

PRELIMINARY MINUTES

**TOWN OF LUDLOW
BOARD OF SELECTMEN**

March 7, 2022

BOARD MEMBERS PRESENT:

Bruce Schmidt, Chairman	Justin Hyjek	Heather Tucker
Scott Baitz	Brett Sanderson	

STAFF PRESENT:

Scott Murphy	Ulla Cook	Chief Peter Kolenda
Chief Jeff Billings	Rose Goings	

OTHERS PRESENT:

Eric Alden	Tim Hertweck	Charlie Rimer
Bob Brandt	Sharon Huntley	Alan Seiple
Terry Carter	John Murphy, Jr.	Marissa Selleck
Alyson Carling	John Neal	Jean Strong
Daniel Childs	Logan Nicoll	Ken Thetford
Brian Crossman	Randy Nowak	Patrick Cody –OV-TV
Logan Nicoll	Jason Rasmussen	

1. CALL TO ORDER

- A. Bruce Schmidt called the meeting to order at 6:03 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 they would need to add Road Postings to Other Business.

3. APPROVE MINUTES OF PREVIOUS MEETINGS

- A. Bruce Schmidt advised that the minutes to be approved are from the regular meeting of February 7, 2022.
- B. **MOTION by Brett Sanderson and seconded by Justin Hyjek to approve the minutes of the regular meeting of February 7, 2022 as presented.**
- C. Scott Murphy advised that John Neal has pointed out that item 14B -Vacant and Dangerous Building Violation should read:
- i. The property is not safe and is a health hazard.
- D. **Motion passed unanimously.**

4. **COMMENTS FROM CITIZENS**

- A. Ken Thetford voiced his concerns about the traffic and suggested that the speed limit on Main Street should be lowered to 25 MPH. He said that there are also parking, site line distance issues and pedestrian crossing issues. There should be crosswalks from DJ's to Dunkin Donuts and from the Hostel to Main and Mountain. He said that people aren't using the ones we have and because they are hard to see. He would like to see more law enforcement officers and suggested we adopt the Local 1% options tax. He said that Killington and Manchester have them. The income would help cover the cost of officers, while he does believe that Okemo should be responsible for those costs.

5. **LIQUOR CONTROL BOARD – Liquor License Renewals**

- A. Scott Murphy advised that Ulla Cook has presented them together, with only one page for the board members to sign. Chief Billings has signed off on them.
B. Bruce Schmidt suggested that the board vote separately on the licenses for Okemo.
C. There was board consensus to do so.
D. Bruce Schmidt said they will vote on licenses for Okemo.

Applicant

Okemo Mountain Food and Beverage

Business Name

EPIC
Sitting Bull Lounge-Base Lodge
Smoky Joe's Grill
Sky Bar
Jackson Gore Inn
Corner Store at Jackson Gore

- E. Bruce Schmidt recused himself from this vote.
F. **MOTION by Brett Sanderson and seconded by Scott Baitz to approve the Okemo liquor license renewals as presented. Motion passed unanimously.**

- G. Bruce Schmidt said they will vote on licenses as listed below.

Applicant

American Legion Ballard Hobart Post #36
LVP, Inc.
Alta Tuscan Grille LLC
Calcutta's LLC
Off the Rails LLC
DuJour VT LLC
Beer Mountain LLC
J W Sandri Inc
Brockton Corporation
Johnny's Kitchen LLP
O&V Restaurant LLC
Vermont Irish Pub LLC

Business Name

American Legion
Ludlow Village Pizza
Alta Tuscan Grille
Calcutta's
Off The Rails
Du Jour VT
Beer Mountain LLC
Sunoco Station
Shaw's Beer and Wine
Johnny's Kitchen LLP
D.J.'s Restaurant
The Killarney

Goodman's American Pie	Goodman's American Pie
Moon Calhoun LLC	Downtown Grocery
Moon Calhoun LLC	Game Bird
Applegreen Group NE	Applegreen/7-11
EOB Tap House LLP	Eight Oh Brew Tap House
Mark Williams Corporation	Mr. Darcy's Bar and Grill
	Only if sale does not go thru.
	Renewal for 6 months
Troy Caruso (LLC Name Pending)	Mr. Darcy's Bar and Grill
	NEW
Troy Caruso (LLC Name Pending)	Sam's Restaurant NEW

