

Town of Underhill

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SELECTBOARD REGULAR MEETING MINUTES

Underhill Town Hall – Remote Meeting

Monday, September 21, 2020, 6:00 p.m.

Selectboard: Dan Steinbauer, Bob Stone, Peter Duval

Town Staff: Jim Beebe-Woodard, Sherri Morin, Jennifer Silpe-Katz, Andrew Strniste, Pat Sabalis, Dean Haller, Laurie Graham

Committee Members: Lea Van Winkle, Karen Mcknight, Sandy Wilmot, Steve Webster, Val Stori, Brian Tijan, Kurt Johnson

Public: MMCTV, Sandra Gillem, Roger Gillem, Kevin Campbell, Julie Dragon, Paul Ruess, Trevor Squirrel, Chris Miller, Judy Boardman, David Demarest, Jeff and Nancy Alexander, Mike Wiesel, Martha Erickson, Ravi Parikh, Sandy Haller, Mark White, William Fulton, Peter Bennett, Aaron Carroll, John & Barbie Koier, John Fifield, Jean Archibald, Diane Terry, Steve Coddling, Francine Mellott, Bill L., David Weaver, Linda Lewellen, Karl Riemer, Cathy McNamara, Bridget Stone-Allard

6:01 p.m. Call Selectboard Meeting to Order/Introductions/Adjustments to Agenda

Dan Steinbauer, Chair of the Selectboard, called the remote Regular Meeting of the Selectboard to order. Meeting is being recorded and will be available on MMCTV. This meeting had been rescheduled from its original date of Thursday 9/17/20 due to scheduling conflicts.

6:06 p.m. Public Comment Period

Steve Webster speaks on behalf of the Conservation Commission and asks the Selectboard to consider the building of a storage shed behind Town Hall to be used by committees and the Selectboard itself. The Conservation Commission has been collecting tools they would like to share with the community and need a centrally located, easy access and secure area. This shed or box, could also be used by the Recreation Committee, for the Town Hall voting equipment, and by other commissions and committees.

Kevin Campbell listened to the recording of the last Selectboard meeting and acknowledges the Town Administrator and Staff for bringing the issue to the forefront of the community. Kevin Campbell was not aware of the situation and doesn't believe anyone should be treated this way and embarrassed we elected an official that would call you those things and treat people in that manner. Kevin Campbell notes that the staff work tirelessly for the town, through the pandemic, and the town appreciates you a great deal and thinks you should be treated fairly. Kevin Campbell asks the Selectboard to look amongst yourselves to decide if you should be serving in that capacity with this feedback, specifically addressed Peter Duval, believes it may be time to step down and that is what Kevin Campbell Peter Duval to do.

David Demarest was expecting to put information into the hearing later and has emailed the Town Administrator to include in the hearing. David Demarest notes so much abuse in the town hall, finds it odd that this specific case is focused on, there's been no effort to handle other abuses of town positions over the years. David Demarest would like the Selectboard to explain in the hearing, why they are focusing on one person; he understands he is in litigation with the town, as David Demarest is as well, since 2009. The town spent money and having an oral argument in the Vermont Supreme Court deny access to his home as had been previously promised. There has been clicky movements in town, a number of people gave up and moved or don't go to Town Hall and Peter Duval may or may not be right in this, does not have enough information but what he does know, other misdeed that group thinking says, oh well if that person agrees the way I do, I don't mind a Conflict of Interest because they're doing what I want. The difference between all the Selectboard members is 178 votes with the most popular Selectboard member and the least member who is being discussed tonight. Town of over 2,500 voters, voter apathy, public accountability.

Sandy Gillem is in support of the Town Administrator & town officials, has lived in town for 50 years, and has never heard any complaints or issues with the town, finds them to be very professional and very caring. Thanks all.

Brian Tijan, states he is a new resident and everyone in the town office has been awesome and amazing and everyone is great and reiterates the above message.

Barbara Yerrick, spoke at Town Meeting and issued a request to the community to work together. Many people on town boards are volunteers, we are not all highly educated as town administrators, as our town administrator is, and we elect our Selectboard to represent all of us. They, and commissions, may make decisions we disagree with and we can have, differences of opinion, and different perspectives and still engage in meaningful dialogue because what we all want is to move the community forward and do things that are positive for our town. Barbara Yerrick asks that people strive to do that. Sounds like the things we hope that people in the community wouldn't do to people trying to run the town, is now happening within the selectboard.

6:17pm Adjustments to the Agenda

Jim Beebe-Woodard adds Use of Public Space in Covid times in Underhill under New Business. In correspondence, Randy Clark on behalf of Homestead Acres, under new business.

Peter Duval suggests member items/correspondence to the top of agenda to deal with past activity before moving on to new activity.

Bob Stone would like to add Executive Session to the agenda.

Dan Steinbauer, respect current items on earlier items. For today especially, stick with the procedure. Bob Stone agrees, the agenda has been out there, adjust for future meetings.

6:18 p.m. Natural Resource Inventory and Mapping Committee – Municipal Planning Grant

Sandy Wilmot speaks on behalf of the Natural Resource Inventory and Mapping Committee, meeting monthly since April, the group is made up of Planning Commission and Conservation Commission members. Surveys

done by the Planning Commission reveal that residents place high importance on natural resources and keeping the rural character of Underhill. The Planning Commission has requirements under Act 171 to consider wildlife habitat blocks and corridors as part of the planning, other towns around have similar models. Sandy Wilmot presents that a Municipal Planning Grant offered once per year for towns to get additional funding for things that have to do with planning. The 2015 Town Plan called for specific mapping to be done, town-wide natural community map as a finer level view of the town's natural resources. Ryan Oches has volunteered his GIS mapping skills to pull together 7 of the statewide maps that are needed, the next steps are to pull the data together. At this point, other towns will usually hire a consultant to do the kind of mapping needed including soil maps, with field work (permissions of landowners would be the job of the committee) maps, that help prioritize natural resources for protection, what is unique and how to better ___ in place. Public awareness and appreciation campaign that would let residents learn more about: workshops, nature walks, etc. Other towns say this can be very helpful, landowners can be supportive when they get to have a nature walk with a forester who can tell them cool things about their property. This would finish the work of the committee, and put planning / outreach to the Planning Commission and Conservation Commission. Grant deadline is October 1. Draft of what would be put in the grant. Consider this project and give the go ahead as is, or submit final proposal to you, and approve at special selectboard meeting.

