

**Town of P**  
**Pomfret Selectboard Meeting Agenda**  
**Virtual Meeting Via Zoom**  
February 2, 2022, 6:00 p.m.

Agenda	Presenter	Time Frame
1. Call to Order	Chair	6:00 pm
2. Public Comment		
3. Agenda review		
4. Recurring Items		
a. Warrants		
b. Approve Minutes 01/19, 21, 26/2022		
c. Road Foreman's Report		
5. Items for Discussion or Vote		
6. Loader issue		
a. Highway Ordinance Discussion		
b. Town Garage Office		
c. Construction Contract Cloudland Project & RFP		
d. Structures and paving grants		
e. Noradunghian Driveway		
f. Ongoing dog Issue		
g. Mask Mandate		
h. Mailing of Ballots/Stuffing envelopes		
i. ARPA Funding and Spending Opportunities		
j. South Pomfret Village Bike/Pedestrian Scoping Study"		
k. Employee Handbook		
7. Meeting Wrap-up		
a. Select Board Correspondence		
b. Review of Assignments		
c. Agenda Items for Next Meeting		
8. Adjournment		

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TOWN OF POMFRET SELECT BOARD  
DRAFT MINUTES. January 19, 2022

Present: Emily Grube Steve Chamberlin, Jon Harrington, John Peters, Chuck Gundersen

Public: Ben Brickner (Auditor, ZBA), Cathy Peters, Nancy Matthews (Auditor), Michelle, Jim Potter (Road Foreman), Cynthia Hewitt (SB Asst)

1. Emily called the meeting to order at 6:08 pm
2. No Public comment
3. Agenda Review – Review warning, virtual meetings, Driveway permit, set tax rate. John moved and Steve Seconded agenda be set as amended; unanimous roll call vote.
4. Recurring Items:
  - a. Warrants  
22065 \$28,165.12 Accounts Payable  
Emily moved and Steve seconded approval for payment. Unanimous
  - b. Approval of 01/05/2022 minutes – Steve moved, John 2<sup>nd</sup>. Unanimous; 01/11/22 minutes deferred
  - c. Road Foreman report. Jim is waiting to hear back from generator dealers. Loader was leaking antifreeze. Nortrax suggested new thermostat, hose, and clamp; Jim replaced these and changed the oil. Keith Sawyer was plowing at White River Lane when a large black Suburban rear-ended his truck. The driver was very rude and verbally abusive. This same person nearly created a collision with Jim at LaBounty road a few weeks ago. Jim exchanged insurance information. Carmen Noradunghian submitted a driveway permit; Jim will set up a site visit.
5. Items for Discussion or Vote
  - a. Alan Ricker. Jim would like to hire Alan Ricker to oversee the Cloudland Box culvert Project this coming summer. Alan has the history and expertise for such assignment. He works part time for Two Rivers and they are in favor. He will plan to meet daily with the project foreman. He will be put onto the Town's payroll. Steve moved and Chuck seconded that Alan Ricker be hired to oversee the Cloudland Project. Unanimous roll-call votes
  - b. Cloudland Project Bids: Eight bids were received. Information will be put into a spread sheet for comparison and decision will be made at a Special Board Meeting on 02/26/2022. Bidders were: Avery Excavation, Northwoods Inc., G&N Excavation, Inc., Notts Excavation, Charlestown Excavation, Fenoff Excavation, Guerne Brothers, Daniels Construction.
  - c. John moved and Steve seconded we Formally adopt Australian Ballot format for Town Meeting. Unanimous vote. John moved and Chuck seconded ballots be sent to all registered voters. Unanimous vote
  - d. John moved and Steve seconded that we set the date for pre-Town Meeting informational meeting for Saturday, February 26<sup>th</sup> at 9 am. Via Zoom. Unanimous
  - e. Approval of Budget Narrative. Chuk moved and Steve seconded the budget narrative be approved as writing, once the final numbers are double checked.
  - f. Town Meeting Warning finalized. Since we are attempting to stagger Board terms we need to talk with VLCT attorneys for proper language. Will schedule a Special

Meeting once correct language is received. Dates for tax collection are Aug 20<sup>th</sup> and Feb 4.