- H. Scott Murphy said that we have asked to include Mr. Darcy's and Sam's, they are in the process of being sold and this license will stay in place only until the sale is in place.
- I. **MOTION by Brett Sanderson and seconded by Heather Tucker to approve the liquor license renewals as presented.**
- J. Justin Hyjek asked if this board has approved licenses with sales pending in the past.
- K. Scott Murphy said not usually, but we are trying to accommodate the owners. The applicant has several other licenses.
- L. Ulla Cook said that this is only the first step. She said the State will not give the license until all steps are in place.
- M. **Motion passed unanimously.**

6. **REVIEW OF FY 2021 AUDITED FINANCIAL STATEMENTS – BRITTANY GILMAN of RHR Smith & Co. to discuss the audited financial statements for the Town for FY 2021**

- A. Brittany Gilman said that this is a short report and the full report will have all of the information as well as notes. She explained the following:
- i. Page 1 – Schedule 1 compares the budgeted figures to the actual numbers. She noted that Revenues had exceeded budget and expenses had been less than budgeted, leaving a large surplus.
 - ii. Page 2 – Schedule C is a balance sheet showing General Funds, Public Funds, Agan Funds and other Governmental funds. She said that the full audit will show the breakdown. She noted that there is a total of \$315,819 in unassigned funds. They suggest that unassigned funds be about 5% of the total operations and 2 to 3 months an expense is a good target.
 - iii. Page 3 – Schedule E is an Income Statement. Revenues are greater than expenses, so there is an increase in the fund balance.
 - iv. Page 4 and 5– Schedules G and H are Proprietary Funds – Ambulance is the only one. She said that operating revenue is down and expenses have increased, leaving a net loss of \$261,517.
 - v. Page 6 – Schedule C is the Combining Balance Sheet of Non-major Governmental Funds
 - vi. Page 7 – Schedule D is the Combining Schedule of Revenues, Expenditures and Changes in Fund Balances – Non-major Governmental Funds.
 - vii. Brittany Gilman said that the audit is a clean audit with no material weaknesses or significant deficiencies and this will be explained in the Management Letter.

- B. Bruce Schmidt said that we have had 2 years of extensive surpluses. He said that Police, and Highway and Streets have surpluses. He noted that the Net Change in Fund Balances is \$511,071 and the Fund Balance as of July 1st was \$443,875, giving an expected fund balance as of 6/20/2022 of \$954,946.
- C. Brittany Gilman said that the \$315,819 in unassigned funds can be used for future tax relief.
- D. Bruce Schmidt said we should leave some in there.
- E. Brittany Gilman said they should try to have consistency – leave some there to put in a reserve fund. They should try to avoid volatility in tax rates.
- F. Bruce Schmidt said we can't continue to have excessive surpluses.

7. **SHORT TERM RENTAL REGISTRATION - Zoning Director Rose Goings and Fire Chief Peter Kolenda to discuss the need for developing a short-term rental registry for the Town of Ludlow vs. waiting for the State Legislation (S.210 pending)**

- A. Scott Murphy said that there are safety concerns in the state and region regarding Short Term Rentals.
- B. Rose Goings said that the state is looking at bill S.210 that deals with rentals and will probably pass, with some changes. The state will hire 5 people to inspect and enforce rentals. If the town passes an ordinance, the state will not have control over it and we will have local control. She referred to a copy of the Plymouth registry, adding that it is simple, easy and there are no charges. Our biggest concern is safety. Some of the units are putting too many people in a unit – one house had 50 people staying there. She said we found out about it and called the Fire Marshal. There was a place where they put twin beds in closets. We want to have the registry so we know who is staying and where the units are. She said that Air B&B units are already registered with the state. We want to know about the illegal ones. We will work with the Fire Marshal. Either the state will take this over, or we will.
- C. Bruce Schmidt asked if she has spoken with anyone in Plymouth.
- D. Rose Goings said she spoke with one lister. She said Plymouth has 2 people working on the registry. She doesn't know how it is working. She said if we take it over, we could charge fees to cover administrative expenses.
- E. Peter Kolenda said that his main concern is Life Safety and has done some inspections. He said that the Fire Marshal has jurisdiction over rentals and it is hard to get a grasp on them. There is a place, with a carriage shed next to it the house. He said the owner built a studio apartment on the second floor of the shed. He said if we don't know about these units, if there were a fire, someone could die in there. He said that he relies on the Fire Marshal to enforce this. We need the registry to know what's going on.
- F. Bruce Schmidt said the studio would be a zoning violation.
- G. Peter Kolenda said there would also be water/sewer allocation violations. He said these units are not going through Air B&B.
- H. Justin Hyjek suggested that we form an exploratory committee. He said there are many short-term rentals in town. He said that he respects property rights, but if a unit is used as a commercial property, it should be registered. He said there are companies that are available to research the web to find and register units.
- I. Peter Kolenda said that some of the real estate agencies make sure that the units have been inspected by the Fire Marshal before they will list the unit.
- J. Justin Hyjek said many other communities are adopting registries to enforce and now is the time for Ludlow to do it.