David Demarest comments that it is not about simply winning over landowners, rather informed consent in terms of what landowners are volunteering for beyond, mapping vs. informed consent.

Dan Steinbauer speaks in terms of landowner, engaging them, with the kind of insight what their land is might be an eye-opener in a positive way. Creating the public info is a good perspective.

Bob Stone asks if the \$1,600 is available from the Planning Commission. Sandy Wilmot replies, the town needs to contribute 10%. Bob Stone supports moving forward as long it is a budgeted Planning Commission line item. If not, then they would need to consult with Jennifer Silpe about where they could find resources to take care of the mapping. Dan Steinbauer confirms allotment of \$1,600 is dependent on grant approval. Sandy Wilmot suggests it could go on the ballot. Dan Steinbauer believes there could be a consensus, a motion to approve \$1,600, given we don't know if the grant will be approved, and Dan Steinbauer supports the project.

Peter Duval asks if it is natural resources of interest and if mapping includes natural hazards? Sandy Wilmot replies that it may include flood plains, but it is not focused on hazards.

Peter Duval moves that we spend \$1,600 in support of the grant application and process and asks that the Planning Commission and Conservation Commission keep the Selectboard informed about progress. Dan Steinbauer seconds. Discussion includes that Bob Stone asks if there is money already approved, Sherri Morin asks to table until Andrew Strniste gets on to ask where line items are on this. Bob Stone suggests we could earmark money from the Selectboard budget, if we don't want to table. Peter Duval notes mapping is budgeted each year at \$2,000 and Sherri Morin replies that item is for 911 mapping or Brad Holden. Peter Duval tables the motion.

6:39 p.m. Old Business

• **Jeff & Nancy Alexander – update on land transfer request:** After a site visit and data, it has been discovered that there is a vein of gravel for emergency purposes on this section of land and the town is planning to keep this available as it is a buffer for access to that gravel. Bob Stone's opinion is that the gravel pit is a resource for the town intended to use in the event of an emergency and higher quality is closer to the Beartown Road area; if the town was to sell/lease/give the land, then the buffer that is required would be shifted. This is according to the data and bore tests done by the highway infrastructure committee. Doesn't see it would be in the towns interest to sell lease or give land away to maintain the buffer between potentially using the gravel in the event of an emergency. The Selectboard suggests and offers a screen to the Alexanders, Dan Steinbauer notes the decision does not need to be made tonight. Jeff Alexander recalls when Kurt Johnson arrived at the house to talk about gravel and solar originally; Jeff Alexander was not into it, as the Town, Green Mountain Power and ___ would get money from this, but what would he get? Jeff Alexander was relieved by the suggestion of purchasing the area of land, that he has been maintaining for 30 years. Jeff Alexander would still like some way to purchase some of the property. Bob Stone replies that he appreciates Jeff Alexander's candor, and notes they are on the same frequency, but maintaining the 200ft buffer between property and the gravel is essential or the town would lose potential access to the gravel. Discussion about this will continue, and the Town Administrator will continue to put this out to the Selectboard to revisit.

• **PVR/Harvey Road – Pat Sabalis, Mike Weisel** Mike Weisel of the Highway Infrastructure Committee discusses the dangerous pull out onto Irish Settlement Road from Harvey Road, as the distance after the hill is only a couple hundred feet. It does not allow much time to react when following the 45mph speed limit, often people drive faster. The hill cannot be lowered due to ledge and cost. The group has researched a radar speed feedback sign that will flash and tell speed at the crest of the hill. A second illuminated would be seen from Harvey road. When the speed sign registers a car, the Harvey road sign would light up, saying Car Coming or something similar. The group came up with questions and concerns around what if the system goes down and spoke to makers of the equipment, who suggested 4 little LED lights at the corner of the message sign, that would stay lit always when the system is functioning. This would be dependent on the Harvey Road drivers knowing what the four lights mean if they are lit or not. There is inherent risk. Before pursuing further, the group wanted to present it as an idea to the Selectboard. Cost estimate is \$8,500, before installation.

Pat Sabalis, has talked to Mike Weisel about potential liability. Pat Sabalis mentions how to educate the Harvey Road drivers, and what about those that don't live on the road. Might require a sign under the sign, but is a lot to think about.

Bob Stone asks how much it would cost to take care of the ledge, address the root problem, which is PVR and the ledge, and requests figures from the Highway Infrastructure Committee.

Peter Duval notes this is a Class 2 highway, the Agency of Transportation must have ways to solve sight distance problems. Peter Duval would like examples of this proposed solution in other places, and suggests contact to other government agencies involved in traffic safety.

Mike Weisel believes the group could come up with costs to eliminate the high spot in the road and has not seen the two-sign system used in this way but will look into it. Discussion continues into low-tech, but unpopular, solution is the speed table, as forcing traffic to slow down. Dan Steinbauer discusses success in the Sand Hill

area. Mike Wiesel notes that the mirror manufacturer said the mirror focus is less than the crest of the hill and it would be too far to see the oncoming cars. Peter Duval suggests speed management and traffic calming.

