

Town of Pomfret
 5218 Pomfret Road
 North Pomfret, VT 05053
 Agenda for July 20, 2016 Regular Selectboard Meeting
7:00pm at the Pomfret Town Offices

Agenda Item	Presenting Individual	Timeframe
1. Call to Order	Chair	7:00pm-
2. Public Comment	Chair	7:00-7:05pm
3. Review of Agenda	Chair	7:05-7:10pm
4. Consideration of Appointment of New Selectboard Member	Chair	7:10-7:15pm
5. Recurring Items, Including Items for Possible Vote:		
a) Review, discussion, and approval of minutes: 7/6, 7/12	Chair	7:15-7:20pm
b) Treasurer's Report	Treasurer	7:20-7:30pm
i. Warrants for Payment (1) Accounts Payable (2) Payroll		
c) Delinquent Tax Collector's Report	Delinquent Tax Collector	7:30-7:40pm
d) Road Foreman's Report	Road Foreman	7:40-8:05pm
i. General Update		
ii. Caper Street Intersection		
iii. Speed Limit Petition		
iv. Transportation Grants (Ongoing, Upcoming)		
v. Guardrails: Caper Street & Below Sugarhouse Road		
6. Business Items for Possible Vote:	Chair	8:05-8:45pm
a) Fire Services Study Update		
b) Pomfret Slope Project		
c) Salt Purchase/Bids		
d) Planning Commission and Zoning Board of Adjustment Reappointments		
e) Motion for Stay by Chippers		
f) Sheriff's Contract Update		
g) Road Commissioner Position		
h) State Representative Candidate Sue Buckholz		

7. Business Items for Discussion a) Selectboard correspondence: b) Next meeting's agenda:	Chair	8:45-8:50pm
8. Closing Public Comments, Review of Assignments, and Adjournment	Chair	8:50-8:55pm

**Town of Pomfret
5218 Pomfret Road
North Pomfret, VT 05053**

Draft Minutes of the July 6, 2016 Regular Selectboard Meeting

Present: Michael Reese (Selectboard Member), Melanie Williams, (Selectboard Member), Frank Perron (Selectboard Member), Sheila Hopkins (Selectboard Member), Art Lewin, Sr. (Road Foreman), Karen Hewitt (Collector of Delinquent Taxes) Ellen DesMeules (Treasurer), Jonathan Williams (Assistant to the Selectboard), Betsy Siebeck, John Moore, Bill Emmons, Cathy Hazlett, John Skyeck, and Orson St. John

1. Call to Order: Michael Reese called the meeting to order at 7:00pm.
2. Public Comment: None.
3. Review of Agenda: The ‘Pomfret Selectboard Rules of Procedure’ was added to the agenda. The ‘Salt RFP’ and ‘Guardrail Discussion’ agenda items were added to Road Foreman’s report. Michael Reese moved, and Melanie Williams seconded, to approve the agenda as amended. The Board unanimously approved the motion.
4. Pomfret Selectboard Rules of Procedure: The Board signed the Pomfret Selectboard Rules of Procedure, approved April 20, 2016.
5. Consideration of Appointment of New Selectboard Member: Michael Reese briefed the Board on this item, and there was discussion. No new nominations were provided.
6. Review, Discussion, and Approval of Minutes (6/15, 6/20, 6/28): Melanie Williams moved, and Frank Perron seconded, to approve the 6/15/16, 6/20/16, and 6/28/16 minutes. The Board unanimously approved the motion.
7. Treasurer’s Report:
 - (a) Warrants for Payment (1) Accounts Payable (2) Payroll: Frank Perron moved, and Sheila Hopkins seconded, to approve the warrants (#16001, #16002, #16003, #15092, #15095, #15096, #15097) as read. The Board unanimously approved the motion. Michael Reese briefed the Board on a financial management questionnaire.
 - (b) State Education Rates/Tax Rates: The State education rates were read aloud, and there was discussion. The process and schedule for calculating the tax rate was discussed by the treasurer and the Selectboard, and will be addressed at a future meeting.
8. Delinquent Tax Collector’s Report: One account has been paid in full (just under

\$6,000). The Delinquent Tax Collector has reached out to another town's tax collector on what next steps should be for delinquent accounts, including putting liens on property. Hiring/utilizing an attorney was discussed, as well as how said attorney would be paid.

