

Town of Pomfret Selectboard Meeting Agenda
Town Offices
5238 Pomfret Road
No Pomfret, VT. 05053
Wednesday, September 16, 2020
7:00 p.m.

Agenda	Presenter	Time Frame
1. Call to Order Executive Session	Chair	6:30
2. Public Comment		
3. Agenda Review •Item for Review: Teago Gen'l Store		
4. Adjourn Executive Session		
5. Call to Order Selectboard Meeting		7:00
6. Public Comment		
7. Agenda Review		
8. Recurring Items		
a. Approval of 09/02/2020 Minutes		
b. Warrants for Approval		
c. Road Foreman's Report		
9. Items for Discussion or Vote		
a. Amber Erkiletian, Road signs		
b. Truck Bids		
c. Stolen Road Signs		
d. State Police Contract		
e. Driveway Permit Greene		
f. Silo Catering Permit 10/02/2020		
g. Conflict of Interest Policy		
h. Human Resources		
i. Capital Planning		
j. Budget Schedule		
10. Meeting Wrap-U;		
a. Select Board Correspondence		
b. Review of Assignments		
c. Agenda Items for Next Meeting		
d. Meeting Adjournment		

Join Zoom Meeting

<https://zoom.us/j/95395079923?pwd=ZjBEed3ZuZWgvWmx2M0tpOE8zbjg2dz09>

Use the Above Link to Join the Zoom Meeting

Meeting ID: 953 9507 9923

Password: 306922

One tap mobile

+19292056099,,95395079923#,,1#,306922# US (New York)

Pomfret Selectboard
Draft Meeting Minutes
09/02/2020

Present: Emily Grube, Steve Chamberlin, John Peters

Public: Ben Brickner (Auditor, Zoning), John Moore (Planning Comm.), Jim Potter (Road Foreman), Cathy Peters, Christine Cole, Ellen des Muerles (Treasurer), Cynthia Hewitt (Selectboard Asst)

1. The meeting was called to order at 7:02 pm
2. No Public Comment
3. Agenda Review: Schultz request for private cemetery plot. John moved and Steve seconded this item be added to the agenda. Unanimous roll-call vote
4. Recurring Items
 - a. Approval of 08/05 and 08/24/2020 Minutes. Scott submitted several edits to the 08/05 Minutes. John moved and Steve seconded the minutes be approved with suggested edits. Unanimous roll-call vote.
 - b. Warrants for Approval

21018	\$449,318.59	Accounts payable
21010	7,812.94	Refunds
21017	10,058.26	Payroll

Emily moved and Steve seconded these warrants be paid. Jim asked Caleb to send an invoice including all subcontracting bills in order to release the Pike funds. Unanimous roll-call vote
 - c. Road Foreman's Report -- Bunker Hill culverts are all in and ditches lined with stone; hardpack to be delivered tomorrow. Seeding to be completed. Justin is on vacation the week of 9/14. Amber Erkiletian from Thistlehill has asked for speed limit signs on Old King's highway. She would like to be put on the agenda. Jim requested permission to purchase a Jumping Jack Compactor. Steve moved and John seconded that Jim be authorized to spend up to \$3000. He will get two bids for compactor and order the least expensive. Unanimous roll-call vote.
5. Items for Discussion or Vote
 - a. Truck bids – Steve will present at the next meeting (September 16)
 - b. Pike Bills – see 4b.
 - c. Fuel Prices

Emily has prices from Irving and Dead River

Irving	Fuel Oil	1.71	(Employees offered a 10¢/gal discount)
	Propane	1.295	
Dead River	Fuel Oil	1.79	
	Propane	1.31	

Emily will attempt to obtain prices from Junction Fuels tomorrow otherwise will go with Irving.
 - d. Teago Catch Basin

Jim said the Catch basin plan submitted by Dan Gurney is acceptable. The Town's part of the charge will be \$6300. Teago to pay for the other two basins. John moved

and Steve seconded that Gurney be hired to do all work since the town may not have time and it is felt that doing it all at once with one contractor is the best way.