Bob Stone does not agree with the idea of a speed table, but believes law enforcement parked on New Road giving warnings/tickets could be a solution. Bob Stone discusses speeding on Pleasant Valley Road. Dan Steinbauer notes since we have hours for the sheriff, this could be an immediate request. Kurt Johnson notes you can provide the info to the Sheriff for speeding hot spots. Dan Steinbauer believes this would be a good place to start to see if this works in having people slow down. Jim Beebe-Woodard will follow up with the sheriff and Dan Steinbauer suggests revisiting this again. Peter Duval discusses enforcement and that earlier meetings the Selectboard had hoped someone from the Sheriff's Department would come and provide information about their activity. Peter Duval is skeptical of manned traffic enforcement, and would like to see more information about how productive they are vs. other methods of counteracting speeding.

• **Butler Ln./TH #45** Jim Beebe-Woodard discusses that Cody Marsh, Cambridge Selectboard Member, attended the August 20, 2020 Selectboard meeting, about throwing up a section of County Farm Road. Followed up with Jim Beebe-Woodard. Jim Beebe-Woodard notes in August it was suggested to discuss in an Executive Session, but is not sure it warrants an Executive Session and if the Selectboard agrees, we must address in a public meeting move on. Dan Steinbauer asks if there are steps needed for the Town to act on it, and mentions hearings and Class 4 Jim Beebe-Woodard revisits minutes from the 8/20/20 meeting that the Town would need to have hearings and could grieve the decision. Bob Stone believes we need to discuss this with the Town Attorney and is not comfortable discussing this in a public forum. Nothing has been received from the Town of Cambridge. Jim Beebe-Woodard will have town attorney present for the next meeting.

7:20 p.m. New Business

• **Retaining a replacement minute taker** Laurie Graham introduces that these minutes will be her last, but appreciates the opportunity and offers to help in the future. Jim Beebe-Woodard thanks Laurie Graham for her service and announces that Donna Griffiths (who is the note taker for the Cambridge Selectboard) is able to start at the next meeting in October. Donna Griffiths will have scheduling conflict on Tuesdays but will finish the minutes using the recording. Jim Beebe-Woodard would like to put it to the Selectboard to approve the hiring of her.

Dan Steinbauer moves to hire Donna Griffiths at the rate that has been approved. Peter Duval seconds. Discussion ensues as Bob Stone asks when we are going to start advertising the open positions, Peter Duval concurs. Jim Beebe-Woodard is happy to announce/collect resumes, but given the departure is after this meeting, would suggest conditionally approving Donna Griffiths to get started. Bob Stone believes it would be in the town's best interest to retain the person available, but advertise the position locally. Dean Haller agrees, it would be important to reach out to our community to cast a wider net. Bob Stone amends the motion to hire the new note taker until 1/1/2021. Dan Steinbauer seconds. Peter Duval suggests having more than one notetaker available; Jim Beebe-Woodard notes that Laurie Graham has mentioned she can fill in occasionally. The Selectboard passed the amended motion by a vote of 3-0. The Selectboard votes on the motion itself, of hiring Donna Griffiths, by a vote of 3-0. Jim Beebe-Woodard will reach out to Donna Griffiths.

• **Use of Public Space in Underhill in Covid-19** Jim Beebe-Woodard has received two inquiries about using Moore Park and the parking lot at the old Schoolhouse and asked the Selectboard if there is a formal policy around what we do or do not allow. Jim Beebe-Woodard is interested in trying to understand it because of Covid-19; notes that Mills Riverside Park has very clear permitted information on their website. The use of space requests include a Trunk or Treat event and handing out signs from the Anti-Racism Coalition. Jim Beebe-Woodard will look at the town hall policy, what the Recreation Committee did for guidelines for Food Truck Night, and will report back about the public use policy.

• **Homestead Acres: Randy Clark's Letter** Jim Beebe-Woodard introduces the letter from Randy Clark signed by the residents of Homestead Acres, requesting to lower the speed limit in their area. Jim Beebe-Woodard believes the first step is to engage the Regional Planning Commission to engage a speed study in the neighborhood. Dan Steinbauer believes it is a good idea. Peter Duval moves to ask the Town Administrator to engage the Regional Planning Commission to conduct a speed study in Homestead Acres. Bob Stone adds that we instruct the sheriff or state police to move the cart to Homestead Acres ahead of the Regional Planning Commission to get data early as an idea of the speed problem. Peter Duval suggests asking RPC if the speed cart will affect the speed study. Dan Steinbauer hears a consensus. Jim Beebe-Woodard will reach out about that.

• **Natural Resource Inventory and Mapping Committee – Municipal Planning Grant (Continued from earlier, New Business)** Sherri Morin spoke with Andrew Strniste about the funding, confirms that the money will come from the Planning Commission budget. The Selectboard votes on the earlier presented motion for the Mapping Committee to apply for the grant, and the motion passes by a vote of 3-0.

7:41 p.m. Conflict of Interest Hearing – complaint against Selectman Peter Duval

Dan Steinbauer introduces the Conflict of Interest Hearing, a quasi-judicial hearing, and states there needs to be specific order to provide safety, fairness and organization. Dan Steinbauer has received a written complaint, alleging a violation by Peter Duval of the Town's Conflict of Interest Policy, adopted on October 11, 2012. A copy of the complaint of the hearing has been provided to Peter Duval, under Article 8 of the policy, the Selectboard is required to conduct a hearing of the complaint happening now, with the procedure as follows. The complainant will first be given the opportunity to provide any relevant evidence he wishes, including witness testimony by himself or others, under oath, as well as the introduction of any document. The respondent will have an opportunity to cross-examine the complainant or any witnesses and evidence presented by the complainant. When the complainant has finished his presentation, the respondent shall have the opportunity to provide any relevant evidence he wishes including witness testimony by himself or others under oath as well as introduction of documents. The complainant will have an opportunity to cross-examine evidence presented by the respondent.

