooming houses, and boarding houses. *Id.* Thus, under the ordinance, these “transient occupancies” are not considered “[d]welling unit[s].” Citation: *WORKING STIFF PARTNERS, LLC v. CITY OF PORTSMOUTH*, Argued: June 18, 2019, Opinion Issued: September 27, 2019.

The City of South Portland, Maine requires licensing and registration of short-term rentals, requires owner-occupancy, and prohibits larger gatherings such as wedding parties, family reunions, and the like. There are many specific requirements involved. They admit that “robust enforcement” is essential.

Killington, VT is considering a zoning amendment regulating short-term rentals. They have apparently been advised that it cannot be done as a municipal ordinance.

Stowe, VT has had concerns about short-term rentals, but has chosen not to regulate them in any way. Rather, they post information about other rules that may apply (public building codes, rooms and meals taxes, and the like).

https://www.townofstowevt.org/vertical/Sites/%7B97FA91EA-60A3-4AC6-8466-F386C5AE9012%7D/uploads/STR_handouts.pdf

A study of short-term rental issues was recently done for the Lake Placid/North Elba, NY area, and is available here: <https://www.futurelakeplacid.com/2020/01/23/short-term-rental-report/>.

As in any such matter, it is important to first understand if there is a problem to be solved; if so, what the problem may be; and then, determine what is the best tool to be used, understand just what it is we seek to regulate, and how it will be enforced/can be enforced equitably.

To date, the problem stated by one or another Shelburne resident is what may be characterized as uncivil behavior by short-term renters. While some might suggest that short-term rentals may encourage this type of behavior, this can also occur in owner-occupied homes. If behavior is the problem, then it’s an interesting question how that may be regulated. Perhaps requiring owner occupancy is one option; another is a strict definition as cited above in the NH court case such that short-term rentals are prohibited in residential districts. Like anything, that can have downside risk to those who might manage their properties appropriately, and find short-term rental of rooms or accessory dwellings an important supplement to their income and/or ability to stay in their home. I happen to have a friend who does just that, for that very reason: she lives in her home, rents out a room from time to time, and would certainly not seek unwelcome disruption in her home or her neighborhood.

In other areas, a proliferation of short-term rentals have changed the character of what used to be single family or multi family neighborhoods, and have altered the availability of housing in unhelpful ways by removing housing stock from the market that would have normally been owner-occupied, and have driven up the price of housing when converting homes into rental investments. It has not been suggested that this is a problem here, at least not yet.

I hope you find this is a helpful start to the conversation.

Economic Development – initial discussion of possible uses for FY 2021 budget 8:15 P.M.

This process, as well as decisions on expenditure of funds, will be an interesting one. There will likely be far more call for \$ than are available, and I have already been approached with spending suggestions. At the same time, I believe that much of the work that will be necessary and appropriate will be our own time and effort, and not necessarily involving money. For example, building upon work we have already initiated, this will include reaching out to other municipalities and economic development entities, visiting with existing businesses, collaborating with local and regional institutions and organizations, realigning approaches and systems toward a more welcoming approach to prospective development, and regulatory reform. Indeed, I have been informed on more than one occasion that I was the first visitor from the Town to their businesses that did not involve a suggested problem or alleged violation. This type of relationship building and learning experience is essential. We need to learn what works and what doesn't from those who are already here; those who have already made the financial and emotional investments in our community. Why did they locate here? Why do they stay? Who do they know who might be interested in coming here? Are there opportunities to help create synergy with other existing businesses, or new businesses not yet here? Are there opportunities to explore regionally? After all, Shelburne does not exist in a vacuum, and our businesses certainly do not survive nor thrive on Shelburne residents alone. All of these, and more, are important to explore. These need not cost money, but do require time and effort, which must be remembered in light of all of the other ideas, issues, and responsibilities that we already share.

As far as actual \$ are concerned, I think some form of consulting assistance will likely be effective in helping us clarify ideas, needs, and strategies. Economic development writ large will not be a quick fix; nor is it just attracting new businesses. Rather, it is a multi-faceted exercise that must include building on our strengths and existing advantages, and then leveraging those assets in collaborative, mutually beneficial ways. While I am not inclined to create more committees and engage in lengthy studies, either of which will take time away from actually doing the work, it will be important to understand our strengths, weaknesses, and opportunities as a foundation for action.

