

1 **TOWN OF CHESTER**  
2 **PLANNING COMMISSION**  
3 **August 1, 2022, Draft Minutes**

4 **Commission Members Present:** Peter Hudkins, Cathy Hasbrouck, Barre Pinske, Tim Roper, and  
5 Hugh Quinn at Town Hall.

6 **Staff Present:** Preston Bristow, Zoning Administrator/Town Planner, at Town Hall; and Susan  
7 Bailey, Recording Secretary, via Zoom.

8 **Citizens Present:** Bill Lindsay, Steve Mancuso, Ian Montgomery, Polly Montgomery, Kathy  
9 Giurtino, Pat Budnick, Lee Gustafson, Cara Philbin, Scott Wunderle at Town Hall; Edward  
10 Grossman and Chester Telegraph via Zoom.

11 **Call to Order**

12 Chair Hugh Quinn called the meeting to order at 6:29 p.m.

13  
14 **Decisions Made:**

- 15 • The PC voted to send the Legacy Use and Adaptive use bylaw amendment to the Select  
16 Board  
17 • The PC agreed to a special meeting to be held on 8/22 to finalize the draft Short Term  
18 Rental ordinance.

19 **Action Items:**

- 20 • None.  
21

22 **Agenda Item 1, Add or Delete Items on the Agenda, if necessary.**

23  
24 Peter suggested asking how many were in attendance for the short-term rental. Hugh took a poll,  
25 and they discussed moving Item 7 after Item 4. Tim moved to move Item 7 after Item 4, and Cathy  
26 seconded it. A vote was taken, and it was unanimous approved.

27  
28 Holly Montgomery asked the board to introduce themselves and they did.  
29

30 **Agenda Item 2, Review and Approve Minutes from July 5, 2022, meeting**

31  
32 Tim moved to review and approve the July 5, 2022, meeting minutes and Cathy seconded the  
33 motion. Hugh asked if there were any comments or feedback on the minutes and there were no  
34 changes. Hugh had two action items he was delinquent on. One was to reach out to Jason  
35 Rasmussen to get some feedback on the website for the project and the other one was to put out  
36 some information about the climate action and he would follow up on them. It didn't represent any  
37 real changes to the minutes. A vote was taken, the motion carried, and the minutes were approved.  
38

39 **Agenda Item 3, Citizens Comments**

40  
41 Hugh asked for comments for items not on the agenda.  
42

1 Steve Mancuso said planning commissions don't normally make headlines and a lot of towns don't  
2 even realize they exist, but Chester's is the closest thing they have to local celebrities. Steve said  
3 the last time he was there he was waiving around a newspaper because it was the second time in a  
4 year that they made headlines. He wanted to make a point of how they got here. He said the history  
5 went back 8 to 10 years when they had protestors who didn't like the formula businesses in Chester  
6 and went all the way to the State and cost Chester \$20,000 in legal fees only to be told the State  
7 isn't going to make special rules for Chester. They turned around and infiltrated the boards and  
8 made special rules for Chester. That was why the commission made headlines last year because  
9 the bylaws metastasized into 300 pages, which isn't normal for Chester's size. It made it hard to  
10 do business in Chester or for any prospects to come to town. Many who lived under the bylaws  
11 became non-conforming and it was realized they needed to be changed. That was why they were  
12 in the hotseat now. They were educated by Jason Rasmussen that the bylaws they are going to  
13 rewrite fall back onto the town plan, as well as the guiding principles. He thought they were  
14 interesting. He applauded the commission for their efforts for the 6-point business friendly plan,  
15 making The Green easier to do business with and legacy and adaptive. They were all great  
16 instruments, but they wouldn't be needed if the 2014 cycle hadn't assumed the weight it did. Steve  
17 added that there had been a change in the zoning philosophy by the ACCD over the past couple of  
18 years with the realization that towns can't realistically have more densely developed village centers  
19 and mainly undeveloped rural areas without allowing for more dwelling units and uses per acre.  
20 He thought the same thing applied to businesses. If you're going to sequester business down to  
21 one mile of roadways and thwart it on the other 90, they won't attract businesses. They need to  
22 provide opportunity for it to happen if they want it to grow which is better than negative growth.  
23 The other point made last July was the subcommittee has taken the approach outlined in Enabling  
24 Better Businesses document. Steve had tried to digest it. He said it favored taking the best ideas  
25 from the proposed bylaws and integrating them into the adopted bylaw structure. He agreed and  
26 thanked the board for educating him to the document, which he thought was good. It preached  
27 clarity, transparency, simplicity, and you didn't need to be a New York lawyer. It was basically  
28 saying 300 pages should be 100 pages. He wanted to know when the real work for workshops  
29 would begin.

