

**Town of Pomfret
Selectboard Meeting Agenda
Town Offices
5218 Pomfret Road, North Pomfret 05053
April 19, 2023, 6:00 pm**

See <https://pomfretvt.us/index.php/boar/sel/> for Zoom instructions.

Business Items	
1. Call to Order	6:00 pm
2. Agenda Review	
3. Public Comment	
4. Hunter Ulf Consultation re: Town Hall	6:05 pm
5. Road Foreman's Report	7:00 pm
6. Items for Discussion or Vote a. Eydt Estate Request to Remove Trees and Vegetation b. Vermont 100 Endurance Race Permit c. Paving RFP d. SFY24 Grants-in-Aid Program Letter of Intent e. Local Emergency Management Plan (LEMP) f. Delinquent Tax Accounts Update g. ARPA Reporting h. Teago General Store Liquor License Renewal i. Municipal Energy Resilience Grant j. Municipal Planning Grant Extension k. Bicycle and Pedestrian Program Grant l. Renewal of TPVS Use Agreement m. Warrants n. Approval of 4/5/2023 Minutes	7:30 pm
7. Meeting Wrap Up a. Correspondence b. Review of Assignments c. Agenda for Next Meeting	
8. Executive Session – Quasi-Judicial Deliberation; Appointments	9:00 pm
9. Items for Discussion or Vote a. Eydt Estate Request to Remove Trees and Vegetation b. Public Officer Appointments	9:30 pm
10. Adjournment	
<i>Time frames are approximate. Members of the public wishing to attend for specific business items are encouraged to arrive before the time indicated.</i>	

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Via First Class Mail and E-Mail

March 28, 2023

Pomfret Selectboard
c/o John Peters Jr., Chair
5218 Pomfret Road
North Pomfret, VT 05053
john.peters@pomfretvt.us

RE: Estate of Fred J. Eydt Request for Consent to Remove Tree and Perform Vegetation Clearing in Town Right of Way Along Pomfret Road

Dear Mr. Peters,

By this letter, the Estate of Fred J. Eydt (“Estate”) seeks consent from the Town of Pomfret Selectboard pursuant to 19 V.S.A. § 901(2), to the extent such consent is required and was not previously given,¹ to i) remove a certain ash tree within the Town right of way on the easterly side of Pomfret Road in the area immediately to the south of the Estate’s proposed Driveway Access Location (as hereinafter defined) and ii) to conduct vegetation clearing within the Town right of way on the easterly side of Pomfret Road in the area to the south of the Estate’s proposed Driveway Access Location for a distance of approximately 280 feet. This request is in response to the Selectboard’s March 6, 2023 Decision (“Decision”) conditionally granting the Estate a driveway access permit in the location shown on the plans submitted with the Estate’s Driveway Access Permit Application dated January 5, 2023 (said location hereinafter, the “Driveway Access Location”).

Under 19 V.S.A. § 901(2), “A person, other than the abutting landowner or municipality, shall not cut, trim, remove, or otherwise damage any grasses, shrubs, vines, or trees growing within the limits of a town highway without first obtaining the consent of the legislative body.” As a person who is not the abutting landowner, the Estate makes this request for the Selectboard’s consent as it is unclear whether the Selectboard’s Decision provided such consent.

The Estate notes that a separate process is established by statute and by the Town’s Tree Policy for the removal of shade trees in the public right of way. *See, e.g.* 19 V.S.A. § 901(1), 24 V.S.A. § 2501 et seq., Pomfret Tree Policy. Based on the information of which we are aware, the ash tree adjacent to the Estate’s Driveway Access Location has not been designated by the Town as a shade tree pursuant to a municipal tree preservation plan, nor does it otherwise meet the

¹ To the extent the Selectboard intended its March 6, 2023 Decision to include consent for the Estate to conduct vegetation clearing within the Town right of way along Pomfret Road, the Estate requests the Selectboard clarify that such consent has already been given.

Pomfret Selectboard

March 28, 2023

Page 2

statutory definition of a shade tree. *See* 24 V.S.A. § 2501a. Additionally, the location is not a public place as defined by the Pomfret Tree Policy or applicable statute. *See id.* Thus, the Estate understands that the Pomfret Tree Policy is inapplicable to this request.²

The work described herein is anticipated to be completed as soon as weather and contractor availability should permit. The Estate will coordinate with the Town Road Foreman regarding a specific date and time for the tree removal and vegetation clearing once known. The Estate will perform all tree removal and vegetation clearing within the Town right of way in accordance with the applicable standards set forth in the form Town of Pomfret Application for Town Highway Right-of-Way Crossing Permit. Should an application fee be required for this request, please notify me of the amount.

Please contact me should you need any additional information to process this request and please notify me at your earliest convenience of the Town's consent to the above-described work.

This request is made subject to a full reservation of rights and without waiver of the Estate's right to seek judicial review of the Selectboard's March 6, 2023 Decision on the Estate's Driveway Access Permit Application.

Sincerely,

SHEEHEY FURLONG & BEHM P.C.

/s/ Peter G. Raymond

Peter G. Raymond, Esq.

PGR/mak

cc via email only:

Jim Potter
Pomfret Road Foreman
5218 Pomfret Road
North Pomfret, VT 05053
jim.potter@pomfretvt.us

Benjamin Brickner
Pomfret Selectboard Vice-chair
5218 Pomfret Road
North Pomfret, VT 05053
benjamin.brickner@pomfretvt.us

² To the extent the Town disagrees, the Estate asks that the Town please clarify the process the Town believes is required before the Estate may remove the ash tree.



LETTER OF INTENT TO PARTICIPATE IN THE SFY24 MUNICIPAL ROADS GRANTS-IN-AID PROGRAM

We, the Legislative Body of the Municipality of _____ certify that
the municipality will:

- Construct one or more road best management practices (BMPs) to bring connected road segments into full compliance with Municipal Roads General Permit (MRGP) standards, to be completed by September 30, 2024.
- Construct the road BMPs on hydrologically connected road segments – roads that drain directly into surface waters (streams, rivers, ponds, lakes and wetlands). Refer to the Vermont Department of Environmental Conservation (DEC) map layer for *hydrologically connected* municipal roads in Vermont. This map layer is available at: <http://anr.vermont.gov/maps/nr-atlas>.
- Prior to construction of the BMPs, **receive Construction Authorization from VTrans** to verify the appropriate location of the connected road segment and BMP(s) to meet MRGP standards.
- Post a Clean Water Project sign during construction (select projects only).
- Provide a minimum of 20% local match (in-kind and/or cash). Match can include quantified in-kind contributions such as transportation, municipally owned road equipment, crew labor, municipal staff time and other costs directly related to the BMP construction project as part of this program. Funds from other federal or state grant programs or local match for those other federal and state grant programs cannot be included as match.
- Complete all reporting and invoicing requirements using the VTrans requested format.
- Submit all Performance Reports and Request reimbursement no later than 12/30/2024 (90 days from end of grant period).
- Complete a post construction assessment of each road segment repaired and provide the post construction assessment to DEC using the MRGP portal/app and certify during the request for reimbursement, that the repaired road segments are “fully compliant” with MRGP.

