



# Town of Thetford Vermont

3910 Vermont Route 113 • P.O. Box 126 • Thetford Center, VT 05075  
802-785-2922 • [thetfordvermont.us](http://thetfordvermont.us)

## Selectboard Special Meeting \*Draft\* Agenda

### Thetford Town Offices

(w/Virtual Attendance Option)

Monday, February 14<sup>th</sup>, 2022 7:00pm

To connect to Zoom via computer: <https://us02web.zoom.us/j/88122490498>

To connect via phone only: +1 (646) 558 8656 | Meeting ID: 881 2249 0498

**Note:** Selectboard meetings are in public, but not of the public. 1 V.S.A. § 312 (h) states, "At an open meeting, the public shall be given a reasonable opportunity to express its opinion on matters considered by the public body during the meeting, as long as order is maintained. Public comment shall be subject to reasonable rules established by the chairperson."

7:00pm – Call to Order

1. Agenda Review
2. Town Manager Report – Bryan Gazda
3. Public Comment
4. Open Meeting Law Violation Complaint
5. Discussion and Possible Appointment to the Recreation Advisory Council
6. Discussion and Possible Decision for the Civic Pride Award
7. Warrants and Minutes
8. Anticipated Executive Session for Consideration of the New England Police Benevolent Association Contract per 1 V.S.A. § 313(a)(1) and Town Manager Performance Evaluation per 1 V.S.A. § 313(a)(3)
9. Adjourn

## Marion Betts

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**From:** Nick Clark <nclark@thetfordvt.gov> on behalf of Nick Clark  
**Sent:** Tuesday, February 08, 2022 9:02 AM  
**To:** Thetford Selectboard; Martie Betts; Tracy Borst  
**Subject:** OML violation

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

In accordance with 1 V.S.A. §314(b)(1), this is written notice of the following Open Meeting Law violation:

A majority of the Selectboard convened a meeting and conducted Town business in violation of S.222 (a)(3), which reads: "the members and staff of the public body shall not be required to be physically present at a designated meeting location."

The meeting was convened on February 7th, 2022 at 7:07pm at Thetford Town Hall and did not accommodate non-physical access, which therefore required participants (including myself, a member of the Thetford Selectboard) to be physically present at the designated meeting location in violation of S.222. The opening paragraph of S.222 reads:

*It is the intent of the General Assembly that during the continued spread of coronavirus disease 2019 (COVID-19) in the State of Vermont, public bodies should organize and hold open meetings in a manner that will protect the health and welfare of the public while providing access to the operations of government.*

The majority of the Selectboard was presented with S.222 before the meeting was convened. In fact, I presented that I had a high-risk family member and was not comfortable with the risk associated with in-person meetings. Steve Tofel responded, "You are not required to be here. You can leave." The Chair then convened the meeting. This represents wrongful exclusion under Vermont's Open Meeting law and S.222.

Four Selectboard members suggested over email earlier in the day that the meeting should be rescheduled with a Zoom link. The Chair ignored these comments and instead demanded that the meeting take place. Multiple residents emailed the Selectboard with concerns:

Melissa Krzal: "Went to attend the "public meeting" on zoom and surprise no zoom link. No notice. Is the meeting still legal?"

Susan Ricker: "Can you put the link to the Selectboard meeting on the Calendar on the Town's website for tonight's meeting, please? It isn't listed there.... Glad that you aren't that busy [Sharon], but I was under the impression that since you are allowed to have virtual meetings, that the public would be included in all meetings at this time."

Max Horster: "I attempted to join the selectboard meeting this evening and zoom said it was waiting for the host to open the meeting. The meeting never opened. I've spent 40 minutes waiting with nothing. If zooms are no longer taking place then I advise taking the link down from the website. If they are then the zoom link needs to be operable and the selectmen need to stream the meeting for the public to view. Advising that you can view it on zoom and then not start the meeting is unacceptable. Thank you for looking into this."

The Selectboard Assistant and Town Clerk highlighted these resident concerns to the Selectboard before the meeting was convened, however the feedback was ignored.

As a result of the Selectboard's willful actions, I was denied access to the meeting.

1 V.S.A. §314(b)(1) requires this written notice “requests a specific cure” of the alleged violations and that if it is found that a violation did occur, actions are taken to prevent future such violations. Because this violation represents a pattern of behavior from certain Selectboard members and the Chair spanning over a year and targeted primarily at me, I request that all actions and discussions that took place at the February 7th meeting be ruled invalid, that the offending Selectboard members issue a public apology for consciously and willingly excluding me, and that Sharon Harkay be removed as Chair on grounds of continued disregard for Open Meeting Law and abuse of power.

Failure by the Selectboard to respond to this notice within 10 calendar days shall be treated as a denial of the violation and may be appealed to the Orleans County Superior Court.

Please note that this complaint is a Public Record.

