

PRELIMINARY MINUTES

**TOWN OF LUDLOW
BOARD OF SELECTMEN**

July 1, 2024

**HEALD AUDITORIUM
6:00 P.M.**

Meeting ID: 963 5236 4337

Passcode: 411479

One tap mobile

+13126266799, 963 5236 4337#,,,,*411479# US (Chicago)

+16469313860, 963 5236 4337#,,,,*411479# US

Dial by your location

<https://zoom.us/j/abJ1grh212>

BOARD MEMBERS PRESENT:

Brett Sanderson, Chairman
Scott Baitz

Justin Hyjek
Noah Schmidt

George Tucker, Jr.

STAFF PRESENT:

Brendan McNamara

Ulla Cook

OTHERS PRESENT:

Eric Alden

Alfred Lushinks

Bruce Schmidt

Jim Alic

Judy Lushinks

Sherry Tucker

Meghan Arpino

Julie Nicoll

Bob Wade

Joanna Bombadil

Logan Nicoll

Anna Webersen

Phil Carter

Officer Zach Paul

Steve Webersen

Officer Melissa Foote

Ron Perry

Fire Chief Ben Whalen

Nick Gilberti

Melissa Rockhill

Chris Yurek

Kathy Grant

George Ride

1. CALL TO ORDER

- A. Brett Sanderson called the meeting to order at 6:00 p.m. He then led the meeting in the Pledge of Allegiance.
- B. Brett Sanderson extended hanks to Fire Chief Peter Kolenda for his many years to service to the town of Ludlow, his last day was yesterday.

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

- A. Brendan McNamara advised that no changes are needed

3. **APPROVE MINUTES OF PREVIOUS MEETINGS**

- A. Brett Sanderson advised that the minutes to be approved are for the following meeting:
 - i. June 3, 2024 – Regular Meeting
 - ii. June 17, 2024 – Joint Board Meeting
- B. **MOTION by Scott Baitz and seconded by George Tucker, Jr. to approve the minutes as listed above as presented. Motion passed unanimously.**

4. **COMMENTS FROM CITIZENS**

- A. There were none.

5. **DEPARTMENT HEAD REPORTS**

- A. Transfer Station
 - i. Justin Hyjek asked how plans were coming for the restroom at the Transfer Station
 - ii. Brendan McNamara said they have received the engineering reports and that construction would begin soon.

6. **DISCUSSION REGARDING THE CLASS 4 PORTION OF FREEDOM HILL AS IT PERTAINS TO OWNERSHIP/USE**

- A. Brendan McNamara said that this discussion was started at last month's meeting. Concern has been expressed about use of ATVs on this portion of Freedom Hill Road. This portion of the road is a Class 4 road and by state statute, ATVs are allowed. Brendan McNamara listed the following options:
 - i. The Town can enact a Class 4 Road Policy that gives the towns more oversight over Class 4 roads. The ordinance may be written, but not limited to include: weight, speed, type of vehicles and seasonal restrictions. This would be the easier, most seamless option and is not uncommon in other towns. He said the ordinances are mostly boiler plate from VLCT. They can include as part of the ordinance that no gates are allowed.
 - ii. The Town can choose to do nothing
 - iii. The Town can reclassify the road as a Trail, specific to this portion of Freedom Hill Road. It would essentially be a Right of Way (ROW.) The town would no longer maintain this road and no ATVs would be allowed. The "Trail" could have a gate, but it must not be locked. But, it all comes down to enforcement.
- B. Brendan McNamara said that if the town passes an ordinance, it can specify no ATVs and could issue fines not to exceed \$50.00.
- C. Justin Hyjek asked if we could put in large boulders.
- D. Brendan McNamara said yes, but he would be concerned about boulders. He said they can put up bollards. The concern is for EMS accessibility.
- E. George Tucker, JR. asked if they did reclassify the road, does that prevent the town from changing it in the future.
- F. Brendan McNamara said no, if the road is reclassified, it would be a quick change to reclassify it back.
- G. Brett Sanderson asked how many parcels are affected.
- H. Brendan McNamara said even if it is a trail, the town does have some leeway.

