

**Meeting of the Waterbury Select Board  
Monday March 20, 2023  
Steele Community Room, 28 North Main Street**

**Attendees:** M. Bard, A. Johnson, R. Clapp, K. Sweeney; Board; T. Leitz, Manager, K. Petrovic, Town Clerk

**Public Attendees:** C. Michael; L. Sayah; E. Walton; N. Anderson Downstreet Housing; L. Scagliotti Waterbury Roundabout; ORCA Media

**Attending by Zoom:** D. Kehlmann Board; Orca Media; A. Imhoff; B. King

The meeting was called to order by M. Bard at 7:00pm

**Approve Agenda**

**R. Clapp made a motion to approve the agenda which was seconded by A. Johnson. D. Kehlmann asked for an amendment to the agenda to talk about the next agenda. This was placed on the agenda before Executive Session. A vote was held to pass the amended agenda and passed unanimously.**

**Select Board Organization**

**M. Bard nominated R. Clapp as Chair of the Select Board for the ensuing year. D. Kehlmann seconded the nomination. Hearing no further nominations, R. Clapp was elected Chair of the Select Board for the ensuing year. R. Clapp thanked M. Bard for his previous year of service as Chair.**

**A Johnson nominated D. Kehlmann as Vice Chair of the Select Board for the ensuing year. R. Clapp seconded the nomination. Hearing no further nominations, D. Kehlmann was elected Vice Chair of the Select Board for the ensuing year. R. Clapp and M. Bard both acknowledged D. Kehlmann for her previous year of service as Vice Chair.**

**R. Clapp nominated A. Johnson as Secretary of the Select Board for the ensuing year. K. Sweeney seconded the nomination. Hearing no further nominations, A. Johnson was elected Secretary of the Select Board for the ensuing year. A. Johnson thanked K. Petrovic for her service to the Board as secretary and R. Clapp thanked Johnson for filling in whenever needed.**

M. Bard turned the meeting over to R. Clapp.

**Consent Agenda Items**

- a.) Minutes of February 27, 2023 Meeting
  - b.) 1st and 3rd class Liquor license and Outside Consumption Permit for Blush Hill Country Club; 2nd Class & Tobacco license Maplewood Convenience Store; 1st class Liquor License and Outside Consumption Permit for Black Back Pub LLC; 1st and 3rd class Liquor license and TWO Outside Consumption Permits for Shamrock Pub, Co (McGillicuddy's Irish Pub) 1st Class Liquor License and Outside Consumption Permit for Stowe Street Café LLC
- M. Bard moved to approve the Consent Agenda which was seconded by A. Johnson. A vote was held and passed unanimously.**

## **Public**

A. Imhoff had questions for the Board about Town Meeting. She wanted to know why the Pledge of Allegiance was not spoken, why the Community Band didn't perform and why the Keith Wallace award wasn't presented?

Pledge of Allegiance – this was an oversight with Petrovic apologized her. She was not aware of the tradition to remind the Moderator. A note has already been made for next year.

Community Band – the Town was not approached by the Band to play.

Keith Wallace Award – Details are in place for this.

## **Public Hearing for 51 South Main Street VCDP Grant Application**

N. Anderson from Downstreet Housing explained the pass-through grant to the Board. Construction costs for the project at 51 South Main are high, there are funds available but those must be requested by and received by the Town. The \$500,000 Grant will be used toward construction costs. **M. Bard made a motion to approve the Resolution for Vermont Community Development Program Grant Application Authority for Downstreet Housing. D. Kehlmann seconded the motion; a vote was held and passed unanimously.**

## **House Keeping Questions**

K. Petrovic spoke to the Board about the Payable Orders that require authorization each week.

M. Bard mentioned there is continuing Education from VLCT available to all Board members.

M. Bard discussion Inclusion Training for the Municipal Staff and Board.

## **Conflict of Interest & Rules of Procedure**

**A. Johnson made a motion to approve the Select Board Rules of Procedure & Conflict of Interest Policies for the ensuing year. The motion was seconded by M. Bard and passed unanimously.** Both policies will be displayed in the Steele Community Room on a cork board for all as well as available to the public on the Waterbury website.