Peter Duval asks if Dan Steinbauer said this is a quasi-judicial hearing. Dan Steinbauer confirms. Peter Duval asks how he got that under the procedure of Article 8. Dan Steinbauer replies that V.S.A. § 3.10.6 defines a quasi-judicial proceeding.

Dan Steinbauer continues that, if there are objections to the board receiving any offered evidence on either side, Dan Steinbauer will address such objections in the process. The Selectboard members may choose to ask

questions of witnesses, but will not be making a determination tonight. There will be a period of deliberation. Because this is a hearing involving parties, the public will have no opportunity to share unless called as a witness. Everyone will conduct themselves respectfully of one another, the witnesses and the Board. Shall any party wish to call as a witness, a selectboard member, questions must be limited to matters of historical fact: what did he say, what did you observe, etc. It would be inappropriate to ask a Board member sitting in decision of this matter his/her opinion relevant to the proceedings, and we will not comment on that. Upon the conclusion of the presentation of evidence, the hearing will be called, each party may have legal counsel represent them in connection with the hearing and the hearing shall be recorded using the remote meeting application's recording and sent to MMCTV. The Complainant and respondent shall have one week after the hearing to submit to the Selectboard Chair, a written memorandum addressing each position regarding the complaint, and then the Selectboard will thereafter deliberate and issue a written decision which shall be delivered to the parties and the documents shall be a public record. Dan Steinbauer understands that either party may appeal the Selectboard decision to the superior court, subject to the requirements Vermont Rule of Civil Procedure #75. Dan Steinbauer asks for questions from either party. Jim Beebe-Woodard replies that he has no questions. Peter Duval replies that he has a ton of questions; where is the town attorney, if this is a quasi-judicial hearing, legal counsel should be present to help interpret any of the procedural considerations and interpreting the policy. Dan Steinbauer replies that we are not required to have the town attorney at this hearing, specific guidelines that Dan Steinbauer has so far presented and will use as a frame. Peter Duval asks how it became a quasi-judicial meeting in Article 8 Section D, open meeting law procedures, does not discuss quasi-judicial meeting procedures and is wondering what Dan Steinbauer is reading from. Dan Steinbauer replies he is reading the Vermont Administrative Procedural Act, which is a case in which legal rights of one or more persons granted party status are adjudicated conducted in a way all parties have opportunities to present evidence and cross-examine evidence, result is appealable by a party to a high authority. Peter Duval replies that we are talking about a policy, we don't have an ordinance, asks why we are lurching towards a quasi-judicial proceeding without ordinance. Pat Sabalis comments that when you look at Article 8, Enforcement, it sets forth a procedure on the complaint which includes oral evidence taken under oath, the complainant and respondent have the right to be represented by legal counsel, examine and cross-examine witnesses, at the conclusion of any request of fact-finding or complaint review, the board will determine if there's a violation of the Conflict of Interest Policy and make their recommendations as to the resolution. That is what a quasi-judicial hearing is, taking evidence under oath, examination/cross examination and issuing a decision, and that is in the Conflict of Interest Policy. Peter Duval replies there is no ordinance, only a policy. Dan Steinbauer replies that legally this is good enough, according to town counsel. Peter Duval asks, what is good enough and Dan Steinbauer replies, to qualify as a quasi-judicial hearing with testimony, examination, deliberation, and report; all part of the policy. Peter Duval replies that a quasi-judicial proceeding is appealable, can't appeal a policy, and Jim Beebe-Woodard can't either. Dan Steinbauer confirms Peter Duval can appeal as the respondent and Jim Beebe-Woodard can appeal as the complainant. Dan Steinbauer continues, Article 4 of the policy states that a public officer (defined in article 3 to include an elected official) shall not participate in any official action if he/she has a Conflict of Interest in the matter in consider, the Conflict of Interest includes direct personal interest in the outcome in a matter before the Selectboard, a official actions includes the Selectboard hearing in deciding the Conflict of Interest complaint. Therefore, the policy, as the subject of Conflict of Interest complaint, is prohibited from participating as a member of the Selectboard regarding the Board's hearing and the determination of the complaint, and Dan Steinbauer asks Peter Duval to recuse himself from sitting a member of the Board in hearing and deciding the Conflict of Interest complaint we are hearing

this evening; Dan Steinbauer asks Peter Duval to state for the record whether you do or do not recuse yourself. Peter Duval recuses himself from acting on this as a Selectboard member.

Jim Beebe-Woodard takes an oath; swears or affirms to tell the truth, the whole truth, and nothing but the truth under pains and penalties of perjury. Jim Beebe-Woodard shares testimony with Powerpoint Presentation. Peter Duval asks if Jim Beebe-Woodard can email that us, to which Jim Beebe-Woodard replies, not right now, but he would be happy to later. Jim Beebe-Woodard introduces himself as the Town Administrator who started this position in July and has lived in Underhill for 15 years and has been an elected official in town since 2010 as a Justice of the Peace. Jim Beebe-Woodard expresses that the hearing is a challenging position to be in so early on in his role, but one of the listed items in the job description is represent the interest of the town, selectboard, community leaders and general public; and is looking to make the general public aware of these violation. During the last Selectboard meeting on 9/1/20, the employees of the Town Hall filed a letter of complaint against Selectboard Member, Peter Duval, reporting on-going inappropriate and abusive behaviors towards town staff, committee members, colleagues and contractors on the part of Selectman Duval, and reported on his misuse of his role as a selectboard member. At the same time of file that letter, Jim Beebe-Woodard filed on behalf of town hall staff a separate letter of complaint reporting the sleectmans' violations of the town of underhills Conflict of Interest policy, whereas he is a party opponent of litigation with the town, commenced prior to his term as a selectboard member, because the Conflict of Interest policies outlines a specific process for reporting Conflict of Interest violations, that letter is being addressed separately here this evening. Anyone wishing to view the other complaint, it is posted through MMCTV website or contact Jim Beebe-Woodard for the recording link.

