

Wilmington Selectboard Agenda
March 10, 2020 at 6:00 pm

1. Re-Organization
 - *Elect Chairperson, Vice Chairperson, Clerk*
 - *Other Actions and Appointments*
(ex-officio assignments, Selectboard schedule, official newspaper, Conflicts of Interest Policy, and Rules of Procedure.)
2. Visitors, Public Comments, Possible Changes to the Agenda
3. Approve Minutes of February 18 and March 2, 2020 (5 minutes)
4. Road Sign
 - *The Selectboard to discuss and possibly approve a road sign requested by the Town of Marlboro.*
5. Action Items (5 minutes)
 - *Roads to be posted for spring 2020 (to be filed with the Selectboard for spring postings).*
 - *The Selectboard to approve a gift to the Police Department.*
 - *The Selectboard to possibly approve the Certificate of No Appeal for the 2018 Grand List.*
 - *The Selectboard to possibly approve the annual highway financial plan.*
6. Appointments (10 minutes)
 - *Actions and Appointments: The Selectboard to re-appoint incumbent volunteers to town boards, commissions, and committees.*
 - *The Selectboard to possibly appoint Christine Richter as Town Treasurer.*
 - *The Selectboard to accept the resignation of Wendy Manners-Seaman from the DRB.*
 - *The Selectboard to accept the resignation of Denise Childs from the Old Home Week Committee.*
7. Town Clerk Position
 - *Review posting and job description*
 - *Interview questions and process*
8. Liquor Commission (5 minutes)
 - *The Liquor Commission to possibly approve a First and Third Class License Renewal for Jim's Bistro at the Roadhouse Inc at 4 Old Ark Rd; a First and Third Class License and Outside Consumption Renewal for Wilmington Village Pub Inc at 7 South Main St; a Second Class License Renewal for Walgreen Eastern Co Inc dba Walgreens #17379 at 107 East Main St.*
9. Other Business
10. Select Board Members Comments
11. Town Manager's Updates (10 minutes)

Jessica DeFrancesco

From: Wendy Manners-seaman <wendymvt1@aol.com>
Sent: Saturday, February 22, 2020 9:15 PM
To: Scott Tucker
Cc: Jessica DeFrancesco
Subject: DRB

Scott, as you've known for some time, my time with the DRB was approaching it's end. When I accepted reappointment it was with the stipulation that I would not be able to complete the term, but would continue as long as my personal situation allowed.

In consideration of the demands of designing and GC'ing the build of our new home, I have decided that now is the time. Planning is well underway and soon I will be ramping up to move forward with Permitting and breaking ground in the Spring.

Consistent with the urgency of my personal needs is the timing of Town Meeting. In that the DRB will have to reorg anyway, I am tendering my resignation effective just before Town Meeting. I am not sure if that is technically March 2 or 3rd. Whichever works best for that purpose.

Thank you for notifying the Selectboard of my need to execute on my intended resignation. It's time. Thank them for their collaboration and support during my years of service.
Wendy

Jessica DeFrancesco

From: Denise Childs <dlchilds@outlook.com>
Sent: Tuesday, February 18, 2020 7:50 PM
To: Scott Tucker; Jessica DeFrancesco
Subject: OHW Committee

February 18, 2020

I am writing this email to inform you that for personal reasons I am resigning from Old Home Week Committee. At this time I am unable to commit in a way that would be beneficial to both the committee and its cause.

Thank you for giving me the opportunity to serve on the committee.

Best,

Denise Childs
dlchilds@outlook.com

Sent from Windows Mail

Jessica DeFrancesco

From: Scott Tucker
Sent: Friday, February 21, 2020 9:20 AM
To: Jessica DeFrancesco
Subject: Fwd: donation

Please place this request below from Chief Murano on the Sb agenda. Thanks

Sent from my iPhone from Scott A. Tucker

Begin forwarded message:

From: "Murano, Matthew" <Matthew.Murano@vermont.gov>
Date: February 21, 2020 at 8:44:56 AM EST
To: Scott Tucker <stucker@wilmingtonvt.us>
Subject: donation

Scott,

We helped some people get their disabled snowmobile off the trail and loaded on a trailer while on snowmobile patrol the other day. They mailed in a letter of thanks and a check for \$100.

