

**TOWN OF SHELBURNE  
SELECTBOARD  
MINUTES  
February 22, 2022**

**\*Hybrid meeting held via teleconference and in-person.**

**MEMBERS PRESENT:** Mike Ashooh (Chair), Luce Hillman, Mary Kehoe, Cate Cross, Kate Lalley.

**ADMINISTRATION:** Lee Krohn, Town Manager; Peter Frankenburg, Finance Director; Adele Gravitz, Planning Director; Chris Robinson, Water Quality Superintendent; Brian Monaghan, Town Attorney.

**OTHERS PRESENT:** Members of the public participating in the meeting included Linda Riell, Gail Albert, Tom Zenaty, Rowland Davis, Maureen, Peggy Coutu, Shelley Crombach, Steve Brandon, Barbara Grant, Kevin O'Brien, Robilee Smith, Nancy Badami, Robert Millay, Donna Milley, Rick Poirier, Robert Bouchard, Sean Moran, Susan McLellan, Joplin Wistar, Jessica Brumsted, Steve Mayfield, Joyce George, Pete Seresky, Liam Murphy, Mary Feldman, Anne Bentley, Allyson Myers, Nancy LaValley, Ann Hogan, Media Factory.

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**1. CALL TO ORDER**

Chair Mike Ashooh called the hybrid in-person and teleconference meeting to order at 7 PM.

**2. APPROVE AGENDA**

**MOTION** by Cate Cross, **SECOND** by Kate Lalley, to approve the agenda as presented. **VOTING: unanimous (5-0); motion carried.**

**3. MINUTES**

*February 8, 2022*

**MOTION** by Cate Cross, **SECOND** by Mary Kehoe, to approve the minutes of 2/8/22 with correction of the spelling of "deliberate" in Item #8, 2<sup>nd</sup> paragraph. **VOTING: unanimous (5-0); motion carried.**

**4. PUBLIC COMMENT**

- There were public comments acknowledging the years of service to the town by Mary Kehoe.
- There was mention of the black unmarked police cruiser being back in the Police lot and question as to how to prevent employee use of Town property in the future. [Mike Ashooh said this will be considered as part of the update of the Town's personnel policy.]
- There were questions on the number of hires or losses in the Police Department and/or Dispatch, and the status of Jim Baker's investigation. [Lee Krohn said the

Town is working on hiring and had one departure in Dispatch and is down one additional Police Officer. Jim Baker has concluded his meetings with former and current employees. The Selectboard will be informed of the results of the investigation. It is not certain the report will be a public document.]

- There was a request that the Town consider adding return postage on absentee ballots that are ordered by senior citizens in town.
- There was inquiry as to when a community conversation will be held on use of ARPA funds. [Mike Ashooh said at the Selectboard retreat in the spring a committee will be tasked with discussion of how to move forward with ARPA funds.]
- Adele Gravitz announced the first Shelburne Walk/Bike Study Forum will be held on 3/9/22. The announcement will be posted on Front Porch Forum and other media.

## 5. SELECTBOARD COMMENTS

- The Selectboard thanked Mary Kehoe for her service on the Selectboard.
- Comments from people emphasizing the importance of transparency to the Town have been heard.
- Deliberations are ongoing with Chief Noble who has received the documents he requested.
- Thanks is extended to Shelburne Democrats and Republicans for hosting the very successful Candidates' Forum.
- Town Meeting is 2/28/22 at 7 PM via Zoom.

## 6. TOWN MANAGER REPORT/UPDATE

Lee Krohn reported:

- Shelburne Town Report is published and available online. Thanks to Nini Anger and Sue Craig for their work.
- Megan Nick, Shelburne resident, won a bronze medal in free style skiing at the Olympics. A celebration is planned upon her return home.
- A State right-of-way certificate was received for the Irish Hill bike path project which will go out to bid and hopefully begin construction this spring.
- Town Meeting is 2/28/22 via Zoom.

Mr. Krohn publicly apologized for his actions at the last meeting and committed to striving to do better in his service to the community in the future.

## 7. NAMING A STREAM

Students of Joplin Wistar explained their proposal to name a brook in Shelburne.

**MOTION by Kate Lalley, SECOND by Cate Cross, to name the stream as described "Bumblebee Brook". VOTING: unanimous (5-0); motion carried.**

## 8. RECOGNIZE MARY KEHOE

The Selectboard recognized Mary Kehoe's legal expertise, perspective, forthrightness, honesty, and generosity in stepping up and serving on the board and assisting with Police and Dispatch union negotiations.