The focus of the hearing tonight is to address ongoing violations to the town's Conflict of Interest policy. Some specific instances and also made reference to the appearance of a broader on-going Conflict of Interest than selectman Duval demonstrates- a long and complicated situation due to the litigation Peter Duval has. Jim Beebe-Woodard will fill in the understanding.

Jim Beebe-Woodard introduces the town's Conflict of Interest policy, and read's Article 2, the purpose of the policy, ensuring the municipality so that no public official or employee will gain personal or financial advantage of their work of the municipality so the public trust will be preserved. Ensure that all decisions made by municipal officials are based on the best interests of the community at large and activities are open, honest and impartial. The state statute that is the basis for Article 2 Conflict of Interest policy is , is 24 V.S.A. § 1984. A Conflict of Interest in an incompatibility between the private and public affairs or interests of a public official. Jim Beebe-Woodard is here to assert unequivocally that Peter Duval repeatedly violates this policy and demonstrates patterns of behavior that show a wilful and purposeful disregard for the Conflict of Interest Policy. On-going behaviors show he is unable to put aside his personal feelings about town staff, town committee members, town attorney and even residents of this town when it comes to fulfilling his role as a selectboard member. Dan Steinbauer asks for the specifics on how the violation has happened, and Jim Beebe-Woodard replies he will thread it all together. Jim Beebe-Woodard continues that Peter Duval's personal feelings, anger about his failed zoning proposals, make it an impossible work environment and feels like Peter Duval is seeking a bit of revenge. Jim Beebe-Woodard reads an explanation from Vermont League of Cities and Towns: 1 V.S.A. § 172: "*A Vermont selectboard may serve, at various times, legislative, executive, and judicial functions. However, no individual Selectboard member is given authority to serve any of these roles alone. Vermont law*

gives authority to Selectboards and not to individual Selectboard members. An individual selectperson has no more authority to take action on behalf of a town than any other resident.” Jim Beebe-Woodard states that 24 V.S.A. § 1984 applies as, Peter Duval is “privity to the Town’s ‘side’ of the legal proceedings is essentially working on both sides of the litigation” and Peter Duval ignores 1 V.S.A. § 172 by “documentable decisions and actions on the part of Peter Duval have been made unilaterally, made without consult with the Selectboard as a body and these actions are typically attempts to advance Mr. Duval’s personal agenda and that contains, at its root, an unaddressed Conflict of Interest.”

Jim Beebe-Woodard presents an email from Peter Duval. After Jim Beebe-Woodard’s first Selectboard Meeting, he offered a short meet-and-greet type meeting after to get to know the Selectboard, and introduce more about himself. Jim Beebe-Woodard received an email from Peter Duval “schooling” him about Open Meeting Laws, as well as confirming his knowledge of 1 V.S.A. § 172 by stating that no member can act in any capacity without specific authorization from the Selectboard in an open meeting.

Jim Beebe-Woodard states that Peter Duval has the right to appeal zoning decisions, a right to follow through with legal action. Peter Duval also has the right to be on the Selectboard despite having on-going litigation with the town. It seems that it may be incompatible for someone with litigation to also be in the position of representing the town's best interest. Jim Beebe-Woodard presents an example of this scenario. Jim Beebe-Woodard notes that we are not here to present specifics of Peter Duval’s litigation, but just to recognize that it exists, Peter Duval got onto the Selectboard after initiating legal action with the town. We must ask if Peter Duval demonstrates the integrity, ability, and willingness to separate his own agenda, and clearly articulated dislike and distrust for “The Town” from his duty to perform his role in Town’s governance with impartiality? Is Peter Duval participating in the operations of this municipality in a way that is potentially gaining him a personal advantage? Can the public trust Peter Duval? Are Peter Duval’s actions reflecting the best interest of the community at large and are they honest?

Jim Beebe-Woodard notes “The Town” is made up of elected officials, appointed officials, commission and committee members and residents/taxpayers.

Jim Beebe-Woodard shows the Conflict of Interest Policy. States, you can’t have a fox in the hen house. The Conflict of Interest policy seeks to preserve the trust in the people that we elect to represent us, openly, honestly and impartially.

Jim Beebe-Woodard presents taxpayer-funded cost of defending against Peter Duval’s litigation. As of September 8, 2020 the town (you) has spent \$22,727 defending against this litigation. Last year on Town Meeting day, we actually voted on an Australian Ballot item to buy land to put into conservation, but in this case, one resident can initiate litigation against the town and the taxpayers are on the hook to pay it. Is it in the best interest of the community to have someone trying to work it for both sides. Pro-se litigation, “for oneself” while the town is spending these legal fees, Peter Duval is self-represented, it is his right and quite an undertaking. One would assume if you are going to take litigation to the Supreme Court you would take this process really seriously, especially with the optics in being in the position of an elected official. Peter Duval routinely asked for extensions on time, understandable navigating a legal system, and the court has been very generous extending latitude to self represented parties. Every request for an extension requires counsel from the

town to respond, which means more fees paid by the town, funded by you. One of Peter Duval's more recent filings to the Supreme Court included a hand drawn comic book story, where he refers to the people of Underhill as "haves" who continue to consume well beyond their fair share. While the residents of town of Underhill are footing the bill for the litigation, this resident is writing fiction and drawing cartoons; he can do this, it is his litigation, but this is shared with you for context. Peter Duval is the resident, does not hide contempt and disgust for town employees and officials and is within his right to do so.