- K. Bruce Schmidt asked what would be the goals of the committee.
- L. Justin Hyjek said educating the owners, encouraging long term rentals and year-round housing. We would look at the number of days the unit is rented.
- M. Heather Tucker asked about number of people per bedroom.
- N. Rose Goings said a unit with 12 bedrooms would need to be sprinkled. She said that we are only talking about a short-term rental registry and does not think we need to get into long term of affordable housing. We need to talk about a registry and not drag this out. We don't need big companies to run a registry for us. We just need a registry and to enforce it. We will work with the Fire Marshal. This should only be based on short term rentals.
- O. Justin Hyjek asked the number of short-term rentals in Ludlow.
- P. Rose Goings said the Planning Commission has been working on grants dealing with the Village.
- Q. Alan Seiple said that when we permit water and sewer, there is a guideline of 2 people per bedroom and up to 3 additional people. A 4-bedroom house could have up to 7 people. He said that Air B&B is advertising 2-bedroom units that sleep 12 people. How do we enforce capacity?
- R. Rose Goings said that some of the units are on municipal sewer. She said that's all part of what we are discussing. Part of the registry would be to find out how many people are staying in units.
- S. Scott Baitz asked if any towns are successful with the registries.
- T. Rose Goings said she is going to find out.
- U. Justin Hyjek said that pre-COVID, Ludlow had somewhere between 300 and 400 short term rental units. It would behoove us to use a company to find out what we have. If the state passes S.210, we can still have a registry.
- V. Eric Alden said the town should not just register short term rentals, but all rentals. He said that some of the long-term rentals are more unsafe than short term and do not have smoke detectors. We should start with a registry for all rental units. He said that fire safety and overcrowding are issues. We should follow up on Plymouth. He suggested that there be a fee, progressive tax based on number of bedrooms.
- W. Terry Carter said that Plymouth has fines and addresses parking and noise.
- X. Eric Alden said the fines can be in place, but there is no staff to enforce them.
- Y. Jason Rasmussen said that state data says that Ludlow has 587 short term rentals. He said that the Governor vetoed the bill last year. If it does pass, it would become effective July 2023. He said that maybe a local ordinance is a good approach.
- Z. Logan Nicoll said that it was vetoed last year and S.210 as a lot of the same language. But it is really only for long term rentals, excludes any rental less than 90 days and rentals to family members. He said that it does not address Rose Goings and Peter Kolenda's concerns. The bill goes further that what Governor Scott wants. It did pass the Senate by a party line vote and is now in the House committee. They will change it. It wouldn't speak to short term rentals. It will set up a rental housing program and there were \$20,000,000 in ARPA funds to upgrade vacant units and bring them online. He said that the Governor did not like putting all of this on the Fire Marshal and it would go to the local health officers. There was a bill passed in 2019 that gave the towns the authority to adopt rental registries. It may be complicated between the state and local and long- and short-term rentals.
- AA. Scott Baitz asked when the legislature will vote on S.210.
- BB. Logan Nicoll said that it would depend on what happens next week. The deadline for this session is May.
- CC. Bruce Schmidt asked if we don't have anything in place, would it go to the state.

- DD. Logan Nicoll said every version has had exception for local registries.
- EE. Bruce Schmidt said he would like to put this on the agenda for their next meeting. He would like to take into account Rose Goings and Peter Kolenda's concerns and get something done.
- FF. Alan Seiple said he would like to see a registry for all rentals and supports the idea of a committee. He challenged the board to put together a committee tonight.
- GG. Brett Sanderson said that across the board, there are safety factors for long- and short-term rentals.
- HH. Bruce Schmidt said we will put this on the agenda for the next meeting and keep it moving forward.
- II. Justin Hyjek said he would like to see a breakdown of short term and long-term rentals.