**9. APPOINTMENT**

*CCRPC Alternate*

**MOTION by Kate Lalley, SECOND by Luce Hillman, to appoint Jeff Carr as the Shelburne alternate representative to the CCRPC filling a currently vacant position on the CCRPC board effective 3/1/22 and running to the end of that term on June 30, 2022. VOTING: unanimous (5-0); motion carried.**

**10. WATER DEPARTMENT GRANT APPLICATIONS**

**MOTION by Cate Cross, SECOND by Kate Lalley, to authorize the Water Department to apply for an Asset Management Loan (to upgrade the record keeping system) and a state Homeland Security grant (to upgrade security of the water tanks) as presented. VOTING: unanimous (5-0); motion carried.**

**11. STORMWATER UTILITY GRANT APPLICATION**

**MOTION by Kate Lalley, SECOND by Cate Cross, to authorize the Stormwater Utility to apply for a UPWP grant through CCRPC for stormwater planning as presented. VOTING: unanimous (5-0); motion carried.**

**12. REVISIT MASK MANDATE**

There was public comment against and in support of extending the mask mandate in town.

**MOTION by Mary Kehoe, SECOND by Cate Cross, to continue the present mask mandate in its current form for another 30 days. VOTING: unanimous (5-0); motion carried.**

**13. INTERIM ZONING DISCUSSION**

There was discussion of enacting interim zoning in the portion of the form-based code overlay by the Brandon/Crombach development on Shelburne Road. Public comment was received in support of interim zoning and allowing the Planning Commission to do a study re-evaluating the current zoning to avoid more dense development projects in single family neighborhoods like the Brandon/Crombach project which has four times greater density than in the village. The developer of the Brandon/Crombach project was asked to reconsider the project overall (scale, mass, density) for a development more in character with surrounding neighborhoods, phasing the development, or looking for another location that would be appropriate for the development. There was mention of discrepancies between the Town Plan and the Shelburne Road form based code overlay, and the requirement that zoning bylaws be in conformance with the Town Plan. There was also mention that the current Town Plan was enthusiastically supported by the sitting Selectboard at the time.

Town Attorney Monaghan explained the authority under 24VSA4415 to enact interim zoning and the process to be followed. With interim zoning the Selectboard would review development applications in the area under interim zoning. The issues before the Selectboard include acting on the petition that was submitted (if the electronic petition is valid) and acting on interim zoning.

Adele Gravitz clarified the Planning Commission is not conducting a study on form based code at this time, but is looking into holding a forum on zoning regulation reform including revisiting form based code with the Selectboard and DRB and perhaps a guest speaker.

Liam Murphy, attorney representing residents next to the Brandon/Crombach development, explained the change in the code being requested is that multi-family not be allowed in the form based code mixed residential character district.

There was mention of the neighbors negotiating with the developer to purchase the land or to restyle the project or for the Town to use open space funds to acquire the property for a park.

Concern was expressed about 'reverse' spot zoning or creating regulations for one parcel. It was noted Shelburne Road was always meant to have density with mixed retail and residential so people can walk or bike to places on Shelburne Road. It was mentioned that to reach the goals of the Town and conserve the character of Shelburne, some hard decisions on density will have to be made.

**MOTION by Mary Kehoe, SECOND by Kate Lalley, to enact interim bylaws for the Town of Shelburne in the limited case of the form base code mixed residential district based on the argument submitted which is that it was not intended that development in this area be four times more dense than in the village, and for that reason, interim bylaws should be allowed and the Planning Commission asked to correct the error.**

**DISCUSSION:**

- Lee Krohn pointed out a public hearing on interim zoning must be held before action can be taken. A public hearing could be warned at the earliest for the 3/22/22 meeting.
- Attorney Liam Murphy stated there can be a hearing when the Selectboard chooses to adopt interim zoning that eliminates multi-family housing and townhouses from the district.
- Town Attorney Monaghan said the statute requires 15 days warning.