Jim Beebe-Woodard discusses that 2020 wasn't Peter Duval's first go at the Selectboard and in 2015, ran a principled campaign stating his agenda and mandates for the role, saying he is a write-in because he does not want passive votes or name recognition votes. Fast forward to Town Meeting Day 2020, no one's running for the Selectboard, Peter Duval is in active litigation and hands out slips of paper to everyone in the town; what about not wanting passive votes?

July 21, 2020 Jim Beebe-Woodard's first Selectboard meeting, a Special meeting to go over acquisition of the Tomasi Meadow where Peter Duval argues with the Town Attorney over why he should be able to go into an Executive Session where his litigation is the matter of discussion. Jim Beebe-Woodard introduces a second video clip where Peter Duval, in the Selectboard meeting, states that this isn't the only time the Town has gone through great lengths to frustrate a resident but is the most egregious. Later he states that he knows it is improper from him to sit in on a conversation with the Town Attorney, Dan Steinbauer and Bob Stone to discuss his case, but our Conflict of Interest policy is written by a salad shooter, and he says he acknowledges a duty to avoid a Conflict of Interest, duck out of any conversations. Peter Duval also states that he vehemently opposes being excluded prior to having an opportunity to participate, how he feels about the town agent, the DRB, accuses the Town Attorney of mangling the case. Then, Peter Duval asserts he has a right to go into the executive session, hear what we're talking about and say "whoops." Then the Town Attorney gives him the opportunity to make the representation regarding the Conflict of Interest on the record, followed by 8 seconds of silence, Peter Duval did not make a statement identifying a Conflict of Interest and did not participate in the Executive Session. Peter Duval lobbied for 30 minutes to try to get into an Executive Session that was to discuss his case. Later that day, from Peter Duval's town email, he sent a message to the Selectboard, Jim Beebe-Woodard, Brad Holden, the Town Attorney and one resident who attended the meeting, stating that this is one more mishandling on a pile of mishandlings, the lazy town works the hardest, the town oppresses its people, the town is racist, and the town actively discriminates in housing. Jim Beebe-Woodard revisits 24 V.S.A. § 1984.

Jim Beebe-Woodard presents an email from Peter Duval on 8/7/2020 where he asks the Town Attorney to send the Selectboard a list of all legal matters they were involved in during FY2020 and asks how many of those the Town Attorney feels confident were authorized by the Selectboard and asks if the Tomasi Meadow is the only new matter in 2020. This message was unauthorized by the Selectboard and Jim Beebe-Woodard revisits the Contract of Interest policy. Jim Beebe-Woodard notes Peter Duval's more recent filings where he's asking again for an extension, he references this concern now he's twice in these emails, about whether or not the attorney had authorization, that is what he was hunting for. Jim Beebe-Woodard emails Peter Duval on 8/19/20 calling out these Conflicts of Interest, Peter Duval replies that he has a story, but Tomasi transaction is kind of important, he doesn't want him to get any more distracted than he already is. Jim Beebe-Woodard felt his responses were patronizing. Since filing the letter on the Conflict of Interest, Peter Duval is weaving those

actions into his Supreme Court appeal; his recent reason for needing more court time was stated that, as if out of a scene from Show Me a Hero, the September 1, 2020 Selectboard Meeting town staff filed a complaint against me. He is responding as Peter Duval the Resident, but the Conflict of Interest complaints are directed to Peter Duval the Selectman, this delay in filing could be a delay to go phishing again.

Jim Beebe-Woodards summary includes:

- Peter Duval appeals to the court, the Town protects its interests and litigation starts in 2018.
- Peter Duval slides last minute uncontested into the Selectboard in March 2020.
- Peter Duval loses his appeal in environmental court in June 2020.
- In July 2020, Peter Duval tries to obtain privileged information in Selectboard meetings and via email through unilateral requisitions not discussed, vetted, or approved by the Selectboard.
- Peter Duval refused to identify or acknowledge the Conflict of Interest.
- Peter Duval is called out by the Town Administrator for what we believe are clear violations of the Conflict of Interest policy; responds suggesting that the TA is distracted.
- After he is confronted for abusive and unprofessional behavior AND violations of Conflict of Interest policy, he leverages these things for personal advantage on the outcome of proceedings before the Selectboard of which he is part.

Jim Beebe-Woodard ends with three messages from Peter Duval. Where Peter Duval has been quoted in meetings saying, see how sausage is made and how sloppy it is, the town has no business being involved in my case, and that Peter Duval looks forward to the town relenting on its appeal of the DRB decision.

The Selectboard and Peter Duval have an opportunity to ask clarifying questions.

8:30 pm: Recess

Dan Steinbauer organizes thoughts by the central idea of the litigation and cascading conflicts of interest. Jim Beebe-Woodard agrees and replies that there is also a broader Conflict of Interest of whether or not his behaviors allow residents to have trust in this official and feel like their best interests are being represented; metaphor of poisonous tree. Bob Stone does not have any questions at this time.

Peter Duval takes an oath; swears or affirms to tell the truth, the whole truth, and nothing but the truth under pains and penalties of perjury.

Peter Duval has questions, asks Jim Beebe-Woodard to share his Powerpoint presentation with the board. Jim Beebe-Woodard replies it would be in the written response. Peter Duval asks him to do it now. Jim Beebe-Woodard replies due to file size he can't send it now.

