

PRELIMINARY MINUTES

**TOWN OF LUDLOW
BOARD OF SELECTMEN**

REGULAR MEETING

June 6, 2016

BOARD MEMBERS PRESENT:

Howard Barton, Jr., Chairman	Logan Nicoll	Bruce Schmidt
John Neal	Brett Sanderson	

STAFF PRESENT:

Frank Heald

OTHERS PRESENT:

Dave Garland	Alan Isaacson	Ron Tarbell
Bob Gilmore	Ralph Pace	Larry Wilfong
Glenn Heitsmith	Ted Reeves	Ed McEaney (LPC-TV)

PUBLIC HEARING
TOWN OF LUDLOW ZONING AND
FLOOD HAZARD REGULATIONS (AMENDED)

1. Chairman Howard Barton called the Public Hearing to order at 7:00 p.m. He advised that pursuant to the provisions of Title 24, Chapter 117, §4444 of the Vermont Statutes Annotated, the Board of Selectmen for the Town of Ludlow proposes to adopt an amendment to the Town Zoning and Flood Hazard Regulations.
2. Alan Isaacson advised that in Article 2, Administration and Enforcement, Section 260.2 – Site Plan Approval, of the zoning regulations, the Planning Commission recommends requiring all projects to provide screening. The state law requires that regulations for “green” projects must be the same as for all other projects. The screening requirement suggested is now for all projects in the town. The will allow more enforcement capabilities for the DRB.
3. **MOTION by Logan Nicoll and seconded by John Neal to approve and adopt the changes to Section 260.2 to the Town of Ludlow Zoning and Flood Hazard Regulations. Motion passed unanimously.**
4. **MOTION by Brett Sanderson and seconded by Bruce Schmidt to close this public hearing. Motion passed unanimously.**
5. **Hearing closed at 7:03 p.m.**

REGULAR MEETING OF THE LUDLOW SELECT BOARD

1. **Call to Order**
 - A. Howard Barton called the regular meeting to order at 7:04 p.m.
 - B. All members present.
 - C. Frank Heald requested that the board add two items to the Agenda.
 - i. Construction Projects

- a. Approval to warn a Special Meeting regarding the Walker Bridge and Commonwealth Avenue construction projects. For a resolution for bond for local share. To execute the Declaration of Official Intent of the Town of Ludlow to Reimburse Certain Expenditures from Proceeds of Indebtedness
- ii. Outback Pizza
 - a. Outback submitted its renewal for a liquor license this afternoon. Everything is in order
- D. **MOTION by Logan Nicoll and seconded by John Neal in accordance with 1 VSA § 312 (d) (3) (a) to add to this evening's agenda items to consider and approve:**
 - i. **Warning a special meeting of the legal voters of the Town of Ludlow:**
 - a. **To approve bonding for the local share of the Walker Bridge Replacement (not to exceed \$300,000.00) and the local share of the Commonwealth Ave. Drainage project (not to exceed \$300,000.00).**
 - b. **To approve a "DECLARATION OF OFFICIAL INTENT OF THE TOWN OF LUDLOW TO REIMBURSE CERTAIN EXPENDITURES FROM PROCEEDS OF INDEBTEDNESS".**
 - ii. **As the Board of Liquor Control act on the request of "Outback of Ludlow, LLC" for a renewal of their liquor license at Outback Pizza.**
- E. Howard Barton noted that Outback Pizza will be addressed under Item 5 and the Construction Projects will be addressed under Item 7.
- F. **Motion passed unanimously.**

2. **Approve Minutes of Previous Meetings**

- A. Howard Barton advised that the minutes to be approved are from the Public Information Meeting and the regular meeting of May 2, 2016.
- B. **MOTION by Logan Nicoll and seconded by Brett Sanderson to approve the minutes of May 2, 2016 from the Public Information Meeting and the regular meeting of May 2, 2016 as presented. Motion passed unanimously.**

3. **Comments from Citizens**

- A. Dorsey Park
 - i. Bob Gilmore suggested that the board consider changing the Dorsey Park sign to Valente Field at Dorsey Park to recognize the contributions Mr. Valente made to the town as a 38-year teacher, coach and mentor.
 - ii. Howard Barton said that the board would discuss it.
- B. Walker Bridge
 - i. Glenn Heitsmith said that his dog will not cross the Walker Bridge and he questions the integrity of the bridge.
 - ii. Howard Barton said this would be discussed under Item 7.
- C. Fletcher Fields
 - i. Dave Garland voiced his concerns about dog feces in the playing area of the fields. He noted that the Athletic Director often goes around the field, prior to the start of games, cleaning up feces. He would like to see a sign asking people to keep their dogs off the playing portion of the fields.
 - ii. Howard Barton noted that only one of the fields is Ludlow's.
 - iii. Dave Garland said he would also go to Cavendish to discuss this

- iv. Frank Heald said they would look into it.
- v. Glenn Heitsmith said that there is an ordinance requiring picking up after dogs. He suggested putting up a box with bags in it.