Just three tangible examples of opportunities that I see for us:

It is no secret that we have three of Vermont's biggest attractions here in Shelburne: the Farms, Museum, and Teddy Bear. There must be ways that we can help build upon these to create a more full-featured "stay and play" type approach to enhance the visitor experience and simultaneously strengthen our food, lodging, and retail businesses.

Similarly, I had the opportunity recently to meet with the directors of the Shakespeare Festival. They do performances at locations in town, and were curious whether there were opportunities to broaden that experience. I welcomed their inquiry, and we had a wonderful, wide-ranging conversation about ways we could help, and ideas for collaborating with other existing events or programs, all toward the concept of broadening

this beyond single, discrete performances and hoping to create a community wide Shakespeare-themed experience or festival for residents and visitors. Imagine if they waltzed around in costume and did a brief performance at the Farmers' Market? Played a brief, pretend inning in costume at a Little League game? Participated in the "Second Wednesday" series at the Library? Presented a brief skit at a Selectboard meeting under the 'welcome to new business' agenda item?

We have a remarkable collection of artisan food establishments at Shelburne Green that most towns would love to have, yet we as a town appear to have done little to encourage and support their success. While these businesses have struggled against our systems on that side of the road, we have made provision for and allow all manner of activities on the other side of the road, to delight of residents and visitors, and to no apparent adverse impact on anyone. Shouldn't we be more proactive to encourage and help enhance synergy and success for these and possible future establishments?

I hope this background is helpful in stimulating conversation on this important matter.

***Expenditure of Selectboard discretionary funds recognizing Colleen Parker's Service** **8:30 P.M.**
((\$250 contribution to the Library; \$100 gift certificate to Mysa; \$280.80 for the plaque.

***Executive Session – Police Union contract negotiations** **8:30 P.M.**

The purpose is to inform the Board of current circumstances in these negotiations.

Motion 1: Pursuant to 1 VSA 313, I move to find that premature general public knowledge of the Town's position in a pending labor relations agreement with employees would clearly place the Town at a substantial disadvantage.

Motion 2: Pursuant to 1 VSA 313, I move to enter executive session to evaluate the Town's position in a pending labor relations agreement with employees and to invite the Finance Director and Town Manager to participate.

***Adjourn** **9:00 P.M.**

*** Decision Item**

Times allotted to each agenda item are approximate and may vary depending on the discussion.

Reasonable accommodations will be provided upon request to ensure that this meeting is accessible to all individuals



Town of Shelburne, Vermont

CHARTERED 1763

P.O. BOX 88 5420 SHELBURNE ROAD SHELBURNE, VT 05482

Clerk/Treasurer
(802) 985-5116

Town Manager
(802) 985-5111

Zoning & Planning
(802) 985-5118

Assessor
(802) 985-5115

Recreation
(802) 985-5110

FAX Number
(802) 985-9550

Shelburne Selectboard Rules of Procedure

Adopted March 10, 2020

I PURPOSE. The Selectboard of the Town of Shelburne is required by law to conduct its meetings in accordance with the Vermont Open Meeting Law. 1 V.S.A. §§ 310–314. Meetings of the Selectboard of the Town of Shelburne must be open to the public at all times, except as provided in 1 V.S.A. § 313. At such meetings, the public must be afforded reasonable opportunity to give its opinion on matters considered by the Selectboard so long as order is maintained. Such public comment is subject to the reasonable rules established by the Chair of the Selectboard. 1 V.S.A. § 312(h).

II APPLICATION. These rules of procedure for Selectboard meetings shall apply to all regular, special, and emergency meetings of the Town of Shelburne Selectboard.

III PROCEDURES.