9. Road Foreman's Report:

- (a) General Update: The Road crew has gotten its truck back, and has been out using it; there have been no problems so far. There have been minor mechanical issues on the tractor; mowing and grading was discussed; the road crew is currently smoothing out sections of road. Once mowing is done, the road crew will work on ditching. A road crewmember got his CDL. There was a recall on truck #3, and it has been fixed. Truck #2 has to go down on Monday for a minor repair. The road crew has put up road signs. There has been one theft of a road sign; it will have to be replaced but the road foreman has a replacement. **If any Pomfret resident has a problem with where a sign is placed please let the Road foreman know.** Information on the State's paving project on Route 12 was reviewed and discussed by the Selectboard. An extended warranty offer for the 'one-ton' was presented to the Selectboard by the Road Foreman. A windshield replacement on a town vehicle was discussed; a \$500 quote from Portland Glass was provided.
- (b) Guardrail Discussion: A Guardrail crew is present in Pomfret, worked on Pomfret Road and Caper Street. One resident has complained about guardrails on Caper Street not extending far enough. The Road Foreman, the Selectboard, and the public discussed guardrail installation. An estimate amount for guardrail installation project at Pomfret Road north of Sugarhouse Road was provided, at a cost of \$5200; it will be discussed at the next Regular Selectboard meeting.
- (c) Road Hazard Mitigation at 3862 Pomfret Road: John Skypeck introduced himself as an interested party, and Michael Reese and the Road Foreman briefed the Board on this item. There was discussion at length by the Board and the public. Some members of the public objected publically to having the town build a stone wall for a property-owner. The Selectboard agreed to meet with the homeowners and to add this item to the next Special Selectboard meeting on July 12, 2016.
- (d) Salt RFP: Michael Reese and the assistant to the Selectboard briefed the Board on the Salt RFP item and there was discussion by the Board. Sheila Hopkins moved, and Melanie Williams seconded to approve the issuance and publication of the Salt RFP as amended. The Board unanimously approved the motion.

10. Caper Street Intersection: Melanie Williams briefed the Board on this item, and there was discussion by the Selectboard and the public. The Assistant to the Selectboard was tasked with finding a previously generated highway report regarding this intersection.

11. Library Street and Stage Road Intersection: Michael Reese briefed the Board on

this issue and there was discussion. The reports Michael Reese acquired concerning this item will be reviewed by the Selectboard.

12. Town Plan: The Selectboard received the final draft of the Town Plan dated June 30. Michael Reese and John Moore briefed the Board on this item and there was discussion on the June 27 hearing and other related items, including the requisite timeline. A public hearing was scheduled for the August 17 Regular Selectboard meeting.
13. Clarification of Personnel Policy: Frank Perron briefed the Board on this item and the proposed changes to the personnel policy were read aloud. There was discussion by the Selectboard and others on this item. Sheila Hopkins moved, and Frank Perron seconded, to amend the personnel policy to specify ‘calendar year’ as discussed. The Board unanimously approved the motion.
14. Revision of Mileage Reimbursement Policy: Sheila Hopkins briefed the Board on this item, and there was discussion. Sheila Hopkins moved, and Melanie Williams seconded, to amend the mileage reimbursement policy as discussed. The Board unanimously approved the motion.
15. VLCT-PACIF insurance requirement of Worker's Compensation: Ellen DesMeules the Treasurer briefed the Board on this item and there was discussion by the Selectboard.
16. Antenna/Repeater Batteries and Maintenance Responsibility: Frank Perron briefed the Board on this item and there was discussion by the Selectboard and the Treasurer on this item. Michael Reese moved, and Sheila Hopkins seconded, to authorize Frank Perron to purchase miscellaneous items for the repeater up to \$500. The Board unanimously approved the motion.
17. LaBounty Trust Annual Accounting: Michael Reese briefed the Board on this item and there was discussion by the Selectboard and the Treasurer. Michael Reese moved, and Sheila Hopkins seconded, to approve the form ‘Summary of Account of Trustee, in Re Trust of Alde LaBounty’. The Board unanimously approved the motion. Melanie Williams moved, and Sheila Hopkins seconded, to appoint Karen Hewitt as citizen trustee of the LaBounty Fund. The Board unanimously approved the motion.
18. Windsor County Sheriff Contract: Michael Reese briefed the Board on this item and there was discussion. Sheila Hopkins moved, and Frank Perron seconded that the town accept the Windsor County Sheriff’s contract for 4 hours a week at the prescribed rate, with Melanie Williams authorized to sign the contract, and there was discussion. The Board unanimously approved the motion.
19. Selectboard Minutes Distribution Methods: The Assistant to the Selectboard briefed the Board on this item and there was discussion. Frank Perron moved, and

Sheila Hopkins seconded, to have mailed copies of the Selectboard meeting draft minutes distributed to town residents who do not have Internet access or the ability to go into the town offices, and there was discussion. Frank Perron withdrew the motion and Sheila Hopkins has volunteered to send the draft minutes to the resident in question.