30  
31 There were no other citizens comments.

32  
33 **Agenda Item 4, 1<sup>st</sup> Bylaw Amendment Public Hearing for Legacy Uses and Adaptive Re-**  
34 **use**  
35

36 Hugh announced this agenda item was a public hearing for the proposed adoption of amendments  
37 to the bylaws related to legacy use and adaptive re-use. He turned the meeting over to Cathy,  
38 Preston, and Peter.

39 Cathy said they hadn't coordinated the piece, so she asked if anyone had questions about it.

40  
41 Lee Gustafson had a couple questions. He noted that Legacy Uses, D2, mentioned the applicant  
42 shall demonstrate that a past or present nonconforming use has sufficient benign history and  
43 cultural heritage in Chester to be determined a legacy use. Further on, it stated determination as a  
44 legacy use was indefinite in duration, but a legacy use may be re-established, expanded, extended,  
45 or enlarged only following conditional use review and approval by the DRB and a zoning permit  
46 issued by the ZA. His questions were how someone would demonstrate that a past or present

1 nonconforming use has sufficient benign history and secondly, was there an example they could  
2 give him of a legacy use.

3

4 Cathy gave the example of The Spaghetti House, which she said made people of a certain age  
5 smile, she said it was no longer allowed in that district but if someone wanted to revive The  
6 Spaghetti House, which was a lovely family-style restaurant with decent prices. She thought they  
7 served beer, and it was the social nexus of the town for a while. They were located on 103, south  
8 of town. The building that is currently there is 2-story and light green. Lee knew where she meant.

9

10 Peter said another example was the cabin place on Route 11 where they used to make cabins and  
11 was now a vacant lot.

12

13 Preston said some of the more tangible ones that have had the zoning changed under them were  
14 the old country store on Sylvan Way on the south end of town and Baba Louis, which they have  
15 spent a lot of time discussing. He added the WAAWWE Markets and an auction house on Route  
16 10.

17

18 Lee appreciated the examples and asked how someone would demonstrate the benign history and  
19 cultural heritage in Chester. He asked how it would be presented to the DRB and ZA for legacy  
20 use. Peter explained when you go before the DRB for a hearing, you must notify the neighbors and  
21 demonstrate to the neighbors it wasn't a problem. Someone may immediately say they remember  
22 negative things about the use. That kind of feedback would exist. Peter said having a tax bill would  
23 help to prove it. He said there used to be a use tax for equipment. He could remember bulldozers  
24 having license plates, so they didn't have to pay the use tax. There are tax documents to show it  
25 existed. Lee thought it sounded like if someone could do the research and provide data of what it  
26 was, it would be sufficient. Tim thought anecdotal would be sufficient. Lee said he was always  
27 concerned about nebulous language so when it said applicant shall demonstrate a sufficient benign  
28 history to him, it was as nebulous as it gets. He wondered if there was flesh, they could put on the  
29 bones, to give someone the ability to say they had to do research and have done it and show past  
30 use that was beneficial, so they had a better chance of getting it accepted by the DRB and ZA.