8. **POSSIBLY APPOINT TWO MEMBERS TO THE REGIONAL EMERGENCY MANAGEMENT COMMITTEE – Our RPC is required by statute to form a new Regional Emergency Management Planning Committee. Ludlow would have 2 representatives: Ron Bixby and Dave Van Guilder**

- A. Scott Murphy said that last year the regional Local Emergency Planning Committees were replaced with one Statewide Local Emergency Planning Committee. Per statute, the Select Board must designate 2 voting members at this meeting. We have Ron Bixby and Dave Van Guilder.
- B. **MOTION by Brett Sanderson and seconded by Scott Baitz to appoint Ron Bixby and Dave Van Guilder to the Regional Emergency Planning Committee. Motion passed unanimously.**

9. **POSSIBLY RENAME FOUR ROADS IN THE SOUTH FACE DEVELOPMENT - Four roads that were previously named by a prior Select Board are requested to be changes (Maple Leaf Terrace, Sugar Hill Lane, Hemlock Lane and Mountain Brook Road)**

- A. Scott Murphy advised that the developer wished to change the names of 4 roads on the map.
- B. Rose Goings said that they have changed the names on the new maps and had not told her.
 - i. Maple Leaf Terrace to South Face Terrace
 - ii. Sugar Hill Lane to Aurora Ridge Lane
 - iii. Hemlock Lane to Suncatcher Lane
 - iv. Mountain Brook Road to Sunshine Road
- C. **MOTION by Brett Sanderson and seconded by Heather Tucker to approve the road name changes as indicated above. Motion passed unanimously.**

10. **REVIEW RFP RESULTS AND POSSIBLY AWARD CONTRACT FOR 2022 HIGHWAY TRUCK PURCHASE**

- A. Scott Murphy said we received 3 bids and Benson was the apparent low bidder. There was a good trade-in. He said that the fit-up price for all 3 bidders was increased by \$4,816 so the price would be the \$29,163 plus the \$4,816. He said that Ron Tarbell suggested that we also include a better sander for \$13,713. If we go with that, the total would be \$47,692. If we don't go with the sander, it would be \$33,979.

2022 Highway 1-Ton Dual Rear 4WD Truck
Net Price = Includes trade-ins and rebates

VENDORS	MODEL	NET PRICE
Benson's Chevrolet, Inc.		\$29,163.00
Ford of Claremont	XL Model	\$50,727.00
	XLT Model	\$53,021.00
Springfield AutoSaver Group		\$44,061.00

- B. Bruce Schmidt said the purchase would be subject to voter approval.
- C. Brett Sanderson said they would be able to program the amount of salt through their phones.
- D. **MOTION by Justin Hyjek and seconded by Scott Baitz to approve the bid from Benson's with the sander.**
- E. Bruce Schmidt said the sander is under \$15,000, but asked why we did not bid on the sander, also the fit-up price increase.
- F. Scott Murphy said that the fit-up price is the same for all of the vendors.
- G. Bruce Schmidt asked why didn't we include the sander in the bid?
- H. Justin Hyjek said we can approve the bid without the sander.
- I. Bruce Schmidt said we need to bid the sander out.
- J. Brett Sanderson said the quote does include a sander, not this one.
- K. Scott Murphy suggested they go with the basic sander and get the order in.
- L. Bruce Schmidt said we need to vote down the motion and then make a new motion.
- M. **Motion voted down unanimously.**
- N. **MOTION by Justin Hyjek and seconded by Scott Baitz to accept the quote as presented for the 2022 Highway 1-Ton Dual Rear 4WD Truck as presented, including the \$4,816 fit up fee increase for a total price of \$33,979.00. Motion passed unanimously.**

11. **REVIEW AND POSSIBLY AMEND THE TOWN'S FACILITY USE FEES**

- A. Scott Murphy said this has not been changed for several years and many people do get the fees waived. He said that it includes the Community Center, Town Hall, Vet's Park, the Mini-Park, Dorsey Park and West Hill.
- B. **MOTION by Brett Sanderson and seconded by Heather Tucker to approve the amended Town Facilities Use Fees. Motion passed unanimously.**

12. **DEPARTMENT HEAD REPORTS**

- A. Bruce Schmidt noted that all reports are in. There were no comments.

13. **MUNICIPAL MANAGER UPDATES**

- A. Jewell Brook Watershed Dams Project
 - i. Scott Murphy said that we need to provide a formal request to the State Conservation USDA-NRCS for them to pay for the final designs to be developed for the four dams in

preparation for construction. He said this is a long-term project and 30% of the design is complete. This keeps us in the flow. If they accept this, they will pay 100%.

B. Mill Street Pedestrian Bridge Update

- i. Scott Murphy advised that they sent us options and he had talked with Ron Tarbell. VTRANS wants to use wood siding and we don't agree. Another thought was weathering steel. We want an ADA guard rail (it is prone to icy conditions.) We have to get back to them. He referred to the pictures provided.
- ii. Justin Hyjek asked if it would look similar to the Bob Gilmore foot bridge.
- iii. Scott Murphy said it would be much bigger.
- iv. John Murphy asked if it would be raised up above the water.
- v. Scott Murphy said yes.