D. Manholes off Gill Terrace

- i. Dave Garland noted that the manholes at the bottom of Gill are deep and should be fixed.
- ii. Ron Tarbell said he would look into it.

4. Award 2017 Municipal Transit Bus Bid

- A. Frank Heald advised that Ron Tarbell is here to answer questions. He said that they received 2 bids, one from DATTCO and one from WC Cressey & Sons. He advised that DATTCO missed some things on the bid. The committee recommends accepting the bid from Cressey. They also request that the board consider spending about \$7,500 over the budgeted amount to include 3-point seat belts and a heating option. (Total extras (\$9,795.) He said that it is hard to get the kids to use the lap belts and they can stand up with them on. He explained that the 3-point seat belts would provide a much safer and better controlled bus.
- B. Howard Barton asked if the heating option is necessary.
- C. Frank Heald said it is nice, but not necessary. It would provide baseboard heating that would be more comfortable in the winter and also change the BTUs.
- D. Howard Barton asked how long we usually keep buses.
- E. Frank Heald said 7 years.
- F. Bruce Schmidt said that we can rebid it. We have had good relations with DATTCO.
- G. Frank Heald said we bought the last bus from Cressey.
- H. Bruce Schmidt asked why Frank Heald thinks the kids would use the 3-point seat belts.
- I. Frank Heald said most people have that kind of seat belts in their vehicles and people are used to using them. It is almost an automatic reflex.
- J. Howard Barton asked about shorter students.
- K. Frank Heald said that the bus seats are lower so it would probably be less comfortable for bigger kids.
- L. Logan Nicoll said the 3-point belts would be easier for drivers to police.
- M. **MOTION by Bruce Schmidt and seconded by Logan Nicoll to accept the bid from Cressey for \$79,561 plus an additional \$9,795 in extras. Motion passed unanimously.**
- N. Howard Barton asked about delivery.
- O. Ron Tarbell said about October.

5. Approve Entertainment Permits

- A. Frank Heald advised Okemo has applied for Entertainment Permits for outdoor entertainment. Below is the list of applicants:

<u>Applicant</u>	<u>Type</u>
Jackson Gore Inn	Live music, DJ, Indoor & Outdoor
The Sitting Bull	Live music, DJ, Indoor

- B. **MOTION by Brett Sanderson and seconded by Logan Nicoll to approve the applications for the Jackson Gore Inn and the Sitting Bull as presented.**
- C. Bruce Schmidt recused himself.
- D. John Neal recused himself.
- E. **Motion passed unanimously.**
- F. OUTBACK PIZZA
 - i. Howard Barton asked if the application and payment included an Entertainment permit.

ii. Frank Heald said no. He will advise them in the morning that this application does not include an Entertainment permit. He added that everything else is in order.

- G. **MOTION by Bruce Schmidt and seconded by Brett Sanderson that we approve the Liquor License for Outback Pizza a letter stating that this does not include an Entertainment Permit and that they got a “freebie” last year. Motion passed unanimously.**

6. **Discuss and Approve FY2017 Transfer Station Rates**

- A. Frank advised that there are no significant changes, just a couple of tweaks in the wording. We will still be within the disposal rates and when the SW district extends the contract with Casella, we may have to move the rates up a little.
- B. Bruce Schmidt said that a business owner had asked him why there is a \$5.00 minimum for going across the scales that would amount to about 70 pounds of trash.
- C. Frank Heald said it is a processing fee as it is mildly labor intensive. He added that it has been that way for a long time.
- D. Logan Nicoll said it encourages businesses to wait until they have larger amounts of trash.
- E. Bruce Schmidt said we should try to help businesses.
- F. Glenn Heitsmith said he also disagrees with the \$5 minimum. He said people should not be penalized for not having enough trash.
- G. Logan Nicoll asked if they should lower the minimum.
- H. John Neal said it should be whatever it is.
- I. Bruce Schmidt asked how the scale is calibrated
- J. Howard Barton noted that this is the first we have heard about this as a problem.
- K. Bruce Schmidt said it is something to watch. He added that Patti Potter does a good job up there.
- L. Brett Sanderson said if it is a digital scale, it should be by the pound.
- M. Frank Heald said the state certifies it every year.
- N. Howard Barton said the board will keep an eye on it.
- O. **MOTION by John Neal and seconded by Logan Nicoll to approve the Transfer Station rates for 2016-2017. Motion passed unanimously.**