31

32 Tim said they had talked about that very passage for that reason, and they wanted to try to find  
33 language that would clear a path to using the building because vacant buildings don't help the town  
34 in any way. And at the same time, offer the neighbors and abutters an opportunity to come forward  
35 with objections and say it wasn't benign. That is public record with the hearing with the DRB. Lee  
36 confirmed the final decision would come down to the DRB and ZA at a public meeting. Peter  
37 mentioned none of it happened in a closet but at a public hearing. Cathy said notice would go out  
38 about 3 weeks before the hearing. Peter added no matter what happened, the burden of proof was  
39 on the applicant. Lee said if the applicant does his homework and then the neighbors say they have  
40 better data, he wondered how it got flushed. Hugh said at the end of the day, the DRB must figure  
41 out how to sort out all the evidence and decide.

42

43 Tim said at one point, the Planning Commission was directed to make everything as black and  
44 white as possible, so the DRB didn't have to make judgment decisions. Then that position was  
45 reversed, and they were asked to make room for the DRB to make judgment decisions because it  
46 was a panel of 5 Chester citizens who hold public hearings. To allow that interaction seemed like

1 a better path than requiring they meet the criteria and if they don't check them off, they're out.

2  
3 Barre wanted to be clear because Cathy's example put his brain in a different place. He was under  
4 the impression they were more concerned with places that were vacant and finding uses for them.  
5 It becomes an economic benefit for the town and makes it easier for people to get through the  
6 hurdles of the zoning regulations because a unique building isn't allowed a purpose in that zone  
7 any longer because something changed and didn't allow it anymore and they want to make use of  
8 it. Spaghetti House was now residential and wasn't abandoned. He hoped they weren't creating a  
9 rule allowing someone to turn their house into a restaurant because he didn't think that was the  
10 purpose. He asked Cathy why she had used that as an example. Cathy explained it was a use  
11 available in that zoning district once upon a time but is no longer available. The actual building  
12 The Spaghetti House was in is gone but if it was still standing, you may want to allow a restaurant  
13 there. She thought Baba Louis was a much better example. Hugh added Baba Louis was the  
14 example they had been talking about and understood. Barre wanted to be clear they weren't talking  
15 about a business that happened in a building that has something thriving in it and someone wants  
16 to turn it into something else because it happened in 1902. The purpose was to make it easier for  
17 non-conforming buildings that have a use, rather than have them be vacant but not for someone to  
18 change their house into a bar because it was one in 1947.

19  
20 Peter said there were 2 things Barre was interlocking that weren't quite correct. One was a use.  
21 The log cabin was an example of a use that was no longer there. It was a vacant lot. It's a use and  
22 not a structure. The next one was adaptive re-use. The DRB still has control. Someone can dream  
23 up an idea and say something used to be there, but they still must get approval from their neighbors  
24 and abutters and notify the public so if it didn't work before, it won't work now.

25  
26 Barre apologized for not being up to speed on it because he thought he should have been. He asked  
27 Peter for clarification that it could apply to a vacant lot as much as a structure.

28  
29 Peter explained adaptive re-use was about a structure and legacy use was about a use and not a  
30 building. Hugh agreed. Peter said there was a difference between what a use is and what a building  
31 is and other uses the building could have. Most of the cases they had discussed had buildings on  
32 them, except for the log cabin place which was a good example because it was a vacant lot.

33  
34 Hugh thought Baba Louis was a great example at a high-level summary. At one time, that part of  
35 town was zoned for restaurant and retail and Baba Louis ran their business there successfully and  
36 the community was happy about that. Somewhere along the way, the bylaws were changed so that  
37 restaurant and retail were not zoned for that location. When they retired and tried to sell the  
38 building, perspective buyers were unsure because it couldn't be a restaurant any longer. The  
39 owners had their hands tied because somewhere along the way the bylaws got changed. Hugh saw  
40 it as a vehicle to allow a conversation about whether a use can be restored under the legacy use  
41 provision. It doesn't guarantee it and still requires a full DRB review. He thought they had spent  
42 enough time thinking about it to make sure they weren't going to be up against a situation where  
43 a use that wouldn't have been appropriate would just sneak back in through the legacy use clause.  
44 The only way you could make it happen was to bring it to a full DRB review which would involve  
45 everyone, and a decision would be made. In the case of Baba Louis, it was good for the town.