- g. Bike/Pedestrian Grant. Jon has met with Nidia. There are three options for obtaining RFP. We will discuss and decide at the next meeting. 02/02/22
- h. Ben asked for clarification on some town offices for the Town Report
- i. Warning must posted 30-40 days before Town Meeting. Board members will sign it on Monday, 02/24/2022
- j. After the Governors legislation signed today John moved and Steve seconded virtual Zoom Board meetings from now until the end of March. Vote 4 aye/1nay; motion carried
- k. John moved and Steve seconded for adjournment at 8:05 pm. Unanimous

TOWN OF POMFRET SPECIAL SELECT BOARD  
DRAFT MINUTES. January 21, 2022

Present: Emily Grube Steve Chamberlin, Jon Harrington, John Peters

Public: Ben Brickner (Auditor, ZBA), Neil Lamson (Lister), Cynthia Hewitt (SB Asst)

1. Emily called the meeting to order at 6:03
2. Items for Discussion or Vote
  - a. Accept Town Meeting Warning  
Ben has conferred with Garrett Baxter at VLCT and obtained correct language and process for changing the terms of board members. John moved and Steve seconded approval of the corrected Warning. Unanimous roll-call vote.
3. John moved Steve 2<sup>nd</sup> Adjournment at 6:18 pm

Town of Pomfret Special Select Board Meeting  
January 26, 2022 Draft Minutes

Present: Emily Grube, Steve Chamberlin, John Peters, Jon Harrington, Chuck Gundersen

Public: Jim Potter (Road Foreman), Alan Ricker, G&N Excavating, Avery , Jamie Ziobro, Neil Lamson (Lister), Ben Brickner (auditor), Billy Emmons (Planning Commission), Michelle, Cynthia Hewitt (SB Assistant)

1. Emily called the meeting to order at 6:06 pm
2. No public comment
3. Agenda review – no
4. Warrants for Payment – Steve moved and Chuck seconded payment of the following warrants. Unanimous roll-call vote
  - a. 22066      \$9469.99      Payroll
  - b. 220678      519.25      A/P
  - c. 22068      9341.27      A/P
5. Items for Discussion or Vote
  - a. Review, Analyzing, and Awarding Cloudland Bridge Bids  
John Peters presented a spread sheet with all bidders and bids  
Charlestown Property dropped out due to supply issues. After discussion John moved and Jon seconded the award go to Northwood Excavating  
The vote was 3 aye/2 Nay. Motion Carried. Jon will inform the other bidders and send them the spread sheet. The Board felt we should come up with a contract.  
VLCT has sample contracts
  - b. Payloader Issues  
The loader has some complicated issues involving a water pump or perhaps the head gasket. Tomorrow Nortrax will deliver a rental loader and remove ours for repair, which should take no more than a week.
6. Steve moved and Chuck seconded for adjournment at 7:20 pm. Unanimous roll-call vote



**From:** Weyant, Claude <Claude.Weyant@vermont.gov>  
**Sent:** Sunday, January 30, 2022 6:57 PM  
**To:** Emily Grube <Emily.Grube@pomfretvt.us>  
**Subject:** Town Ordinance

Dear Emily:

I hope this finds you doing well. This past Thursday one of our deputies had traffic court for contested tickets in a couple towns that we patrol. The tickets were thrown out by the Hearing Officer (Judge) for two reasons. First is because she felt the ordinances were too old. The second was because the towns did not identify the names of the roads covered, other than TH#1, T#2 etc.. This has caused us to look over the town traffic ordinances, in the towns we patrol. In Pomfret, If there was some way to include a chart identifying the TH numbers to the names of the roads, it would be helpful. The only other thing was in section 5.3. In section 5.3 in the ordinance it states that Howe Hill Road has a speed limit of 35 mph from Pomfret Road by Hewitt's Corners to .52 mile from the Sharon Town Line. It should read to the Sharon Town line, as the speed limit is 35 mph the entire distance on Howe Hill Road up to the Sharon line. The date on the Pomfret ordinance is February 19, 2017. That certainly is reasonable as far as age of the ordinance.

Other than that, I think we are in pretty good shape. The good news is so far we have been successful in any contested Pomfret tickets.

Thank you

Take care

Claude Weyant-Captain  
Windsor County S.D.

