

**PRELIMINARY MINUTES**

**TOWN OF LUDLOW  
BOARD OF SELECTMEN**

**February 6, 2023**

**HEALD AUDITORIUM  
6:15 P.M.**

**Join Zoom Meeting**

<https://us02web.zoom.us/j/81468174000?pwd=N1lsRDhkOWVzVIYrdGRQTXFzQlJJQT09>

**Meeting ID: 814 6817 4000**

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**BOARD MEMBERS PRESENT:**

Bruce Schmidt, Chairman  
Scott Baitz

Bob Brandt  
Justin Hyjek

Brett Sanderson

**STAFF PRESENT:**

Scott Murphy  
Jeff Billings

Ulla Cook  
Nick Miele

Rose Goings (ZOOM)

**OTHERS PRESENT:**

Eric Alden  
Steve Ankuda  
Lynn Baldwin  
Jake Baraw  
Dennis Barquinero  
Courtney Buckley  
Terry Carter  
Brian Crossman  
Alexandra Del Tufo  
David Del Tufo  
Lisa Del Tufo  
Tracy Dineen

Rebekah Ferreira  
Andrea Goldman  
Joe Johnson  
Rich Kowalski  
Brian Ladner  
LEWCO LLC  
Robert Malecki  
Steve Meyers  
Meredith Milliken  
Fred Munk  
Sean Murphy  
Ian Nugent

Sheila O'Hara  
Marissa Selleck  
Ryan Silvestri  
Larry Slason  
Jeff Steinberg  
Christine Tougas  
George Tucker, Jr.  
Robert Wachtel  
Tim Welsh  
Mandy  
BKP

## AGENDA

### 1. CALL TO ORDER

- A. Bruce Schmidt called the meeting to order at 6:15 p.m. He led the meeting in the Pledge of Allegiance.

### 2. CONSIDERATION OF ANY CHANGES, ADDITIONS OR REMOVALS TO THE AGENDA

- A. Scott Murphy said that Attorney Ankuda had suggested that Item #6 be done in Executive Session.

### 3. APPROVE MINUTES OF PREVIOUS MEETINGS

- A. Bruce Schmidt advised that the minutes to be approved are from the Regular Meeting of January 9, 2023 and the Special Meeting of January 26, 2023.
- B. **MOTION by Brett Sanderson and seconded Scott Baitz to approve the minutes of the Regular Meeting of January 9, 2023 and Special Meeting of January 26, 2023 as presented.**  
**Motion passed unanimously.**

### 4. COMMENTS FROM CITIZENS

- A. Eric Alden said that it is a common complaint that towns can't get people to run for local offices. He said that there are 3 Select Board seats that will be open. The town does no outreach. People don't know how to apply. The only information is on the website. The town should think about ways to reach out to and to engage residents.
- B. Bruce Schmidt said we do advertise for other boards.

### 5. LIQUOR CONTROL BOARD

- A. Scott Murphy advised that there are 6 applications for liquor license renewals. He said that most re-apply in April. The state is doing things differently now and renewals are done through the state, not the town clerks.
- B. Bruce Schmidt said there has been some discussion about Eight Oh Brew and he suggested that the board do the other renewals separately.

<u>Applicant</u>	<u>Business Name</u>	<u>Address</u>
Aminah & Rayhan, LLC	Ludlow Shell	129 Main Street
EOB Tap House LLP	Eight Oh Brew Tap House	146 Main Street
J W Sandri Inc	Sunoco Station	224 Main Street
Brewfest Beverages Company	Brewfest Beverages Company	199 Main Street
Brockton Corporation	Shaw's Beer and Wine	213 Main Street
Beer Mountain LLC	Beer Mountain LLC	196 Main Street