20. Fire Services Study: Melanie Williams briefed the Selectboard on this item and there was discussion. An email from Fire Chief Kevin Rice was read aloud, and there was discussion. Frank Perron moved, and Sheila Hopkins seconded, that Melanie Williams contact John Wood to contract for his services for the town of Pomfret. The Board unanimously approved the motion.

21. Selectboard Correspondence: None.

22. Next Meeting's Agenda: Caper Street intersection report, and Guardrail discussion are items for the next Regular Selectboard meeting. Road Hazard Mitigation at 3862 Pomfret Road will be discussed at the July 12 Special Selectboard meeting.

23. Closing Public Comments, Review of Assignments, & Adjournment: Sheila Hopkins moved, and Frank Perron seconded, to adjourn the meeting at 9:28pm. The Board unanimously approved the motion.

Date: 07/08/2016

Respectfully Submitted,

Jonathan Williams, Assistant

Approved by the Board at _____ Meeting

**Town of Pomfret
5218 Pomfret Road
North Pomfret, VT 05053**

Draft Minutes of the July 12, 2016 Special Selectboard Meeting

Present: Michael Reese (Selectboard Member), Sheila Hopkins (Selectboard Member), Melanie Williams (Selectboard Member), Frank Perron (Selectboard Member), Art Lewin, Road Foreman; Ellen DesMeules, Treasurer; and the following members of the public: Leah Skypeck; Matt Bouteiller; Betsy Seibeck; Darren McCullough, Phil Dechert

1. Call to Order: Michael Reese called the meeting to order at 6:05 p.m.
2. Public Comment: None
3. Pomfret Slope Project Bids: (approx. 3 minutes into recording) Michael Reese introduced the topic of the Pomfret Slope Project Bids. The bid opening was cancelled on the advice of Chris Bump of VTRANS due to a question raised by a bidder. The bidders were notified and Chris Bump will be sending the bidders a clarification today regarding the lump sum question. Sheila Hopkins noted that the Road Foreman was not on the email and requested he be included on any future emails regarding this project. It was moved by Melanie Williams and seconded by Frank Perron that the Slope Project bids be opened at the August 3rd, 2016 regularly scheduled meeting. This was unanimously passed by the board.
4. Caper Street Intersection: (approx. 6 minutes into recording) There was some discussion about information Jonathan Williams had shared with the board from his search for a prior study of the Caper Street and Pomfret Road intersection referred to by Neil Lamson. Neither the State nor TRORC could locate such a prior study. Rita Seto of TRORC had suggested to Jonathan that she could request VTrans perform a Road Safety Audit of that area for the town. Sheila Hopkins moved and Frank Perron seconded that the Board authorize Jonathan Williams to contact Rita Seto to let her know the Board would like VTrans to perform a Road Safety Audit of the Pomfret Road and Caper Street intersection area. The motion passed unanimously.
5. Road Hazard Mitigation at 3862 Pomfret Road: (approx. 10 mins into recording) Michael Reese introduced the topic of Road Hazard Mitigation at 3862 Pomfret Road. Leah Skypeck; Matt Bouteiller, owners of the property at 3862 Pomfret Road, were in attendance for the discussion. Time frames were discussed in relation to the paving of the section of road between Bartlett Brook and Johnson roads. Two options discussed for addressing the drainage issue were a drainage ditch or a stone retaining wall. There was also discussion as to whether there are other options. Questions about the source of the runoff and the history of any prior mitigation efforts were raised. There was some consensus that the runoff is largely due to surface water. Darren McCullough, a stone mason the property owners have used, discussed with the board, mechanics of stone wall construction with regards to proper and long-term drainage. There were discussions regarding the financial aspects of different options and feelings about what level of responsibility for the current situation is born by the town. Melanie Williams moved and Sheila Hopkins seconded, to authorize Frank Perron to gather information regarding profile survey and various costs involved in options considered and report back to the board. The motion passed unanimously. Sheila Hopkins suggested that in moving the stone out

of the way that is currently there, to allow prep and road paving, that the Road Foreman move the stone back to the town garage.