## **Authorization to sign Warrants**

**M. Bard made a motion authorizing all five Select Board members to sign warrants while only requiring one signature to process payments. A. Johnson seconded the motion; a vote was held and passed unanimously.**

## **Newspaper of Record**

M. Bard made a motion to name the Time Argus as newspaper of record with Waterbury Roundabout as Alternative. D. Kehlmann seconded. M. Bard then withdrew his motion – discussion followed.

**M. Bard made a motion naming the Times Argus the paper of record. D. Kehlmann seconded, a vote was held and passed unanimously.** Board directed staff to also place all legal notices in the Waterbury Roundabout as well as the Times Argus.

## **Authority for Tax Anticipation Borrowing**

T. Leitz explained that tax anticipation borrowing is sometimes necessary prior to the first tax installment date in August. He would like the Board to grant authority to borrow in anticipation of taxes from EFUD. **A. Johnson made a motion to authorize the Town Treasurer and Municipal Manager to borrow funds, if necessary, in 2023 in anticipation of taxes, from EFUD, and to authorize the town to lend funds to EFUD in anticipation of water or sewer revenues, setting a rate for borrowing and lending at 3.5% per annum. The motion was seconded by K. Sweeney and passed unanimously.**

### **Tree Warden Appointment**

T. Leitz stated S. Lotspeich is the current Tree Warden but will be retiring at the end of this month. M Loschiavo has expressed an interest in being named as S. Lotspeich replacement. T. Leitz would like a member of the Public Works Dept. to be named as Deputy. A final decision will be made at the April 3, 2023 meeting.

### **Next Agenda**

D. Kehlmann wanted to review the parking lot and construct an agenda for the next meeting.

Town Meeting Day Minutes

Appoint Acting P&Z Director

Appoint to CVRPC

Presentation of Quarterly financials

List of all Special Events

Update on Roads and Paving

April 17<sup>th</sup> meeting

BCA Meeting at 6pm

### **Executive Session – Pending Litigation**

**A Johnson made a motion to find that premature general public knowledge regarding a legal matter would clearly place the town at a substantial disadvantage. D. Kehlmann seconded the motion; a vote was held and passed unanimously.**

**A Johnson moved to enter executive session to discuss confidential attorney-client communications made for the purpose of providing professional legal services to the body. M. Bard seconded the motion; a vote was held and passed unanimously.**

**The Board excused themselves from the Steele Room to the Main office at 8:30pm.**

**The Board exited Executive Session at 8:51pm having taken no action.**

There being no further business the meeting was adjourned at 8:52pm.

Next scheduled meeting of the Select Board: Monday April 3, 2023

RESOLUTION FOR VCDP GRANT APPLICATION AUTHORITY

Single Applicant

WHEREAS, the \_\_\_\_\_ of \_\_\_\_\_ (hereinafter "Applicant") is applying for a Grant under the Vermont Community Development Program; and  
WHEREAS, it is necessary that an application be made and agreements be entered into with the State of Vermont.  
Now, THEREFORE, BE IT RESOLVED as follows:

1. that Applicant possesses the legal authority as defined in the State Act [10 VSA §683(8)] to apply for the grant and to administer the program; and
2. that Applicant apply for a grant under the terms and conditions of said program and agree hereby to enter into Certifications and Assurances there of; and
3. the Applicant has a duly adopted and current Municipal Plan \_\_\_\_\_ (Date Adopted) and that the project is consistent with said plan; and
4. the Applicant has received documentation from the Regional Planning Commission that the project is consistent with the "Regional Plan; and
5. that \_\_\_\_\_ is hereby authorized to be Contact Person and as such to provide, on behalf of Applicant, all documents and information necessary for the completion of said application and to provide such coordination as may be necessary for said application; and
6. that (Name) \_\_\_\_\_ Title \_\_\_\_\_ who is either the Chief Executive Officer (CEO), as defined by 10 VSA §683(8), or is the Town Manager, the City Manager, or the Town Administrator, is hereby designated to serve as the Authorizing Official (AO) for the Grants Management On-line System, Intelligrants; and
7. that it is understood that, if the application is funded, the receipt of VCDP funds, as federal funds passed through the State of Vermont, may require that an audit of the Applicant be conducted under the provisions of the Single Audit Act, as amended, and that VCDP funds may be used to fund only a limited portion of the audit cost.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

LEGISLATIVE BODY

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

The above resolution is a true and correct copy of the resolution as adopted at a meeting of the Legislative Body held on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and duly filed in my office.