7. **Updates**

- A. **Walker Bridge.**
- i. Frank Heald advised that the Walker Bridge is scheduled for construction next summer. The estimated cost is about \$3,200,000.00 with a local share of mostly 5% (some parts will be more than that.) We are now getting down to the final details. It is scheduled to go out to bid this fall and it will be a tight construction schedule. He said that an evaluation was done this spring and we do need to do some repairs. He said, for the record, that his dog would not go over it 9 years ago. On an engineering basis, we will keep up with small repairs. He said that we applied for an emergency grant for \$15,000, but we disqualified because the grants are specifically for response to storms. (Some of the damage to Walker Bridge was caused by Irene.)
- B. **Commonwealth Avenue**
- i. Frank Heald advised that the project, estimated at \$1,090,000 has been approved by FEMA at a 25% local share. They did a \$5,000 Archeological survey. The project will be from top of the culvert to the Black River. The box culvert will enable us to maintain one-way traffic because we can do it in sections.
- C. Frank Heald said we will gain if we can coordinate the two projects at the same time and take advantage of the bid truck detours. If we get the bond vote behind us now, it will not cost us anymore

and we will be ready. We need to execute the Declaration (copy attached.) Ulla Cook takes care of the Resolution and we will warn the Public meeting for August 1, 2016 with the Primary on August 9th. Included in the packets are also copies of the ballot and the certificate of posting. He suggested that the board separate this into two motions, the declaration and the warning.

- D. **MOTION by Logan Nicoll and seconded by Brett Sanderson to execute the Declaration of Official Intent (as per attached.) Motion passed unanimously.**
- E. **MOTION by Brett Sanderson and seconded by Logan Nicoll to warn a public hearing for the Walker Bridge and the Commonwealth Avenue Projects on August 1, 2016. Motion passed unanimously.**

8. **Consider Adopting a Town Ordinance Prohibiting Drug, Tobacco & Vaping Paraphernalia Establishments & Further Prohibiting Marijuana Dispensaries**

- A. Howard Barton advised this was tabled from last month's meeting because we had an incorrect version.
- B. Logan Nicoll said he had found a number of inconsistencies in the wording.
- C. Frank Heald said it has been through several edits, including Chris Callahan (town attorney.)
- D. **MOTION by Bruce Schmidt and seconded by Brett Sanderson adopt the Town Ordinance Prohibiting Drug, Tobacco & Vaping Paraphernalia Establishments & Further Prohibiting Marijuana Dispensaries.**
- E. Glenn Heitsmith said that the town attorney had said that the ordinance may not be defensible if a big conglomerate were to fight it. It would be very costly for the town.
- F. Frank Heald said it depends on whether we fight it or fold.
- G. Logan Nicoll said that people have 60 days to file a petition opposing it.
- H. Bob Gilmore said that the state has not passed the law and asked if we would be facing a suit if we pass it.
- I. Logan Nicoll said that if we approve this before the state passes a law; we are going ahead of the state. If the state passes a law, whether we face a suit depends on the wording of the law. Now, the ordinance sets the character of the town. The Dillon rule says towns can't regulate unless the state gives them the ability to regulate. Most of our regulations actually quote the state acts. He said he thinks this warrants a town vote.
- J. Howard Barton said he supports the ordinance 100%. He would rather be proactive and wants to see local control.
- K. Bob Gilmore said that we (Trustees and Select Board) are the town fathers and have to look out for what is best for the town. He said he thinks that other than Logan Nicoll, the Select Board supports the ordinance.
- L. Logan Nicoll said there may be a law suit.
- M. Bob Gilmore said that the state would have to legalize it first in order for there to be a suit.
- N. Logan Nicoll said that vaping is not illegal.
- O. Howard Barton said the attorney thought the ordinance is okay.
- P. Glenn Heitsmith said the attorney said it may not be defensible. He asked if it would be retroactive, noting that convenience stores sell some of the paraphernalia.
- Q. Bruce Schmidt said some things are worth fighting for. He wants to send a message to the state about how Ludlow feels about it. We have to draw a line in the sand and determine what is good for the town.
- R. Alan Isaacson said in other states (that have legalized marijuana) towns have the authority to deny the sale of it.
- S. Bob Gilmore said in Breckenridge, they have been having problems determining who to give marijuana licenses to.