- C. **MOTION by Brett Sanderson and seconded by Scott Baitz to approve all of the liquor licenses with the exception of Eight Oh Brew. Motion passed unanimously.**
- D. Bruce Schmidt asked what the responsibility is of the Select Board.
- E. Scott Murphy said there are 2 issues. The Select Board may approve or approve with conditions. There have been complaints about noise and the Village does not have a noise ordinance. It also does not have an Entertainment Ordinance. He will update and bring back the ordinance to the board and also bring it to the Trustees.
- F. Jeff Billings said the we have had fights outside the building, tenants have complained about the noise and there is no entertainment permit. The noise ordinance starts at 10:00 p.m. (State) and after that time the town can take action. We set the limit for Eight OhBrew at 12:00 a.m. People have been congregating outside the building after closing and the lights are left on. There used to be dampeners in there, but they removed them.
- G. Scott Baitz said there have been a couple of fights, loitering after hours – it’s more than just noise.
- H. Scott Murphy said that he recommends postponing the renewal until April. This would give everyone the opportunity to address the issues. He said that he talked to the owners and they told me that they would be hiring a contractor for noise reduction.
- I. Bruce Schmidt said we have always looked to the Chief for guidance. We are not hearing anything to keep us from issuing the renewal. We can wait until April. We have to be consistent. We need the Chief to say there is a problem.
- J. Scott Murphy said he is going to talk to the trustees about this tomorrow night. If they vote on an ordinance, it will not be in effect for 60 days once it is signed. He said that this board may also hold a special meeting.
- K. Bruce Schmidt said the fights and loitering is where this board steps in.
- L. Brett Sanderson said that the complaints all seem recent.
- M. Jeff Billings said he doesn’t get as many complaints during the week, it is mostly on Friday and Saturday nights. He does have staff watching it. He can try to work with the management to get them to turn off the lights by 2:00 a.m.
- N. Mandy asked if the board has received any letters from the residents.
- O. Bruce Schmidt said yes. He said they mentioned people urinating, vomiting in the parking lot and noise. The Chief has not been called enough.
- P. Dennis Barquinero said that he is also a unit owner and said that the Select Board can put conditions on the liquor license. His request is that this is a mixed use property and he would like a condition that the bar closes by 12:00 a.m. He said they have had 6 to 7 people, outside the building at 2:30 – 2:45 while the Mill was closed. They should clear the parking lot. He has pictures. It is the owner’s responsibility.
- Q. Jeff Steinberg said this has a level of severity. People can’t sleep with the noise and the building shakes. His daughter is afraid to go outside to the parking lot. It is not just a little noise.
- R. Rich Kowalski said he echoes the two previous speakers. People are congregating outside , walking around with beer bottles and drinks. He said that the noise is terrible. He said he met with the owners and it is not a sage situation. They removed all of the preexisting sound proofing. He said he offered to pay for new sound proofing, and they said it would change the aesthetics.
- S. Robert Wachtel said he also agrees. The other unit owners said they didn’t know what to do. The patrons take all of the parking spaces. He is concerned about security and doesn’t want people to feel unsafe. He asked the board to consider waiting until April.

- T. Justin Hyjek asked if the Mill owners have assigned parking spaces.
- U. Bruce Schmidt said he doesn't want to get too far off our responsibility. We can put stipulations, but need to be careful about limiting their time. We need to decide about safety, noise and taxes.
- V. Scott Murphy said the state controls the license, we send it back to them.
- W. Bruce Schmidt said we can table this.
- X. Brian Radner said there is no noise ordinance and he implores the board to watch the video. People are urinating – at one time there were 3 men within 10 feet of his car. Should we call the police every time something happens? This is a board of Health issue. They only have one small bathroom.
- Y. **MOTION by Scott Baitz and seconded by Bob Brandt to table this until the April hearing. He has work to clean the place. Motion passed unanimously.**
- Z. Bruce Schmidt said that the next step is to dig deeper into the impacts on the town. The Association has its responsibilities also.
- AA. Jeff Billings said they have their license until April. He suggested calling other towns to see what they do. We need to be careful if we set hours for one bar, then we may get into issues of other bars' hours.
- BB. Tracy Dineen said that the board is not hearing our concerns. The Condo Association has to handle some of this. It is affecting our livelihood. There is drinking outside, urinating, speeding in the parking lot and we feel unsafe. We have no way to control and can't rent out our units. People on the 4<sup>th</sup> floor can still hear the noise. There are enough complaints to show a significant impact on our livelihood. They are disturbing the peace. They refused to put up sound proofing and need to have something for the sound. There are also incidents in the parking lot.
- CC. Bruce Schmidt said that this board has heard and received the complaints.
- DD. **MOTION passed.**

6. **TOWN ATTORNEY STEVE ANKUDA TO DISCUSS 194-196 MAIN STREET PARKING ISSUE**

- A. Scott Murphy said that Steve Ankuda thought this should be done in Executive Session under Contracts and probable litigation and confidentiality
- B. Larry Slason said he represents the O'Hara side. What the town attorney suggests about potential litigation should be taken seriously. Sheila O'Hara is here tonight.
- C. Bob Brandt said the board could go into Executive session and then come out and make its decision.
- D. Bruce Schmidt said he hasn't seen a good reason to go into Executive Session. We want this resolved.
- E. The board decided to continue in open session.
- F. Larry Slason said that this has been going on for at least 6 months. He wrote a letter, dated July 20<sup>th</sup> to Scott Murphy. They made a site visit to the property and 2/3 through the parking lot is being used by the town. The town has appropriated private property for public use and is violating due process. He cited bulleted list of his letter of January 4, 2023 .
  - i. The town will grant a right in perpetuity to owners and occupants of 194-196 Main Street for access to and exclusive use of four (4) parking spaces to the rear of the O'Hara building.