Unanimous roll-call vote. The site visit was on Monday was good. Jim approved.

Emily moved to approve the project with the stop bar as close to the intersection as possible and that all notations by Mr. Kaplan for pedestrian and bicycles be incorporated, and with the notation that things may need to be changed if the bridge needs to be repaired or replaced in the future. John second. Unanimous roll-call vote. Jim also agreed to extend the road closure to December 1st as long as the Teago crew keeps the area plowed, sanded, and salted as needed to provide safe passage for the Fire Department and the Picketts. John moved and Steve seconded to extend the road closure. Unanimous roll-call vote

- e. COLA Raises. Emily had confirmation from VLCT that the Board may not extend COLA to salaried employees nor those on stipend. Note to be included in the Budget Discussion. The motion to grant such raises on 08/19/2020 is rescinded. Emily moved and John seconded rescinding the vote. Unanimous roll-call vote.
 - f. Conflict of Interest discussion tabled until next meeting (09/16/2020)
 - g. Ambulance Bills. The town has been billed for ambulance service charges remaining after insurance payments. Since these are for 2019 Emily feels we should pay them. In the future any bills involving ambulance services at Suicide Six will be sent to S6.
 - h. Tax Collection Status: Ellen submitted her August financial report. The tax delinquencies are ± \$60,000 greater than last year. For the total of \$450,000, three people are responsible for half of the deficit. She has yet to hear from the State the exact amount of taxes due.
 - i. Schultz Cemetery. The Schultzs seemed to follow guidelines for this proposal. They will be asked to submit a plan and schedule a site visit.
6. Meeting Wrap-Up
- a. No correspondence
 - b. Assignments: Steve -- Truck Bids. Emily --Junction Fuel, note to Schultz
 - c. Agenda Items for Next Meeting:
Conflict of Interest, Truck Bids, HR, Budget Schedule, Capital Planning
 - d. John moved and Steve seconded for Adjournment at 8:21.

TOWN OF POMFRET
APPLICATION FOR A DRIVEWAY OR APPROACH ROAD ACCESS PERMIT

Landowner EDWARD G. GREENE Phone 802 457 9035
Address 405 WEBSTER HILL ROAD, N. POMFRET State VT Zip 05653

The undersigned requests an Access Permit to construct an access to serve the landowner's property; located on the EAST side of LABOUNTY ROAD (E911 highway name) Town Highway No. _____

The proposed access will be located approximately 200 FEET (ft./ mi.) from the intersection of this road with WEBSTER HILL ROAD (E911 highway name).

(DETAILED SKETCH MUST ACCOMPANY THIS APPLICATION.)

Driveways and approach roads entering a town highway shall meet the following standards:

1. Be constructed at a 90 degree angle to the town highway
2. Have a minimum site distance shall be 150 feet both ways when viewed 15 feet back from the edge of the travelled way.
3. Have a minimum width of 16 feet for the first 20 feet back from edge of town highway shoulder.
4. Be graded and ditched so that water does not run onto the town highway.

Both sides of proposed driveway shall have stakes with ribbons to indicate desired location at point of access to the town highway. The applicant agrees to maintain said access and adhere to the directions, restrictions and conditions forming a part of this permit.

Dated at POMFRET this 26 day of AUGUST 2020

CCF
Signature, Applicant or Applicant's Agent Applicant or Applicant's Agent's Name
(printed or typed)

Application fee of \$50. Received Date 9/9/2020 by PL 27

Directions, restrictions and conditions:

15-inch culvert required yes no
Other restrictions or conditions

This permit is issued in accordance with Title 19, V.S.A. relative to all highways within the jurisdiction of the Town of Pomfret. This permit may be voided in the event of misrepresentation, substantial inaccuracy or failure to undertake construction of the access within one year of the date of approval.

Permit to construct access is given this ____ day of _____, 20__.

____ Road Commissioner _____ Chair, Selectboard

Final Approval: The first 20 feet of a driveway or access road entering a Town highway shall be constructed by the applicant and approved by the Selectboard and Road Commissioner before any building construction may be started.