6. Tax Rate: (approx. one hour and eight minutes into recording) Michael Reese introduced the topic of setting the 2016 Tax Rate. The Treasurer briefed the board and answered questions regarding the process of calculating this year's tax rate. Michael Reese moved and Sheila Hopkins seconded that the board vote to set the tax rate for local agreement of .0004 to raise \$998.99 and a town tax rate of .3852 to raise \$961,907.11. This tax rate is assessed per \$100.00 of assessed valuation. The motion passed unanimously. The total tax rate, including the school tax, for non-resident is 1.8415 and the total tax rate, including the school tax for residents is 1.8315.

6. Closing Public Comments and Adjournment: There were no public comments. Sheila Hopkins moved, and Frank Perron seconded, to adjourn the meeting at 7:40 pm. The Board unanimously approved the motion.

Date: 07-12-16

Respectfully Submitted,
Melanie Williams, Clerk

Approved by the Board at _____ Meeting

ADDENDUM 1

Date 7/14/16

1. The project plans have been revised. The only project plan set to use for the bidding and construction of this project shall be the plan set labeled as "**REVISED 7/14/16**". There were no revisions to the standard sheets in the plans.
2. Sealed bids from pre-qualified contractors shall be accepted until **6:00 PM**, prevailing time on **August 3, 2016** at the Pomfret Town Office, 5218 Pomfret Rd., Pomfret, VT 05053 for construction of the project hereinafter described. Bid opening will occur immediately after the bid submittal deadline. The time of receiving and opening bids may be postponed due to emergencies or unforeseen conditions. Sealed BIDS shall be marked in the lower left hand corner: Bid Documents: Pomfret D4-FAS 0166-60

QUESTIONS:

The Question period will end at **3:00 PM on July 27, 2016**. All questions shall be addressed solely to Michael Reese, Phone: (802) 457-4770 or (802) 457-3861

E-mail: Michael.Reese@PomfretVT.us

3. The Bid Proposal Form has been revised. The only bid proposal form to use to submit a bid for this project shall be the bid proposal marked "Revised 7/14/16".

Bidders shall acknowledge receipt of any addenda to this solicitation by identifying the addendum number and date on the bid form. Bids which fail to acknowledge the bidders receipt of any addenda will result in the rejection of the bid.

A proposal may be declared "Informal" and hence rejected if it shows any alteration of form, omissions or additions not called for in the proposal, lacks proper signatures, is a conditional bid, has alternate bids unless required in the proposal, has irregularities of any kind, has changes to the printed content, is submitted on a form not furnished by the Town, is incomplete, fails to acknowledge receipt of one or more addendums, or includes a clause in which the bidder reserves a right to accept or reject the contract award.

EQUAL EMPLOYMENT OPPORTUNITY (EEO) CERTIFICATION: Certification is required by the Equal Employment Opportunity regulations of the Secretary of labor (41 CFR 60-1.7(b) (1)) and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Generally only contracts and subcontracts of \$10,000 or under are exempt as set forth in 41 CFR 60-1.5. See Appendix A for Contractors EEO Certification Form (CA-109).

NON-COLLUSION AFFIDAVIT: All bidders are required to execute a sworn statement, certifying that the bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract. See Appendix B for Debarment and Non-Collusion Affidavit (CA-91). This affidavit must be submitted with the bid.

DEBARMENT AFFIDAVIT: All bidders are required to execute a sworn statement, certifying that the bidder has not within the last three (3) years been, suspended, debarred, voluntarily excluded or determined ineligible by any Federal or State Agency; does not have a proposed suspension, debarment, voluntary exclusion or ineligibility determination pending; and has not been indicted, convicted or had civil judgment

4. SECTION 109 of the 2011 Standard Specifications – MEASUREMENT AND PAYMENT, is hereby modified by adding new Subsection 109.10 LUMP SUM PROJECT as follows:

109.11 LUMP SUM PROJECT. The quantity of work for a project designated as Lump Sum Project shall be measured for payment on a lump sum basis for all of the complete and accepted work in the Contract. This provision shall replace in its entirety all of the Method of Measurement subsections in this contract with the exception of item 900.645 Special Provision (Traffic Control, All Inclusive) which will be paid for separately.

The completed and accepted work for the project will be paid for at the Lump Sum bid price. Payment will be full compensation for completing the specified work including all individual work items. This provision shall replace in its entirety all of the Basis of Payment subsections in this contract with the exception of item 900.645 Special Provision (Traffic Control, All Inclusive) which will be paid for separately.