If approved I would use it in our community awareness budget.

thanks

Matthew Murano

Chief Matthew Murano
Wilmington Police Department
2 East Main St Wilmington, VT 05363
1-802-464-8593
1-802-464-8595 (fax)

TOWN OF MARLBORO

OFFICE OF SELECT BOARD

PO Box 518, Marlboro, VT 05344
marlboroselectboard@gmail.com

Wilmington Selectboard
PO Box 217
Wilmington, VT 05363

2/13/20

Dear Wilmington Selectboard Members:

The Town of Marlboro would like to request permission to install a road sign on the Wilmington side of Higley Hill Road that states: "Rough Dirt Road Ahead/Proceed With Caution" We understand that the Town of Marlboro would be responsible for installation, maintenance, and replacement of these signs, as necessary. If agreeable, we will direct David Elliott, Road Foreman, to communicate with you about placement of the sign.

Thank you,

The Marlboro Select Board
Tyler Gibbons, Chair
Jesse Kreitzer, Vice Chair
Julia von Ranson, Member

A handwritten signature in black ink, appearing to read "Tyler Gibbons", written over the printed name of the chair of the Marlboro Select Board.

Certificate—No Appeal or Suit Pending

We hereby certify that on this date there are not any appeals pending from action of the Listers nor suits pending to recover taxes paid under protest relating to the April 1, 2018 grand list of WILMINGTON, Vermont.

Given under our hands at WILMINGTON in the County of Windham, State of Vermont, this 4TH day of MARCH, 2020.

Listers

Selectboard

<u>George B. Opler</u>	<u>_____</u>
<u>Leonard R Chapman</u>	<u>_____</u>
<u>Diane Schepke</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>

Attested this _____ day of _____, _____.

_____ Town Clerk

§4155. Certificate and attestation—No appeal or suit pending

When no statutory appeal as provided by law from the appraisal of the listers and no suit to recover taxes paid under protest is pending on the first Tuesday of February following such lodgment, the selectboard and listers of a town or the mayor and assessors of a city shall endorse a certificate to that effect upon the grand list and the same shall be attested by the town or city clerk with the date of such attestation.

§ 4156. After appeal and suit determined

When any such appeal or suit is then pending, such certificate shall be made as soon as such appeal or suit has been finally determined.

§ 4157. Effect of such certificate

From the date of endorsing such certificate upon the grand list as aforesaid to the effect that no such appeal or suit is pending, when offered in evidence in any court in this state, such list shall be received as a legal grand list of such town or city and its validity shall not be put in issue by any party to any action in any hearing or trial in any court.

ANNUAL FINANCIAL PLAN - TOWN HIGHWAYS

TA-60

19 V.S.A. § 306(j)

(page 2)

We, the Legislative Body of the Municipality of Wilmington certify that funds raised by municipal taxes are equivalent to or greater than a sum of at least **\$300.00** per mile for each mile of Class 1, 2, and 3 Town Highway in the municipality. (19 V.S.A. 307)

_____ Date: _____

(Duly Authorized Representatives)

The submitted Town Plan meets the requirements of Title 19, Section 306(j).

_____ Date: _____

District Transportation Administrator

ANNUAL FINANCIAL PLAN - TOWN HIGHWAYS
19 V.S.A. § 306(j)

TA-60

Town of Wilmington Fiscal Year 2021 Begin 7/1/2020 End 6/30/2021

INCOME

DESCRIPTION	ESTIMATED
State Funds - 19 V.S.A. Section 306(a):	
Class 1 0.000	\$ 0.00
Class 2 13.340	\$ 56,546.34
Class 3 54.020	\$ 85,051.83
Town Tax Funds – 19 V.S.A. Section 307	\$ 1,551,853.83
Special Funds (e.g., bonds or earmarks):	
a. Surplus	\$ 20,000.00
b. Permits, Interest	\$ 500.00
c. Miscellaneous	\$ 250.00
TOTAL	\$ 1,714,202.00

EXPENSES

DESCRIPTION	ESTIMATED
Winter Maintenance	\$ 655,132.92
Non-Winter Maintenance	\$ 769,069.08
Major Construction Projects	
a. Resurfacing	\$ 290,000.00
b.	\$
c.	\$
TOTAL	\$ 1,714,202.00

Comments:

This form shall be signed by the appropriate town officials and forwarded to the District Transportation Administrator.