- I. Justin Hyjek asked who would craft the ordinance.
- J. Brendan McNamara said he will work with Regional.
- K. Kathy Grant asked how many Class 4 roads are there in town.
- L. Brendan McNamara said under 5 miles.
- M. Kathy Grant asked what the Fire and Rescue think
- N. Brendan McNamara said that we have not weighed in with them. For both processes, we will have to hold public hearings and they will be consulted then.
- O. Katy Grant asked if we do not want ATVs in Ludlow.
- P. Brendan McNamara said they are not allowed on Class 3 roads, but in this case, to get to the portion of Freedom Hill has Class 3 sections on both sides.
- Q. Kathy Grant asked if there has been any concern about the other class 4 roads.
- R. Brendan McNamara said there has been no discussion.
- S. George Tucker, JR. said if the town enacts a Class 4 ordinance, the town can specify the ordinance by road.
- T. Brendan McNamara said that is correct.
- U. Brendan McNamara asked the time frame involved.
- V. Brendan McNamara said he would like to have this completed by the end of the summer. We will have to warn the hearings.
- W. Noah Schmidt asked about culverts on that section of the road.
- X. Brendan McNamara said not that he is aware of.
- Y. Scott Baitz said that we don't enforce Class 3 road, shouldn't we look at this?
- Z. Brendan McNamara said that enforcement is difficult. He said that he has spoken to people at VTrans and was told that whatever we do, we still have to enforce it. There is no magic fix.
- AA. Scott Baitz said he would like to see a map of all of the Class 4 roads. He would like to table this discussion until he sees the map.
- BB. Steve Webersen asked if they do adopt an ordinance, how will it be enforced and will there be additional signage
- CC. Brendan McNamara said that the town is allowed to post signage and put in bollards.
- DD. Steve Webersen said there is also a gate at the top of the section.
- EE. Brendan McNamara said it should be open or unlocked.
- FF. Steve Webersen said EMS can access this portion from the top.
- GG. Brendan McNamara said they will discuss it with the EMS departments.
- HH. Steve Webersen said that the TOWN may have access through his field.
- II. Brendan McNamara said the policy could choose conditions on each of the Class 4 roads and have specifics for this portion of Freedom Hill.
- JJ. Justin Hyjek said they will look at it on a case-by-case basis and it may not affect all of the class 4 roads.
- KK. George Tucker, JR. said they can adopt a general policy for all Class 4 roads. He asked, once adopted, do they have to go through the whole process to make changes.
- LL. Brendan McNamara said once a policy is in place, it can be changed by a vote of the Select Board at a public hearing or we can warn a special meeting.
- MM. George Tucker, JR. said a policy would have a quicker response if we needed to change it. We can look at the map and check in with EMS departments.
- NN. Scott Baitz said he wants to see the map before he makes any decision.
- OO. Brett Sanderson said the board will table this for further discussion and the map.
- PP. Brendan McNamara said for their next meeting, he will provide copies of the map, start working on the policy and reclassification process. This way the board will not lose any steps. He said if the reclassify it as a trail, the town would no longer do any maintenance, could put up bollards and the gate must remain unlocked.
- QQ. Justin Hyjek said this is an enforcement issue, even if we reclassify it.

RR. Anna Webersen said there are hikers and they don't want the road torn up by ATVs.