1. The Selectboard shall meet the second and fourth Tuesday of every month except when otherwise noted.
2. Officers of the Selectboard shall be Chair and Vice-Chair.
3. The Chair of the Selectboard, or in the Chair's absence, the Vice-Chair, shall chair all Selectboard meetings. If both the Chair and the Vice-Chair are absent, a member selected by the board shall chair the meeting.
4. The Chair shall rule on all questions of order or procedure and shall enforce these rules as required by 1 V.S.A. § 312(h).
5. The current size of the Selectboard is five (5) members. A majority of the members of the Selectboard shall constitute a quorum, a minimum of three (3) members. If a quorum of the members of the Selectboard is not present at a meeting, the only action that may be considered by the Selectboard is a motion to recess or adjourn the meeting.
6. Should a member consistently miss meetings, the Chair shall have the discretion to request either the member's resignation or removal from the Selectboard by the Selectboard. "Consistently missing meetings" shall be defined as missing three (3) or more of the scheduled meetings in a six-month period.
7. At the beginning of each Selectboard meeting, there shall be ten (10) minutes afforded for open public comment. By majority vote, the Selectboard may increase the time for open public comment and may adjust the agenda items and times accordingly.
8. Each Selectboard meeting shall have an agenda, with time allotted for each item of business to be considered by the Selectboard. Those who wish to be added to the meeting agenda shall contact the Selectboard Chair or Town Manager to request inclusion on the agenda. The Selectboard Chair shall determine the final content of the agenda. The Town Manager is responsible for posting the agenda at least forty-eight (48) hours before a regular meeting and twenty-four (24) hours before the meeting — including being posted on the town website and physically at (i) the town offices (ii) the Pierson Library (iii) the post office.

9. All business shall be conducted in the same order as it appears on the agenda, except that by majority vote of the Selectboard, the order of items to be considered and/or the time allotted may be modified.
10. Public comment on issues not on the agenda may be discussed during the open public comment period. Those wishing to speak will be allowed three (3) minutes, unless by majority vote, the Selectboard sets a different time limit. Speakers must be acknowledged by the chair before speaking. All comments are to be directed to the board. In the event many participants wish to speak, a sign-up sheet will be required and participants may speak in the order they have signed up. A person may not speak a second time on an issue until everyone wishing to make comments has had an opportunity.
- ~~11. Public comment on agenda items shall be limited to three (3) minutes, unless by majority vote, the Selectboard sets a different time limit. Speakers must be acknowledged by the chair before speaking. All comments are to be directed to the board. In the event many participants wish to speak, a sign-up sheet will be required and participants may speak in the order they have signed up. A person may not speak a second time on an issue until everyone wishing to make comments has had an opportunity. REDUNDANT; DUPLICATES #10~~
12. Meetings may be recessed to a time and place certain.
13. Minutes of the Selectboard meetings shall be kept by the secretary and are matters of public record. After five (5) calendar days from the date of each meeting draft minutes shall be available for inspection by any person and posted on the Town Website.
14. A member of the body may attend a regular, special, or emergency meeting by electronic or other means without being physically present at a designated meeting location so long as the member identifies him or herself when the meeting is convened and is able to hear and be heard throughout the meeting. Whenever one or more members attend electronically, voting must be done by roll call vote unless the vote is unanimous. If a quorum or more of the body attend a meeting without being physically present at a designated meeting location, the following requirements shall be met:
 - a. At least 24 hours prior to the meeting or as soon as practicable prior to an emergency meeting, the body shall publically announce the meeting and post notice of the meeting in or near the municipal clerk's office, library, and post office.
 - b. The public announcement and posted notice of the meeting shall designate at least one physical location where a member of the public can attend and participate in the meeting. At least one member of the body, or at least one staff or designee of the body shall be physically present at each designated meeting location.
15. If a Selectboard member serves on another municipal advisory committee, it shall be as a liaison to the Board, and shall be in an advisory, non-voting capacity.
16. These rules may be amended by majority vote of the Selectboard at a duly warned meeting. These rules must be readopted annually at the organizational meeting pursuant to the Town Charter.

ADOPTED AT A REGULARLY SCHEDULED MEETING ON MARCH 10, 2020

For the Selectboard

A VIDEO RECORDING OF THE MEETING IN ITS ENTIRETY IS AVAILABLE THROUGH VERMONTCAM.ORG. THE WRITTEN MINUTES ARE A SYNOPSIS OF THE DISCUSSION AT THE MEETING. MOTIONS ARE AS STATED BY THE MOTION MAKER. MINUTES SUBJECT TO CORRECTION BY THE SHELBURNE SELECTBOARD. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE BOARD.