Peter Duval asks Jim Beebe-Woodard to recap why he is on the Selectboard. Jim Beebe-Woodard replies he doesn't know, but patterns of behavior and his words indicate he has all the answers to fix the town's woes. Peter Duval asks for an example of how a Conflict of Interest has resulted in a benefit to him. Jim Beebe-Woodard says it hasn't yet, but it's a question for him, but isn't going to sit by idling while trying to access privileged information. Peter Duval asks again about Conflict of Interest, Jim Beebe-Woodard notes

Peter Duval had not identified that he had a Conflict of Interest in open meeting until tonight. Peter Duval says, assuming the Conflict of Interest is known, how do you manage that Conflict of Interest. Jim Beebe-Woodard asks that is a question for Peter Duval, how does he put it in a box and put it aside, manage feelings of animosity and become an effective public servant. Jim Beebe-Woodard states that if he had Conflict of Interest or litigation against the town, he would recuse himself and he wouldn't be on the Selectboard, trying to work it from the inside. Peter Duval asks if it is the contention that being on the Selectboard is a Conflict of Interest? Jim Beebe-Woodard replies that in his presentation he stated it is not a Conflict of Interest, it is appropriate but he has a responsibility to check his behavior.

8:46pm Dan Steinbauer calls a point of order. Requests that Peter Duval begins his testimony, unless there are very specific questions to challenge. Peter Duval replies he is asking cross-examination questions. Dan Steinbauer notes it seems he is trying to work in his testimony into the cross-examination, more specific questions.

Peter Duval continues with cross-examination questions by asking Jim Beebe-Woodard about the statutes referred to, working from the Town Conflict of Interest Policy signed in 2012. Discussion continues about VLCT compared to the Town Conflict of Interest Policy. Peter Duval asks Jim Beebe-Woodard if he has compared the two side by side, Jim Beebe-Woodard has not looked at them side by side. Peter Duval states the Town gets an authority of statute to adopt policy including definition of policy, is that correct? Jim Beebe-Woodard confirms. Peter Duval asks if Article 3 is the definition, Jim Beebe-Woodard confirms. Peter Duval says Jim Beebe-Woodard has not used any of the definitions used in the Conflict of Interest Policy; Jim Beebe-Woodard says that is incorrect. Peter Duval requests Jim Beebe-Woodard's Powerpoint back up. Peter Duval asks if Jim Beebe-Woodard agrees that it is the Conflict of Interest policy that applies here, Jim Beebe-Woodard does and said state statute is the basis for the Conflict of Interest is an incompatibility between the private and public affairs of a public official. Peter Duval says this is not how this reads in the Conflict of Interest Policy. Jim Beebe-Woodard asks for a Point of Order, notes this is how it goes with Peter Duval, and asks Peter Duval to move on to his next question. Peter Duval asks Jim Beebe-Woodard to read Section G from the policy; Jim Beebe-Woodard reads this. Peter Duval asks Jim Beebe-Woodard to read the other three components. Bob Stone steps in, asking why he is not sure why Jim Beebe-Woodard needs to find and read all of these policies for Peter Duval, he should be presenting this on his own. Why he is asking Jim to find all of this on the fly and then ask questions. Dan Steinbauer replies that he is in agreement with Bob Stone, it appears Peter Duval is using the cross-examination for his testimony for himself. Dan Steinbauer requests that Peter Duval move on to his testimony. Peter Duval replies that the point of cross-examination is to reveal cracks in the testimony. Dan Steinbauer requests Peter Duval move onto his testimony. Peter Duval asks if this is a quasi-judicial testimony or not. Dan Steinbauer replies there is a point of order in believing the cross-examination is being misused.

Peter Duval moves onto another question to Jim Beebe-Woodard about the cost of litigation to the town; is it proprietary information or privileged information? Jim Beebe-Woodard replies that he spoke with Town counsel, and learned it is public information. Peter Duval asked if a citizen asked Jim Beebe-Woodard for this document, would he give it to them? Jim Beebe-Woodard would ask counsel first. If the Selectboard asked as a body, Jim Beebe-Woodard would, Peter Duval asks if it is a public record would he give it to the public? If Jim Beebe-Woodard was asked to give out any info like this, he could check with counsel. Peter Duval refers to

email presented earlier, Peter Duval didn't ask for money amount, but evidence of authority to litigate; Peter Duval asks Jim Beebe-Woodard if he would use the same approach, if Jim Beebe-Woodard knew it was public record, he would give it out, if it is public record. Jim Beebe-Woodard asked the attorney if he could share all pieces, and was informed it was not protected or privileged and he was permitted to share this information. Jim Beebe-Woodard replies that Peter Duval asked for a list of all of the work products the Town Attorney had worked on, inappropriate. Peter Duval asks if it would be inappropriate to know about the town's legal efforts related to David Demarest. Attorney made it clear Peter Duval could not be in an executive session where his litigation was being discussed. Peter Duval asks if it is possible to exclude a member from a body, Jim Beebe-Woodard believes if the person has Conflict of Interest they should exclude themselves, as for the legality, Jim Beebe-Woodard does not have the authority to answer that, he's not an attorney.

Bob Stone requests Peter Duval move on. Dan Steinbauer repeats that the cross-examination is fuzzed with testimony, requests Peter Duval is more proactive about the charges against you, rather than manipulate and control this part of the hearing.

Peter Duval asks if the town is required to be involved in the conditional use appeal, Jim Beebe-Woodard does not know. Peter Duval says Jim Beebe-Woodard asserted the appeal is costing a lot of money, is it because I am forcing the town to spend the money? Jim Beebe-Woodard replies that Peter Duval appealed the decision and the town has a responsibility to protect itself; there is litigation, the town felt it necessary to protect itself, and Peter Duval delays and writes comics, he can't answer the question. Peter Duval says Jim Beebe-Woodard presented this as if somehow the town was required or forced to involve itself in the appeal; do you feel that the town is legally required to involve themselves in the appeal? Bob Stone notes this is not relevant, requests Peter Duval moves on. Dan Steinbauer believes what Peter Duval is doing is giving up his opportunity to give testimony and calls the hearing. Dan Steinbauer will seek counsel on whether or not Peter Duval can provide verbal testimony, he does have the opportunity to provide written testimony, in one week Dan Steinbauer will review both testimonies to review with Bob Stone to make a decision.