Any estimated quantities shown on the plans are approximate and no guarantee is made that a constructed quantity which can be determined by computations, based on the details and dimensions shown on the Plans, will equal the estimated quantities for any/all items of work. No adjustment in the bid price for item 900.645 Special Provision (Lump Sum Project) will be made in the event that the quantity based on computations does not equal the quantity shown in the plans.

5. Special Provision Pay Item Added:

TRAFFIC CONTROL, ALL INCLUSIVE

DESCRIPTION. This work shall consist of establishing and maintaining traffic control measures to protect the traveling public and construction operations as indicated in the Plans and as directed by the Engineer. The work under this Section shall meet the requirements of these provisions, the Plans, and Section 641 of the Standard Specifications.

SUBMITTALS. The Contractor shall submit a site-specific traffic control plan for approval in accordance with Subsection 105.03, except that it shall be submitted to the Engineer. The traffic control plan shall conform to the requirements of the MUTCD and all applicable Agency Standard Drawings. The traffic control plan shall include a traffic control plan for each phase of construction. The Contractor shall allow the Agency 7 calendar days to review and approve the proposed traffic control plan before it is to be implemented.

TRAFFIC CONTROL DEVICES. Temporary traffic signals and detectors shall conform to the notes on the plans and meet the requirements of Section 678. Temporary traffic barrier shall meet the requirements of Section 621. Temporary pavement markings and removal of existing pavement markings shall meet the requirements of Section 646. Portable Changeable Message Signs, if required, shall meet the requirements of Section 641.

METHOD OF MEASUREMENT. The quantity of Special Provision (Traffic Control, All-Inclusive) to be measured for payment will be on a lump sum basis for providing traffic control in the complete and accepted work.

BASIS OF PAYMENT. The accepted quantity of Special Provision (Traffic Control, All-Inclusive) will be paid for at the Contract lump sum price. Payment will be full compensation for preparing, implementing, inspecting, maintaining, and removing the applicable traffic control plan and required traffic control devices, including but not limited to temporary traffic barrier, temporary pavement markings, and signing; for

providing personnel necessary for implementing the traffic control plan, including uniformed traffic officers and flaggers; and for furnishing all labor, including traffic patrol vehicle operators if used by the Contractor, tools, materials, equipment, and incidentals necessary to complete the work.

Payment will be made under:

Pay Item	Pay Unit
900.645 Special Provision (Traffic Control, All Inclusive)	Lump Sum

6. Special Provision Pay Item Added:

LUMP SUM PROJECT

DESCRIPTION. This item is for payment of all work done on the project. All work shall meet the requirements of the VAOT Specifications associated with that item of work.

METHOD OF MEASUREMENT. The quantity of Special Provision (Lump Sum Project) to be measured for payment will be on a lump sum basis for the complete and accepted work.

BASIS OF PAYMENT. The accepted quantity of Special Provision (Lump Sum Project) will be paid for at the Contract lump sum price.

Payment will be full compensation for performing all Contract work. The work under each individual item shall be performed in accordance with the corresponding specification for that item. Payment will be full compensation for furnishing all labor, tools, materials, equipment, and incidentals necessary to complete the work.

Payment will be made under:

Pay Item	Pay Unit
900.645 Special Provision (Lump Sum Project)	Lump Sum

7. The Special Provision TEMPORARY RELOCATION OF STREAM BASIS OF PAYMENT Shall be modified as follows: All costs associated with this work shall be incidental to Item 900.645 Special Provision (Lump Sum Project).

POMFRET D4-FAS 0166-66

BID PROPOSAL FORM

Proposal of _____
Name

Address

to furnish the necessary labor, equipment and material to perform all work in accordance with the Plans, 2011 Standard Specifications for Construction, Contract Documents, and the description of construction as contained herein.

Bidder Acknowledges receipt of the following Addenda:

Ladies and Gentlemen:

In accordance with the Plans, 2011 Standard Specifications for Construction, Contract Documents and the description of the construction as shown above, I, or we, hereby certify that I am, or we are, the only person or persons interested in this Proposal as principal or principals; that it is made without collusion with any person, firm, or corporation; that an examination has been made of the Proposal, the Plans, the Specifications and the site of the work, and that I, or we, propose to furnish all necessary machinery, equipment, tools, labor and other means of construction, and all materials specified, in the manner and at the time prescribed, understanding that the quantities of work as shown herein are only estimated and approximate and are subject to increase or decrease and that all quantities of work, whether increased or decreased, are to be performed at the following unit prices:

Name (Print or Type) _____

Signature _____

This Proposal shall be filled in by the Bidder, with each Unit Price written **IN WORDS AND IN FIGURES** and the extensions properly made in figures.

