



Town of Thetford Vermont

3910 Vermont Route 113 • P.O. Box 126 • Thetford Center, VT 05075
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Selectboard Regular Meeting Minutes

– Online Only –

Monday, March 15, 2021 7:00pm

Please note Section 6 of H.681, signed into law on March 30th, 2020, for the temporary suspension of designated physical meeting location requirements.

Selectboard members present: Sharon Harkay (Chair), Mary Bryant, Nick Clark, Li Shen, Steve Tofel

Others present: Bryan Gazda (Town Manager), Tracy Borst (Town Clerk/Treasurer), Martie Betts (Selectboard assistant)

Total Zoom attendees: 43

Sharon Harkay called the meeting to order at 7:01 pm.

Agenda changes: Sharon said it had been brought to her attention that they need to re-do the votes from last Monday's meeting as they all need to be voted by roll call. Sharon suggested doing this right after public comment.

Motion by Sharon Harkay to add re-votes to the agenda. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor. Li Shen said she would like to seek Selectboard's approval for the applications for the Village Centers designation program. This will be added after the re-vote.

1) Public Comment

Sharon Harkay said for this particular meeting this will be the only time we will have public comment. Sharon said people could comment on any item on the agenda at this time. Sharon said she would like to thank Nick for all the hard work and the countless hours that he put in this past year as Chair of the Selectboard. She has had just a small taste of what it is like this week and she can only imagine that he was working practically non-stop for the good of the town. Sharon wanted to express her appreciation for that. Sharon also noted that at this time Nick probably has the deepest knowledge of Vermont statutes of any one on the Selectboard, and hopefully they will be able to call on him and his knowledge as they go forward during the next few weeks to make sure that they are doing everything correctly.

Alexis asked if no public comment for remainder of agenda also meant no questions? Sharon replied that the Selectboard would like to get through this agenda without public comment. Let's see what the questions are as we go. Alexis said she wanted to go the record as not being happy about that.

Directions on how to virtually raise a hand were given.

Agenda addition; Redoing of Votes from last Monday, March 8th, 2021



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Motion for Sharon Harkay as the Selectboard Chair. **VOTE** by roll call: Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – opposed, Sharon Harkay – in favor

Motion for Li Shen to be the vice-chair. **VOTE** by roll call: Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion to authorize the Selectboard chair and vice-chair to be authorized signatories. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion to retain the Journal Opinion as the Town paper of record. **VOTE** by roll call: Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark -abstain, Sharon Harkay – in favor

Motion to set the regular Selectboard meetings for the first and third Mondays of each month at 7:00 pm, beginning with the April 5th, 2021 meeting. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Nick Clark - abstain, Steve Tofel – in favor, Sharon Harkay – in favor

Motion to accept the 2021 Selectboard Rules of Procedure as presented. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion to appoint Sara Cavin to the Conservation Commission for a term ending in 2025.

VOTE by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion to appoint Joel Legunn to the Joint Energy Committee for a term ending in 2024. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion to appoint Tim Taylor to the Development Review Board for a term ending in 2025.

VOTE by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark - abstain, Sharon Harkay – in favor

Motion to appoint Chad Whitcomb as Town Fire Warden for a term ending in 2022. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion to appoint Sara Ecker, Nathan Hill and Stefanie Gulick to the Recreation Advisory Council for terms ending in 2025. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark - abstain, Sharon Harkay – in favor

Motion to appoint Jessica Eaton as Town Service Officer for a term ending in 2022. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion to appoint David Goodrich as the Town representative to Upper Valley Ambulance for a term ending in 2022. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion to hold the annual Selectboard retreat on April 12th at 7:00 pm via Zoom. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion to approve the warrants as presented. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor



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Motion to approve the Selectboard meeting minutes of February 8, 2021, as amended. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion to approve the Selectboard meeting minutes of February 22, 2021 and the February 22, 2021 Informational Hearing minutes, as amended. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion to approve the special Selectboard meeting minutes of February 26, 2021, as presented. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion to approve the February 27, 2021 Informational Hearing minutes, as amended. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion to adjourn the meeting at 8:30. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Addition to Agenda