_____ Date: _____
(Duly Authorized Representatives)

Municipality: _____

Primary Contact Name: _____

Address: _____
Street Address Town Zip

Email: _____ Phone: _____

Town Clerk (2nd contact): _____ Email: _____

Unique Entity Identifier (SAM #) #: _____ Fiscal Year End Month (MM): _____

Note: Primary Contact is responsible for grant execution on Town’s behalf, Secondary Contact must be Town Clerk.

This form must be submitted via email by May 5th, 2023 to indicate participation.

Return signed Letter of Intent to: VTrans Municipal Roads Grants-in-Aid Program, c/o VTrans Municipal Assistance Program, via email: Grantsinaid@vermont.gov

This is a letter of intention to participate only. THIS IS NOT A GRANT, CONTRACT or AGREEMENT.

Local Emergency Management Plan

1. Emergency Management (EM) planners

<i>These are the people who wrote and/or maintain this plan.</i>	
Kevin Rice	
Steve Chamberlin	
Emily Grube	

2. Municipal Emergency Operations Center (EOC)

<i>The EOC is an organization that coordinates information, support, and response across the municipality for Incident Commanders and town officials. Its main functions are to maintain situational awareness for municipal leaders, coordinate resource and information requests, and provide public information.</i>	
Who, by position, can activate the EOC?	EMD, Select Board, Fire Chief
Preferred EOC Positions and Duties	
EOC Director	Supervises and directs all EOC activities coordinating municipal support and response
Terri Chamberlin	Staffs phones and radio
	Tracks and answers any Requests For Information (RFI)
	Tracks and coordinates any Requests For Support (RFS)
	Produces and posts public information and press releases
Potential EOC Staff Members	
<i>Name</i>	<i>Notes / Contact Information</i>
Steve Chamberlin	802-763-7820 / steve.chamberlin@pomfretvt.us
Robert Coates	802-457-9991 / bcoatesvt@hotmail.com
Neil Lamson	802-763-2070 / foxfarm22@gmail.com
Bill Emmons	802-457-1520 / wbemmons3@gmail.com
Frank Perron	802-457-3402 frank@frankperron.com
Terri Chamberlin	802-763-7820 / ridgelinefarm@aol.com
Primary EOC Location	
Facility / Address:	Pomfret Town Office / 5218 Pomfret Road
Phone Numbers:	802-457-3861
Equipment/Notes:	Water, generator, internet, phone, bathrooms, meeting room white board, copier
Alternate EOC Location	
Facility / Address:	Teago Fire Station/ 2026 Pomfret Road
Phone Numbers:	802-457-1125
Equipment/Notes:	Internet, phone, radios, white board, flip chart, copier, water, refrigerator, stove, tables, chairs,

3. Resources

Use municipal resources, mutual aid agreements, and local purchases first to get resources for response as needed and available.		
Purchasing agents for emergencies: Selectboard		
Emergency spending limits:		
Businesses with Standing Municipal Contracts		
<i>Type of Contract</i>	<i>Name</i>	<i>Contact Info</i>
Gravel/Stone	Pike Industries	603-276-3201
Pipes, sewer, valves	Ferguson Waterworks	603-298-5275
Sand	D&D Excavating	802-436-2417
Other Local Resources		
<i>Type of Resources/Skills</i>	<i>Name</i>	<i>Contact Info</i>
excavating/heavy equipment	Chase Site Services	802-457-3536
excavating/heavy equipment	Tom Havill	802-457-5790
forestry equipment/excavating/tree	Arborscape / Cy Benoit	802-457-5797
forestry equipment	Chippers	802-457-5100
excavating/heavy equipment	OK Chase & Sons	802-457-3499
Excavator	Frank Perron	802-457-3402
Excavator	John Moore	802-457-3433
Carpenter	Josh Trimpi	802-280-5898
Tree Service	Hendersons Tree Service	802-296-3771
<p>State support that is usually at no cost to the municipality:</p> <ul style="list-style-type: none"> • Vermont Hazardous Material (HAZMAT) Response Team (VHMRT) • Vermont Urban Search and Rescue (USAR, VT-TF1) • Vermont State Police and Special Teams • Community Emergency Response Teams (CERTs) • Swiftwater Rescue Teams • Regional Shelter Support • State government agency expertise / services • Federal response agency expertise <p>State support the municipality will normally eventually have to pay for:</p> <ul style="list-style-type: none"> • Supplies and equipment (including sandbags) • VTrans Equipment and Personnel • Vermont National Guard Support 		
<p><i>The State Emergency Operations Center (SEOC, 800-347-0488) will help coordinate any state support teams or other external resources that local responders may need.</i></p>		

National Incident Management System (NIMS) Typed Resources*												
Type	I	II	III	IV	Other	Type	I	II	III	IV	Other	
Critical Incident Stress Management Team				N/A		Hydraulic Excavator, Large Mass Excavation				N/A		
Mobile Communications Center						Hydraulic Excavator, Medium Mass Excavation						
Mobile Communications Unit			N/A	N/A		Hydraulic Excavator, Compact				1		
All-Terrain Vehicles	N/A	N/A	N/A	N/A		Road Sweeper						
Marine Vessels	N/A	N/A	N/A	N/A		Snow Blower, Loader Mounted						
Snowmobile	N/A	N/A	N/A	N/A		Track Dozer						
Public Safety Dive Team						Track Loader						
SWAT/Tactical Team						Trailer, Equipment Tag-Trailer	1			N/A		
Firefighting Brush Patrol Engine	N/A	N/A	N/A		1	Trailer, Dump		N/A	N/A	N/A		
Fire Engine (Pumper)	3					Trailer, Small Equipment			N/A	N/A		
Firefighting Crew Transport	1			N/A		Truck, On-Road Dump			3	1		
Aerial Fire Truck			N/A	N/A		Truck, Plow			3	1		
Foam Tender			N/A	N/A		Truck, Sewer Flusher						
Hand Crew						Truck, Tractor Trailer				N/A		
HAZMAT Entry Team				N/A		Water Pumps, De-Watering					2	
Engine Strike Team						Water Pumps, Drinking Water Supply - Auxiliary Pump						
Water Tender (Tanker)				N/A		Water Pumps, Water Distribution						
Fire Boat				N/A		Water Pumps, Wastewater						
Aerial Lift - Articulating Boom						Water Truck		N/A	N/A	N/A		
Aerial Lift - Self Propelled, Scissor, Rough Terrain						Wheel Dozer			N/A	N/A		
Aerial Lift - Telescopic Boom						Wheel Loader Backhoe						
Aerial Lift - Truck Mounted						Wheel Loader, Large						
Air Compressor						Wheel Loader, Medium				1		
Concrete Cutter/Multi-Processor for Hydraulic Excavator						Wheel Loader, Small				N/A		
Electronic Boards, Arrow						Wheel Loader, Skid Steer				N/A		
Electronic Boards, Variable Message Signs						Wheel Loader, Telescopic Handler						
Floodlights				N/A		Wood Chipper	1	N/A	N/A	N/A		
Generator	1					Wood Tub Grinder						
Grader		1		N/A								

