

**TOWN OF SHELBURNE  
SELECTBOARD  
MINUTES  
February 8, 2022**

**\*Hybrid meeting held via teleconference and in-person.**

**MEMBERS PRESENT:** Mike Ashooh (Chair), Luce Hillman, Mary Kehoe, Cate Cross, Kate Lalley.

**ADMINISTRATION:** Lee Krohn, Town Manager; Peter Frankenburg, Finance Director; Adele Gravitz, Planning Director; Brian Monaghan, Town Attorney; Nini Anger, Executive Assistant to Town Manager.

**OTHERS PRESENT:** Members of the public participating in the meeting included Linda Riell, Aimee Loiter, Dawn's iPad, Gail Albert, Kenneth Albert, Norman Blais, Aaron Noble, Patricia Fontaine, Rebecca Jewett, Ryan Brown, Laura Kingsland, Susan, Shelburnewood, Bob Lake, The Tompkins, Tracey Beaudin, Shelburne\_85, Dean Pierce, Bill Deming, Chandler Noyes, Jane Zenaty, Kate Hays, Jim White, Linda, Robilee Smith, Vivian Jordan Lakeview Co-op, Judy Raven, Allyson Myers, Mike Donoghue, Joyce George, P. Worrall, Garth's iPad, Maureen, Peg Rosenau, D. Penar, Rosalyn Graham, Mark Sammut, Jason Grignon, James Mack, Lee Suskin, Matt Wormer, Rowland Davis, Erika Lea, Sean MacFaden, Frances Carr, Shelburnewood Co-op, David Webster, Ted Grozier, Susan Hall Grasso, Tom Zenaty, UVMF Hall Grasso, UVMF – Andrea Van Hoven, Eric Smith, William Ryerson, Frederick W's iPhone, Barbara Johnson, Fab DeFazio, Vlada Alexeeva, David N. Krag, Steve Brandon, Jennie Hoenigsberg, Dana Valentine, N. Curtis, Zoom user, Doug Merrill, Jesusa, Ken Scott, Joanes iPad(2) Joan Lenes, Shelburne Town Host, Kristin Shamis, Zach Kizk, David Hillman, Chris Kent, Peggy Coutu, Sean Moran, Susan McLellan, Media Factory.

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[Note: Minutes reflect the order of the amended agenda.]

**1. CALL TO ORDER**

Chair Mike Ashooh called the hybrid in-person and teleconference meeting to order at 7 PM.

**2. APPROVE AGENDA**

**MOTION by Mary Kehoe, SECOND by Luce Hillman, to approve the agenda with the following amendments:**

- Postpone ratification of the Police/Dispatch union contract until negotiations are complete.
- Advance the agenda item regarding the purchase of Lot 6A at Rice Lumber to precede the appeals.
- Advance the appeals related to release of public records to precede Executive Session.
- Hold Executive Session at the conclusion of the regular meeting.

**VOTING: unanimous (5-0); motion carried.**

### **3. MINUTES**

*January 25, 2022*

**MOTION by Mary Kehoe, SECOND by Luce Hillman, to approve the minutes of 1/25/22 as presented. VOTING: 4 ayes, one abstention (Kate Lalley); motion carried.**

### **4. PUBLIC COMMENT**

- There was question from the public on when the unmarked police cruiser being used by Chief Noble will be returned.
- There was question from the public on when current police officers will be interviewed by Mr. Baker.
- There was question from the public on when other Selectboard members besides Mary Kehoe will meet with dispatchers.
- Concern was expressed about transparency in the town and suggestion was made that the Selectboard review/update the town's personnel policies focusing on resources available to employees to air concerns and the role of the Selectboard, conducting exit interviews, and ongoing sessions where personnel can provide feedback.
- Request was made for the Selectboard to explore how town residents want ARPA funds spent and to report on the progress to complete permanent staffing in the Planning Office.

### **5. SELECTBOARD COMMENTS**

- The Selectboard thanked everyone for the emails received and assured responses will be forthcoming.
- Reminder was made of the upcoming candidate forum.
- Residents were urged to watch Megan Nick's competition in the Olympics.
- Mike Ashooh announced he will recuse himself from the agenda items involving Chief Noble.