7. **ARPA FUNDING ALLOCATION**

- A. Brendan McNamara said that he has received two requests for funding: Okemo Valley TV and Black River Academy Museum.
- B. Justin Hyjek asked about our projected allocation.
- C. Brendan McNamara said we recently acquired separate funding for the dog park.
- D. Okemo Valley TV
 - i. Jim Alic said that Okemo Valley TV is requesting funds to purchase equipment to set up an FM Radio Station. The station would provide news and entertainment, but also serve the town by disseminating emergency alerts and information. They are requesting \$20,000 for the purchase of equipment. They are hoping to get the station up and running in 2 to 3 years.
 - ii. Noah Schmidt said this will be a form of radio station, not in the current operations.
 - iii. Jim Alic said the station would be located at the Okemo Valley TV location.
 - iv. **MOTION by George Tucker, JR. and seconded by Scott Baitz to allocate \$20,000.00 to Okemo Valley TV for purchase of equipment and costs for the FM radio station. Motion passed unanimously.**
- E. Black River Academy Museum:
 - i. Brendan McNamara advised that the museum is requesting \$10,000.00 to cover costs of items for programming and preservation.
 - ii. Justin Hyjek asked what our annual budget allocation for the museum is.
 - iii. Brendan McNamara said \$25,000.00
 - iv. Justin Hyjek noted that a past president went to school there and it is a great museum.
 - v. **MOTION by Justin Hyjek and seconded by Scott Baitz to approve the allocation of \$10,000 for the Black River Academy Museum as requested. Motion passed unanimously.**

8. **SELECT BOARD TO CONSIDER WAVING OF PENALTY ON HOMESTEAD TAX**

- A. Brendan McNamara noted that this has been done in the past. He said that the amount last year was \$3,200.00 and this year will be \$3,243.46. He said the town has been doing this for quite a while.
- B. **MOTION by Justin Hyjek and seconded by George Tucker, JR. to wave penalty on Homestead Tax. Motion passed unanimously.**

9. **SELECT BOARD TO REVIEW AND CONSIDER SETTING THE FY25 TAX RATE**

- A. Brendan McNamara said that he had hoped to do this at this meeting, but we are still waiting on the State Education tax numbers. The municipal rate is \$.3169 and last year was \$.3220. He said that he does not know when the state will post its rate. He said that in the past, the Select Board has voted to use surplus funds to bring down the tax rate. But, this year, because of the flood, we will not be able to do this. We are waiting for \$1.57 million from FEMA. He said we are on the 6th FEMA project manager and each one wants things done differently and other information. He said that he and Ron Tarbell spent the last 2 days getting GPS locations for damaged areas. This was only requested by the latest Project Manager. We have had one request for \$531,000 kicked back 3 times. Every PM wants different things. He said the damage done to the town by dealing with FEMA is absurd. It is almost criminal. We cannot help the people because we do not have the funds. He said that Ulla Cook and the office staff do wonders getting the bills all paid.

- B. Logan Nicoll said he will work with Ron Tarbell to help where he can. He asked what we are doing to make sure we will be better prepared for future events.
- C. Brendan McNamara said that we are working with a woman recommended by Regional Planning who is keeping track of all the documents and requests from FEMA. He added that FEMA did not come to Ludlow until a month after the flood.
- D. Postponed until the State posts its education tax rates.

10. **DISCUSSION OF CHANGE OF PROCEDURE FOR MUNICIPAL PUBLIC BODIES MEETINGS**

- A. Brendan McNamara said that the boards have been using Roberts Rules of Order for board meetings and they are very difficult to understand.
- B. Justin Hyjek said that Roberts Rules of Order are over 600 pages long. He said he attended a seminar and VLCT has recommended a streamlined procedure. He said that VLCT said that using Roberts is crazy for small towns and they crafted this version that adheres to state statute. He read the 1st paragraph and also page #6, Item 14
1st Paragraph
“While these model rules do not closely adhere to Robert’s Rules of Order, they do recognize its utility by incorporating the more familiar and easier to follow elements that we believe best enable public bodies to conduct their business in an orderly fashion. We’ve also built some flexibility into these rules to allow members to make any type of motion (e.g., motion to amend, table, reconsider, object to consideration of the questions, etc.) they want so long as they’re aware of their consequences.”
Page 6, Item 14
“[*OPTIONAL: The collective silent acquiescence of the body in response to a motion will signify its unanimous consent.*]
- C. Noah Schmidt asked about warnings of meetings.
- D. Justin Hyjek said you still have to warn meetings. Regarding changes to Agendas, he read from page 4, Item 1
Page 4, Item 1
“All requests for additional agenda items must be provided at least [*at minimum 60/at most 72*] hours in advance of a regular and [*at minimum 36/at most 48*] hours in advance of a special meeting to be considered.”
- E. Justin Hyjek said the procedure is more streamlined. He suggested the board discuss this at a future meeting.
- F. George Tucker, JR. said it is worthy of consideration. It is more understandable and has lots of choices.
- G. Justin Hyjek said it is administrative more than legislative. Most is non-negotiable, but there are optional items that we can include or not. We would still have to re-adopt it yearly.