January 29, 2022

To the Selectboard,

I understand that at the January 12<sup>th</sup> meeting the Board projected on the screen a prepared draft letter, but ultimately decided not to take action on that letter. I respect that the Board would like to move on from the situation, as would I. However, I feel compelled to make a few critical points.

In reading the letter presented at the 1/12 meeting, it becomes even more clear that the Board's position is that it is obligated to act on a complaint based only on the information provided by the complainant without regard to gathering facts from the dog owner. In essence, the Board is saying that when it acts, it is only obligated to listen to one side of the story. This is especially problematic in situations where the public harm is not self-evident, as might otherwise be the case with dogs behaving aggressively. First, there's nothing in Pomfret's dog ordinance that dictates the Board is obligated to act on every complaint, and there's absolutely nothing in the ordinance that says the Board is obligated to accept only one side of the story before taking an enforcement action. The process by which the Board takes action is not spelled out in the ordinance. Nor has the Board communicated its process to the public.

To this day, the Board still has not provided the details of the complaints that were made and what public concern resulted. It defies logic how the Board can be obligated to act when it has not made it known to the dog owner the specifics of the complaints or considered both sides of the story.

There's no question that the Board's first letter represented an enforcement action. The black-letter definition of "enforcement" is "the act or process of compelling compliance with the law." I did not misinterpret the Board's first letter. The language the Board used is self-evident ("leash your dog at all times"). Placing the word "please" in front of the Board's command may soften the message, but it does not make it a suggestion. Because the Board commanded a specific behavior of me in compliance with the dog ordinance, I was entitled to be offered a hearing upon receipt of the first letter.

The draft 1/12 letter still fails to acknowledge that: (1) the Board only invited me to a meeting after the Board issued the first (enforcement) letter, which was an enforcement action, and (2) that by issuing the enforcement letter first, I would be in a position of having to defend myself based only on the complainant's version of the story. Frankly, given how the Board handled the situation, I did not, and would not, feel comfortable attending a meeting knowing that the Board had already taken the side of the complainant without conducting a full investigation. I had, and would have, no confidence that the Board would be objective.

The law (20 V.S.A. § 3550) requires that the Board not just invite a dog owner to a meeting for a discussion but that the Board offer a hearing. A hearing is designed to hear evidence not just to be an open discussion about a particular topic. The 1/12 letter fails to acknowledge this important distinction.

I am attaching the minutes of the 2012 hearing regarding the adoption of the Pomfret dog ordinance. There are relevant comments from many people, but I ask that you pay specific attention to a letter from Steve and Carole Brown. It's an extremely intelligent letter, written with great foresight, that speaks to the possible pitfalls of the dog ordinance made evident in this situation.

With respect to pedestrian law, the Board's original letter stated "both walkers are to stand to ONE side of the road only," which is not even a correct statement of the law the Board intended to enforce. As with the command for me to leash my dog at all times, the Board here too made an enjoining statement in what was an obvious attempt to enforce state law. By telling me to follow state law, the Board is attempting to enforce it. It was not suggestive, despite what the Board wrote in its second letter. I understandably questioned your sending the enforcement of pedestrian law to just one walker. I did not ask that you remedy that as regards the road issue. I was simply and correctly questioning why one person was being treated differently from the other.

The Board attempted to enforce Title 23 state motor vehicle (and pedestrian) laws that it does not have the power to enforce without first passing a local ordinance (See 24 V.S.A. §2291). The Board puts itself in a precarious position when it attempts to enforce or even formally suggest compliance with state law, and it directs only one person to do so.



In closing, because the Board first took enforcement action against me without following state statute that governs such actions (20 V.S.A. §3550); because the Board sent an enforcement action to me on the basis of a complaint not fully investigated; and because the Board tried to walk back from the enforcement action it took, thereby muddling the situation, I respectfully request that the Board provide written clarification that absolutely nothing will come of the situation, that the Board will not somehow record this as a first strike against me.

I believe the Board has an obligation to close this out by stating what I should expect going forward. The Board owes it to the public to do so, so there are clear expectations about how the Board will enforce the dog ordinance in the future.

Please include this letter and the 2012 hearing minutes in your agenda packet as Selectboard correspondence.

Betsy Siebeck

# Town of Pomfret

5218 Pomfret Road  
North Pomfret, VT 05053

Subject: Minutes of Proposed Dog Ordinance Hearing

Date: August 14, 2012 7:00 p.m.