This access has been installed in accordance with the above directions, restrictions and conditions and is acceptable under State and local regulations. This ____ day of _____, 20__.

____ Road Commissioner _____ Chair, Selectboard



For a better printing experience, select "Print map" in the file menu in the left panel.





Request to Cater Malt, Vinous and/or Spirituous Liquors

\$20.00 Fee (must be included)

License Number: 8039-003-CATR-001
Licensee Name: American Crafted Spirits, Inc.
Doing Business as: -SILCO Cider
Street: 3 Artisans Way Town/City Windsor, VT 05089
Contact Name & Phone: Mary Shappell 910-265-7788
Email or Fax: mary@silcodistillery.com

BE SURE TO READ INSTRUCTIONS BELOW, BEFORE COMPLETING APPLICATION

- 1) Describe type of event: Opening Reception Art Event
2) Location of event: Artistree 2095 Pomfret Rd, So. Pomfret, VT
3) Date of event: September 2, 2020
4) Hours of operation from beginning to end: 5:30pm - 7:30pm
5) Approximate number of persons expected: 50-75
Signed: [Signature] Date: 9/11/2020

Each catered event must have approval from the Town/City before submitting this application to Liquor Control.

Please check one: [] Approved [] Disapproved

Town/City Clerks Signature (Catered location) Town/City Date

SUBMIT THIS APPLICATION TO DLC AT LEAST 5 DAYS PRIOR TO EVENT

DIRECTIONS:

- 1) Submit to Town/City clerk for approval (Town/City Clerk will send to DLC).
2) Follow all liquor control laws and regulations (what applies to a first or first and third class license also applies to the caterer's license).
3) Must have a defined area for serving and consumption of alcohol with designated barriers.
4) Must have separate toilet and lavatory facilities available for both men and woman.
5) Provide sufficient number of employees for control purposes.

Rev. 06/15/16

Town of Pomfret Conflict of Interest Policy

Originally adopted October 4, 2017
Revisions adopted [_____], 2020

Article 1. Authority. Under the authority granted in 24 V.S.A. § 2291(20), the Pomfret Selectboard hereby adopts the following policy concerning conflict of interest.

Article 2. Purpose. The purpose of this policy is to ensure that the business of this municipality will be conducted in such a way that no employees, public¹ officers, or agents of the municipality will gain a personal or financial advantage from his or her work for the municipality and so that the public trust in municipal officials will be preserved. It is also the intent of this policy to ensure that all decisions made by municipal officials are based on the best interest of the community at large.

Article 3. Definitions. For the purposes of this policy, the following definitions shall apply:

A. **Agent** means a person authorized by the Town to act for or in place of it; one instructed with carrying out the Town’s business.²

B. **Conflict of interest** may mean any of the following, however this list shall not serve to restrict or limit the definition of what constitutes a Conflict of Interest. Such a Conflict of Interest may be ‘actual’ (i.e. ‘existing in fact’) or ‘perceived’ (i.e. regarded as such by an outside party):

1. A direct or indirect personal or financial interest of an employee, public officer, or agent, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother- or sister-in-law, business associate, or employer or employee in the outcome of a cause, proceeding, application, or any other matter pending before the employee, public officer, or agent or before the public body in which he or she holds office or is employed.
2. A situation where an employee, public officer, or agent has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding. This shall not apply to a member’s particular political views or general opinion on a given issue.
3. A situation where an employee, public officer, or agent has not disclosed ex parte communications with a party in a quasi-judicial proceeding.

¹ **Note to Selectboard:** VLCT’s model policy uses the term “public officer”. Pomfret’s 2017 policy uses “public officer” and “officer” interchangeably. For clarity and consistency, “public officer” is used throughout this draft.

² **Note to Selectboard:** The definition of “agent” is new since 2017, but has not been changed since the September 2, 2020 agenda draft. It has only been moved into alphabetical order. Ditto for the definition of “employee”.

A “conflict of interest” does not arise in the case of votes or decisions on matters in which the employee, public officer, or agent has a personal or financial interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of other, similarly situated persons affected by the decision.³

C. **Emergency** means an imminent threat or peril to the public health, safety or welfare.

D. **Employee** means a person employed by the Town pursuant to Vermont state law criteria for determination of employment.