- T. Logan Nicoll said that he wishes to clarify that he does not disagree with the intent of the ordinance. The character of the town does not support marijuana dispensaries, but the ordinance is not the way to do it. We need to go through the town plan and we should wait until the state has a law. We establish the character of the town through the town plan and he would support changes to the town plan to do this.
- U. Glenn Heitsmith said they need 5% of the voters for a petition. He thinks people will take their businesses elsewhere.
- V. **MOTION passed 4 to one. Logan Nicoll against.**

9. **Execute FY2017 Renewal Notes**

- A. Howard Barton advised that the renewals notes are for the backhoe, the small bus, the F350 and the 2012 bus.
- B. **MOTION by Brett Sanderson and seconded by John Neal to renew the notes. Motion passed unanimously.**

10. **Department Head Reports**

- A. Howard Barton advised that all reports are in.

11. **Other Business**

- A. **Banner**
 - i. Frank Heald advised that the Chamber has requested \$500 for a banner “Welcome to Ludlow.” He noted that we have a banner for almost every occasion.
 - ii. Howard Barton said he does not see a need for one.
 - iii. Logan Nicoll said maybe for a specific event.
 - iv. Howard Barton said we already have welcome signs.
- B. **Buttermilk Falls Road**
 - i. Frank Heald advised that he has had complaints about vehicles speeding at the lower end of Buttermilk Falls Road. It is now listed by the state as a piece of the Okemo State Forest. He will ask the Trustees if the town can borrow its speed sign and put it there. The one that the regional has is not available until July.
- C. **Summer Paving**
 - i. Frank Heald advised that the town will be paving this summer, but are still deciding locations. He said that he logged mileage this morning going over town paved roads. He said that he and Ron Tarbell will spend more time and then come back to this board with recommendations. He asked Select Board members to drive around town and give him suggestions. He said that Brooks Road needs work and they need to reclaim parts of Buttermilk Falls Road. He said that West Hill Road and Trailside have some deterioration, but there will be construction in the next year or two up there.
 - ii. Bruce Schmidt said that the Access Road needs work. He added that if they do Buttermilk Falls Road, people may even drive faster.
 - iii. Ron Tarbell said that the owners, who did the sewer hook-ons, up on Upper Crossroad will be doing the paving there.
 - iv. Bruce Schmidt suggested Ghia Road.
- D. **Ludlow Elementary School Gym**

- i. Frank Heald advised that it was suggested that a coalition of people who use the gym apply for a grant for bleachers, curtains and a lift. If we get the money from the solar project, we would replace the grant money. This is supported by the Legion, Rotary and Knights of Columbus. They want to get the project moving.
 - ii. Bruce Schmidt said that he supports it, but does not want them to confuse the lift work with the bleachers. The lift is being repaired. It was approved at the last school board meeting.
- E. Planning Commission
- i. Logan Nicoll said that the Planning Commission is reviewing the questions regarding "Retail Use." They have also discussed going through all of the districts and more clearly label them and to create district standards for each district. This would allow the DRB more leverage, without going into design review. He said that the Planning Commission is also reviewing inconsistencies in the zoning maps to determine where district lines should be.
- F. Stop Light Plan
- i. Bruce Schmidt asked if there is a plan for the stop light
 - ii. Frank Heald said it is on a cycle and the road strips are not working. We have to get them fixed
 - iii. Bruce Schmidt noted that Ron Tarbell suggested cameras.
 - iv. Frank Heald said they are very expensive.
 - v. Bruce Schmidt said that traffic backs up. Can we fix it now?
 - vi. Frank Heald said we will get prices after July 1st.
- G. DRB By-Laws
- i. Bruce Schmidt asked if we should consider changing the DR By-laws to provide for a member Emeritus.
 - ii. Frank Heald said we could have alternates.
 - iii. Bruce Schmidt asked if this board could discuss this at the July meeting.
- H. Frank Heald said that delinquencies are down to less than 2%.
- I. Community Center Events
- i. Howard Barton said we should not schedule more than one event at the Community Center at the same time. He said graduation and the home show are the same day.
 - ii. Frank Heald said the home show is not at the Community Center.
 - iii. Bruce Schmidt noted that there is a damaged dug-out.
- J. Dorsey Park
- i. Howard Barton said that people want to spend money on West Hill and while it is a nice area, if we spend money in too many places, some things get neglected. We need to spend more money on Dorsey Park. There are no dugouts for the softball teams and the bleachers are falling apart.
 - ii. Bruce Schmidt said he was told that they are being redone this year and that is why there is no summer soccer there.
 - iii. Howard Barton said he heard that it is too much work to take the fence out. He also suggested pop-up canopies for dugouts.
 - iv. Bruce Schmidt said they could do something like that, that they could use for both. Proctor has something like that.
 - v. Howard Barton said the field grass is thick and there are ridges. He is concerned that someone could roll an ankle. He added that the humps never settled.
- K. Zoning
- i. Howard Barton questioned a warning for a DRB hearing where the people are applying for a permit for stump removal and repairs to a retaining wall and foundation. He suggested that maybe there is too much zoning regulations.
 - ii. Logan Nicoll said that if it is in the Lakes District, it may be part of the new State Shoreline Protection law.
 - iii. Frank Heald said he would find out about it.