**TOWN OF SHELBURNE
SELECTBOARD
MINUTES OF MEETING
February 25, 2020**

MEMBERS PRESENT: Jerry Storey (Chair); Mike Ashooh, Mary Kehoe (via telephone). (Jaime Heins and Colleen Parker were absent.)
ADMINISTRATION: Lee Krohn, Town Manager; Peter Frankenburg, Finance Director; Chris Robinson, Water Quality Superintendent; Nina Anger, Executive Assistant to Town Manager.
OTHERS PRESENT: Tom and Sue Tompkins, Susan and David McLellan, Ruth Hagerman, Tom Anderson, Mark Lurvey.

1. CALL TO ORDER

Chair Jerry Storey called the meeting to order at 7 PM.

2. APPROVE AGENDA

MOTION by Mike Ashooh, **SECOND** by Mary Kehoe, to approve the agenda with the amendment to postpone the tax penalty waiver request to March 10, 2020.

VOTING: unanimous (3-0); motion carried.

3. MINUTES

February 11, 2020

MOTION by Mary Kehoe, **SECOND** by Mike Ashooh, to approve the minutes of 2/11/20 as presented. **VOTING: unanimous (3-0); motion carried.**

4. PUBLIC COMMENT

None.

5. SELECTBOARD COMMENTS

- The Selectboard commended staff on the Town Report and urged the voters to get a copy, attend Town Meeting on 3/3/20, and vote.

6. WELCOME TO NEW BUSINESSES

Safe Harbor, new owner of Shelburne Shipyard, was welcomed to Shelburne. General Manager Mark Lurvey was introduced and spoke of current and future plans.

7. TOWN MANAGER REPORT

Lee Krohn reported:

- The Town Annual Report is available to the public. Thanks to staff for the work.
- Town Meeting is 3/2/20 starting with a community dinner at 5:30 P.M. and conversations with the state reps then the annual meeting at 7:30 P.M. and voting the next day.
- Pierson Library Director, Kevin Unrath, was elected as Vice President of the Vermont Library Association and likely will be the incoming President.

- We are almost ready to submit the wetlands application with the State for the Shelburne Dog Park with the state to resolve this at last.

8. PUBLIC HEARING: Proposed Stormwater Ordinance and Related Documents

MOTION by Mike Ashooh, SECOND by Mary Kehoe, to open the public hearing on the proposed stormwater ordinance and related documents. VOTING: unanimous (3-0); motion carried.

The public hearing was opened at 7:10 PM. Lee Krohn and Chris Robinson gave an overview of state and federal mandates and permits directing stormwater management in Shelburne, and explained the stormwater utility to cover associated stormwater costs. The equivalent residential unit rate (ERU) based on the amount of impervious surface and earned credits were also explained. The ERU rate will be phased in over a three-year cycle. A short presentation on the stormwater ordinance will be given at town meeting.

There was discussion of the collection of the rate payments, late fees and penalties, and the appeal process. Lee Krohn will gather more information.

Gratitude was expressed to staff and the committee that worked on the stormwater ordinance.

MOTION by Mary Kehoe, SECOND by Mike Ashooh, to recess the public hearing to 3/24/20. VOTING: unanimous (3-0); motion carried.

9. PROPOSED STORMWATER PROJECT

Chris Robinson reported the construction bid for the VELCO constructed wetlands project is \$578,630 plus contingency and engineering oversight for a total state grant request of \$680,000. The town has the 50% match through various other grants and funds.

MOTION by Mike Ashooh, SECOND by Mary Kehoe, to approve the grant request for \$680,000 for the VELCO constructed wetlands project. VOTING: unanimous (3-0); motion carried.

10. TOWN MEETING PREPARATION

Jerry Storey stated the program for Town Meeting includes recognitions, presentation by the Town Manager on the budget, presentation on the stormwater utility, and an update on the status of the prospective Fire/Rescue site.

11. SHELBURNEWOOD CDBG APPLICATION

Lee Krohn stated the resolution is pro forma adoption of action previously taken by the Selectboard in support of the CDBG grant application by Shelburnewood. The document require signatures to authorize the grant to assess the feasibility of expanding the co-op and adding more residential units.

MOTION by Mike Ashooh, SECOND by Mary Kehoe, to endorse the resolution in support of the Shelburnewood CDBG application as presented. VOTING: unanimous (3-0); motion carried.