C. On Call Pay

- i. Scott Murphy said that Ron Tarbell brought this up. They have not changed the rate in 20 years. The current rate is \$90.00 and some towns pay more and others pay less. Ron Tarbell recommends \$180.00. This would mean a difference of about \$2,340 per year.
- ii. Heather Tucker asked when the person starts to be on call.
- iii. Scott Murphy said when they go off their shift (3:00 or 3:30p.m.) They handle flash freezes, sand, salt, and other situations.
- iv. John Murphy said that he works for a utility and for the town; even \$180 doesn't catch up. It is important to pay a fair rate.
- v. Bruce Schmidt asked when this would start.
- vi. Scott Murphy said immediately.
- vii. **MOTION by Brett Sanderson and seconded by Heather Tucker to raise the on-call rate to \$180.00, as presented. Motion passed unanimously.**

D. Qualified Immunity for Law Enforcement Officials (S. 254)

- i. Scott Murphy said their packets included a letter from VLCT about bills in the Legislature to make law officers responsible for their actions. The bill could change and be modified. There are new ongoing discussions. The bills would remove Qualified Immunity for Law Enforcement officials. We may have the opportunity to weigh in at informational meetings.
- ii. Bruce Schmidt asked Chief Billings for comments.
- iii. Chief Billings said that he is dead set against it.
- iv. Bruce Schmidt said there are laws to protect citizens. Do we support this? We support our police.
- v. Scott Murphy said we just need a board consensus. We will know more by the end of the week.
- vi. Logan Nicoll said if the bills pass committee it could go to crossover by the end of the week. He suggested that they reach out to Alice Nitka, who serves on the Judiciary Committee. They are discussing this now and could vote by the end of the week. He is not sure where it is going.

E. Meeting with Vail to discuss strain on Municipal Services

- i. Scott Murphy said after ski season, we are going to sit down with Vail and discuss, among other things, traffic, parking, traffic control, ambulance and fire services. All of

these have been negatively affected. There are Act 250 issues and DRB issues. He said that he has met with the department heads and we are working on it.

- ii. Eric Alden said that this is a big issue for the town and he would like to board to make sure that the citizens know what's going on. Okemo is responsible for the impacts on the town. He said that part of their permit that dealt with traffic control had been repealed because it was not needed at the time. They are still required to take traffic counts and file them by June. We need to replace the traffic details. The Select Board should be open and transparent about when and where these discussions will take place and who will be involved.

14. **OTHER BUSINESS**

A. **Road Postings**

- i. Scott Murphy said that he has to officially give the Select Board any road postings, either end of the road.

B. **Dog Park**

- i. Justin Hyjek asked how the dog park is doing.
- ii. Scott Murphy said that they will be meeting tomorrow at 10:00 at the Community Center. He said it is doing well and they will be adding additional jumps and bridges.

C. **Heather Tucker – Last Meeting**

- i. Bruce Schmidt advised that this will be Heather Tucker's last meeting as she has decided not to run for another term. He said that the Town of Ludlow owes her a debt of gratitude. She has an active family and brings another perspective to the board. She has done a great job. THANK YOU, HEATHER!

D. **Traffic**

- i. Heather Tucker asked about the traffic situation and if it gets to Act 250. She said people are missing activities because of the heavy traffic.
- ii. Scott Murphy said it is a difficult spot and we are working with Okemo to solve the situation before the next ski season. He added that the number of people coming into town is stressing municipal services. He has spoken with John Neal and staff about this.

15. **POSSIBLE AGENDA ITEMS FOR NEXT MEETING**

- A. Informational Meeting will be held on April 4, 2022 at 6:00 p.m.
- B. Bruce Schmidt said that the Annual Town Meeting will be on April 5, 2022 from 10:00 AM to 7:00 PM.

16. **SIGN WARRANT ORDERS**

- A. Warrant orders have been signed.

17. **POSSIBLE EXECUTIVE SESSION/PERSONNEL/CONTRACTS/LLEGAL**

- A. Scott Murphy advised that an Executive Session is not needed.

18. **ADJOURN**

- A. **MOTION by Brett Sanderson and seconded by Heather Tucker to adjourn. Motion passed unanimously.**
- B. Meeting adjourned at 7:43 p.m.

Respectfully submitted,

Lisha Klaiber

Bruce Schmidt, Chairman

Brett Sanderson

Scott Baitz

Heather Tucker

Justin Hyjek