**From:** Stacy Barton <[stacyabarton@gmail.com](mailto:stacyabarton@gmail.com)>  
**Sent:** Tuesday, February 8, 2022 9:13 AM  
**To:** [bgazda@thetfordvt.gov](mailto:bgazda@thetfordvt.gov)  
**Subject:** Brent Mellen - Recreation Advisory Council

Hi Bryan,

With the recent departure of Sara Ecker from the Rec Advisory Council, I would like to add Brent Mellen. Brent has been meeting with us for months and this seems like more of a formality than anything else.

Thoughts?

Thanks,

Stacy



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## Selectboard Special Meeting \*Draft\* Minutes Thetford Town Offices 3910 Route 113, Thetford Center

Monday, February 7<sup>th</sup>, 2022 7:00 PM

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

Others present: Town Clerk/Treasurer Tracy Borst, Selectboard Clerk Martie Betts

The Selectboard discussed the decision to meet without a virtual link for the public.

Nick Clark believed the meeting was not legal because according to S.222, members of the public and the board shall not be required to be physically present at the meeting. Nick said he has immunocompromised people to consider and did not feel comfortable being at the meeting in person. He wanted to board to reschedule the meeting and offer virtual attendance in accordance with S.222.

Martie Betts said the meetings should be consistent, as for two years a virtual option had been offered, and some residents have been asking why they can't get into the meeting.

Sharon Harkay called the meeting to order at 7:07 PM.

### 1. Agenda Review

Sharon reminded the Selectboard that at the last meeting they decided to continue to meet in person, and the new Selectboard can decide how they want to attend their meetings going forward. The decision to not offer a virtual option was for this meeting only, because most of the meeting will be in executive session.

Tracy Borst said the law doesn't say the virtual option is dependent on the agenda. If the meeting is expected to be mostly in executive session they can open the meeting, do whatever business they do have and then close the discussion to the public.

Steve Tofel felt they were all in the meeting and should continue with the discussion. If the meeting turns out to be in violation, they can redo all of their decisions at the next meeting. He questioned the wording of S.222 and said if Nick isn't required to be at the meeting in person, he could leave.

The Selectboard discussed other dates.

After discussing, it was decided to continue with the meeting as warned. Nick Clark left the meeting at 7:13 PM.

### 2. Public Comment

No public comment.

### 3. Warrants and Minutes

#3.2 \$3,681.92

#5.1 \$7,503.11

#6.1 \$174.00



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1 #7.3 \$30,965.65

2 **Motion** by Li Shen to approve the warrants as presented. All in favor. **Motion passed**

3 **Motion** by Steve Tofel to accept the special Selectboard minutes of January 31<sup>st</sup>, 2022, as  
4 amended. All in favor. **Motion passed**

5

6 **4. Anticipated Executive Session to discuss the performance evaluation of the Town**  
7 **Manager pursuant to 1 V.S.A. § 313(a)(3)**

8 There was more discussion about possibly adjourning and moving the discussion to another time.  
9 Tract Borst said they have already taken action as a board. The question was not because of  
10 executive session, it's about the electronic option being cut off for this meeting.

11 **Motion** by Sharon Harkay that we enter Executive Session at 7:31 PM to discuss the  
12 performance evaluation of the Town Manager. **VOTE by roll call**; Mary Bryant – in favor,  
13 Steve Tofel – in favor, Li Shen – in favor, Sharon Harkay – in favor **Motion passed**

14 **Motion** by Sharon Harkay at 8:56 PM to exit Executive Session. All in favor. **Motion passed**  
15 No action taken.

16

17 **5. Adjourn**

18 **Motion** by Steve Tofel to adjourn the special Selectboard meeting at 8:57 PM. All in favor.

19 **Motion passed**

20



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## Selectboard Special Meeting \*Draft\* Minutes

### Thetford Town Offices

(w/Virtual Attendance Option)

Thursday, February 10<sup>th</sup>, 2022 3:00pm

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

Others present: Selectboard Assistant, Martie Betts

Participating Community members:

Sharon Harkay called the meeting to order at 3:08 PM.

#### 1. Agenda Review

No changes to the agenda.

#### 2. Public Comment

No public comment

#### 3. Anticipated Executive Session to discuss the performance evaluation of the Town Manager pursuant to 1 V.S.A. § 313(a)(3)

**Motion** by Sharon Harkay to discuss the performance evaluation of the Town Manager pursuant to 1 V.S.A. § 313(a)(3). All in favor. **Motion passed**

Selectboard entered executive session at 3:10 PM.

**Motion** by Sharon Harkay to exit Executive Session at 3:57 PM. All in favor. **Motion passed**

No action taken.

#### 4. Adjourn

**Motion** by Steve Tofel to adjourn the special Selectboard meeting at 3:58 PM. All in favor.

**Motion passed**