- ii. Ms. O'Hara will grant a right in perpetuity to the Town for use of the remaining parking lot in common with owners and occupants of 194-196 Main Street and members of the general public on a "first come – first served" basis.
  - iii. The O'Hara parcel taxes will be adjusted so that the owner is taxed only on the building and four (4) parking spaces.
  - iv. The parties will establish reasonable procedures for snow removal during storm events
  - v. Ms. O'Hara will release her claims for damages, recovery of taxes and legal fees for the unconstitutional taking and violation of civil rights without due process of law.
- G. Steve Ankuda said there is a survey
- i. We don't own to the south of town hall and have a contract with Carol-Kelley to use her property. The O'Haras only have the right to drive to the north of town hall (next to the building)
  - ii. O'Haras have no right to go on the drive which is public property off Depot to access their property.
  - iii. 4 spaces will inhibit snow removal. The town can acquire the property and pave it and use it. There is a 6 year statute of limitations and also a 15 year statute of limitations. O'Hara has not filed against the town for paving. If we sue for an easement, there has been 6 years of trespassing. They have no ability to get a vehicle to their property. If they grant the 4 spaces, they need to be behind town hall and not beyond Carol Kelley. The public has been using that property for 50 years. That will restrict access through Carol-Kelley property. They have had the ability to use the property. He would hate to see the town encumber itself.
  - iv. Bruce Schmidt asked if public process requires an easement. It is open to be used. There could be closures for snow removal and maintenance.
  - v. Steve Ankuda it doesn't need an easement as long as the Select Board allows crossing the property without an easement. We would have to pay for use. They don't need an easement to continue to use the property that MJ bought 15 – 16 years ago. Nothing has been done. He said we could get a revocable license and the right to decide a couple of spaces. It can be changed, and is not an easement.
  - vi. Bob Brandt said they own 9' x 90' path.
  - vii. Steve Ankuda said it the town uses the property and keep it open and has maintained it and plowed it for 15 years. It would be a prescriptive easement if never sued. Paving goes parallel to the back of the building.
  - viii. Larry Slason said that Attorney Ankuda and he differ. If we meet all of the requirements. If we meet all of the requirements, it is open property and the town has been using it. The town has been taxing the owner. O'Hara has always had access to the property. We honor the boundary will keep 4 spaces.
  - ix. Steve Ankuda said the property has acquired by proscriptio and has done so for more than 15 years and have paved it. With regard to taxes, once the Grand List is set and not grieved, it is established. They can challenge year by year. The town has a prescribe easement to use the property. We can grant O'Hara property to use the property and can grant easement for a number of spaces. Snow removal consideration and use of Depot Street to access.
  - x. Bruce Schmidt asked what permits are for revocable licenses.
  - xi. Steve Ankuda said it depends on the permitting regulations. You can deed an easement with a buy back provision with 2 years notice and cost limit. He said the easement would be for ingress and egress to the back of their property.

- xii. Bruce Schmidt asked if there were an easement and the Town wanted to expand, they can't do it.
- xiii. Larry Slason said if the town has access and he suggested that O'Hara has access. Proscription. We were going to deed you the rights. You get what you want and we get 4 spaces, you get perpetual rights.
- xiv. Bob Brandt said we don't own the property and can't build there. He said the piece is 90' x 9' = 810 square feet and 4 spaces would be 648 square feet. The town would be about 150 feet ahead.
- xv. Bruce Schmidt asked about doing nothing, getting 4 spaces, no easement and public access.
- xvi. Steve Ankuda said 4 spaces with an agreement on snow removal. But, we have to be mindful of the Carol-Kelly property. It sounds like a compromise.
- xvii. Larry Slason said 4 spaces and continued public access. We will work with you on snow removal. He said we will grant perpetual use (both ways).
- xviii. Bruce Schmidt said we will follow the letter. He suggested the board authorize Scott Murphy to negotiate.
- xix. Steve Ankuda said the agreement would be 5 years and renewable. After the 1<sup>st</sup> 5 years, year to year.
- xx. **MOTION by Justin Hyjek and seconded by Brett Sanderson to authorize Scott Murphy to negotiate with Steve Ankuda on the parking area. No easement, 4 spaces retained by O'Hara and to follow the bulleted letter dated 1/4/2023 from Larry Slason.**
- xxi. Steve Ankuda commented on the paragraph regarding adjustable taxes.
- xxii. Ryan Silvestri said that we don't value parking spaces, just the change to the acreage and that is negligible.
- xxiii. Bruce Schmidt recused himself from the vote.
- xxiv. **Motion passed.**

7. **RHR SMITH AUDITOR JOHN BOULAY TO REVIEW FY2022 AUDIT**

- A. Postponed until the next meeting, auditor had car problems.