Motion by Li Shen that the Selectboard approve the submission of applications for Village Center Designations for the following villages: North Thetford, East Thetford, Thetford Hill, Thetford Center and Post Mills. The applications will be submitted to the Agency of Commerce and Community Development by Sara Wraight at Two Rivers-Ottawaquechee Regional Commission, and I give credit to Nick because this was his initiative. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

2) Appointments and Updated Liaison List

a) EC Fiber Representative

Motion by Sharon Harkay to appoint Jim Masland and Tom Monego to be the representatives to EC Fiber for a term of one year. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

b) Greater Upper Valley Solid Waste Management District Representative

Motion by Sharon Harkay to appoint Jim Masland to be the representative to the Greater Upper Valley Solid Waste Management District for a term ending in March 2023. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

c) Town Tree Warden

Motion by Sharon Harkay to re-appoint Bill Murphy as the Town Tree Warden for a term ending in 2022. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

d) School Board Liaison

Motion by Sharon Harkay to appoint Bryan Gazda as the liaison to the School Board, rather than Sharon. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

3) Upcoming Selectboard Retreat



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Sharon explained that she had been looking into whether or not the Selectboard could meet in person at Town Hall as a group and have public participation by Zoom. The Town Manager, Town Clerk and Selectboard assistant could also be in Town Hall, if they wanted to be there. Sharon felt it would feel more like a retreat if the Selectboard could be in a single room. The concern was whether other people would have to be let into the building if they showed up at Town Hall, but the Selectboard would not be obligated to do that if the meeting was warned as a virtual meeting. COVID-19 protocol will be followed with members wearing masks and staying 6' apart. Selectboard members agreed that they would like to be together as most will be vaccinated by then. Nick Clark said he did not plan on attending.

Motion by Mary Bryant that members of the Selectboard, on April 12th, meet at the Town Hall at 7:00 pm for the annual retreat and live-Zoom it for community participation. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Sharon said that during the week, she and Bryan Gazda talked about ways to get community input on their priorities before the retreat.

Bryan said a link to a Google Doc will be put on the website, listserv, and Facebook page. The cut-off date will be the Thursday prior to the retreat.

4) Discussion of Route 244 Land in Post Mills

Sharon reminded people that they would not be taking any public comment during this discussion, but perhaps they would take questions. Sharon said she didn't want to get into people telling the Selectboard what should be done with the land, or what the use of the land should be because there has been lots of input from residents already.

Sharon said there were originally two parties that submitted purchase and sales contracts for the property on Route 244 in Post Mills. As of today, one party has withdrawn their offer. Steve asked if he understood correctly that one party raised their bid price. Sharon said that was correct.

Motion by Sharon Harkay that the Selectboard accept the purchase and sale contract as put forth by John D Freeman and Jeannette B Freeman Trust, pending approval of Town Counsel.

Nick Clark said he was concerned about the outstanding Open Meeting Law violations that relate to this matter and didn't feel comfortable voting on this now.

Sharon said she has sent out one email to the Selectboard stating that she would like to have this discussion in open meeting vs. in executive session. Sharon said that they should not reply all, believing that prevented it from being a meeting. Nick has pointed out he felt it violated the Open Meeting Law. Sharon spoke with Town Counsel who said if the emails are put into the minutes of this meeting, they would become public record. Sharon read the email out loud.

PLEASE DO NOT REPLY ALL

This is going to be the major topic for our meeting on the 15th. I wanted to let you know that I would very much like to have this discussion in open meeting rather than executive session. We should not have to say the names of the people. We can refer to proposal 1 and proposal 2. Know, too, that I am not going to allow public comment during the discussion because the public has had ample opportunity to let us know their thoughts, and a lot of people have expressed them. Please let me know whether or not you're comfortable with the idea of not going into executive session for this.



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Thanks so much,

Sharon

Li said she had also sent an email to the Selectboard and read it out loud.

I knew there was something that didn't sit right with me, and now that our meeting is over, I remember.

It was the cow farmer who hays that field on Rt 244. When he heard the land might be developed, he said if he could no longer cut hay there he would have to purchase hay. There was nowhere else within driving distance where he could get permission to cut. Doesn't sound like big deal to us, but to a farmer, always struggling to make ends meet, it is another nail in the coffin.

In 1947, Vermont had 11,206 dairy farms. By 1990, the number had declined to 2,370, and in 2008, only 1,097 dairy farms remained. Vermont continues to lose dairy farms every year. In 2020 AP News reported that there were about 677 remaining, with the smallest operations taking the biggest hit.