### **6. TOWN MANAGER REPORT/UPDATE**

Lee Krohn reported:

- Thanked all Town crews for their work during the recent snowstorm.
- Thanked staff for completing the Town Report which has gone to press.
- Asked residents to help keep crosswalks and hydrants clear of snow.
- Three of the four flashing red lights at Falls Road have been vandalized. There are no plans for replacement.

**7. PURCHASE OF LOT 6A at RICE LUMBER**

**MOTION by Kate Lalley, SECOND by Luce Hillman, that the Town be authorized to borrow up to \$680,000 to purchase Lot 6A at Rice Lumber as approved by the voters last year for a perspective future Fire/Rescue station. VOTING: unanimous (5-0); motion carried.**

**8. APPEAL: Dean Pierce re: Town Manager's Response to Public Records Request**

Lee Krohn read a statement regarding the public records request by Dean Pierce, the campaign by Mr. Pierce on transparency, and the recommendation that there is no cause or merit to the appeal because the records were provided as allowed by statute and the appeal should be rejected.

The appellant, Dean Pierce, expressed dismay at the irrelevant assertions being allowed, noted he did not receive a copy of the staff report provided to the Selectboard, and listed the questions before the Selectboard pertaining to a public record and personnel record, Vermont Supreme Court cases relative to public records and personnel records, and level of effort by the custodian of public records and a public records request. Mr. Pierce also mentioned the timing of his request was deliberate, and tied to having opportunity for the public to contribute to the annual review of the Town Manager.

There was discussion of the legal requirements relative to a response to a public records request and appeal of a denial of a request not acted on by the Selectboard. The appellant has the right to appeal to Superior Court. Mary Kehoe opined the matter should be deemed resolved and determined as a matter of law because the appellant has the right to appeal to Superior Court and the Town Manager followed the law in responding to the request and exempted only documents where the statute seeks to protect the individual and the free deliberative process. Town Attorney Monaghan concurred with the interpretation of the law in this matter and advised the Selectboard not to intervene, but to follow the framework of the process.

**MOTION by Mary Kehoe, SECOND by Kate Lalley, to deem the appeal of Dean Peirce regarding the Town Manager's response to his public records request as denied by operation of law. VOTING: unanimous (5-0); motion carried.**

Mike Ashooh pointed out with regard to transparency there are 41 exceptions to the Open Meeting Law which allow withholding documents related to personnel, deliberations, and the Town Manager cited the provisions of the law to justify his denial of the appeal by Dean Pierce.

Cate Cross noted residents have expressed interest in giving feedback on public employees. The Selectboard should discuss this matter at some point in time.

**9. APPEAL: Aaron Noble re: Town Manager's Response to Public Records Request**

Mike Ashooh recused himself and left the meeting. Kate Lalley facilitated the meeting.

There was discussion of the timing of the request for public records and the response by the Town Manager. Norm Blais, attorney representing the appellant, said the response from the Town Manager was that if any such records exist, they are exempt from release. The Public Records Act allows release of employee records to the employee, and the Town Manager did not do this. Town Attorney Monaghan countered the Town Manager provided an appropriate response to the Public Records Act and provided documents subject to disclosure under statute. There were documents not in the personnel record not subject to disclosure under the Act.

There was discussion of public release of notes that were taken during meetings over time between Aaron Noble and Lee Krohn related to challenges in the Police Department. Town Attorney Monaghan advised these records are not in the personnel file and are not documents the employee is entitled to receive.

**MOTION by Mark Kehoe, SECOND by Cate Cross, that the appeal of Chief Aaron Noble be deemed denied as a matter of law. VOTING: unanimous (4-0); motion carried.**

The Selectboard assured the issue of staffing will be discussed.

**10. RATIFY POLICE/DISPATCH UNION CONTRACT**

Postponed until negotiations are complete.

**11. ADJOURNMENT and EXECUTIVE SESSION: Personnel Grievance MOTION by Mary Kehoe, SECOND by Cate Cross, pursuant to 1VSA313 to enter Executive Session to consider the appointment or employment or evaluation of a public officer or employee and invite the Town Manager, Town Attorney, Aaron Noble, and Attorney Norm Blais to participate. VOTING: unanimous (4-0); motion carried.**

The regular meeting was adjourned and Executive Session convened at 8:21 PM. Executive Session adjourned at 10:03 PM.

*RScty by tape: MERiordan*

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For the Selectboard

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Date