	DESCRIPTION OF ITEM	UNIT	ESTIMATED QUANTITY	ITEM BID PRICE
	900.645 Special Provision (Traffic Control, All Inclusive)	Lump Sum	1	\$
	900.645 Special Provision (Lump Sum Project)	Lump Sum	1	\$
Total Contract Amount				\$
(900.645 Traffic Control (All Inclusive) – Written Amount in Words)				
(900.645 Special Provision (Lump Sum Project)– Written Amount in Words)				

Name (Print or Type) _____

Signature _____

APPENDIX B

CA-91

STATE OF VERMONT
AGENCY OF TRANSPORTATION
DEBARMENT AND NON-COLLUSION AFFIDAVIT

I, _____, representing
(Official Authorized to Sign Contracts)

_____ of _____,
(Individual, Partnership or Corporation) (City or State)

being duly sworn, depose and certify under the penalties of perjury under the laws of the State of Vermont and the United States that on behalf of the person, firm, association, or corporation submitting the bid certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid for the Vermont project:

(Project Name)

_____ project located on _____,
(Project Number) (Route or Highway)

bids opened at _____,
(Town or City)

Vermont on _____, 20____.
(Date)

I further depose and certify under the penalties of perjury under the laws of the State of Vermont and the United States that except as noted below said individual, partnership or corporation or any person associated therewith in any capacity is not currently, and has not been within the past three (3) years, suspended, debarred, voluntarily excluded or determined ineligible by any Federal or State Agency; does not have a proposed suspension, debarment, voluntary exclusion or ineligibility determination pending; and has not been indicted, convicted, or had a civil judgement rendered against (it, him, her, them) by a court having jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Exceptions: _____ No _____ Yes. (If yes complete back of this form.)

Sworn to before me this

_____ day of _____, 20____

(Name of Individual, Partnership or Corporation) L.S.

(Signature of Official Authorized to Sign Contracts) L.S.

(Notary Public)

(Name of Individual Signing Affidavit) L.S.

(My commission expires _____)

(Title of Individual Signing Affidavit) L.S.

APPENDIX B

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate below to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administration sanctions.

EXCEPTIONS:

7/15/2016

Greetings,

I am writing to petition the selectmen to look at the speed limits in our South Pomfret neighborhood.

Currently a 25 mile per hour limit exists from Teago store 100 yards or so (stage Rd -towards Barnard) and increases to 35 across from Suicide 6.....

In the other direction the 35 mile an hour sign exists from 529 Stage Rd to 100 yards from Teago store (where it decreases to 25.....

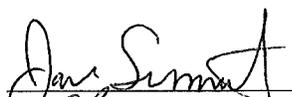
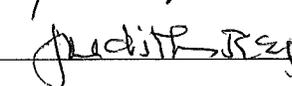
I request that you consider extending the 25 mile an hour limit to cover our small neighborhood for the following reasons.....

- 1) Most cars traveling in both directions are going at least 45...many 50 or more.....
- 2) This section of Stage Rd is popular with cyclists, hikers, rollerbladers, dog walkers
- 3) There is increased traffic as most GPS software encourages the use of Stage Rd between Barnard and Woodstock and vice versa.....(the shortest route)
- 4) Extending the 25 mile an hour limit 300 yards each direction may slow down the cars to 35 or 40...making our little condensed area much safer.....

I encourage you to park in our driveway with a radar detector to better understand the dangerous situation in our area.

It is early in the summer. This needs to be addressed as soon as possible.

Thank you for your consideration,

Jodi Simonds		442 Stage Rd
CARMEN NORADUNGHIAN		474 stage Rd
GENNE LAURENCE		420 STAGE RD.
Robert Hatfield		504 Stage Road
Judith Repp		664 stage Rd.