11. **DAM REHAB AND SPILLWAY REPAIR PROJECT UPDATE**

- A. Brendan McNamara said that this is 2 situations. There was a meeting with USDA last week for the main rehabilitation project. The engineering for the repair for spillways 3 and 5 is ready and we are waiting for government approval.
- B. Justin Hyjek asked if they put it out to bid.
- C. Brendan McNamara said yes, once they took over the project, all costs are covered. There was a meeting for the overall dam project last week. He said that the engineers were very positive. They said that the current condition of the dams is good and very reassuring.

12. **TREE WARDEN UPDATE: PHIL CARTER**

- A. Phil Carter said that there is an actual Tree Warden Program in Vermont. It was established in 1904 and the legislature amended it in 2020. It looks at invasive species, pests and management for urban forestry. He noted that the Emerald Ash Bore is important to keep note of. He said that there are no qualifications to be a Tree Warden, non-residents are allowed, and sharing with another town is allowed and also volunteers. He said that after the select board appoints a tree warden, the select board shall certify the appointment to the Commissioner of Forests, Parks and Recreation. The certification shall include contact information for the appointed tree warden. The Tree Warden serves until a successor is named and not just yearly. The responsibilities include determination for care of shade trees in downtown, village center and public right of ways. Not on private lands, unless it affects the public good. At this time, Ludlow does not have a plan for the Emerald Ash Bore. Some towns do and Andover and Rutland are cutting trees down. Tinmouth has paid \$60,000 to clear 3 miles. He said that there are grants available in urban areas for mitigation of climate change and runoff. The application process opens November 1st and closes in January.
- B. Justin Hyjek said that they could look at the aging trees and what might be planted in place of them.
- C. Phil Carter said that can be done. He asked the board if they want an active Tree Warden and how they would define the role.
- D. Scott Baitz said that years ago, Ralph Pace had put out traps.
- E. Phil Carter said he does not have any information on that. He said if this board wants him to do things, wants their backing. He said he has many contacts.
- F. Noah asked, if you were on this board, what you would want you to do.
- G. Phil Carter said he will copy the information that he has and send it to the board – Vermont Urban Forestry. He said he is not a forester, arborist or horticulturalist.
- H. George Tucker, JR. said the Emerald Ash bore is coming and there are many trees in town. He said he does not see a downside to having an active Tree Warden.
- I. Brett Sanderson said the board will look at the information and discuss it.
- J. George Tucker, JR. said he is open to hearing more.
- K. Melissa Rockhill said she has spoken with Marie Caduto from ANR flood plain restoration and Vermont River Conservation and Kelly Stettner would like to make a presentation to the board. There are grants out there. She suggested a possible tree farm at the Timber Inn site.
- L. Phil Carter said the grants will cover trees, excavation and planting.
- M. Justin Hyjek said it behooves the board to explore this and it would be nice to see more trees in the village.
- N. Phil Carter said that the grants funds are issued per project. You must identify the project.
- O. Justin Hyjek asked what Phil Carter would need to craft a plan.
- P. Phil Carter said an ad-hoc committee, then Select Board approval. He said the bid process opens on November 1st.
- Q. Brendan McNamara said he will get together with Phil Carter to discuss a committee, possible projects. He said there are trees that we need to look at and discuss what to put in their places. We will come back at the next meeting.