*Information about the NIMS Typed resources can be found at: <https://rtilt.preptoolkit.fema.gov>

4. Public Information and Warning

<i>During a significant emergency, the Emergency Operations Center (EOC) and Incident Command Posts (ICPs) will coordinate and manage public information, both by producing accurate, timely reports and by tracking what is publicly reported to minimize confusion and help ensure a positive public response.</i>	
VT-Alert message - State: Other VT-Alert managers:	Vermont Emergency Management: 800-347-0488 Put link on website Put information cards in tax bill
Important Local Websites / Social Media channels:	Pomfretvt.us Listserv
Local Newspaper, Radio, TV:	
Public Notice locations:	Teago General Store No. Pomfret post office Town office
<i>Vermont 2-1-1 is a United Ways of Vermont system that provides 24x7x365 information and referral services in cooperation with a large number of state and local government and community based entities. 2-1-1 collects and maintains a database of local resource information and is available to take calls from the general public to inform and instruct them in relation to emergency events, and to refer them to the appropriate response and recovery resource, if necessary.</i>	
To provide information for 2-1-1	Dial 211 or (802) 652-4636

5. Vulnerable Populations

<i>If necessary, the EOC may contact organizations and facilities, below, that serve vulnerable populations to identify residents who are at risk based on the emergency. If there are residents at risk or in danger, the EOC should monitor their status and if required coordinate support for them until their situation stabilizes.</i>	
Name / Notes	Contact Info
CARE (Citizen Assistance Registration for Emergencies)	(Supporting PSAP)

6. Shelters

<i>During some emergencies, the EOC will monitor or coordinate support for residents who are displaced due to property or infrastructure damage.</i>	
Spontaneous Sheltering	
<ul style="list-style-type: none"> • Determine the approximate number of people who need sheltering • Call the State EOC / Watch Officer at 800-347-0488 and request support • Track the status of residents who need shelter until their situation stabilizes 	
Regional Shelter	
Location / Address:	
Opening Contact:	State EOC, 800-347-0488; American Red Cross, 802-660-9130
Phone Numbers:	
Primary Local Shelter	
Location / Address:	Teago Fire Station / 2026 Pomfret Road
Facility Contact(s):	Kevin Rice / Terri Chamberlin
Phone Numbers:	457-1125
Shelter Manager:	
Staff Requirements:	
Services:	Warm/Cool Overnight Food Prep Showers Healthcare
Notes:	
	Capacity: 10 Generator? Y / N Pets Allowed? Y / N
Alternate Local Shelter	
Location / Address:	Town Office / 5218 Pomfret Road
Facility Contact(s):	Becky Fielder. Emily Grube
Phone Numbers:	802-457-3861, 802-457-2994
Shelter Manager:	
Staff Requirements:	
Services:	Warm/Cool Overnight Food Prep Showers Healthcare
Notes:	
	Capacity: Generator? Y / N Pets Allowed? Y / N

Annexes (Optional, create and letter as needed)

See the Vermont Emergency Management (VEM) web site at <http://vem.vermont.gov> for samples and examples of annexes, such as: forms; delegations of authority; debris plans; incident-specific plans, checklists, and matrices; animal disaster references; etc.

Contact Information

Position	Name	Phone numbers - indicate Mobile, Home, Work			E-mail
		Primary	Alternate	Alternate	
Local Emergency Management Team					
EMD	Kevin Rice	(802) 356-7643	(802) 457-2364	(802) 457-9339	kricevt@gmail.com
EM Coordinator	TBA				
Local Response Organization Contacts					
Fire Chief	Kevin Rice	(802) 356-7643	(802) 457-2364	(802) 457-9339	kricevt@gmail.com
Assistant/Deputy Fire Chiefs	Jake Astbury Greg Olmstead	(802) 369-0579 (970) 218-3061	(802) 457-5100 (802) 392-3669		jacobastbury12@gmail.com olmsteadgreg@hotmail.com
EMS Chief	Frank Perron	(802) 457-3402	(802) 281-2764		Frank@frankperron.com
Chief of Police or Constable	Doug Tuthill	(802) 295-5683			djt1jt2jt3@aol.com
State Police or County Sheriff		(802) 234-9933			
Local Dispatch Center		(802) 457-1420			
Local Public Works Contacts					
Road Foreman	Jim Potter	(802)369-0225	(802) 457-4702		Jim.potter@pomfretvt.us
Road Commissioner					
Town Garage		(802) 457-2767			
Drinking Water Utility					
Wastewater Utility					
Municipal Government Contacts					
Town Administrator					
Town/City Manager					
Selectboard Chair	John Peters Jr	(802) 379-1423			John.peters@pomfretvt.us
Selectboard Alt					

Contact Information

Position	Name	Phone numbers - indicate Mobile, Home, Work			E-mail
		Primary	Alternate	Alternate	
Selectboard Alt					
Town Clerk	Becky Fielder	(802) 457-3861	(802) 457-1490	(802) 999-1405	clerk@pomfretvt.us
Town Treasurer / Finance	Ellen DesMeules	(802) 457-3861	(802) 457-3205	(802)369-0001	treasurer@pomfretvt.us
Town Health Officer	Hugh Hermann	(802) 457-1200	(802) 299-1300	(802) 299-1250	Hugh.p.hermann@dartmouth.edu
Forest Fire Warden	Frank Perron	(802) 457-3402	(802) 281-2764		frank@frankperron.com
Animal Control Officer					
School Contact #1	Bob Crean	802-296-1254	(802) 457-2987		bobcrean@advancedanimations.com
School Contact #2					
School District Office					
Other Contacts					



Application ID: DLL - Application - 25748
Application for: First Class Restaurant/Bar License
Category of Business: First Class

Business/ Entity Information

Business/ Entity Name: Pomfret Road General Store, LLC, The
Business ID: 0009478

Business Address: ,
,
Entity Type: Limited Liability Corporation

Phone: ,
Management Type if LLC: ,

Email: kd@artistreevt.org

People Information

Location/ Premises Detail

Location Name: Teago General Store
Do you lease this Premises: ,

Location Address: 2035 Pomfret Road,
Pomfret, Vermont 05067
Health License: Food:11739
Lodging: ,

Local Jurisdiction/ Town Clerk: Pomfret
Vermont Tax Department: MRT-10902537

Foundational License (if applicable)