46

1 Barre pointed out in that case, there was an existing structure. Barre didn't know why they would  
2 want to do it for vacant spaces. Peter said the structure was different and they allowed a continued  
3 use there. He said if someone else wanted to put in professional offices at Baba Louis, it would be  
4 adaptive re-use. In that case, they would not be taking a legacy use but turning the structure into a  
5 different use. That was the next step down. Peter asked Lee Gustafson if they had totally confused  
6 him to which he replied no and that it had been a great conversation and appreciated. Lee asked  
7 Preston for his thoughts on how it all would play out for the DRB and Zoning Administrator.  
8 Preston supported it and was the principal author in writing it. He said legacy uses were uses based  
9 on past uses which people would like to see returned. The adaptive re-use is more about preserving  
10 the character of the building and not changing it. He thought that was what they had a DRB for.  
11 They weren't a renegade DRB and were careful about what they approved. Lee understood and  
12 appreciated it. He asked Preston if he saw any issues with decisions, he, as Zoning Administrator,  
13 and the DRB would need to make. Preston didn't think so and expected that they wouldn't be  
14 used often. There are a handful of properties in town that people have been in anguish about and  
15 when you write strict bylaws, they suddenly don't conform.

16  
17 Barre wondered if there was some motivation for it. He said he was on the board and maybe he  
18 was just stupid, but he didn't really get what was going on and he guessed he needed to do his  
19 homework more. He asked if there was some relevance for the legacy use part of it and wondered  
20 if someone had been talking to somebody who wanted to make a use out of something somewhere.  
21 Preston said Baba Louis had been the biggest driver. Barre said Baba Louis had a structure. Barre  
22 said it frustrated him that it should be clear to someone like him who is on the board and maybe  
23 when Peter explains things, he makes it more complicated when he brings in other stuff. He didn't  
24 see the likelihood of it happening and just wanted to know what was going on and what was the  
25 motivation. Hugh thought the best way to think about was not whether it was a structure or a vacant  
26 lot but rather the use. If the use ever existed and it would make sense for that use to exist again,  
27 legacy use would allow that to happen. It was irrelevant whether there was a building. Adaptive  
28 re-use will address that there is a building that had a use at one time and the use is no longer  
29 appropriate so how can they re-use that building in a way that's productive for the town.

30  
31 Barre thought it made sense when applied to a building because there was a purpose and a need  
32 because there's a structure that doesn't conform. If they provide an opportunity to use an open lot  
33 for something that doesn't exist in zoning, that provides a loophole for something unique that  
34 doesn't necessarily belong there. He said it was two different things and didn't know if there were  
35 lots that needed something that wasn't allowed with regular zoning. He wasn't sure they would  
36 want to create that loophole. In his opinion, it should be about the structure and not the space. Peter  
37 asked Barre if he realized he had voted on it dispositively already. Barre said if he did, he thought  
38 it was about buildings and not space. He didn't think it should apply to spaces, just to structures.

39  
40 Steve Mancuso witnessed two businesses in town that didn't realize the zoning had changed and  
41 the businesses they had for their entire career were worthless because of it. That's what legacy and  
42 adaptive re-use were fixing.

43  
44 Cathy asked if there were any other questions. Hugh thought they should give an overview of the  
45 adaptive re-use. Cathy asked Peter if he wanted to present, and Peter recommended that Preston  
46 give it due to Barre's opinion of Peter.