IN WITNESS WHEREOF, I hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Signature

**TOWN OF WATERBURY**  
**CONFLICT OF INTEREST POLICY**

[For adoption by legislative body as a policy; applies to all public officers and employees]

**Article 1. Authority.** Under the authority granted in 24 V.S.A. § 2291(20), the Waterbury Select Board hereby adopts the following policy concerning conflicts 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 public official of the municipality will gain a personal or financial advantage from their 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. **Conflict of interest** means any of the following:

1. A personal or financial interest of a public officer, their spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister-in-law, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the officer or before the public body in which they hold office or are employed. "Conflict of interest" does not arise in the case of votes or decisions on matters in which the public officer has a personal or financial interest in the outcome no greater than that of persons generally affected by the decision, such as adopting a bylaw or setting a tax rate.
2. A situation where a public officer has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding or otherwise displayed bias in connection with such a proceeding. This shall not apply to a member's particular political views or general opinion on a given issue; and
3. A situation where a public officer has not disclosed ex parte communications with a party in a quasi-judicial proceeding.
4. A situation where a disinterested third party, who is a member of the public, could reasonably perceive that a conflict of interest exists under Items A.1, A.2 or A.3, above, even in the absence of an actual conflict of interest thereunder (i.e., the appearance of a conflict of interest).

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

C. **Official act or action** means any legislative, administrative or quasi-judicial act performed by any elected or appointed officer while acting on behalf of the municipality.

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

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

F. **Public officer or public official** means a person elected, or appointed by the Selectboard, to perform executive, administrative, legislative or quasi-judicial functions for the municipality.

G. **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. Disqualification.**

- A. A public officer shall not participate in any official action if they have a conflict of interest (including the appearance of a conflict of interest) in the matter under consideration.
- B. A public officer shall not personally, or through any member of their 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 officer holds office or is employed.
- C. In the case of a public officer who is an appointee, the public body that appointed that public officer shall have the authority to order that officer to recuse themselves from acting in an official capacity in any matter in which the public body believes that the public officer has a conflict of interest or the appearance of a conflict of interest.
- D. Public officers shall not accept gifts or other offerings, valued in excess of \$25.00 for personal gain by virtue of their public office that are not available to the public in general.
- E. Public officers shall not use resources not available to the general public, including but not limited to town staff time, equipment, supplies, or facilities for private gain or personal purposes unless the aggregate value of the resources used shall be less than \$25 in a calendar year.

#### **Article 5. Disclosure.**

- A. A public officer who has reason to believe they have or may have a conflict of interest but believes they are able to act fairly, objectively and in the public interest in spite of the potential conflict of interest shall, prior to participating in any official action on the matter, disclose to the public at an opening meeting or public hearing involving the matter in which the conflict or potential conflict has arisen, the nature of the potential conflict of interest and why they believe they are able to act in the matter fairly, objectively and in the public interest despite the conflict or potential conflict.
- B. As a matter of best practice, any doubt regarding whether disclosure of a conflict or potential conflict should be disclosed shall be resolved in favor of disclosure.

#### **Article 6. Recusal.**

- A. A public officer shall recuse themselves from any matter in which they have a conflict of interest, pursuant to the following:
  - 1. Any person may request that a public officer recuse themselves due to a conflict of interest. Such request shall not constitute a requirement that the member recuse themselves, but upon receiving such request, the public officer shall state publicly, on the record, the facts relevant to the request and the reasons why recusal is or is not appropriate;
  - 2. A public officer who has recused themselves from a 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;
  - 3. If a previously unknown conflict is discovered during a quasi-judicial or other official proceeding, the public body involved may take evidence pertaining to the conflict and, if appropriate, adjourn to a short deliberative session to address the conflict; and
  - 4. 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 board. The board may then

resume the proceeding with sufficient members present, including any alternate who may be appointed to replace a recused member.

- B. In the case of a public officer who is an appointee, the public body that appointed that public officer shall have the authority to order that officer to recuse themselves from the matter, subject to applicable laws, ordinances, regulations and policies.