8. **PLANNING COMMISSION CHAIR TERY CARTER TO DISCUSS POSSIBLE ZONING REGULATION CHANGES**

- A. Bruce Schmidt asked how things are going with the Planning Commission. He asked about possible lot size changes.
- B. Terry Carter said that the Planning Commission has been working with the Regional Planning Commission on Village zoning. She said that she attends the monthly regional meetings. The Planning Commission is looking at all districts in the village: parking, density, permitting. They are developing a survey for public outreach. The work on the grant will be finished in 2024. The Planning Commission will have a public hearing for input. After that, we will send the changes to the Trustees. Some of the proposed changes are:
  - i. Preservation District: add to permitted uses – 2-unit dwelling. Add to Conditional uses – farmers' market, art gallery and definitions for Inn, tourist home. Exemptions for solar panels have been added.

- ii. Andover Street: change to just residential – but some uses may not work – multiple and duplex units. Parking – House Bill #35 will allow 1 space per unit (currently 2.)
- iii. VR2 – ideas for new areas. We have added and removed uses as needed. Allow service station.
- C. Bruce Schmidt asked about affordable housing and asked if the Planning Commission has any thoughts on how to encourage builders and also about mixed use housing.
- D. Terry Carter said they are working with Jason Rasmussen and reduced acreage in the village to 1/8<sup>th</sup> acre zoning. They are considering a Neighborhood District (around the Downtown District) that would make that area open to grants if the units are rented out through the Windham County Trust (up to \$50,000 if rented for 5 years.) It would also allow improvements to businesses. Every 5<sup>th</sup> unit in a PUD must be affordable. However, no one has done a PUD in years.
- E. Bruce Schmidt asked what the Planning Commission needs from the Select Board.
- F. Terry Carter said that she needs a version of WORD for her MAC computer that she got from the school.
- G. Scott Murphy asked if this is for Terry Carter’s personal computer or the Planning computer.
- H. Terry Carter said she uses her computer for Planning Commission work.
- I. Ryan Silvestri said we need more technology dedicated to the Planning Commission for more community outreach.
- J. Eric Alden said that the Planning Commission is the most important board in the town and should have more technology. He said he will donate to that.
- K. Bruce Schmidt said this board will take that under advisement.
- L. Terry Carter said the changes they are proposing will make it easier for owners to do changes of use.
- M. Rose Goings said everything is a draft and the Planning Commission has been working with the regional Planning Commission. They have been working on Andover Street and the Preservation District. She said that she is looking forward to coming back to work and has been working from home.
- N. Andrea Goldman said the Planning Commission needs equipment. We are drafting changes to the zoning regulations and it is reasonable for Terry Carter to ask for software. She suggested a TV or screen for ZOOMING and to bring the conference room up to current technology.
- O. Bruce Schmidt said the board can consider this for the next budget. Scott Murphy will look into a TV in the conference room downstairs.
- P. Justin Hyjek asked where the Preservation District is.
- Q. Rose Goings said from bridge to bridge, not including the high school and up High Street to the academy.
- R. Terry Carter suggested working with the Women’s’ group for plantings.
- S. Steve Meyers said that parking is a big issue.
- T. Terry Carter said the Ellison apartments, by the river, are for sale and in the flood area. It would make a good place for parking.

9. **REVIEW DREDGING AND SAND RFP BIDS FOR BEACH AT WEST HIL AND POSSIBLY AWARD CONTRACT**

- A. Scott Murphy advised that they had sent out an RFP and received 3 bids. He said that LEWCO is the low bidder and the town has done work with them before.

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VENDOR	BID
Gurney Brothers Construction, Inc.	\$25,000.00
Lewco, LLC	\$23,000.00
Crown Point Excavation LLC	\$33,800.00

- B. **MOTION by Justin Hyjek and seconded by Brett Sanderson award the bid to LEWCO for \$23,000.00. Motion passed unanimously.**

10. **REVIEW SKATEPARK RECOMMENDATION FROM SKATEPARK COMMITTEE AND POSSIBLY AWARD CONTRACT**

- A. Scott Murphy advised that they had received a letter from the committee.  
B. Justin Hyjek said the committee had met with each of the bidders, individually and recommends awarding the bid to Skatepark.  
C. **MOTION by Brett Sanderson and seconded by Bob Brandt award the bid to Skate parks. Motion passed unanimously.**  
D. Bruce Schmidt said this is not the way we do business and this is a unique situation. We usually follow the normal process.