License Type: ,
License Number: ,

Licensee Name: ,
License Status: ,

Licensee Address: ,
,
License Start Date: ,
License End Date: ,

Documents Attached

Name	Document Type	Assosicated With
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Payment and Acknowledgement

Signed by:

Robert Kimmerle

State of Vermont / DLL Application Fee:

115.00

Date of Submission:

2023-04-17 10:31:09

State of Vermont / DLL Payment Status:

Local Application Fee:

115

Local Control Payment Status:

false





Application ID: DLL - Application - 25746
Application for: Second Class License
Category of Business: Second Class

Business/ Entity Information

Business/ Entity Name: Pomfret Road General Store, LLC, The
Business ID: 0009478
Business Address: ,
,
Entity Type: Limited Liability Corporation
Phone:
Management Type if LLC:
Email: kd@artistreevt.org

People Information

Location/ Premises Detail

Location Name: Teago General Store
Do you lease this Premises:
Location Address: 2035 Pomfret Road,
Pomfret, Vermont 05067
Health License: Food:11739
Lodging:
Local Jurisdiction/ Town Clerk: Pomfret
Vermont Tax Department: MRT-10902537

Foundational License (if applicable)

License Type: Second Class
License Number: LP-020194
Licensee Name: Teago General Store
License Status: License Active - Ready for Renewal
Licensee Address: 2035 Pomfret Road ,
South Pomfret, Vermont 05067
License Start Date:
License End Date:

Documents Attached

Name	Document Type	Assosicated With
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Payment and Acknowledgement

Signed by:

Robert Kimmerle

State of Vermont / DLL Application Fee:

70.00

Date of Submission:

2023-04-17 10:25:16

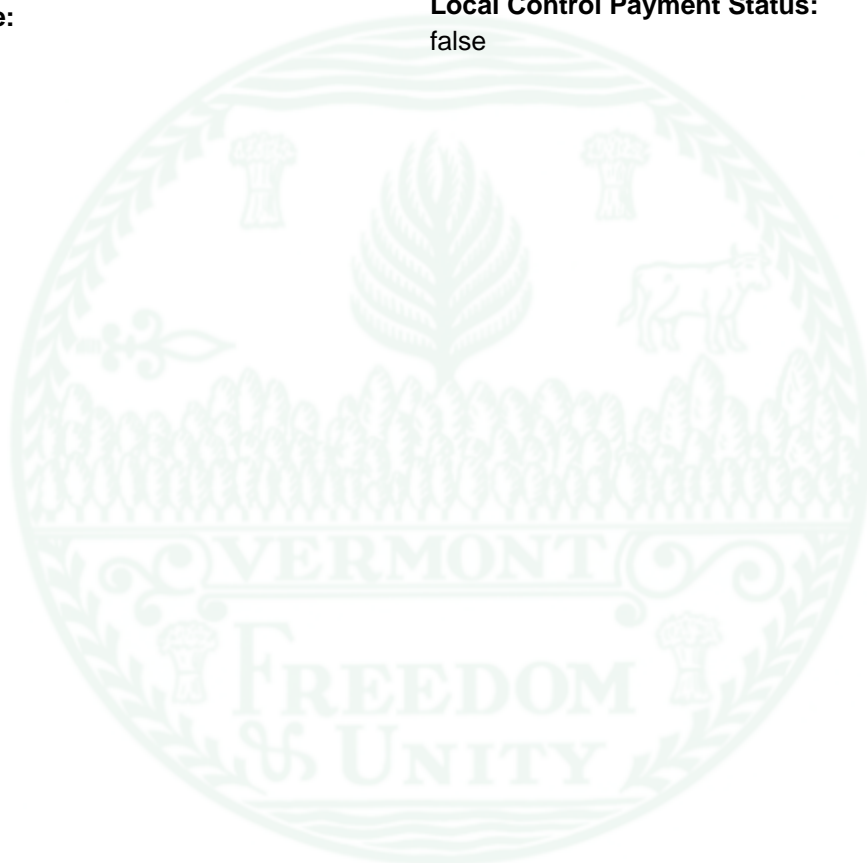
State of Vermont / DLL Payment Status:

Local Application Fee:

70

Local Control Payment Status:

false





Application ID: DLL - Application - 25747
Application for: Tobacco License
Category of Business: Tobacco

Business/ Entity Information

Business/ Entity Name: Pomfret Road General Store, LLC, The
Business ID: 0009478
Business Address: ,
,
Entity Type: Limited Liability Corporation
Phone:
Management Type if LLC:
Email: kd@artistreevt.org

People Information

Location/ Premises Detail

Location Name: Teago General Store
Do you lease this Premises:
Location Address: 2035 Pomfret Road,
Pomfret, Vermont 05067
Health License: Food:11739
Lodging:
Local Jurisdiction/ Town Clerk: Pomfret
Vermont Tax Department: MRT-10902537

Foundational License (if applicable)

License Type: Tobacco
License Number: LP-020195
Licensee Name: Teago General Store
License Status: License Active - Ready for Renewal
Licensee Address: 2035 Pomfret Road ,
South Pomfret, Vermont 05067
License Start Date:
License End Date:

Documents Attached

Name	Document Type	Assosicated With
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Payment and Acknowledgement

Signed by:

Date of Submission:

2023-04-17 10:28:48

Local Application Fee:

0

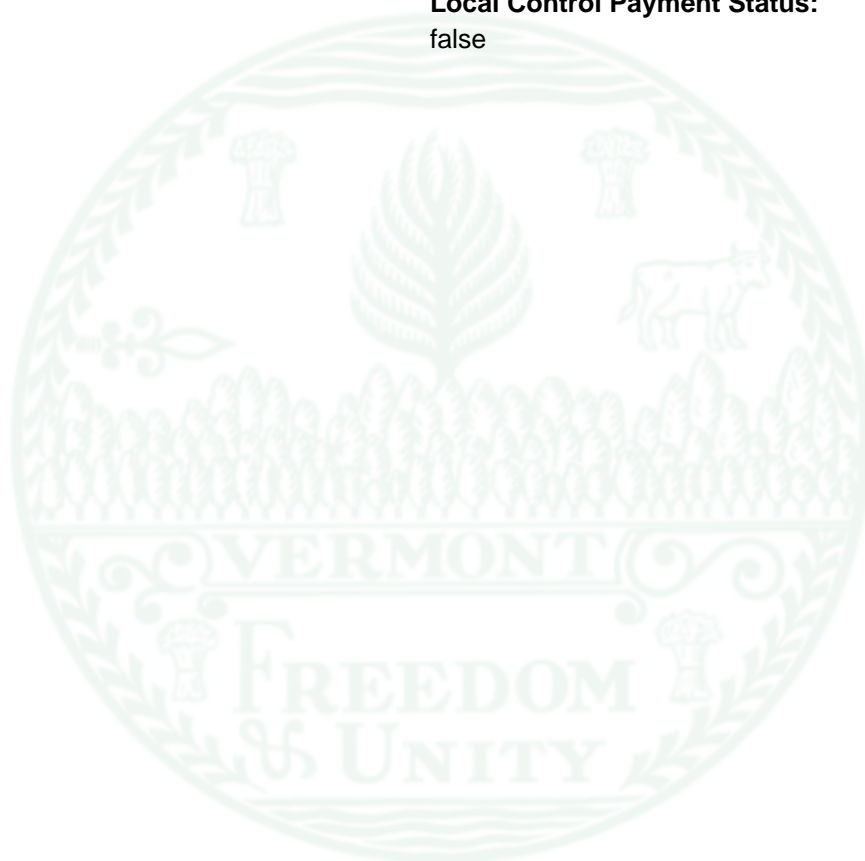
State of Vermont / DLL Application Fee:

110.00

State of Vermont / DLL Payment Status:

Local Control Payment Status:

false



PROSPER VALLEY SCHOOL USE AGREEMENT

This Agreement, dated this 28th day of June, 2018, (the "Agreement") is by and among the **TOWN OF POMFRET**, a Vermont municipality in the County of Windsor and the State of Vermont, (the "Town") and the **POMFRET TOWN SCHOOL DISTRICT**, a Vermont municipality in the County of Windsor and State of Vermont, (the "School District," the Town and School District are collectively referred to herein as the "Parties").

WITNESSETH

WHEREAS, by Warranty Deed of Richard G. Harding, dated August 9, 1989, and recorded in Volume 38, Page 194 of the Town of Pomfret Land Records, the School District acquired a 35.4-acre, more or less, parcel of land on the westerly side of Pomfret Road (a/k/a Stage Road) (Town Highway #1) on which it erected a school building now known as the Prosper Valley School (the "Property" hereinafter); and

WHEREAS, , the Town and its designees also use Property for active and passive uses, either as part of organized programs or through informal arrangements with Town residents and their invitees; and

WHEREAS, upon conveyance of the Property to the Windsor Central Modified Unified Union School District ("WCMUUSD"), the Parties desire for the Town to continue its use of the Property for educational, community and recreational activities, as set forth in more detail below.

NOW THEREFORE, in consideration of these mutual premises and covenants herein contained, and other good and valuable consideration, the Town, acting by and through its Selectboard, and the School District, acting by and through its School Board, covenant and agree as follows:

1. **Applicability and Term.** This Agreement governs the Parties' use of the Property for an initial term of five (5) years from the date hereof. This term may be extended by mutual agreement of the Parties for an unlimited number of successive five-year periods for so long as the School District or its successor, the WCMUUSD, operates the Prosper Valley School on the Property. Should the Prosper Valley School close and the Property cease to be used for educational purposes for a period of two consecutive years, then this Agreement shall terminate and be of no further force and effect.

2. **Priority of Use and Allowed Uses.** The School District is committed to maintaining school property and facilities in good condition for the public education of the students of the School District. Use of the Property and School District

STITZEL, PAGE &
FLETCHER, P.C.
ATTORNEYS AT LAW
171 BATTERY STREET
P.O. BOX 1507
BURLINGTON, VERMONT
05402-1507

277

facilities for public, educational and, on an occasional basis, other purposes, for the benefit of the students and taxpayers of the School District is permitted, so long as such use does not conflict with, detract from, or otherwise limit, School District-sponsored activities. Use of facilities shall be consistent with the following terms and conditions; provided, however, that the School District shall have the final decision-making authority concerning whether a use conflicts with, detracts from or otherwise limits School District-sponsored activities and whether a use is consistent with the below terms and conditions.

a. Priority of Use. The Property and School District facilities shall be made available so as to preserve the following priority of use:

- i. Category 1. School Activities and School-Sponsored Activities. First priority is to have all facilities available for public school purposes, including, but not limited to, instruction, extracurricular and co-curricular activities, and other school-sponsored activities and events. Such purposes shall have first priority as to use, and no school facility or portion thereof shall be contracted for or dedicated to any other purpose, except on an occasional basis, as further set out below, so as to maintain this availability.
- ii. Category 2. School-Related and School-Supporting Activities. Second priority shall be use by organizations or groups, the express purpose of which is to provide benefit and support to the Prosper Valley School and any of its public school functions. Such uses may include, but are not limited to, use by parent-teacher organizations, booster clubs, and fund-raising activities whose purpose is to benefit the Prosper Valley School or other public schools in the WCMUUSD.
- iii. Category 3. Student Groups. Third priority is use by student-led groups, which are not school-sponsored, but whose members are drawn solely from the Prosper Valley School student body, and whose activities and meetings are organized and conducted solely by Prosper Valley School students.
- iv. Category 4. Other Groups Providing Student Benefit/Services. Fourth priority includes activities designed to provide educational opportunities that will allow a student to benefit from curricular, extra-curricular or post-secondary endeavors which enhance or further educational opportunities for Prosper Valley School students generally. Examples include, but are not limited to non-profit athletic, artistic or similar groups, offering activities which provide opportunities for enrichment of the educational experience,

and of a kind or at a level not otherwise generally available to the Prosper Valley School student population. Such uses shall be limited to occasional use. In the event that such a use is otherwise approved, the duration of a course may be for up to a semester, so long as only a regular classroom is being used for the course.

- v. Category 5. Use by Other Public Entities. Fifth priority is use by other public entities, for events or programs which are open to the general public. Such uses include, but are not limited to, use for post-secondary education offerings by a public post-secondary school, use by a recreation department of a town whose school district is a member of the WCMUUSD, or use as a site for a public civic function, such as a public meeting on a legislative or municipal issue. Public entities include municipalities, local, State and federal governmental entities, subdivisions, or agencies or organizations or programs operated by such entities.
- vi. Category 6. Use by Private Groups for Courses. Sixth priority is for private entities offering occasional post-secondary courses, for credit, at an accredited program of post-secondary education, to residents and/or teachers/staff of the WCMUUSD and its member districts. In the event that such a use is otherwise approved, the duration of the course may be for a semester basis, so long as only a regular classroom is being used for the course.
- vii. Category 7. Other Occasional Uses. An "occasional use" of the facilities by an entity not described in previous categories, may be permitted by the School Board in its sole discretion, for an educational, charitable or community purpose, where such use would not otherwise conflict with School District-sponsored activities, and subject to specific terms and conditions consistent of this Agreement.

b. Specific Users. Subject to the terms and conditions herein and in addition to the uses of the Property allowed by an Easement Deed between the Parties of approximately even date herewith, the Parties agree that portions of the Property or facilities thereon may be used specifically by or for the following:

- i. Youth Groups. Meetings of Boy or Girl Scouts and related youth and community groups, including but not limited to Big Brothers/Big Sisters, Future Farmers of America, 4-H and Boys and Girls Clubs of America shall have access and use of the Prosper Valley School multipurpose room (a/k/a gymnasium) free of charge. These youth and community groups shall be responsible to set up for such meetings, to

deposit all trash, rubbish and refuse in appropriate containers or receptacles, and to clean-up and remove any items from the Prosper Valley School multipurpose room upon the conclusion of such meetings.