TARRANT, GILLIES & RICHARDSON
44 EAST STATE STREET
POST OFFICE BOX 1440
MONTPELIER, VT 05601-1440

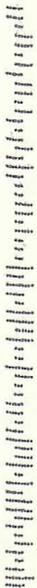
Clerk, Pomfret ZBA
Pomfret Clerk's Office
5218 Pomfret Road
N. Pomfret, VT 05053

05053053 14053



RECEIVED

7/6/2016



TARRANT, GILLIES & RICHARDSON

44 EAST STATE STREET
POST OFFICE BOX 1440
MONTPELIER, VT 05601-1440

GERALD R. TARRANT
PAUL S. GILLIES
DANIEL P. RICHARDSON

(802) 223-1112
FAX: (802) 223-6225

MICHAEL J. TARRANT, II
RYAN P. KANE

June 29, 2016

VIA ELECTRONIC FILING ONLY

Diane Chamberlin, Court Manager
Vermont Environmental Division
32 Cherry Street, Suite 303
Burlington, VT 05401

In Re: Chippers, Inc., An Appeal from a Decision of the Pomfret Zoning Board of Adjustment
Docket No. 51-6-16 Vtec

Dear Diane:

Enclosed for filing is a Motion for a Stay with attached Affidavit, proposed Entry Order and a Certificate of Service.

Thank you.

Sincerely,


Paul S. Gillies

PSG/jcl

Enclosures

cc: Service List

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION
Docket No. 51-6-16 Vtec

In re: Chippers, Inc., An Appeal from a)
Decision of the Pomfret Zoning Board of)
Adjustment)

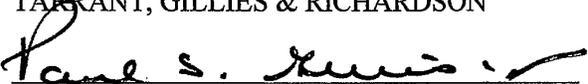
CERTIFICATE OF SERVICE

I hereby certify that on June 29, 2016, I served a copy of a Certificate of Service and Motion for a Stay with attached Affidavit and proposed Entry Order upon those persons identified by the Clerk of the Zoning Board of Adjustment as interested persons to this appeal.

Dated at Montpelier, Vermont, this 29th day of June, 2016.

TARRANT, GILLIES & RICHARDSON

BY:


Paul S. Gillies

Attorney for Appellant

P.O. Box 1440

Montpelier, Vermont 05601-1440

Kristen Maxham
115 Log Cabin Drive
Woodstock, Vermont 05091

Susan Cross
P.O. Box 42
South Pomfret, VT 05067

Lora Murray
36 Harding Place #6
Woodstock, Vermont 05091

Brian Alderfer
P.O. Box 834
Woodstock, Vermont 05091

Hudson & Margaret Holland
5930 North Piedra Seca
Tuscon, AZ 85718

Mundy Wilson Piper
1241 Pomfret Road
Woodstock, Vermont 05091

Peter DesMeules, Esq.
DesMeules, Olmstead & Ostler
P.O. Box 1090
Norwich, Vermont 05055-1090

Peter Vollers, Esq.
One High Street
Woodstock, Vermont 05091

Clerk, Pomfret ZBA
Pomfret Clerk's Office
5218 Pomfret Road
N. Pomfret, VT 05053

Preston Bristow
Pomfret ZA
c/o Pomfret Clerk's Office
5218 Pomfret Road
N. Pomfret, VT 05053

STATE OF VERMONT

SUPERIOR COURT

ENVIRONMENTAL DIVISION
Docket No. 51-6-16 Vtec

In re: Chippers, Inc., An Appeal from a)
Decision of the Pomfret Zoning Board of)
Adjustment)

MOTION FOR A STAY

This motion is filed on behalf of Appellant/Applicant Chippers, Inc., to request a stay to avoid having to shut down an operating and successful business during the pendency of this appeal. If a stay is not granted Chippers will be forced to invest substantial time, money, and effort to relocate a longstanding business activity to another site.

The need for a stay is the result of a decision that denied Chippers a permit to place logs on one portion of their land in Pomfret where they have been doing so for many years. The affidavit of Mundy Wilson Piper shows that not being allowed to continue the business practice of storing logs during the pendency of the appeal will substantially harm and threaten the viability of the business of the Applicant.

Under V.R.E.C.P. 5(e), the Court may “on its own motion, or on motion of a party, stay the act or decision and make such other orders as are necessary to preserve the rights of the parties upon such terms and conditions as are just.” In deciding whether to grant a stay, the Court must consider four factors: (1) likelihood of success on the merits; (2) irreparable harm to the moving party should the stay be denied; (3) substantial harm to other parties should the stay be granted; and (4) the best interests of the public. *In re Tariff Filing of New England Tel. and Tel. Co.*, 145 Vt. 309, 311 (1984). These are the same factors used in deciding whether to grant preliminary injunctions under the civil rules. See *In re J.G.*, 160 Vt. 250, 255 n.2 (1993). As with preliminary injunctions, a stay pending appeal is an extraordinary remedy appropriate

only when the movant's right to relief is clear. *In re Howard Ctr. Renovation Permit*, No. 12-1-13 Vtec, slip op. at 1 (Vt. Super. Ct. Envtl. Div. Apr. 12, 2013) (Walsh, J.).