13. **MERGER AND OPTIONS TAX COMMITTEE APPOINTMENTS**

- A. Brendan McNamara said that at the last meeting, we discussed setting up committees for Merger and Local Options Tax. He made the following recommendations:
- B. MERGER COMMITTEE
 - i. Brendan McNamara
 - ii. Brett Sanderson
 - iii. Justin Hyjek
 - iv. Logan Nicoll
- C. **MOTION by Scott Baitz and seconded by George Tucker, JR. to approve the above recommendations for members of the Town and Village Merger Committee. Motion passed unanimously.**
- D. LOCAL OPTIONS TAX COMMITTEE
 - i. Ryan Silvestri
 - ii. Noah Schmidt
 - iii. Julie Nicoll
 - iv. George Tucker, JR.
 - v. Brendan McNamara
- E. **MOTION by Scott Baitz and seconded by George Tucker, JR. to approve the recommendations for members of the Local Options Tax Committee. Motion passed unanimously.**
- F. Noah Schmidt suggested that someone from the Water Commission or Ludlow Electric be on the Merger Committee.
- G. Brendan McNamara said that he will be the liaison for the Water Commission. He said a merger would not change their function or operations.
- H. Justin Hyjek said that he has spoken with someone from Ludlow Electric and was told that if the town does go forward with a merger, then it would have to go to the Vermont Public Utility Commission. It may open Ludlow residents, not currently on LEC to being on LEC
- I. Scott Baitz asked if that is true.
- J. Brett Sanderson said it would be a battle.
- K. Justin Hyjek said that GMP would not want to give up that service.

14. **RESILIENCE INITIATIVE FOR VERMONT EMPOWERMENT AND RECOVERY (RIVER)**

- A. Chris Yurek introduced himself – Senior Planner for MARC (Regional Planning) and Meghan Arpino –hydrologist. He said there is \$90,000,000.00 available in grants for resilience projects. Vermont just paid \$12,500,000.00 or the 25% local share, making these grants free to towns. He said they would like to have a public outreach meeting in Ludlow to advise about the grants, analysis, engineering, and construction. These grants are through HMGP – Hazard Mitigation Grant Program (HMGP) | FEMA.gov. **HMGP funds** state, local, tribal and territorial governments to reduce future disaster losses after a presidentially declared disaster.
- B. Justin Hyjek asked if the grants are available to any town or just flood damaged areas.
- C. Chris Yurek said all towns. He said they could include flood restoration, elevated structures, culverts, and dam renovation.
- D. Meghan Arpino said they are for flood hazard mitigation.
- E. George Tucker, JR. asked about the analysis costs.
- F. Chris Yurek said it is included.
- G. Noah Schmidt asked if they had any ideas for projects for Ludlow.
- H. Chris Yurek said they are just starting this process. He noted the Commonwealth Avenue drainage.
- I. Justin Hyjek asked if the grants cover residences and businesses as well as municipal.

- J. Chris Yurek said all. They are a big help for residences and businesses to come into compliance.
- K. George Tucker, Jr. said this is something we should pursue – we are in a critical situation.
- L. There was board consensus to move forward.
- M. Justin Hyjek asked who would be Ludlow’s resource liaison?
- N. Chris Yurek said he and Meghan Arpino. He said they would like to hold a meeting in July.
- O. George Tucker, JR. asked them to let this board know when the meeting is scheduled.

15. PROCESS FOR TOWN CLERK APPOINTMENT (CHANGE FROM ELECTED POSITION)

- A. Brendan McNamara assured everyone that Ulla Cook is not leaving. He said that changing Town Clerk from an elected to appointed position is something that would have to go to the voters. He said that Ulla does a great job and we are fortunate to have her. If we change this to an appointed position, the Town would have more control. Other towns are doing this. We just can’t have anyone in that position.
- B. Ulla Cook suggested that they would need someone with accounting experience.
- C. Justin Hyjek asked if there are any prerequisites for the position.
- D. Brendan McNamara said no.
- E. Ulla Cook said that she is re-elected every three years.
- F. Brendan McNamara said this would have to go to a town vote.