1  
2 Preston noted that adaptive re-use was frequently used in bylaws throughout the state, although  
3 Chester hasn't had one. The proposed one was copied from the Windsor bylaws, and they tweaked  
4 it. It was a way to permit older buildings which have outlived their original function to be used for  
5 a new use. What was different was if you have a large barn and you don't need it for agricultural  
6 use anymore, you can ask the DRB to convert it to storage units, or a brewery and it could be done.  
7 In that instance, the DRB would be focused on that it should continue to look like a barn and  
8 change its character. Preston noted they had included examples and then decided to remove them.  
9 Things that go through adaptive re-use are often old mill buildings, churches, the armory, barns,  
10 and similar things. To Barre's point, it could be a tool to deal with something like Baba Louis, but  
11 they thought coupling the two addressed the same problem in two different ways. Adaptive re-use  
12 has a review process and standards which say that although the building doesn't have to be eligible  
13 for the National Register of Historic Places, it still must conform to those guidelines. Which means  
14 using original materials as much as possible and not changing the facade or the historical character.  
15 That was adaptive re-use. The DRB would require that it continue to look the way it traditionally  
16 had.

17  
18 Peter said the DRB had reviewed them and felt they were enforceable and were comfortable with  
19 them. Peter noted they had modified some of the language for the DRB and they had reviewed it.  
20

21 Hugh asked for any further questions about the two proposed changes. There were none.  
22

23 Cathy moved and Peter seconded a motion to forward the amendment changes to the Selectboard  
24 for their review and approval. A vote was taken, and the motion passed.  
25

### 26 **Agenda Item 7, Review the Updated Draft Short Term Rental Ordinance**

27

28 Peter announced he had an ethics disclosure and said he, his wife, and his sister owned a short-  
29 term rental as a corporation in Smokeshire and had been doing it for 10 years. He strongly felt they  
30 needed to get a handle on it and was aware of the costs it would create for him and was accepting  
31 of that. Tim questioned if he was recusing himself from the discussion because of his conflict of  
32 interest. Peter said he didn't need to recuse himself but wanted it known he had a card on the table  
33 and had told The Telegraph and was putting it forth at a public meeting.  
34

35 Hugh asked Preston if there were guidelines on determining if something was a conflict of interest.  
36 Preston had been to plenty of trainings about it and one of the things said was it was a member's  
37 choice to recuse themselves. You should disclose, and a member could ask the rest of the board if  
38 they should recuse themselves, but it was up to the member. Preston thought because they use  
39 Rules of Procedure, it may be possible for a majority of the board to vote for another member to  
40 recuse themselves, but they would have to look into that. He said usually they only need to disclose  
41 that they may have a potential conflict as Peter had done.  
42

43 Tim said in that spirit, he had built a barn and an apartment upstairs for his mother-in-law that  
44 someday could become a rental unit. He didn't have plans to do it now and given they are  
45 regulating it and not permitting it, he didn't think it necessary for Peter to recuse himself and he  
46 didn't think he had any reasons either. Preston said the rules of recusal were stricter for the DRB

1 than the Planning Commission for that very reason.

2  
3 Hugh thanked them and turned the meeting over to Preston.