12. LATE TAX PAYMENT PENALTY WAIVER

Postponed to March 10, 2020 Selectboard meeting.

13. LIQUOR LICENSE RENEWALS

MOTION by Mike Ashooh, SECOND by Mary Kehoe, to convene as the local Liquor Control Commission. VOTING: unanimous (3-0); motion carried.

The list of applicants in each of the four categories of liquor licenses (First Class, Second Class, Third Class, Outside Consumption) was read. There are no reported problems with any of the establishments on file with the Police Department.

MOTION by Mary Kehoe, SECOND by Mike Ashooh, to approve the list of liquor licenses as presented. VOTING: unanimous (3-0); motion carried.

MOTION by Mike Ashooh, SECOND by Mary Kehoe, to adjourn the meeting of the local Liquor Control Commission and resume the regular Selectboard meeting. VOTING: unanimous (3-0); motion carried.

14. EXECUTIVE SESSION/ADJOURNMENT

Executive Session: Police Union Contract Negotiations

MOTION by Mary Kehoe, SECOND by Mike Ashooh, pursuant to 1VSA313 where premature public knowledge of the town's position in the pending labor relations agreement with employees would clearly place the town at a substantial disadvantage. VOTING: unanimous (3-0); motion carried.

MOTION by Mary Kehoe, SECOND by Mike Ashooh, based on the finding of premature public knowledge placing the town at a disadvantage and pursuant to 1VSA313 to go into Executive Session to evaluate the town's position in the pending labor relations agreement with employees and invite the Town Manager and Finance Director to attend. VOTING: unanimous (3-0); motion carried.

The regular meeting was adjourned and Executive Session was convened at 7:58 PM.

The Board exited executive session and adjourned at 8:50 P.M.

RScty: MERiordan

For the Selectboard

Date



Town of Shelburne, Vermont

CHARTERED 1763

P.O. BOX 88 5420 SHELBURNE ROAD SHELBURNE, VT 05482

Clerk/Treasurer
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Recreation
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FAX Number
(802) 985-9550

Policy: 18 – 01

Effective:

Upon Adoption

Purpose(s):

Provide guidance to the Selectboard, staff, and public for requests made of the Selectboard to waive the penalty on late property taxes pursuant to §147-9.2 of the Town Charter. This policy applies to homeowners, businesses, non-profits, and all entities with property tax paying responsibilities, but only where property taxes were paid late, but within seven days after a due date. After that, regular statutory provisions apply, requiring a petition to the Board of Abatement to consider such a waiver (24 V.S.A. 1533-1535).

Authority:

This policy is adopted by the Shelburne Selectboard pursuant to §147-5.1(a) of the Town Charter.

Procedure:

When requests from the public come before the Selectboard to waive penalty fees associated with late property tax payments pursuant to the authority provided by the Selectboard under §147-9.2 of the Town Charter. The following criteria will be used by the Selectboard as 'just cause' justification(s) for waiving the penalty charge, subject to timely provision of documentation by the taxpayer substantiating the request. Requests must be provided to the Selectboard in writing.

1. The property tax payer is a current member of the United States Armed Services and is deployed for military assignment outside of Vermont at the time payment was due;
2. The property tax payer has experienced an unavoidable or unplanned relocation within ninety (90) days prior to the tax due date;
3. The property tax payer, immediate household member, or close family member is experiencing a serious medical condition which affected timely payment or which requires taxpayer personal attention and use of personal or family resources as to affect timely payment;
4. The property tax payer, immediate household member, or close family member passed away within six (6) months prior to the tax due date;
5. The property tax payer, immediate household member, or close family member experiences an unexpected financial loss or change in financial situation within six (6) months prior to the property tax due date;
6. Delays in the forwarding, receiving, or clearing of the owed tax payment attributable to the operations of mails and/or the financial institution(s) involved, which were beyond the tax payer's control;

7. Other extenuating circumstances not considered above which the Selectboard considers equivalent in nature to 'just cause' justifications listed herein.

Process: If one of the criteria listed above is met, the Selectboard will use its authority under §147-9.2 of the Town Charter to consider the waiver of the property tax penalty fee, at a duly warned meeting. As a condition of waiver, the Selectboard shall require that the property tax payer first enrolls with the automatic payment option, unless a justifiable reason is provided for why the property tax payer is unable to enroll in the automatic payment option.