E. **Ex Parte Communication** means direct or indirect communication between a member of a public body and any party, party’s representative, party’s counsel or any person interested in the outcome of a quasi-judicial proceeding, that occurs outside the proceeding and concerns the substance or merits of the proceeding.

F. **Official act or action** means any legislative, administrative or judicial act performed by any employee, public officer or agent while acting on behalf of the municipality.

G. **Public body** means any board, council, commission or committee of the municipality.

H. **Public interest** means an interest of the community as a whole, conferred generally upon all residents of the municipality.

I. **Public officer** means a person elected or statutorily-appointed to perform executive, administrative, legislative, or quasi-judicial functions for the municipality. This term does not include any municipal employee.

J. **Quasi-judicial proceeding** means a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunities to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, the result of which is appealable by a party to a higher authority.

Article 4. List of Officials Governed by this Policy. All employees, public officers, or agents of the municipality, and any public body whole or in part, shall be subject to the requirements of this policy. This includes, but is not limited to, commissions, committees, boards and other entities of the municipality.

Article 5. Procedure for Determining if a Conflict of Interest Exists. When reviewing or considering the potential outcome of a cause, proceeding, application or any other matter pending before the employee, public officer, or agent, or before the public body in which he or

³ **Note to Selectboard:** Changes in this paragraph are intended to clarify that while a decision may not affect all persons, making that decision still does not necessarily present a conflict. For example, a decision to establish a zoning permit fee. If the decider is no more or less likely to need a zoning permit (i.e., is “similarly situated” to other persons), there is no conflict. If the decider is a developer and substantially more likely to need zoning permits (i.e., is not “similarly situated” to other persons), there may be a conflict.

she holds office or is employed, said employee, public officer, or agent shall consider if there is a Conflict of Interest, as defined in Article 3(B) of this policy.

Article 6. Prohibited Conduct

A. Employees, public officers, or agents shall not participate in any official action if he or she has a conflict of interest in the matter under consideration.

B. Employees, public officers, or agents shall not personally, or through any member of his or her household, business associate, employer or employee, represent, appear for, or negotiate in a private capacity on behalf of any person or organization in a cause, proceeding, application or other matter pending before the public body in which the employee, public officer or agent holds office or is employed.

C. Employees, public officers, or agents shall not accept gifts, or other offerings, for personal gain by virtue of his or her public office that are not available to the public in general.

D. Employees, public officers, or agents shall not use resources unavailable to the general public, including but not limited to Town staff time, equipment, supplies, or facilities for private gain or personal purposes.

Article 7. Disclosure. An employee, public officer or agent who has determined that he or she has or may have a conflict of interest in a particular matter shall, prior to participating in any official action on the matter, publicly disclose at a public meeting or public hearing that he or she has an actual or perceived conflict of interest in the matter under consideration and disclose the nature of the actual or perceived conflict of interest. Alternatively, employees, public officers, or agents may request that other employees, public officers, or agents recuse themselves from a matter due to a conflict of interest.

Article 8. Public Assertion. There may occur instances where a member of the public asserts that an employee, public officer, or agent has Conflict of Interest, real or perceived, in a particular matter. In such an instance the member of the public shall make that assertion known to the Pomfret Selectboard and the employee, public officer, or agent in question at a public meeting. The employee, public officer, or agent in question shall then follow the Procedure for Determining if a Conflict of Interest Exists, as outlined in Article 5 above.

Article 9. Consideration of Recusal. Once there has been a disclosure of an actual or perceived conflict of interest, other employees, public officers, or agents shall be afforded an opportunity to ask questions or make comments about the situation. If a previously unknown conflict is discovered during a meeting or hearing conducted by a public body of the municipality, the public body shall take evidence pertaining to the conflict and, if appropriate, adjourn to an executive session to address the conflict.