- ii. Thursday Night Volleyball. The "Thursday night volleyball" group shall have access and use of the Prosper Valley School multipurpose room (a/k/a gymnasium) free of charge. The Thursday night volleyball group shall be responsible to set up for its matches and games, to deposit all trash, rubbish and refuse in appropriate containers or receptacles, and to clean-up and remove any items from the Prosper Valley School multipurpose room upon the conclusion of such matches and games.
- iii. Other Meetings and Events. Non-Town-funded, -associated or -organized meetings and/or community-related events, including but not limited to vendor events benefitting local causes, may use the multipurpose room (a/k/a gymnasium) or auditorium at the Prosper Valley School upon at least thirty (30) day's advanced notice to, and with the advanced, written consent of, the School District or its designee, which consent shall not be unreasonably withheld, conditioned or delayed. The parties responsible for organizing said meetings and/or events shall be responsible to set up for its meetings and/or events, to deposit all trash, rubbish and refuse in appropriate containers or receptacles, and to clean-up and remove any items from the Prosper Valley School multipurpose room or auditorium upon the conclusion of such meetings and/or events.

All users agree to use school facilities appropriately, to oversee treatment of the facilities by those involved in the use, and to leave the facility in at least as good condition as it was in at the time they commenced their use, reasonable wear and tear excepted.

Where deemed appropriate or necessary, the Principal of Prosper Valley School or his/her designee may require that a user contract for custodial services; pay an extra maintenance fee; provide a monetary deposit prior to use; or take such other steps as may be necessary to assure that the School District does not incur any extra expense as a result of the use. A use may be canceled or terminated where these terms are not complied with

3. Supervision. The Town shall provide adequate personnel to supervise Town activities held on the Property, and the School District shall provide adequate personnel to supervise School District activities the Property. Each party shall

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prepare/set-up, supervise and clean-up facilities and fields used by that party after regular hours of operation. School District administrative, athletic and security staff will have authority to supervise student behavior during school or other School District-sponsored activities or functions on the Property during the school year.

4. **School District Policies.** The Town hereby agrees that all laws applicable to the School District and all School District policies shall apply to the Property and School District facilities, including but not limited to all federal, state, local laws, rules, regulations and policies of the School District, WCMUUSD and the Windsor Central Supervisory Union. Use of alcohol, tobacco, firearms, marijuana and illegal drugs on the Property or in School District facilities is specifically prohibited.

5. **Cooperation Required.** The Parties acknowledge that various documents and proposals may be created, shared and executed to enable continued shared use of the Property. As a result, the Parties shall cooperate to bring all pending matters between them regarding the Property to a close in a manner that will allow continued use of the Property as provided herein and in an Easement Deed of approximately even date herewith. This cooperation may include, but is not limited to, preparing, supporting and executing transactional and conveyance documents, joint or coordinated applications to the Town's zoning authorities or any other regulatory agency, all consistent with the terms of this Agreement.

In conjunction with the foregoing, representatives of the Parties will meet annually to review the terms of this Agreement. Either party may request changes in the Agreement. Proposed changes that are mutually agreed upon shall be incorporated by written amendment or addendum hereto signed by the Parties.

6. **Non-Discrimination.** The School District prohibits discrimination on the basis of unlawful criteria such as race, color, religion, national or ethnic origin, age, sex, sexual orientation, marital status, disability, or gender identity or expression, as those terms are defined under applicable law, in administering its educational policies, athletic programs, and other institutionally administered programs or activities made available to students. The Town agrees to adhere to and be bound by this non-discrimination policy.

7. **Insurance.** The Town agrees to provide liability insurance covering its respective activities on the Property in the amount of not less than \$1,000,000 per individual and \$1,000,000 per average occurrence for bodily injury and property damage. The School District shall provide property insurance coverage for the Property. Each party shall deliver to the other party certificates of the required insurance coverage upon demand by the other party, which certificates shall provide that no cancellation, reduction in amount or material change in coverage

shall be effective until at least thirty (30) days after receipt of written notice thereof by the other party.

8. **Non-endorsement Clause.** Use of the Property or School District facilities shall not constitute and shall not be considered an endorsement of said group or entity, or of its use or activity, policies, opinions, agendas, actions or beliefs. Any person or entity using the facility shall clearly state the identity of the presenting entity or individual, in all promotional materials, advertising, signs, and descriptions of the activity or event, and shall clearly state that the activity is NOT sponsored or endorsed by the School District, WCMUUSD or Windsor Central Supervisory Union.

9. **Indemnification.** The Town and the School District shall each agree to indemnify, defend and hold harmless the other party and its officers, board members, employees, agents, representatives, successors and assigns from any loss or liability which may result from claims of injury to persons or property from any cause arising out of or during the use and occupancy of the Property and School District facilities. In the event either party hereto has or receives actual or constructive notice of any claims to which the foregoing indemnification clause may apply, that party shall immediately notify the other party in writing that a claim to which this indemnification clause may apply has been filed or made.

10. **Dispute Resolution.** In the event a dispute arises as a result of the implementation of this Agreement, resolution shall be addressed by the Parties in the following sequential order with each having a thirty-day period to meet:

- a. The Selectboard Chair or its designee and the Principal of the Prosper Valley School.
- b. The Selectboard Chair or its designee, a Selectboard member or designee, the School District Superintendent and the School District Board Chair or its designee.
- c. The Town Selectboard and the School Board.

If the dispute cannot be settled through direct discussions between the above parties, the Parties shall endeavor to settle the dispute by mediation before a mutually agreed-upon mediator within ninety (90) days of the date of a writing from either party indicating that discussions between those identified in Section 10(c), above, have failed and before commencement of any binding dispute resolution procedures

11. **Other Dispute Resolution Processes.** If neither direct discussions nor mediation successfully resolve the dispute, the Parties agree that arbitration

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shall be used to resolve the dispute. Arbitration shall be in Windsor County, Vermont pursuant to the Rules of the American Arbitration Association, unless the Parties mutually agree otherwise. Within thirty (30) days of an unsuccessful mediation session described in Section 10, above, a written demand for arbitration shall be filed with the American Arbitration Association and the other party to the Agreement within a reasonable time after the dispute or claim has arisen, but in no event after the applicable statute of limitations for a legal or equitable proceeding has run. The arbitration award shall be final. Judgment upon the award may be confirmed in any court having jurisdiction.