TOWN OF WILMINGTON ROADS TO BE POSTED SPRING 2020

Road Name (Town Highway #)	
BALLOU HILL ROAD (TH 26):	FROM ROUTE 9 TO LAKE RAPONDA RD.
BOYD HILL ROAD (TH 34):	FROM CASTLE HILL RD TO RT 100 SOUTH FROM RT 100 SOUTH TO CASTLE HILL RD
CASTLE HILL ROAD (TH 33 S):	FROM END OF PAVED PORTION TO END OF RD
CHIMNEY HILL ROADS:	FROM RT 9 TO ALL CHIMNEY HILL RDS.
FAIRVIEW AVENUE (TH 32):	FROM END OF PAVED PORTION TO END OF RD
LAKE RAPONDA ROAD (TH 4):	FROM RT 9 TO HIGLEY HILL RD. FROM HIGLEY HILL RD. TO RT 9
LOOK ROAD (TH 6):	ALL
NEW ENGLAND POWER RD (TH 31):	ALL
OLD ARK ROAD (TH 14):	ALL
OLD STAGE ROAD (TH 25N):	ALL
SHEARER HILL ROAD (TH 40):	FROM RT 9 TO WHITINGHAM & MARLBORO TOWN LINES FROM MARLBORO TOWN LINE TO RT 9 FROM WHITINGHAM TOWN LINE TO RT 9
SMITH ROAD (TH 15):,OLD TOWN ROAD (TH 75):, HAYNES ROAD (TH 17):	FROM EAST DOVER RD. TO HIGLEY HILL RD. FROM HIGLEY HILL RD. TO EAST DOVER RD.
SUN AND SKI ROAD (TH 68-67): AND HALL ROAD (TH 27):	ALL
WEST LAKE ROAD (TH 71):	ALL
WHITE'S ROAD (TH 23):	FROM RT 9 TO STOWE HILL RD. FROM STOWE HILL RD. TO RT 9
WOFFENDEN ROAD (TH 24):	ALL
WOODS ROAD (TH 30):	ALL

In accordance with Title 19, Vermont Statutes Annotated, Sections 1109-1110, and the rule made and promulgated by the State Transportation Board and administered by the Agency of Transportation, in accordance with Section 12 of Act No. 246 of 1990, the attached Road Posting notice was filed with the Wilmington Selectboard on March 10, 2020 and posted on March 11, 2020 at: Town Office Bulletin Board, Police Department, C & S Beverage and Dairy Store.

Attest: _____
Jessica DeFrancesco, Administrative Assistant

**cc: Wilmington Police Department
 Sheldon Brassor, Highway Superintendent**

Policy Regarding Conflicts of Interest and Ethical Conduct
For the Town of Wilmington
March 10, 2020

Article 1. Authority. Under the authority granted in 24 V.S.A. § 2291(20), the Town of Wilmington hereby adopts the following policy concerning conflicts of interest and ethical conduct.

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 officer of the municipality will gain a personal or financial advantage from his or her work for the municipality and so that the public trust in its officers will be preserved. It is also the intent of this policy to ensure that all decisions made by public officers are based on the best interests of the municipality.

Article 3. Application. This policy applies to all individuals elected or statutorily-appointed to perform executive, administrative, legislative, or quasi-judicial functions of the Town of Wilmington.

Article 4. Definitions. For the purposes of this policy, the following definitions shall apply:

A. **Conflict of interest** means any of the following:

1. A real or seeming incompatibility between a public officer's private interests and his or her public or fiduciary interests to the municipality he or she serves. A conflict of interest arises when there is a direct or indirect personal or financial interest of a public officer or a person or group closely tied with the officer including his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother- or sister-in-law, business associate, or employer or employee in the outcome of an official act or action, or any other matter pending before the officer or before the public body in which the public officer holds office. A conflict of interest may take any of the four following forms:
 - a. A direct financial conflict of interest arises when a public officer acts on a matter that has a direct financial impact on that officer.
 - b. An indirect financial conflict of interest arises when a public officer acts on a matter that has a financial impact on a person or group closely tied to the officer.
 - c. A direct personal conflict of interest arises when a public officer acts on a matter that has a direct impact on the officer in a non-financial way but is of significant importance to the officer.
 - d. An indirect personal conflict of interest arises when a public officer acts on a matter in which the officer's judgment may be affected because of a familial or personal relationship or membership in some organization and a desire to help that person or organization further its own interests.
2. A situation where a public officer has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding. This shall not apply to a member's particular political views or general opinion on a given issue.
3. A situation where a public officer has not disclosed ex parte communication(s) related to a quasi-judicial proceeding that is before the body to which that officer belongs.