A “party seeking a stay must make out a clear case of hardship or inequity in being required to go forward if there is a possibility that a stay will damage someone else.” *In re Woodstock Community Trust and Housing Vermont PRD*, 2012 VT 87, ¶ 36, 192 Vt. 474.

1. Likelihood of success on the merits. If the complaint is valid on its face, its allegations not “smack[ing] of bad faith and frivolousness,” the moving party should succeed in satisfying this criterion for a preliminary injunction. *In re Allied Power & Light Co.*, 142 Vt. 554, 556 (1974) (a stay being the administrative equivalent of a preliminary injunction). The wood piles are not a public safety concern. No notice of violation has been filed. This request for a stay is merely to continue the status quo ante until a decision is reached.

2. Irreparable harm. If the business has to close because of this decision, that harm would be irreparable. *Campbell Inns, Inc. v. Banholzer, Turnure & Co.*, 148 Vt. 1, 7 (1987) (potential loss of business is irreparable harm). See Affidavit of Mundy Wilson Piper, ¶¶ 3 & 4.

3. Harm to Other Parties. The interested persons are concerned about aesthetics. The “harm” they will suffer if a stay is granted will be slight, far outweighed by harm to Applicant if the business should have to close.

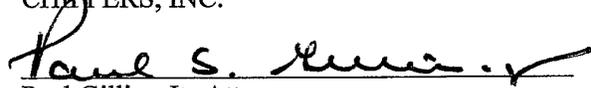
4. Public Interest. The Town has a valid public interest in ensuring that its bylaws are respected. It is no less in the public interest for private property rights to be respected. If the Town is shown to have overreached or made a misjudgment, and the business is lost while the appeal is pending, only for Chippers then to prevail, then this would be a small tragedy.

WHEREFORE, Chippers respectfully requests that the Court grant a stay to ensure that the business stays operational during the pendency of the appeal. See proposed Entry Order.

Dated this 29th day of June, 2016, at Montpelier, Vermont.

CHIPPERS, INC.

By:



Paul Gillies, Its Attorney

cc: Service List

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& RICHARDSON
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STATE OF VERMONT

SUPERIOR COURT

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AFFIDAVIT

I, Mundy Wilson Piper, being duly sworn, hereby states as follows:

1. I am the owner, President, and sole stockholder of Chippers, Inc., the Applicant and Appellant in this appeal.
2. Chippers has stored logs on its property since 1986. In 2011 Chippers was requested by the Pomfret Zoning Administrator to relocate the original storage site to another location on Chippers' property across the road from the original site. Chippers complied with this request in 2011 and has stored and processed logs at this location since that time.
3. Now, the foregoing facts notwithstanding, in October of 2015 the Zoning Administrator informed Chippers that it would need a conditional use permit for its activities at the location previously suggested by the Town! Chippers applied for such a permit and was denied. Neighbors complained the view of and activities at the pile were offensive to them - a "public nuisance" no less.
4. Piling and processing logs at the present location (where Chippers has done so since 2011), is critical to the continuation of Chippers' Vermont business activities, 90% of which involve the cutting and removal of trees. Having to move the pile now will require substantial manpower, be very time consuming and extremely expensive. Normal and usual business activities will be disrupted and/or forced to cease entirely - all of the foregoing will have been unnecessary and involve other permit complications if the appeal is successful. It follows that having to move the pile now will create a substantial hardship to the business and threaten its viability.
5. Chippers is prohibited from transporting these materials to its New Hampshire branch location due to State rules concerning the emerald ash borer.
6. These statements are true and based on my personal knowledge.

Dated this ____ day of June, 2016.

CHIPPERS, INC.
BY: Mundy Wilson Piper
Mundy Wilson Piper, Principal

Sworn and subscribed before me,

Peter J. DeMeule
Notary Public

My Commission Expires: 2/10/2019

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STATE OF VERMONT

SUPERIOR COURT

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ENTRY ORDER

It is hereby ordered and adjudged that Chippers, Inc. be granted a stay from enforcement of the May 19, 2016 decision by the Pomfret Development Review Board that will allow the business to continue to store logs on its property while the appeal of the denial of a conditional use permit is pending.

Dated this ___ day of June, 2016, at Burlington, Vermont.

Hon. Thomas Walsh, Presiding Judge

cc: Service List