12. **Costs of Dispute Resolution.** The Parties agree that they shall each bear their own costs, fees and expenses, including attorneys', experts' and witness' fees, incurred in connection with any dispute resolution proceedings. If a third-party mediator or arbitrator is retained in any dispute resolution proceeding, the Town and the School District shall share equally the costs of such third-party mediator or arbitrator.

13. **Assignment.** The Town may not assign its interest in this Agreement without the prior written consent of the School District, which shall not be unreasonably withheld, conditioned or delayed. The School District may only assign its interests hereunder to the WCMUUSD within the next year without the consent of the Town. Any other assignment by the School District or WCMUUSD shall require the Town's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

14. **Notices.** Any notice or other communication to be given hereunder shall be in writing and mailed, certified with return receipt requested, or e-mailed, or sent by facsimile, or sent by nationally recognized overnight courier (e.g., Federal Express) to such party at the address or number set forth below:

If to Town: Town of Pomfret
Attn: Selectboard Chair
5218 Pomfret Road
Pomfret, VT 05053
Telephone No. 802-457-3861
Email: frank.perron@pomfretvt.us

If to School District:

Prior to July 1, 2018: Pomfret Town School District
Attn: School Board Chair
1071 Pomfret Road
P.O. Box 130
South Pomfret, VT 05067

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Telephone No.: (802) 457-1234
Email: _____@_____

After July 1, 2018:

WCMUUSD
Attn: Superintendent
70 Amsden Way
Woodstock, VT 05091
Telephone No. 802-457-1213
Email: mbanios@wcsu.net

or to such other person, address or number as the party entitled to such notice or communication shall have specified by notice to the other party given in accordance with the provisions of this Section. Any such notice or other communication shall be deemed given: (i) if mailed by certified mail, return receipt requested, when deposited in the mail, properly addressed and with postage prepaid; (ii) if sent by facsimile, upon the sender's receipt of a confirmation report generated by the sending machine; (iii) if emailed, upon transmission unless the sender receives an automatically generated message indicating delivery failure or that the recipient is "out of office", or (iv) if sent by overnight courier service, next-day after sending.

15. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Vermont, without giving effect to such jurisdiction's principles of conflict of laws.

16. **No Waiver.** No failure to exercise, and no delay in exercising any right, power or remedy hereunder or under any document delivered pursuant hereto shall impair any right, power or remedy which the Parties hereto may have, nor shall any such delay be construed to be a waiver of any of such rights, powers or remedies, or an acquiescence in any breach or default under this Agreement, nor shall any waiver of any breach or default of any party hereunder be deemed a waiver of any default or breach subsequently occurring.

17. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

18. **Captions; Headings.** The captions and section numbers appearing in this Agreement are inserted only as a matter of convenience. They do not define, limit, construe or describe the scope or intent of such sections, nor in any way affect this Agreement or have any substantive effect.

19. **Joint Drafting.** The Parties expressly agree that this Agreement was jointly drafted, and that they both had opportunity to negotiate terms and to obtain assistance of counsel in reviewing terms prior to execution. This Agreement shall

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be construed neither against nor in favor of either party, but shall be construed in a neutral manner.

20. **Entire Agreement; Amendment.** This Agreement embodies the entire agreement and understanding between the Parties relating to the subject matter hereof and there are no covenants, promises, agreements, conditions or understandings, oral or written, except as herein set forth.

21. **Severability.** The provisions of this Agreement are severable. If any provision of this Agreement is deemed invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect and the Parties shall use their best efforts to construe and implement the Agreement in accordance with the intent expressed herein

22. **Recording.** The Parties hereto agree that any party may record this Agreement in the Town of Pomfret Land Records without further consent from the other Parties.

23. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

[End of Text. Signature Page Follows.]

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ACKNOWLEDGMENT OF ARBITRATION. This Agreement contains an agreement to arbitrate. After signing this document, the Parties understand that they will not be able to bring a lawsuit concerning any dispute that may arise which is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead, the Parties agree to submit any such dispute to an impartial arbitrator.

IN WITNESS WHEREOF, the Parties hereunto set their hands and seals as of the date set forth above.

TOWN OF POMFRET

Ethan Desjardins
Witness

By: Frank E. Perren Jr.
Frank E. Perren Jr., Selectboard Chair and
Duly Authorized Agent

STATE OF VERMONT
COUNTY OF WINDSOR, SS.

At Pomfret, Vermont, this 3rd day of JULY, 2018, personally appeared Frank E. Perren Jr., Selectboard Member and Duly Authorized Agent of the **TOWN OF POMFRET**, and he/she acknowledged this instrument, by him/her subscribed, to be his/her free act and deed and the free act and deed of the **TOWN OF POMFRET**.

Before me, [Signature]
Notary Public
My commission expires: 02/10/19

POMFRET TOWN SCHOOL DISTRICT

Linda Laporte
Witness

By: [Signature]
Patricia Kuzmickas, School Board Chair
and Duly Authorized Agent

STATE OF VERMONT
COUNTY OF WINDSOR, SS.

At ~~Pomfret~~ Woodstock, Vermont, this 28 day of June, 2018, personally appeared Patricia Kuzmickas, School Board Chair and Duly Authorized Agent of the **POMFRET TOWN SCHOOL DISTRICT**, and she acknowledged this instrument, by her subscribed, to be her free act and deed and the free act and deed of the **POMFRET TOWN SCHOOL DISTRICT**.

Before me, [Signature]
Notary Public
My commission expires: 02/10/19

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RECEIVED & RECORDED
WNDSCHN118-002 Final Prosper Valley School Use Agreement - Pomfret TSD and Pomfret 06-27-18 rea.docx
On JULY 6, 2018
At 7:45 A.M.
Book 80 Page 276-85
[Signature]
TOWN CLERK - POMFRET, VT

Town of Pomfret Selectboard
Draft Meeting Minutes
April 5, 2023

Present: John Peters, Benjamin Brickner, Steve Chamberlin, Meg Emmons, Emily Grube

Public: Jim Potter (Road Foreman), Tyler Billingsley (East Engineering), Hillary White, Phil Dechert, Doug Tuthill, Richard Dalton, Andy Mann, Andrew Oatway, Stephen Oatway, Jack Pearsons, John Moore (Planning Commission), Neil Lamson (Lister), Peter Raymond, William Eyd, Alan Graham (Deputy Tree Warden), Tom Gubbins, Jon Vass, Gennie Lawrence, Bill Emmons (Planning Commission)