4  
5 Preston had a unique perspective given that before he came to Chester, he was the Zoning  
6 Administrator for Killington where they have the largest number of short-term rentals in the state,  
7 over 800. Chester has 80. He has experience writing short-term rental bylaw and implementing it.  
8 Two sessions ago the Vermont legislature passed a short-term rental registry, but the governor  
9 vetoed it. So, many towns have decided to do it themselves. He came into the process thinking  
10 Chester didn't need it and the Planning Commission wanted to go forward with it. He's only had  
11 one person contact him saying they shouldn't do it, while he's had multiple people contact him in  
12 favor of it. The current draft is a second draft. State law was amended 3 years ago to allow towns  
13 to regulate short-term rentals for the purpose of public health, safety, welfare, and convenience of  
14 the town. The statutory definition of short-term rental is a dwelling unit rented to the transient,  
15 traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than  
16 14 days per calendar year. Renting a home for less than 14 days or more than 30 consecutive days  
17 per calendar year would not qualify and more than 30 days, would be a long-term rental. Preston  
18 added underlined language stating tourist lodging as defined and permitted under the Chester  
19 United Development Bylaws is not a short-term rental and is not regulated under the ordinance.  
20 He explained in Chester's vernacular that tourist lodging is hotel, motel, and bed and breakfast.  
21 Although a lot of tourist lodgings advertise on the host platforms, Chester will not regulate them  
22 and ask them to pay the fee. There has been discussion in the state about how they should be more  
23 encouraging to partial units versus whole units. A partial unit is someone who lives in their house  
24 and rents part of the house versus someone who lives somewhere else and rents their house as a  
25 business. That has been added, which required defining host, partial unit, and whole unit.  
26 Registration for a whole unit would be \$300 per year and a partial unit, \$150 per year. The purpose  
27 of registration is to make sure people are following the laws that are already there. That includes  
28 the fact they have adequate septic. In Killington, party houses are a big deal and someone who has  
29 a 3-bedroom septic and then has fold out cots and inflatable beds for 30 people. The state requires  
30 educational materials, including who the designated agent is and the address, be posted in the  
31 rental. In the event of a medical emergency, occupants need to know where they are. They want  
32 the structures inspected by the Division of Fire and Safety if they're renting to over 8 occupants.  
33 They count a 3-bedroom house as 6 individuals and 2 on a pullout sofa totaling 8. The Division of  
34 Fire and Safety are not allowed to enter a house without permission. If registration is required, a  
35 requirement of the registration is inspection. If it's 8 or less occupants, you can do a self-  
36 certification, per the state, indicating you meet certain requirements such as a smoke detector, CO2  
37 detector, and railings on all stairs. The state allows self-certification because they don't have staff  
38 to inspect each one. If the police are called, they have no way of knowing who the contact is  
39 because currently, they only have the grand list to rely on. Registration would require providing  
40 them with a 24-hour contact, including their email and phone number. In Killington, there was a  
41 bear problem and occupants would leave out trash that the bears would get into, and Killington  
42 didn't know who to call to clean it up. Those were some of the problems they faced. Those were  
43 the reasons why they wanted to require registration. Evidence says the number of houses listed as  
44 short-term rentals in Chester is expanding rapidly and had jumped 50% last year. Preston said there  
45 are companies that help towns like Chester. The rental platforms don't make it easy to figure out  
46 where the units are and these companies that have algorithms and can find out. One of the

1 companies did a presentation and said there were currently 79 rental units in Chester, 50% more  
2 than the prior year, which is about 8% of the housing stock in Chester. The number of people who  
3 live in Chester has gone down the last two censuses while the housing stock has gone up. It's a  
4 troubling concern to the Planning Commission. Zoning bylaws are enforceable by going to court.  
5 Ordinances are enforceable by issuing a ticket. The ticket, which Preston is authorized to issue, is  
6 the same as the ticket issued by the Police Department, except that it's a municipal violation and  
7 not a speeding violation. It goes to the same court. If Preston writes a ticket, he needs the owner's  
8 name, address, phone number, date of birth, driver's license, and whether they are in active military  
9 service. Someone could choose not to give Preston the information. The City of Burlington asks  
10 for that information upfront, so if there's a violation, they can issue a ticket. Preston modified  
11 Chester's proposed ordinance to include those items. It also asks for a designated agent in Windsor  
12 County so the ticket can be served. He understood people may be uncomfortable with it, but it  
13 would make enforcement easier. Homeowner's policies don't cover short-term rentals. Short-term  
14 rental insurance usually requires an agent to look at the property or complete a form that there  
15 aren't any hazards. He thought insurance was a smart thing to have. The average short-term rental  
16 in Chester is around \$270 a night, so registration is equal to 1 or 2 nights of rental. Hugh thought  
17 it was 1% of annual rental income, so it was insignificant. Preston asked if there were questions.  
18