One of the issues that came up repeatedly in debates over the Rt 244 field was the fact that the land is 'Ag soil.' Although it is not Prime Agricultural soil, it does have the Statewide Agricultural designation. Keeping agricultural land in farming is key to the long-term sustainability of Vermont and New England's food system, especially as climate change threatens agriculture in other parts of the US. Every hayfield counts

However statistics show that from 1982 to 2012 Vermont lost more farmland than any other state in New England:- 322,728 acres (a 20.5% decrease). (Much of it to development.)

It does not sit well with me that people from _____ however well-meaning, can just come with a lot of money and take this hayfield out of production. They probably love seeing local dairy farms, an icon of the Vermont landscape. But they don't understand that their plans for this field are just one more of the 'thousand cuts' that are slowly killing Vermont agriculture.

It does not sit well with me that they would use the field just to play at having a business, because, if they can buy the land with cash, they don't need to make money at all. But that farmer very much does need to make money, and taking away the hayfield incurs a genuine hardship.

And making labeled wildflower plantings smacks of rural gentrification. It is an impractical use for good land that presently contributes to the agricultural economy.

In spite of the comment about the Town Garage (made AFTER the Town had purchased the field) _____ understands the need for haying and he knows the farmer, as do people in the community. I trust they will not let him down. If we can't have workforce housing there, let's at least do what we can to protect agriculture. It's the responsible thing.

Thanks for your patience,

Li

Sharon said perhaps before they took a vote on the motion on the floor that perhaps she should make a motion to accept these two emails into public record. Nick said there was another email that Mary wrote.

Steve wondered if an omnibus motion could be made that would take into account any emails that may have been called into question as violating the Open Meeting Law and allow the Town Attorney to review them and then they can be sent to Martie to be put into public record.



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Li said she believed the Selectboard needed to cure this matter at the current meeting, as it is the meeting when they are deciding the fate of this land.

Sharon said the attorney already advised her that she needed to have her email read out loud at the meeting.

Nick said that first the Selectboard had to determine if a violation occurred and then they have to cure the violation by making that information public. The Selectboard hasn't determined anything yet, they just started reading emails out loud.

Sharon said the attorney said just today, that the Selectboard could go ahead with discussion on the land and a decision to accept an offer could be made because the agenda item was legally warned. Sharon quoted the attorney that "there was no legal reason to prohibiting discussion of this matter". Li said that Nick had written out in quite some detail why these things were a violation and that she assumed that they were abiding by what he wrote as he understands statute. Li said she can find an email she wrote if Nick is agreeable to being quoted. The attorney has already reviewed all the concerns that Nick brought forward, and Sharon spent some time on the phone with him, going through all six complaints. Sharon said the attorney ruled on all emails and Sharon is acting according to what the legal counsel has advised. Sharon said that the attorney did not have any reason for concern about Li and Mary's emails.

Alexis Jetter said this is a great moment for this Selectboard to assert that these are emails that are well thought out, they add to the public understanding, and they really enhance the historical sense. Alexis thought Li's email was important for us to hear. If attorney has said it's not a problem, this is setting aside Nick's concerns which are important to consider, let's not do the default of kicking it to the attorney. Here's an example of something that's happening right now. You're taking your vote right now. All of the concerns that everyone has expressed are coming to a head right now. Please show us at this moment, that you will take the importance of this community and make that a priority. Alexis said she hoped it would be their instinct and that she trusts that's what they want to do. Alexis would like to hear Mary's email, or any of the others that the attorney said were of no concern.

Mary read her email out loud.

Hi All,

I think Li and I had some of the same thoughts relating to Friday's conversation of the Post Mills Land. I too would like us to reconsider our method for selecting a bid for the Post Mills land.

One of my thoughts is that we represent our constituents' voices and use the majority voice to guide our decisions as a general rule.

It was clear to me at the community forums that P.M. wants the hay field to stay a hay field. We worked with them in good faith. On several occasions we stated that if we did not build houses we would sell it back with the covenants for 2 housing lots. We also told them that the price would cover our expenses, we said nothing of a highest bidder.

If we go for the highest bidder, we are breaking our word to P.M. residents. That could be seen as a biased decision if we sell to the one with the highest \$ amount. Working with our community is not solely business. Community is the people, businesses, environment, values and the greater good.