Location: Pomfret Town Office

Present: Neil Lamson (selectboard member), Lyn Leavitt (Town Clerk), Ted Staples, Joan Staples,

Tina Feeney, Shawn Pickett, Geoff Klingenstein, Alixandra Klingenstein, Douglas Tuthill, Jennifer Kirkman, Emily Grube, Betsy Siebeck, Carlene Hewitt, Andrew Mann, Betsy Rhodes, Michael Doten

This hearing was duly warned as follows:

The Selectboard of the Town of Pomfret hereby gives notice to interested persons that a REVISED Dog Ordinance Public hearing will be held on Tuesday, August 14, 2012 at 7:00 P.M.

at the Town of Pomfret Office Building. It is the purpose of this Ordinance to regulate the keeping of dogs to protect public health and safety and to protect the residents' quiet enjoyment of their homes and properties.

Copies of the proposed REVISED Dog Ordinance is available at the Town Clerk's office and on our Website at [www.pomfretvt.us](http://www.pomfretvt.us) or call 802-457-3861.

The meeting was called to order at 7 pm.

The following persons expressed opposition to the requiring all dogs to be kept on a leash at all times when the dog is not on the owner's property or in a vehicle: Mike Doten, Joan Staples, Betsy Siebeck, Geoff Klingensein, Alixandra Klingenstein, Jennifer Kirkman, Emily Grube, Tina Feeney, and Carlene Hewitt.

The following persons expressed opposition to Section 5. Pooper Scooper: Mike Doten, Douglas Tuthill, Tina Feeney, Betsy Siebeck, and Alixandra Klingenstein.

Douglas Tuthill suggested that the proposed fines were too high and that state statutes might be sufficient to regulate dogs.

Jennifer Kirkman expressed opposition to fines for not paying the state imposed dog license fee.

Shawn Pickett and Ted Staples questioned the need for a dog ordinance.

Betsy Rhodes expressed opposition to dogs having to wear collars while on the owner's property.

Lyn Leavitt explained the value of licensing dogs.

Ted Staples expressed concern that the hearing was not well publicized.

Neil Lamson thanked the attendees for their comments and stated that based on the public comments the selectboard most likely would revise the proposed dog ordinance before sending it to an attorney for legal review and that the final version would be on the Town webpage before the selectboard acted on it.

The selectboard received the following three (3) emails in regards to the proposed dog ordinance:

From Mike Doten, 8/13/2012:

Hi Folks,

I understand there is a move afoot to require all dogs in Pomfret to be on leash all the time?...or when walking them?

Please put me down as vehemently opposed to this proposed ordinance!

I would also like to attend the Selectboard meeting this month. There seems to be confusion as to when the meeting is, Tuesday or Wednesday?

Thanks,

Mike

From Laura Kent, 8/13/2012:

Neil:

I am not supportive of your proposed dog ordinance:

1. Many of us walk, and with our dogs, on our lovely Pomfret dirt roads. In winter it is about the only place one can walk. It is really nice NOT to have one's dog on a leash when walking on our lightly traveled dirt roads. Why do we need to have our dogs leashed? Especially when the roads are a bit slippery, having a dog on a leash makes the human less stable and more apt to fall and hurt oneself. I know this from a lot of winter walking experience. 2. While walking, I carry a leash with me so that if there is something that might unsettle my dog, I can hook him on. I suspect most other dog walkers do the same. I have seen many people walk their dogs leashless on Cloudland Road. 3. Why does anyone care if the dog defecates on the rough of the road? Yes, it is proper to clean up after one's dog if it goes on another's manicured property, but when the dog goes in a bunch of ferns or other roadside growth, so what?

Let us remember that we live in the country. We live here because we like living in the rural situation. Our houses tend to be rather widely spaced. This ordinance seems far better suited to more suburban area, not a rural one such as Pomfret.

\* \* Note: If the Selectboard would consider making the leash part of this ordinance apply to the paved roads of Pomfret, that is reasonable. A paved, well-traveled road is a different situation from a lightly traveled dirt road.

I do not know yet if I can come to the hearing tomorrow night; I will try. But if I cannot, please consider this email a statement of my position.