19 Hugh wanted to bring up for the Planning Commission to decide if they wanted to consider  
20 additional regulations. He was hearing they didn't want to highly regulate short-term rentals  
21 because they bring people into the community who spend money in the community at businesses  
22 and some people are using short-term rentals to supplement their income in order to remain here.  
23 On the other hand, he was hearing there isn't enough workforce housing. For people who are trying  
24 to live, work, and raise their kids in Chester, there isn't enough. It has also driven up the  
25 affordability of housing, so the notion is people aren't happy with folks who own multiple  
26 properties or real estate companies who purchase property for the sole purpose of running a short-  
27 term rental business. If true, he suggested the Planning Commission consider incorporating the  
28 following into the ordinance: limiting the number of unhosted short-term rentals; and for whole  
29 unit rentals, limit the number of days per year it could be used as a short-term rental. He thought  
30 that may be more affective to remove the incentive for folks buying property to use as a short-term  
31 rental. Preston added that Woodstock limited the number of days per year that you could rent a  
32 property out as a short-term rental. Killington also believed that if you owned 4 or 5 houses and  
33 contracted them out to a management company, you could make a living. Hugh said Chester was  
34 trying to avoid those behaviors.  
35

36 Cathy asked if they contracted with a company for short-term rental services, would they keep  
37 track of how many days they were rented. Hugh didn't know yet because he was trying to take it  
38 one step at a time. He thought they may have that capability but hadn't confirmed that. Tim  
39 appreciated Hugh bringing those things up because he had also spoken with people concerned  
40 about having enough long-term rental properties in Chester for workers, schoolteachers, police  
41 officers and other members of the community. He thought restricting the number of days wouldn't  
42 affect that because they would either be available for long-term rental or not. Whereas, restricting  
43 the number of whole units could be looked at as percentage of total housing stock.  
44

45 Peter said he really wanted to hear what the public had to say.  
46



1 Lee Gustafson said the definition of a dwelling unit was a furnished house, condominium,  
2 apartment, or room, or group of rooms used as living unit. So, a whole unit could mean a room or  
3 group of rooms. He wondered if there was a conflict. Preston thought possibly. Preston had  
4 modeled it after Burlington's and thought it may require a definition for whole unit. Lee agreed  
5 but suggested they could also modify the definition of dwelling unit. Preston thought it was a good  
6 point. Lee asked if they were giving approval or just asking for information by requiring  
7 registration. Preston said registration, a term other towns used to say it was a simpler level but to  
8 register, you have to jump through hurdles which was kind of the same as giving approval. He  
9 thought registration was easier than saying approval. Cathy added there was no use that covered  
10 short-term rentals in the bylaws. Lee thought by the ordinance, they were collecting data as a town  
11 and hoped to have some means to enforce it. Preston agreed they were collecting data but also  
12 trying to be safe saying you can only rent to as many people as you have septic capacity for and  
13 getting contact information if there was a problem. He saw that as the goals of registration. Hugh  
14 said registration didn't necessarily imply approval. The draft language included denial of  
15 registration for repeated violations. Lee thought registration was the appropriate term. Preston said  
16 if they did approve, the town has increased its obligation if something went wrong, whereas a  
17 registration didn't certify anything. Lee wondered regarding the housing shortage problem if there  
18 was a way to limit non-resident ability to have short-term rentals. Hugh thought hosted rentals  
19 addressed that because you live on the property. Lee's thought was if someone owned a couple  
20 houses, they can't live in both and wanted to rent one out. They have a non-resident tax rate which  
21 is a little higher than the resident tax rate. He wondered if they could have separate permissions  
22 for residents of Chester and residents of Vermont and out-of-state residents. He knew it was  
23 discrimination but wondered if it was possible. Preston said when the tax law was put into effect,  
24 they originally said in state and out-of-state, and the Vermont Supreme Court said no, so they  
25 changed it to resident and non-resident so it may be possible. Instead of defining whole and partial,  
26 they could do resident and non-resident.