Adopted: March 10, 2020.

For the Selectboard

TOWN OF SHELBURNE TOWN MEETING AND PRESIDENTIAL PRIMARY BALLOT RESULTS MARCH 3, 2020 UNOFFICIAL RESULTS
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TOTAL VOTES COUNTED		ABSENTEE VOTES	
TOTAL REGISTR. VOTERS	6,438	% Absentee Votes	#DIV/0!
PERCENT VOTING	0.0%		

ELECTED OFFICIALS

	<u># Votes</u>	<u>%</u>
<u>Town Moderator: 1 Year</u>		
THOMAS A. LITTLE	2,733	99.7%
Write-in Votes	8	0.3%
Total	2,741	100.0%

<u>Selectboard: 3 Years</u>		
RUTH HAGERMAN	570	21.1%
LUCE R. HILLMAN	918	34.0%
KATE LALLEY	1,084	40.1%
E. JOHN PASCARELLA	120	4.4%
Write-in Votes	8	0.3%
Total	2,700	99.9%

<u>Selectboard: 2 Years</u>		
JERRY STOREY	2,519	98.4%
Write-in Votes	40	1.6%
Total	2,559	100.0%

<u>Town Constable: 2 Years</u>		
BOB LAKE	2,564	99.3%
Write-in Votes	17	0.7%
Total	2,581	100.0%

<u>CVSD School Director: 3 Year Term</u>		
KEN SCOTT	2,564	99.8%
Write-in Votes	6	0.2%
Total	2,570	100.0%

TOWN ARTICLES

<u>Article V, Proposed FY 2020-21 Town Budget</u>		
	<u># Votes</u>	<u>%</u>
YES	2,139	71.3%
NO	862	28.7%
TOTAL	3,001	100.0%

<u>Article VI: \$30,000 Open Space Fund Allocation</u>		
	<u># Votes</u>	<u>%</u>
YES	2,344	74.6%
NO	796	25.4%
TOTAL	3,140	100.0%

**TOWN OF SHELBURNE
TOWN MEETING AND PRESIDENTIAL PRIMARY BALLOT RESULTS
MARCH 3, 2020 UNOFFICIAL RESULTS**

Article VII: \$210,000 Funding for Police Radio Communications Upgrade

	<u># Votes</u>	<u>%</u>
YES	2,387	77.1%
NO	710	22.9%
TOTAL	3,097	100.0%

CHAMPLAIN WATER DISTRICT BOND VOTE

	<u># Votes</u>	<u>%</u>
YES	2,134	68.9%
NO	829	26.8%
TOTAL	2,963	95.7%

SCHOOL ARTICLES

Votes are Combined for all 5 towns in the District
See CVSDVT.ORG for results.

PRESIDENTIAL PRIMARY

<u>Democratic Party</u>	<u># Votes</u>	<u>%</u>
JOSEPH R. BIDEN	790	27.0%
MICHAEL R. BLOOMBERG	431	14.8%
PETE BUTTIGIEG	99	3.4%
JULIAN CASTRO	-	0.0%
TULSI GABBARD	3	0.1%
AMY KLOBUCHAR	81	2.8%
DEVAL PATRICK	1	0.0%
BERNIE SANDERS	1,051	36.0%
MARK STEWART	1	0.0%
TOM STEYER	4	0.1%
ELIZABETH WARREN	449	15.4%
MARIANNE WILLIAMSON	1	0.0%
ANDREW YANG	6	0.2%
-	-	-
Write-Ins	5	0.2%
TOTAL	2,922	100.0%

<u>Republican Party</u>	<u># Votes</u>	<u>%</u>
ROQUE "ROCKY" DE LA FUENTE	4	1.0%
DONALD J. TRUMP	316	82.5%
BILL WELD	53	13.8%
Write-Ins	10	2.6%
TOTAL	383	100.0%

CAN A SELECTPERSON ALSO SERVE ON THE PLANNING COMMISSION OR ZONING BOARD OF ADJUSTMENT/DEVELOPMENT REVIEW BOARD? CAN A SELECTPERSON SERVE AS THE ADMINISTRATIVE OFFICER?