A "conflict of interest" does not arise in the case of an official act or action in which the public officer has a personal or financial interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of other persons generally affected by the decision.

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

- C. **Ex Parte Communication** means direct or indirect communication between a member of a public body and any party, party's representative, party's counsel or any person interested in the outcome of a quasi-judicial proceeding, that occurs outside the proceeding and concerns the substance or merits of the proceeding.
- D. **Official act or action** means any legislative, administrative or quasi-judicial act performed by any public officer while acting on behalf of the municipality. This term does not apply to ministerial acts or actions wherein no discretionary judgment is exercised.
- E. **Public body** means any board, council, commission, or committee of the municipality.
- F. **Public interest** means an interest of the municipality, conferred generally upon all residents of the municipality.
- G. **Public officer** means a person elected or statutorily-appointed to perform executive, administrative, legislative, or quasi-judicial functions for the municipality. This term does not include municipal employees.
- H. **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, and which results in a written decision, the result of which is appealable by a party to a higher authority.

Article 5. Prohibited Conduct.

- A. A public officer shall not participate in any official act or action if he or she has a conflict of interest, whether real or perceived, in the matter under consideration.
- B. A public officer shall not personally – or through any member of his or her household, business associate, employer or employee – represent, appear for, or negotiate in a private capacity on behalf of any person or organization that has an interest in an official act or action pending before the public body in which the public officer holds office.
- C. A public officer shall not accept gifts or other offerings for personal gain by virtue of his or her public office that are not available to the public in general.
- D. A public officer will not request or accept any reward, gift, or favor for taking an official act or action or advocating for or against an official act or action.
- E. A public officer shall not use resources unavailable to the general public – including but not limited to municipal staff time, equipment, supplies, or facilities – for private gain or personal purposes.
- F. A public officer who is a member of a public body shall not give the impression that he or she has the authority to make decisions or take actions on behalf of that body.

Article 6. Disclosure. A public officer who, while serving on a public body, may have a conflict of interest, whether real or perceived, in a matter under consideration by that public body shall, prior to taking an official act or action or participating in any official act or action on the matter, publicly disclose at a public meeting or public hearing that he or she has an actual or perceived conflict of interest in the matter under consideration and disclose the nature of the actual or perceived conflict of interest. Alternatively, a public officer may request that

another public officer recuse him or herself from a matter due to a conflict of interest, whether real or perceived.¹

Article 7. Consideration of Recusal. Once there has been a disclosure of an actual or perceived conflict of interest, other public officers shall be afforded an opportunity to ask questions or make comments about the situation. If a previously unknown conflict is discovered during a meeting or hearing conducted by a public body of the municipality, the public body shall take evidence pertaining to the conflict and, if appropriate, adjourn to an executive session to address the conflict.

Article 8. Recusal.

A. **Recusal of Appointed and Elected Officers.** After taking the actions listed in Articles 6 and 7, a public officer, whether appointed or elected, shall declare whether he or she will recuse him or herself and explain the basis for that decision. If the public officer has an actual or perceived conflict of interest but believes that he or she is able to act fairly, objectively, and in the public interest, in spite of the conflict, he or she shall state why he or she believes that he or she is able to act in the matter fairly, objectively, and in the public interest.² Otherwise, the public officer shall recuse him or herself from the matter under consideration. A public officer that recuses him or herself may, but not must, explain the basis for that decision.

B. **Recusal of Appointed Officers.** The failure of an appointed public officer to recuse himself or herself in spite of a conflict of interest, whether real or perceived, may be grounds for discipline or removal from office.³

Article 9. Recording. The minutes of the meeting or the written decision / minutes from the meeting / hearing shall document the actions taken in Articles 6 through 8.

Article 10. Post-Recusal Procedure.

A. A public officer who has recused himself or herself from participating in an official act or action by a public body shall not sit with the public body, deliberate with the public body, or participate in the discussions about that official act or action in any manner in his or her capacity as a public officer, though such member may still participate as a member of the public or private party, if applicable.

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

¹ Such request shall not be considered an order for the officer to recuse him or herself.

² Each member of an elected public body is independently elected and answers only to the voters. Therefore, unless there is a local ordinance or charter provision that states otherwise, the remaining members of the body may not force recusal. They may only express their opinion about the subject and/or privately or publicly admonish a fellow member who fails to handle conflicts appropriately.