1. John called the meeting to order at 7:00 pm.
2. Agenda Review – Ben pointed out Items 5a, 5b, and 5c may be discussed a second time after the Executive/Deliberative session later in the meeting.
3. Public Comment – Doug Tuthill reports localized beer bottle smashing on both Pomfret Road and Handy Road, which he has reported to the sheriff.
4. Road Foreman’s Report – Jim and the crew are repairing and grading roads; Mud Season has resolved relatively quickly. Sugarbush Farm Road requires pot hole repair, and needs ledge reduction and tree removal. Trucks are all doing well, check engine light warnings are resolved. The materials budget is holding up. Jim has met with the Brookfield generator installers and discussed burying cables, installing propane tanks, etc.
5. Items for Discussion or Vote
 - a. Sundstrom Driveway Permit Applications – A site visit for the right-of-way crossing and highway access permit applications preceded the meeting. Emily moved and Ben seconded that the right-of-way crossing permit application be approved as submitted. Unanimous. The highway access permit application will be discussed in Deliberative Session later in the meeting.
 - b. Eyd Estate Request to Remove Tree and Vegetation – The process to remove trees in the right-of-way is set forth in the Pomfret Tree Policy. Ben suggested for simplicity that the vegetation removal request proceed together in similar fashion. Jim will make a site visit, take measurements and consult abutting landowners as outlined in the policy, with the goal of reporting back to the Selectboard at the next meeting on April 19, at which time a hearing may also be held. Ben moved and Meg seconded the foregoing. Unanimous.
 - c. Bartlett Brook Road Right-of-Way (at Dinsmoor Road) Request – Andy Mann requested permission to reinstall reflectors along Bartlett Brook Road adjacent to his shared driveway. The other residents who share the driveway indicated their opposition to the request and stated that a land survey was in progress to definitively locate the driveway. The Selectboard declined to make a decision on Mr. Mann’s request^[*] and referred the parties to the Selectboard’s prior decision on the matter.[†]

* **Editor’s Note:** Mr. Mann subsequently withdrew his request by email to the Selectboard on April 9, 2023.

† In relevant part from the Selectboard’s November 9, 2022 special meeting minutes:

Dinsmore Road – Ben moved and John seconded that the driveway permit application by Dr. White be dismissed without consideration of the merits; that the application fee be refunded; that a new, joint submission by all three interested parties be encouraged instead; and that Jim Potter be asked to review and decide the new application as the Selectboard’s designee. Unanimous. Ben will relay the foregoing result to the interested parties.

- d. Runamuck 50K Race Event Permit Applications – Emily moved and John seconded approval of the Public Street Permit and Large Event Permit applications as submitted. Unanimous.
 - e. Municipal Highway Grant Application
 - i. Wild Apple Road Culvert – Tyler Billingsley from East Engineers presented initial plans along with the nearly complete Municipal Highway Grant Application for funding to replace the culvert on Wild Apple Road. Ben moved and Emily seconded that the application be completed and submitted by the deadline. Unanimous. John will copy Ellen and Tyler when submitting the application.
 - ii. Paving Grant – Jim will get specifics to John re: Library Street paving, and then Stage Road paving from the Barnard town line south. He also will get current prices from Pike for two miles of paving and the mile post information. Emily will prepare an RFP for paving contingent upon grant funding for the Selectboard to review at its next meeting on April 19.
 - f. Municipal Energy Resilience Grant – Meg has researched this opportunity. Hunter Ulf will meet with the Selectboard at a special meeting at 6:00 pm on April 19 (immediately before the Selectboard’s regular meeting at 7:00 pm) to consider town hall options, including solar installation. Meg also the grant can be used to fund an energy audit. She will attend a VLCT training session in this regard report back.
 - g. Special Town Meeting Warning – Emily moved and Steve seconded approval of a warning for a special town meeting to be held on Saturday, May 20, starting at 9:00 am in the Prosper Valley School Gymnasium for the purpose of deciding whether to adopt the Australian ballot for future town meetings. Unanimous. The warning will be posted around town on or after April 10 and published in the Vermont Standard in early May as required by state law.
 - h. Administrative Policy on Delinquent Tax Collection – Ben moved and Emily seconded adoption of the amended policy as presented. Unanimous.
 - i. Selectboard Record Storage and Sharing – John has granted administrative privileges for SharePoint/One Drive to all Selectboard members. He briefly demonstrated and explained the system. John will present an educational session in this regard at a date to be determined.
 - j. Renewal of TPVS Use Agreement – The current agreement expires in June but can be renewed for an additional 5 years. Ben will prepare a letter agreement extending the term for review at the Selectboard’s next meeting on April 19.
 - k. Public Communication from the Selectboard – The Selectboard discussed best practices for clear and consistent communication with the public and press via the listserv and newspaper.
 - l. Ben moved and Emily seconded approval for payment of the following warrants:

23097	\$12,501.18	Payroll
23098	2,160.48	A/P
23102	13,607.62	Payroll
23103	61,284.78	A/P

 Unanimous.
 - m. Approval of Minutes – Emily moved and Meg seconded approval of the March 15, 2023 meeting minutes. Unanimous.
6. Executive and Deliberative Session

- a. Ben moved and John seconded that the Selectboard enter into executive session pursuant to 1 V.S.A. 313(a)(1)(F) and (a)(3) to discuss confidential attorney-client communications and public officer evaluations and appointments, and a deliberative session pursuant to 1 V.S.A. 312(e) to discuss a quasi-judicial proceeding. Unanimous. The Selectboard entered executive session and a deliberative session at 9:51 pm.
 - b. The Selectboard exited executive session and a deliberative session at 11:01 pm, with no decisions having been made therein.
7. In Re: Silver Birch Properties, LLC Appeal – Ben moved and Emily seconded that Stitzel Page be authorized to file a response to the motion dismiss with prejudice. Unanimous.
8. Sundstrom Driveway Permit Applications (continued) – Ben moved and Emily seconded that the highway access permit application be approved on the conditions that (1) visual obstructions be removed to obtain the 200’ sight distance required by the Highway Ordinance and (2) the existing driveway be abandoned. Unanimous.
9. Public Officer Appointments – Ben moved and Emily seconded the following appointments, each for a one-year term expiring March 31, 2024 unless otherwise noted:
 - a. Emergency Management Director – Kevin Rice
 - b. Planning Commission – Doug Tuthill (2 years to finish a 3-year term expiring 2025)
 - c. Tree Warden (deputy) – Bruce Tuthill
 - d. TRORC Board of Directors (alternate) – Gennie Lawrence
 - e. TRORC Transportation Advisory Committee – Jon Harrington
 - f. Zoning Board of Adjustment – Susan Burgess (3-year term expiring 2026)
10. Meeting Wrap Up
 - a. Correspondence – None.
 - b. Review of Assignments – Ben will send the 2022 paving RFP file to Emily, prepare TPVS use agreement renewal; contact VLCT regarding appointments. Emily will prepare a paving RFP. John will speak with Jim regarding information needed to complete the two Municipal Highway Grant Applications.
 - c. Agenda for Next Meeting – Hunter Ulf (special meeting at 6:00 pm), paving RFP, TPVS use agreement renewal, Eydt cutting request, remaining officer appointments.
11. Adjournment – Emily moved and everyone else hastened to second that the meeting be adjourned. Unanimous. The meeting was adjourned at 11:08 pm.