If I/we think of the constituents' voices first over one or two perspective buyers is that being biased?

I very clearly heard what the P.M. people value and it is not simply \$\$\$\$.



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What I heard from the 120 PM community residents that came to the forum was they value and LOVE that little 7.8 acres. They do not want it developed, period.

Comments from PM community:

- want open land open land*
- supporting the farmer*
- watching the turkeys and deer in the field*
- love to see (and I imagine, the scent) freshly mown hay*
- the field is part of their community fabric and identity.*
- do not want houses on this land*

They also value that 7.8 acres as a hay field for a local farmer. As Li said he may not be able to make it if he does not have access to this field. It represents between \$5,000 to \$7,000 of either income and or not having to spend \$ to buy hay. He has an investment in his machinery as well as ag land. Vermont has lost over a hundred farms in the last few years and such a small few remain compared to the old Vermont.

I have never heard constituents say they need more ice cream options or sandwich places. But if the Calls would like to have a shop somewhere in the village center or some where else in town (Isabelles) that would be even better zoning wise than having it out on 244. Once the hay field is gone it is gone. There are other locations for a cafe than 244.

I am very happy we took time to make a decision, and not make one last Friday. I would appreciate a discussion on May 8th to reevaluating our process and criteria for making this decision.

*Best,
Mary*

Motion by Sharon Harkay that all 3 of the emails be put into the public record to cure the Open Meeting Law violations.

Steve Tofel said he wanted to make sure there were no other emails being objected to. Sharon said she believed those were the only ones.

VOTE by roll call: Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Sharon went back to the motion to accept the sales contract; **Motion** by Sharon Harkay that the Selectboard accept the purchase and sale contract as put forth by John D Freeman and Jeannette B Freeman Trust, pending approval of Town Counsel.

Mary Bryant said it has been a long process and there are many people to thank. She is glad we are coming to the end of it, but it has been a process that has been difficult at times. Mary said she would like to thank the trust who gave the Selectboard the money to purchase the land in good faith. They sacrificed money that has not been invested over this last year, so thank you for that. Mary would like to thank the more than 120 people who came out to the 2 forums to voice their opinions, because that is democracy and we heard you. She would also like to very much thank all the people who put in bids, and without going into detail, all of them had the best of the community in mind, and she appreciates all the ideas and thoughts that they brought forth. Mary said she thinks they have ended up in a good place.

Sharon said she thinks she can add that the closing date will be on or before April 16th, if the attorney accepts the contract.



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Nick Clark said he thinks it is clear that some members of the Selectboard have been having substantial discussion outside of open meetings, and most of the residents here only discovered that tonight. In the same stride Sharon stated both in an email to the Selectboard and at the beginning of this meeting that there would be no public comment. I know that this has been a trying process but one of the most important things we have learned from the residents was that they wanted the Senior and Affordable Housing Committee to be more transparent and they wanted the Selectboard to be more transparent. It is the end of process, but even now it is evident that transparency isn't completely happening. Nick said he does not think the public should be prohibited from commenting, especially since there have been new deliberations presented by Selectboard members that the public has never heard before.

Alexis asked if the Selectboard knew anything about what the new owner has proposed to do with the land.

Sharon said they did know, and Li said that information would be made available when it's all squared away. It's not a terrible secret but the Selectboard is being very cautious.

Sharon said the public will be happy.

VOTE by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Sharon checked with the Town Manager to see if he would send it on the Town attorney and then once the attorney reviews it, they can announce what will happen with the land.

Nick said once the Selectboard votes on it, it becomes public record so it can be announced.

Sharon said that the Jeannette B Freeman trust is providing the financing for Brian Ricker, and as many people know Brian will maintain it as a hayfield and at some point, hopes to build a new home there.

5) Warrants and Minutes

Motion by Li Shen to accept warrants as presented. **VOTE** by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Nick Clark – abstain, Sharon Harkay – in favor

Motion by Sharon Harkay to accept the regular Selectboard meeting minutes of March 8, 2021, as presented. Nick Clark left the meeting at 7:59 pm.

VOTE by roll call; Mary Bryant – in favor, Li Shen – in favor, Steve Tofel – in favor, Sharon Harkay – in favor

6) Adjourn

Motion by Steve Tofel to adjourn the Selectboard meeting at 8:01 pm. **VOTE (4-0-0)**