³ Certain appointed public officers such as a Zoning Administrator and members of the Zoning Board of Adjustment or Development Review Board may only be removed for cause and after being afforded with procedural due process protections including notice and a reasonable opportunity to be heard.

Article 11. Enforcement.

A. Enforcement Against Elected Officers; Consequences for Failure to Follow the Conflict of Interest Procedures. In cases in which an elected public officer has engaged in any of the prohibited conduct listed in Article 5, or has not followed the conflict of interest procedures in Articles 6 through 10, the Town of Wilmington Selectboard may, in its discretion, take any of the following disciplinary actions against such elected officer as it deems appropriate:

1. The chair of the Selectboard may meet informally with the public officer to discuss the possible conflict of interest violation. This shall not take place in situations where the chair and the public officer together constitute a quorum of a public body.
2. 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(a)(4). The public officer may request that this meeting occur in public. If appropriate, the Selectboard may admonish the offending public officer in private.
3. 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 the opportunity to respond to the admonishment.
4. Upon majority vote in an open meeting, the Selectboard may request (but not order) that the offending public officer resign from his or her office.

B. Enforcement Against Appointed Officers. The Selectboard may choose to follow any of the steps articulated in Article 11A. In addition to or in lieu of any of those steps, the Selectboard may choose to remove an appointed officer from office, subject to state law.

Article 12. Exception. The recusal provisions of Article 8 shall not apply if the Selectboard determines that an emergency exists or that actions of a quasi-judicial public body otherwise could not take place. In such a case, a public officer who has reason to believe he or she has a conflict of interest shall only be required to disclose such conflict as provided in Article 6.

Article 13. Effective Date. This policy shall become effective immediately upon its adoption by the Town of Wilmington Selectboard.

Signatures:

Thomas Fitzgerald

Sarah Fisher

John Gannon

Mark O'Maley

Vince Rice

Date: March 10, 2020

WILMINGTON SELECTBOARD RULES OF PROCEDURE

- A. PURPOSE.** The selectboard of the Town of Wilmington 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 selectboard of the Town of Wilmington 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 Selectboard so long as order is maintained. Such public comment is subject to the reasonable rules established by the chair of the Selectboard; 1 V.S.A. § 312(h). All attendees, Selectboard and the public, are expected to exhibit courteous and respectful behavior.
- B. APPLICATION.** This policy setting forth rules of procedure for selectboard meetings shall apply to all regular, special, and emergency meetings of the Town of Wilmington selectboard except as noted below.
- C. PROCEDURES.**
1. The chair of the selectboard, or in the chair's absence, the vice-chair, shall chair all selectboard 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 selectboard shall constitute a quorum. If a quorum of the members of the selectboard is not present at a meeting, the only action that may be considered by the selectboard is a motion to recess or adjourn the meeting.
 4. At the beginning of each regular selectboard meeting, there shall be time afforded for open public comment on any issue. By majority vote, the selectboard may adjust the agenda items and times accordingly.
 5. Public comment on agenda items, if not offered during the open public comment period, may be offered during the meeting with the permission of the chair.
 6. Each selectboard meeting shall have an agenda, with time allotted for each item of business to be considered by the selectboard. Those who wish to be added to the meeting agenda shall contact the town manager by 12:00 pm on the Friday preceding a meeting to request inclusion on the agenda. If the town manager disagrees with a request to add an item, the Selectboard chair will make the final determination. No matters shall be discussed and decided by the Board other than as they may appear on the agenda with the exception of emergency or routine business.
 7. All business shall be conducted in the same order as it appears on the agenda, except that by majority vote of the selectboard, the order of items to be considered and/or the time allotted may be modified.
 8. The chair of the selectboard may make motions and may vote on all questions before the board.
 9. There is no limit to the number of times a selectboard member can speak to a question. A member may speak or make a motion without being recognized by the chair. Motions to close or limit debate will not be entertained.
 10. Any selectboard member may request a roll call vote.
 11. Meetings may be recessed to a time and place certain.
 12. These rules shall be made available at all meetings.
 13. Selectboard members will meet the requirements of its "Conflict of Interest Policy"
 14. These rules may be amended by majority vote of the selectboard, and must be readopted annually at the organizational meeting.

READOPTED 03/10/20 by WILMINGTON SELECTBOARD

Thomas Fitzgerald

John Gannon

Vince Rice

Sarah Fisher

Mark O'Maley