16. MUNICIPAL MANAGER UPDATES

- A. New Police Officer
 - i. Brendan McNamara announced that we have a new full time police officer and introduced – Marissa Foote.
- B. New Fire Chief
 - i. Brendan McNamara introduced Ludlow’s new fire chief – Ben Whalen. He said that Chief Whalen has been working with Chief Kolenda for 2 weeks.
- C. Timber Inn
 - i. Brendan McNamara said that asbestos was found in 2 bathrooms and removal and the abatement is scheduled for July 16th and demolition the following day.
- D. Little League Debris
 - i. Brendan McNamara said that Crown will be coming this week to clear the debris.
- E. Fireworks
 - i. Brendan McNamara said the fireworks will be on Friday, July 5th at Okemo Base area. There will be food and music.
- F. Sundays at Veterans’ Park Music Series
 - i. Brendan McNamara said that Gypsy Reel was there this past Sunday.
- G. Legion Baseball
 - i. Brendan McNamara said the Legion Baseball league will be playing at Pullinen Field at 5:30 p.m. or 7:00 p.m.

H. Vermont Community Fund

- i. Brendan McNamara said they received a grant of \$37,000.00 for the relocation of the Dog Park to West Hill from the Vermont Community Fund. They will have 2 separate structures – one for smaller and one for larger dogs. Springfield Fence is doing the work

17. OTHER BUSINESS

A. Eric Alden Comments

- i. Eric Alden said that the new suggested rules of procedure are reasonable.
- ii. Eric Alden advised that effective today, the state legislature amended the Open Meeting Law
 - a. Justin Hyjek asked if the amendment included recusals
 - b. Eric Alden said it was about recordings and warnings
- iii. Eric Alden said that the Mill Building can use help from the RIVER group

B. Melissa Rockhill Comments

- i. Melissa Rockhill said the group that she is representing – Black River Valley Resources has worked with a group of students from Dartmouth on the culverts in Cavendish – access and cleaning. They are willing to expand into Ludlow
- ii. Brendan McNamara said he will talk to Ron Tarbell
- iii. Logan Nicoll said that the information on the websites regarding culverts is out of date (done in 2014.) He said that he is willing to support this effort.

18. POSSIBLE AGENDA ITEMS FOR NEXT MEETING (AUGUST 5, 2024)

- A. Brett Sanderson said the next meeting would be August 5, 2024 at 6:00 p.m. and on the agenda:
 - i. Rules of Procedure
 - ii. Tree Warden Comments
 - iii. Class 4 Roads.

19. SIGN WARRANT ORDERS

- A. Brett Sanderson said that warrant orders have been signed.

20. POSSIBLE EXECUTIVE SESSION/PERSONNEL/CONTRACTS/LEGAL ISSUES

- A. Brendan McNamara said that an Executive Session is needed for personnel.
- B. **MOTION by George Tucker, Jr. and seconded by Justin Hyjek to enter into Executive Session to discuss Personnel. Motion passed unanimously.**
- C. Board entered the Executive Session at 7:35 p.m.
- D. No action taken.
- E. **MOTION by Justin Hyjek and seconded by Scott Baitz to exit Executive. Motion passed unanimously.**
- F. Board exited Executive Session at 7:48 p.m.

- G. **MOTION by Justin Hyjek and seconded by Scott Baitz regarding clarification regarding Fire Chief Retirement Plan, VMERS B effective June 3rd, 2024, with an effective change to VMERS D effective July 1st. 2024. Motion passed unanimously.**

21. **ADJOURN**

- A. **MOTION by Justin Hyjek and seconded by George Tucker, JR. to adjourn. Motion passed unanimously.**
- B. Meeting adjourned at 7:38 p.m.

Respectfully submitted,

Lisha Klaiber

Brett Sanderson, Chairman

Noah Schmidt

Scott Baitz

George Tucker, Jr.

Justin Hyjek