Laura Kent

4190 Cloudland Road

S. Pomfret

From Stephen and Carole Brown, 8/15/2012

Neil, unfortunately we were unable to attend last night's hearing on the proposed dog ordinance. However we do have a number of comments and suggestions that should be incorporated in further revisions of the proposed ordinance prior to adoption:

There are several general problem areas with the draft as currently written:

1. The ordinance fails to consider the very significant differences between rural and compact areas of the town
2. Definition of "running at large"
3. Does not adequately distinguish between violations concerning a) vicious dogs, b) problem dogs, c) annoying dogs and d) strictly technical violations of the ordinance
4. Disproportionate fines compared to the nature of the offense
5. Creates a vehicle for allowing someone to promote a personal grudge using the technical violation of the ordinance
6. Fails to allow for discretion on the part of town government

## RURAL VS. COMPACT AREAS

There are clearly common sense differences between rural parts of town compared to the compact, relatively densely populated, or residential areas of the town, and the treatment of dogs in those different areas is appropriately different. It may be deemed appropriate in the village of South Pomfret, the more heavily populated areas of Hewitt Hill road, or when passing a home near to the road to actually have a dog on a physical leash, but walking a dog without a leash on remote sections like King's Highway, Bunker Hill or Joe Ranger Road makes no sense. Similarly, while the requirement for "pooper scooper" may be appropriate when a dog defecates on someone's lawn, it again makes no sense in forested areas, the edge of a field, or the edge of a road in a rural part of town. These are big city rules which are absurd when applied to a rural environment.

## RUNNING AT LARGE

An additional point should be added to the exclusions in this section to include dogs under the reasonable or immediate control of the owner. An unattended dog running around town is very different from a person who is walking a dog without being connected by a physical leash. Failure to include this exclusion will undoubtedly result in certain individuals making complaints to the town based on a technical violation of the ordinance when no real problem exists. The absence of such a phrase will not allow the town the discretion in differentiating between a problem and a violation that is strictly a technical violation of the wording of the ordinance.

## TYPES OF VIOLATIONS

It appears that the term vicious dog is reserved for a dog that bites someone. If so, then there are also problem dogs who damage property (including harming other animals) or who by their repeated activity become a problem. There are also annoying dogs whose activity causes an annoyance, but no real problem or damage. And then there are the technical violations of the ordinance where no problem exists, but where complaints may be made specifically to cause a problem for the owner. The ordinance should attempt to differentiate, and should further

remove (or insert if appropriate), language which permits finding someone in technical violation of the ordinance when no problem exists.

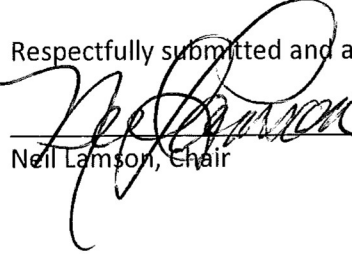
#### DISPROPORTIONATE FIB(ES

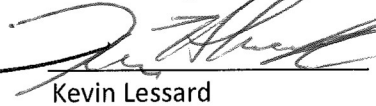
The penalties are a draconian effort to force compliance with a "one size fits all" structure. Where \$500 may be appropriate for a dog that continues to destroy the neighbor's chickens, it is absurd to apply to the third defecation by a dog along the side of Joe Ranger Road or walking in the town forest. This can be resolved by eliminating the wording in the ordinance which identifies non-problem behavior as a violation, and by restructuring the penalties to be more in line with the nature of the offense.

#### CONCLUSIONS

We appreciate the desire of the town to have wording in an ordinance to allow problem dogs to be addressed. However, the town should not hide behind broad wording in an ordinance in order to be able to address specific problem situations. This will result in either police state enforcement of the minutia of technical violations, or enforcement of the real problems while letting the minor violations slide. Technical violations of the ordinance merely allow people to harass their neighbors and create ill will within and against the town. The town needs to use discretion to stand up and address real problems and not create an ordinance where it gets dragged down into the mess of technical violation enforcement. Pomfret has always been a nice place to live, raise a family and enjoy our animals. Don't take away the freedoms that we all enjoy by living in a rural community. If we wanted that kind of life, we'd live in Woodstock. Steve and Carole Brown

Respectfully submitted and approved at the August 15, 2012 regular selectboard meeting:

  
Neil Lamson, Chair

  
Kevin Lessard

  
Mark Warner