**AMENDMENT by Mary Kehoe, SECOND by Kate Lalley, to consider a new bylaw after notice of hearing to be held 3/22/22, and to honor the request of Attorney Murphy to limit the allowable density of units in the mixed residential district.**

**DISCUSSION OF AMENDMENT:**

- There was explanation that the action being taken is to consider adopting interim zoning to reconsider density in the form based code residential overlay and warning a hearing for discussion on 3/22/22 then asking the Planning Commission to review form based code. The public hearing would be to consider enacting interim zoning; the Selectboard is not adopting interim zoning at this point in time.

- **Kate Lalley suggested the Planning Commission be asked to reform form based code comprehensively and submit an amended code to the Selectboard for adoption that can become the de facto zoning (unified code) and eliminate having two sets of zoning in the corridor.**
- **Cate Cross urged review of all the code including form based code to ensure alignment with the Town Plan and do this with stated timelines.**

Prior to a vote on the amended motion, Mary Kehoe withdrew the motion and made another amended motion to hold a hearing to consider reducing the density of the mixed residential district to be the same as the density permitted in the village (five units/acre). There was discussion of the matter being more complicated than just density including the size of the multi-family building that is acceptable and asking the Planning Commission to look at form based code and conventional zoning in Town and provide amendments by a certain deadline. The motion did not advance to a vote due to lack of a second.

**MOTION by Kate Lalley, SECOND by Mary Kehoe, to hold a public hearing on 3/22/22 to consider adopting an interim bylaw that would limit multi-family structures to two stories in the mixed residential character district in the form based code overlay district.**

**DISCUSSION:**

- **There was discussion of two-story versus three-story buildings. Kate Lalley explained a three-story building is a scale that does not integrate into the surrounding neighborhoods. Allowing just two-story multi-family buildings will address the concern about the character of the area being irreconcilably damaged.**
- **There was discussion of having the Planning Commission and DRB collaborate on review of the zoning to bring amendments to the Selectboard for consideration.**
- **Ann Hogan, resident, pointed out the form based code chart shows permitted, conditional, and unpermitted building types so the Selectboard could adopt an interim bylaw for review at the 3/22/22 hearing of permitted building types in the form based code overlay mixed residential character district.**
- **Attorney Murphy stated to enact interim zoning there must be a proposal to amend, not to do a study to amend.**
- **Robilee Smith, resident, suggested changing multi-family to a conditional use with DRB review. [Lee Krohn pointed out introducing conditional use into a form based code may undermine a typical premise of form based code; in its purer form, form based code is often administrative review and approval if all criteria are met.]**

**VOTING (by rollcall): Mary Kehoe – aye, Luce Hillman - nay, Cate Cross – nay, Kate Lalley – aye, Mike Ashooh – aye (3 ayes, 2 nays); motion carried.**

**14. TOWN MEETING PREPARATION**

Lee Krohn reviewed the warning and said department heads will be available at Town Meeting (Zoom) to explain the ballot items. Media Factory will broadcast the meeting. There will be a large screen to display information and presentation of key elements.

**15. EXECUTIVE SESSION: Personnel**

**MOTION by Mary Kehoe, SECOND by Kate Lalley, pursuant to 1VSA313 to enter Executive Session to consider the appointment or employment or evaluation of a public officer or employee and invite the Town Manager to participate as may be appropriate. VOTING: unanimous (5-0); motion carried.**

Executive Session convened at 10:21 PM. At the conclusion of Executive Session, the regular meeting resumed.

**16. POLICE and DISPATCH UNION CONTRACT**

No action.

**17. LIQUOR LICENSE RENEWALS**

**MOTION by Luce Hillman, SECOND by Kate Lalley, to suspend the regular meeting and convene the Shelburne Liquor Control Commission. VOTING: unanimous (5-0); motion carried.**

**MOTION by Luce Hillman, SECOND by Cate Cross, to approve the 2022 liquor licenses for Shelburne businesses as listed in the document prepared by the Town Clerk. VOTING: unanimous (5-0); motion carried.**

**MOTION by Luce Hillman, SECOND by Kate Lalley, to conclude the meeting of the Shelburne Liquor Control Commission and resume the regular Selectboard meeting. VOTING: unanimous (5-0); motion carried.**

**18. ADJOURNMENT**

**MOTION by Kate Lalley, SECOND by Cate Cross, to adjourn the meeting. VOTING: unanimous (5-0); motion carried.**

The meeting was adjourned at 10:25 P.M.

*RScty by tape: MERiordan*

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For the Selectboard

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Date