Article 10. Recusal

A. **Recusal of Employees, Public Officers and Agents.** After taking the actions listed in Articles 7, 8, and 9, an employee, public officer, or agent shall declare whether he or she will

recuse him or herself and explain the basis for that decision. An employee, public officer, or agent that recuses him or herself must explain the basis for that decision.

B. Failure to Recuse. The failure of an employee, appointed public officer or agent to recuse himself or herself in spite of a conflict of interest is grounds for discipline or removal from office.

Article 11. Recording. The minutes of the meeting or the written decision from the hearing shall document the actions taken in Articles 7 through 10.

Article 12. Post-Recusal Procedure

A. An employee, public officer, or agent who has recused himself or herself from serving on a public body in a particular proceeding shall not sit with the public body, deliberate with the public body, or participate in that proceeding as a member of the public body in any capacity.

B. The public body may adjourn the proceedings to a time certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the total membership of the public body. The public body may then resume the proceeding with sufficient members present.

Article 13. Enforcement⁴

A. Enforcement Against Elected Public Officers. In cases where an elected public officer has engaged in any of the prohibited conduct listed in Article 6, or has not followed the conflict of interest procedures in Articles 7 through 10, the Pomfret Selectboard must take progressive action to discipline such elected public officer as follows:

1. Less than a quorum of the Pomfret Selectboard may meet informally with the elected public officer to discuss the possible conflict of interest violation. This shall not take place in situations where the chair and the elected public officer together constitute a quorum of a public body.
2. The Pomfret Selectboard may meet to discuss the conduct of the elected public officer. Executive session may be used for such discussion in accordance with 1 V.S.A. § 313(a)(4). The elected public officer may request that this meeting occur in public. If appropriate, the Pomfret Selectboard may admonish the offending elected public officer in private.
3. If the Pomfret Selectboard decides that further action is warranted, the Pomfret Selectboard may admonish the offending elected public officer at an open meeting and reflect this action in the minutes of the meeting. The elected public officer shall be given the opportunity to respond to the admonishment.
4. Upon majority vote in an open meeting, the Pomfret Selectboard may request (but may not

⁴ **Note to Selectboard:** The prior draft did not address all possible enforcement scenarios (appointed versus elected; public officer versus employee/agent). These have been added in this draft.

order)⁵ that an offending elected public officer resign from his or her office.

B. Enforcement Against Employees, Appointed Public Officers and Agents. The Pomfret Selectboard must follow any applicable steps articulated in Article 13(A). In lieu of the action described in Article 13(A)(4):⁶

1. The Pomfret Selectboard may remove an offending employee, appointed public officer or agent who has been hired or appointed by the Pomfret Selectboard, subject to applicable requirements of state law.
2. The Pomfret Selectboard may request (but may not order) that an offending employee, appointed public officer or agent who has not been hired or appointed by the Pomfret Selectboard be removed from his or her office.

Article 14. Exception. The recusal provisions of Article 10 shall not apply if the Pomfret Selectboard determines that an emergency exists and that actions of the public body otherwise could not take place. In such a case, an employee, public officer, or agent who has reason to believe he or she has a conflict of interest shall disclose such conflict as provided in Article 7.

Article 15. Legal Counsel. The Pomfret Selectboard in its sole discretion may retain and utilize legal counsel for the purpose of administering this policy.⁷

Article 16. Effective Date. This policy shall become effective immediately upon its adoption by the Pomfret Selectboard.

⁵ **Note to Selectboard:** It does not appear that state law allows the Selectboard to remove other elected public officers. The current language in this draft is consistent with VLCT's model policy.

⁶ **Note to Selectboard:** Article 13(B) has been bifurcated because it is not clear whether the Selectboard can remove an employee, appointed public officer or agent who was not hired or appointed by the Selectboard. The VLCT model policy does not make this distinction, however. If it can be confirmed that the Selectboard can do so, most of the proposed changes in this article can be rejected.

⁷ **Note to Selectboard:** This Article 15 added at Scott's suggestion.

Adopted this _____ day of _____, 2020

POMFRET SELECTBOARD

Emily Grube, chair

John Peters, Jr., vice-chair

Steve Chamberlin

Chuck Gundersen

Scott Woodward