11. **CERTIFY HIGHWAY MILEAGE FOR AGENCY OF TRANSPORTATION**

- A. Scott Murphy said this is an annual procedure and there were no changes since last year.  
B. Bruce Schmidt said there are 7.11 miles of Class 2 roads, 45.59 miles of Class 3 roads and 64.517 total. He said there are 3.53 miles of Class 4 roads.  
C. **MOTION by Justin Hyjek and seconded by Scott Baitz to certify and sign the Highway Mileage for the Agency of Transportation. Motion passed unanimously.**

12. **POSSIBLY APPROVE THE USE OF STEARNS PIT FOR RALLYCROSS EVENTS 4/29/23 AND 9/23/23**

- A. Scott Murphy said that these are annual events and we receive a small stipend for cleanup, but that the group does clean up after the events.  
B. **MOTION by Justin Hyjek and seconded by Brett Sanderson approve the request for the use of Stearns Pit for the Rallycross events on 4/29/23 and 9/23/2023. Motion passed unanimously.**

13. **MUNICIPAL MANAGER UPDATES**

- A. Tax Sale Results  
i. Scott Murphy said that there were 6 properties and we sold 3. There were 12 – 15 attendees and we received the taxes on all 3 properties.  
B. Route 103/Main Street Paving project



- i. Scott Murphy said that the state will hold a kick-off meeting at the end of February and paving is scheduled for spring of 2025.
- C. Opioid Settlement #2
- i. Scott Murphy advised that they are pursuing a national settlement from a different company. We received 3 checks from the first settlement.
  - ii. There was consensus among board members to pursue the second settlement.
- D. Pre-Town Meeting review of the Article Question regarding LAS Proprietary Fund
- i. Scott Murphy said that the wording has to be simple. The LAS is a proprietary fund and self-supporting. It is illegal to transfer funds between a proprietary fund and the general fund. Having LAS as part of the general fund give the town more flexibility and may reduce some costs.
  - ii. Bruce Schmidt said we need a good explanation. If we need to take funds from the other departments or move to the general fund, we can do that. If the expenses are more than the revenue, we can move funds to that area.
  - iii. Justin Hyjek said we can't take funds for negative revenue. They would have to do a fund raiser. Or, if there is an excess, the town can't use it.
  - iv. Scott Murphy said there was one mutual aid call in January and partnering with Okemo and having 2 ambulances on the weekends is working well.
  - v. Justin Hyjek said he is concerned about when we will need to replace the 2<sup>nd</sup> ambulance. It doesn't seem like the LAS will be in the black soon.
  - vi. Scott Murphy said we are providing high quality medical services.

#### 14. DEPARTMENT HEAD REPORTS

- A. All reports are in.

#### 15. OTHER BUSINESS

- A. Rental Registry Contract
  - i. Bruce Schmidt asked the status of the rental registry contract.
  - ii. Scott Murphy said that he and Cherry Nicoll sat through 2 training sessions. The site is up and running. They found that less than 700 properties meet the STR requirements and 550 addresses have been identified. He said that many of the owners disguise their listings
  - iii. Justin Hyjek asked if they can identify companies built by LLCs
  - iv. Scott Murphy said he thinks, yes.
  - v. Bruce Schmidt asked if the website is public and if it is, can it be put on the town website.
- B. Justin Hyjek said that the VLCT meetings are available to any board member and will send them the links for the statewide zoning regulations.

#### 16. POSSIBLE ITEMS AND DATES FOR NEXT MEETING

- A. Informational Meeting and Annual Town Meeting March 6, 2023
- B. The Election of Public Officers and Australian Ballot voting, March 7, 2023

17. **SIGN WARRANT ORDERS**

- A. Bruce Schmidt said that warrant orders have been signed.

18. **ADJOURN**

- A. **MOTION to adjourn by Brett Sanderson and seconded by Bob Brandt. Motion passed unanimously.**
- B. Meeting adjourned at 8:04 p.m.

Respectfully submitted,

Lisha Klaiber

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Bruce Schmidt, Chairman

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Justin Hyjek

\_\_\_\_\_  
Scott Baitz

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Brett Sanderson

\_\_\_\_\_  
Bob Brandt