**Article 7. Enforcement; Progressive Consequences for Failure to Follow the Conflict of Interest Procedures.** In cases where the conflict of interest procedures in Articles 5 and 6 have not been followed, the Selectboard may take progressive action to discipline an offending public officer. In the discipline of a public officer, the Selectboard shall follow these steps in order:

- A. The Chair (or Vice-Chair, if the conflict or potential conflict involves the Chair) shall meet informally, in private, with the public officer to discuss possible conflict of interest violation(s).
- B. The Selectboard may meet to discuss the conduct of the public officer. Executive session may be used for such discussion, in accordance with 1 V.S.A. § 313(4). The public officer may request that this meeting occur in public. If appropriate, the Selectboard may admonish the offending public officer in private.
- C. If the Selectboard decides that further action is warranted, the Selectboard may admonish the offending public officer at an open meeting and reflect this action in the minutes of the meeting. The public officer shall be given a reasonable opportunity to respond to the admonishment.
- D. Upon majority vote, the Selectboard may request that the offending public officer resign their position. If the public officer fails or refuses to resign, the Selectboard may take such action as is authorized by statute, ordinance, regulation or policy to remove the public officer from office.
- E. In addition to any other remedies provided by law, the Selectboard may seek injunctive relief in superior court, which may include, but not be limited to, an order to negate any vote or other action taken by the officer in connection with any matter in which a conflict of interest exists.

**Article 8. Exception.** The recusal provisions of Article 6 shall not apply if the legislative body of the municipality determines that an emergency exists and that actions of the public body otherwise could not take place. In such cases, a public officer who has reason to believe they have a conflict of interest shall disclose such conflict as provided in Article 5 prior to taking official action.

**Article 9. Effective Date.** This policy shall become effective immediately upon its adoption by the Waterbury Select Board.

Conflict of Interest Policy approved at a Select Board meeting on March 21<sup>st</sup>, 2022.

## **TOWN OF WATERBURY SELECT BOARD RULES OF PROCEDURE**

- A. PURPOSE.** The Select Board of the Town of Waterbury is required by law to conduct its meetings in accordance with the Vermont Open Meeting Law. 1 V.S.A. §§ 310-314. Meetings of the Select Board of the Town of Waterbury must be open to the public at all times, except as provided in 1 V.S.A. § 313. At such meetings, the public must be afforded reasonable opportunity to give its opinion on matters considered by the Select Board so long as order is maintained. Such public comment is subject to the reasonable rules established by the chair of the Select Board. 1 V.S.A. § 312(h).
- B. APPLICATION.** This policy setting forth rules of procedure for Select Board meetings shall apply to all regular, special, and emergency meetings of the Town of Waterbury Select Board.
- C. PROCEDURES.**
1. The chair of the Select Board, or in the chair's absence, the vice-chair, shall chair all Select Board meetings. If both the chair and the vice-chair are absent, a member selected by the board shall chair the meeting.
  2. The chair shall rule on all questions of order or procedure and shall enforce these rules as required by 1 V.S.A. § 312(h).
  3. A majority of the members of the Select Board shall constitute a quorum. If a quorum of the members of the Select Board is not present at a meeting, the only action that may be considered by the Select Board is a motion to recess or adjourn the meeting.
  4. At the beginning of each Select Board meeting, there shall be 5 minutes afforded for open public comment. By majority vote, the Select Board may increase the time for open public comment and may adjust the agenda items and times accordingly.
  5. Each Select Board meeting shall have an agenda, with time allotted for each item of business to be considered by the Select Board. Those who wish to be added to the meeting agenda shall contact the Town Manager, Select Board chair, or Town Clerk to request inclusion on the agenda. The Select Board chair shall determine the final content of the agenda. Any addition to or deletion from the agenda shall be made as the first act of business at the meeting. The reason for the addition shall be reflected in the minutes. Any other adjustments to the agenda may be made at any time during the meeting. The public shall be given a reasonable opportunity to express its opinion on matters added to the agenda at the commencement of the meeting and considered by the public body during the meeting as long as order is maintained.
  6. All business shall be conducted in the same order as it appears on the agenda, except that by majority vote of the Select Board, the order of items to be considered and/or the time allotted may be modified.