Yes and yes. These are not statutorily incompatible offices. However, holding these dual positions presents multiple opportunities for the appearance of, as well as actual, conflicts of interest. While most of the conflicts discussed below are direct personal conflicts of interest for a selectperson, a direct financial conflict of interest can also arise in towns where the selectboard sets the compensation for town officers and employees. 24 V.S.A. § 933.

We'll take these dual positions in reverse order, starting with the **administrative officer**. State law expressly allows an administrative officer to "hold any other office in the municipality other than membership in the zoning board of adjustment or development review board..." 24 V.S.A. § 4448(a). Do not take this statutory permission as an endorsement, as opportunities for conflict abound. Examples may include:

- **Scenario:** Administrative officer is nominated by the planning commission and appointed by the selectboard. 24 V.S.A. § 4448(a). **Conflict:** Selectperson votes for him or herself as administrative officer.
- **Scenario:** Selectboard has the authority to adopt personnel policies governing the administrative officer's behavior, evaluate the administrative officer's performance, and remove the administrative officer at any time for cause after consultation with the planning commission and a public hearing. 24 V.S.A. § 4448(a). **Conflict:** Selectperson evaluates his or her own performance, lobbies and votes against his or her removal from office.
- **Scenario:** Selectboard is authorized by statute to settle lawsuits brought against the town in an appeal of an administrative officer's action or decision. **Conflict:** Selectperson votes against overturning his or her own action or decision as administrative officer.

The statutes are silent as to whether a selectperson may also serve on the **zoning board of adjustment (ZBA)/development review board (DRB)**. Therefore, the Municipal Assistance Center considers the practice permitted, but does not recommend it because of the following possible scenarios:

- **Scenario:** ZBA/DRB members are appointed by the selectboard. 24 V.S.A. § 4460(c). **Conflict:** Selectperson votes for him or herself as ZBA/DRB member.
- **Scenario:** Selectboard may remove ZBA/DRB member for cause, upon written charges and after public hearing. 24 V.S.A. § 4460(c). **Conflict:** Selectperson votes against his or her removal from the ZBA/DRB.
- **Scenario:** Selectboard has authority to represent the town in appeals to the Environmental Court and, in limited circumstances, may initiate an appeal of a ZBA/DRB decision as an interested person. **Conflict:** Selectperson votes against overruling a decision he or she approved or denied as a ZBA/DRB member.

Selectpersons in rural towns, by virtue of their office, are already nonvoting *ex officio* members of the **planning commission**. Again, state law does not prohibit selectboard members from

serving as full members of the planning commission so the Municipal Assistance Center considers it permitted, though not advised, because of the following possible scenarios:

- **Scenario:** Planning commissioners may be appointed by the selectboard. 24 V.S.A. § 4323(a). **Conflict:** Selectperson votes for him or herself as planning commissioner.
- **Scenario:** If appointed, planning commissioners may be removed at any time by unanimous vote of the selectboard. 24 V.S.A. § 4323(a). **Conflict:** Selectperson's vote blocks his or her own removal.
- **Scenario:** Selectboard may vote to adopt the town plan and/or bylaws. 24 V.S.A. § 4442(c). **Conflict:** Selectperson votes on the very town plan/bylaws that he or she had a hand in drafting and approving as a planning commissioner. 24 V.S.A. § 4325.

All of the above scenarios bring into question a selectperson's ability to impartially represent the public. For the other officers, questions arise as to their ability to impartially create, administer, and interpret a town's bylaws. Remember, too, that an appearance of conflict can be just as damaging to the public's faith in a town's system of zoning administration as an actual conflict.

As noted above, VLCT does not recommend that a selectperson hold any of these offices unless appropriate measures are taken to mitigate the impact of these potential conflicts. Such measures could include adopting a conflict of interest policy that requires a selectperson to recuse him or herself from all decisions involving his or her role as administrative officer, planning commissioner or ZBA/DRB member (with the caveat that the final decision of whether or not to recuse rests with the individual board member and cannot be compelled by other members of the board).

Finally, appropriate municipal panels (ZBAs/DRBs and planning commissions that exercise development review authority) must adopt rules of ethics with respect to conflicts of interest. Those rules could address the possible membership and participation of a selectperson. 24 V.S.A. § 4461(a).

Garrett Baxter, Attorney, VLCT Municipal Assistance Center

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