12. **Set Date for Next Meeting**

- A. Howard Barton advised that the first Monday in July is the 4th. The meeting will be on the third Monday.
- B. Frank Heald advised that they will need to have a meeting during the first week to set the tax rate, possibly the 6th or 7th at 8:00 a.m.
- C. Howard Barton advised that the next regular meeting would be July 18, 2016 at 7:00 p.m. He said that the August meeting will be on August 1st.

13. **Sign Warrant Orders**

- A. Warrant orders have been signed.

14. **Possible Executive Session/Personnel/Contracts/Legal Issues**

- A. Frank Heald advised that an Executive Session is not needed.

15. **Adjourn**

- A. **MOTION by Brett Sanderson and seconded by Bruce Schmidt to adjourn. Motion passed unanimously.**
- B. Meeting adjourned at 8:38 p.m.

Respectfully submitted,

Lisha Klaiber

Howard Barton, Jr., Chairman

Brett Sanderson

John Neal

Bruce Schmidt

Logan Nicoll

DECLARATION OF OFFICIAL INTENT
OF THE TOWN OF LUDLOW
TO REIMBURSE CERTAIN EXPENDITURES
FROM PROCEEDS OF INDEBTEDNESS

WHEREAS, the Town of Ludlow, Vermont (the "Issuer") intends to construct public highway improvements to be considered by the Issuer at a special meeting thereof held on August 9, 2016 (the "Project"); and

WHEREAS, the Issuer expects to pay certain capital expenditures (the "Reimbursement Expenditures") in connection with the Project prior to the issuance of indebtedness for the purpose of financing costs associated with the Project on a long-term basis;

WHEREAS, the Issuer reasonably expects that for that part of the Project consisting of design, permitting, financing, acquisition and construction costs, debt obligations in an amount not expected to exceed \$600,000 will be issued and that certain of the proceeds of such debt obligations will be used to reimburse the Reimbursement Expenditures; and

WHEREAS, the Issuer declares its reasonable official intent to reimburse prior expenditures for the above-described part of the Project with proceeds of a subsequent borrowing:

NOW THEREFORE, the Issuer declares:

Section 1. The Issuer finds and determines that the foregoing recitals are true and correct, and that all of the capital expenditures covered by this Resolution were or will be made not earlier than 60 days prior to the date of this Resolution.

Section 2. This declaration is made solely for the purposes of establishing compliance with the requirements of Section 1. 1 50-2 of the Treasury Regulations. This declaration does not bind the Issuer to make any expenditure, incur any indebtedness, or proceed with the Project.

Section 3. The Issuer hereby declares its official intent to use proceeds of indebtedness to reimburse itself for Reimbursement Expenditures, within 18 months of either the date of the first expenditure of funds by Issuer for such Project or the date that such Project is placed in service, whichever is later (but in no event more than three years after the date of the original expenditure of Issuer funds for such Project), and to allocate an amount not to exceed \$600,000 of the proceeds thereof to reimburse itself for its expenditures in connection with the Project.

Section 4. The Issuer's debt obligations for the aforementioned purpose will not be "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986.

Section 5. All prior actions of the officials and agents of Issuer that are in conformity with the purpose and intent of this Resolution and in furtherance of the Project shall be and the same hereby are in all respects ratified, approved and confirmed.

Section 6. All other resolutions of the legislative body of the Issuer, or parts of resolutions, inconsistent with this Resolution are hereby repealed to the extent of such inconsistency.

Section 7. It is hereby found that all discussions and deliberations of the legislative body of the Issuer leading to the adoption of this Resolution occurred at one or more meetings of the legislative body conducted pursuant to public notice and open to public attendance.

Section 8. This declaration shall take effect from and after its adoption. The undersigned, Town Clerk of the Issuer, hereby certifies that the foregoing is a full, true and correct copy of the declaration of the legislative body of said Issuer duly made at a meeting thereof held on the date, specified below, and that said declaration has not been amended, modified or revoked.

Town Clerk

June __, 2016