Jim Beebe-Woodard agrees and notes that it is unfortunate and very unfair that he presented a cohesive testimony and Peter Duval has the unfair advantage of having all of that to create his responses. Jim Beebe-Woodard did have questions to ask tonight but agrees this is going nowhere, and is characteristic of Peter Duval's behavior. Jim Beebe-Woodard reiterates unfair advantage.

Peter Duval asks for one more question, however the meeting has concluded and no further questions.

Dan Steinbauer will seek legal counsel about how this can continue. Bob Stone asks if himself and Dan Steinbauer can seek legal counsel with the Town Attorney, Dan Steinbauer replies yes, and it is exempt from open meeting law.

Peter Duval objects to the proceedings stating if you wanted a quasi-judicial hearing, adequate time and resources, referring to the town attorney, available for the process. This is reflective of "town" operations in general. Bob Stone replies that he likes to handle things at the lowest level possible, without getting the Town Attorney involved and save the taxpayers money, but if we have to have the attorney involved then so be it.

9:20 p.m. Updates from Town Administrator

Despite problems, a digitization grant for digitizing land records has been approved. LGER grant, related to Covid-funding, has not yet been prompted to send in items but it looks great and will have items in the coming months.

Sheriffs provided the Fair and Impartial Policing Policies and will be provided at the next meeting packet and to the Anti-Racism Coalition. In billing, we also find out about warnings/fines and that also tracks race as a category.

Chittenden Region Planning Council, Zoom call with Andrew, Stormwater management plan. 3 projects moving along. Jim Beebe-Woodard is the contact for the town and will keep Selectboard updated.

Dumas Road/FEMA Buyout: Jim Beebe-Woodard is learning more about the process. Brad Holden continues to work on the property boundaries. Application deadline is November 6.

Jim Beebe-Woodard visited the Solar Array with Don Toby, cost to the town will be nominal for cutting and will include the removal of some of the material and leave the site open for maintenance overtime.

Donation was made to North Country Animal League in Morrisville in memory of John French and a condolences card was sent to his family.

8:10 p.m. Warrants and Minutes: Review/Approve current Warrants and the Selectboard minutes from September 1, 2020

Dan Steinbauer moves to approve the warrants as displayed in the packet. Bob Stone seconds. Discussion: Peter Duval discusses the approved contract with Dean Haller but has not seen any invoices, concerned that the contract has fixed amounts of money and doesn't appear that we're spending it, has the town been keeping up with the Haller contract. Dean Haller replies that he checks in with Jennifer Silpe every month and has no issues on his end; if the Selectboard would like an update at the next meeting, Dean Haller would like to provide one. Peter Duval asks Sherri Morin how Dean Haller is getting paid without a warrant for it; Sherri Morin replies that the invoice is printed. Dean Haller replies that the contract with the payment schedule, Dan Steinbauer replies that there does not need to be proof of payment as it is a contract. Bob Stone discusses the Lowes receipt, taxes were paid on the mulch purchase, and asks if there was a town credit card, and reminds about tax exempt status. Sherri Morin will look into the purchase of the mulch used at Moore Park. The warrants are approved by a vote of 3-0.

Dan Steinbauer moves to approve minutes for the September 1, 2020 Regular Meeting of the Selectboard with changes. Bob Stone seconds. Discussion: Bob Stone would like the letter drafted to the Guay's added to the minutes, Jim Beebe-Woodard will add. Peter Duval requests additional quotations, specifically on Page 4, words taken from the allegations in quotations. Bob Stone moves to table the minutes until the next meeting. The minutes are tabled by a vote of 3-0.

9:30 p.m. Member Items, Correspondence, Announcements, Schedule, The next regularly scheduled Selectboard meeting will be Tuesday, October 6th at 4:00pm

Jim Beebe-Woodard was contacted by a candidate for Chittenden County Senate, writing to the Town Administrators all over the county, looking for needs and concerns about the upcoming legislative session. Jim Beebe-Woodard believes speaking only with himself is objective and could suggest to the candidate that they could poll the town, as Jim Beebe-Woodard is not comfortable being the spokesperson for that.

Communication from David Workman to Bob Stone, about Black Lives Matter. David Workman was not here for public comment. Jim Beebe-Woodard, whether the Selectboard considers BLM, considers they incite violence. Dan Steinbauer suggests referring to the Anti-Racism Coalition for background on that.

Following up to the conversation, Bob Stone's letter to the Guay's was included in the packet.

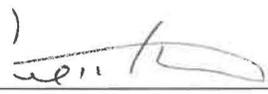
Peter Duval asks about the access permit; is the Selectboard no longer granting access permits. Dan Steinbauer replies it has been turned into the purvey of the DRB. The Selectboard used to approve all driveways, etc. and believes it is partly state designation. Bob Stone replies that there is a point in time if there were access permits we see now had not prior to the DRB taking over. Peter Duval asks if this is laid out in the. The Selectboard has requested to be informed about the access permits, and Andrew Strniste informs the Selectboard.

Roger Gillem thanks all, appreciates the hard work that everyone does and says it makes his life a better life.

9:46 p.m. Adjournment Meeting is adjourned by a vote of 3-0.

Submitted by Laurie Graham, Record Keeper.

Read and approved as submitted/amended:



Dan Steinbauer, Chair

10/10/2020
Date Signed

6 OCTOBER 2020
Date Approved