27  
28 Barre applauded Preston and said it was well done. He said when they did the draft bylaws and  
29 discussed short-term rentals, they had days of occupancy of your own house. If you wanted to have  
30 a short-term rental, you had to be in your house a certain number of days per year. He asked Tim  
31 if he remembered. Tim said it was a few days a year minimum but part of the discussion, as he  
32 recalled, was how to enforce it. Barre agreed that was an issue but said they weren't regulating  
33 Airbnbs with this ordinance but rather doing what a lot of ordinances did and creating regulations  
34 through hurdles. If they can jump the hurdles, they're able to do it which proves a level of  
35 responsibility and safety and gives them statistics. He thought the only way to give any type of  
36 regulatory power was to put something in there with teeth like having to be at your property a  
37 certain number of days. He mentioned an article in the New York Times about a town out west  
38 that was popular where the employees couldn't afford to live there. Barre had experience with  
39 Telluride and friends that have property there and it was a similar problem where employers had  
40 to provide housing for employees. He didn't know if the same thing would happen in Chester but  
41 with tourism being one of Chester's biggest things and now the second homeowners moving here,  
42 and some are living here all the time. He suggested requiring them to live in their house a certain  
43 number of days. He added that some friends of his had two of the larger Airbnbs in town and they  
44 had looked online and there was only a handful, 9 or 10, that go over 9 people. He was surprised  
45 because his friends were totally supportive of the fees and names and everything.

46

1 Peter said he is holding onto a house that belonged to his parents and he is never in residence of  
2 that house. His nephews are in residence probably not 180 days a year. The house is held by a  
3 corporation so right off the bat, he's the big guilty one. They incorporated it for liability reasons.  
4

5 Lee thought it was something for them to consider. Barre wasn't comfortable saying that someone  
6 from someplace else couldn't do something here the way someone from here could. He thought  
7 they needed to decide whether Airbnbs could be a business on their own.  
8

9 Hugh thought they were wrestling with safety and data. If they wanted, they could take it up  
10 another notch regarding number of days in the house and number of units owned that are whole  
11 house or hosted. Those kinds of controls remove the financial incentive for people who just want  
12 to make money if they don't want short-term rentals to be a commercial operation in Chester, but  
13 rather to supplement someone's income to stay in town and pay their taxes. Those were the two  
14 sides to the story, and he didn't think they knew which way they were going to go yet but that's  
15 what they were there to discuss.  
16

17 Ian Montgomery of North Street had just finished rescuing one of the stone houses they bought at  
18 the end of 2019. It was the victim of 30 years of rental, and it took a lot of money to bring it back  
19 to livable conditions. They used some of their savings in order to create income, as he had retired  
20 14 years ago from the clergy. For them, it was a way to give them enough income to continue to  
21 live in Chester, otherwise, they would go and live in a suburb of some horrible big town. He asked  
22 Tim if a mother-in-law apartment would be a partial unit or a whole unit. Tim said if he rented it  
23 to his mother-in-law, it would be neither. Ian then asked if Tim used it to create income as a short-  
24 term-rental what would it be. Tim said in his case, it would be an accessory dwelling unit because  
25 it would be above his barn. Ian still didn't know, according to the definition, if it would be a partial  
26 unit or a whole unit. Tim thought it would be a whole unit. Preston thought if it was an apartment  
27 within the owner's house, it was a partial unit and if it was an apartment in a garage or a free-  
28 standing building, it was a whole unit. Preston thought they should clarify that. Ian wondered for  
29 tax purposes, if he has a second kitchen, it's considered a separate dwelling even though it's part  
30 of his house. Cathy asked which taxes he was talking about. Ian said the great metropolis of  
31 Chester. Cathy asked if he was talking about the Grand List, and he was. Peter said when there's  
32 a second kitchen and another bathroom and it's closed off, it's another dwelling. He wondered if  
33 existing units would be grandfathered in. Cathy said they count plumbing fixtures, such as  
34 dishwashers and washing machines. They count buildings and within the building, how many  
35 kitchens and plumbing fixtures there are. Ian said he was raising questions about the definition and  
36 that's all he was asking them to do. Ian asked them if they were grandfathering in existing  
37 properties or were they instituting a regulation that may force people to sell their properties. Barre  
38 said they were talking about a registration fee of \$150 for someone like him. Ian said he had friends  
39 who had a whole house who when they weren't using it for vacation, they rented it out. He  
40 wondered if they would, in any way, stop them from using it as a short-term rental. Hugh answered  
41 only if an ordinance was adopted that created a limitation. If they create a regulation that said  
42 unhosted short-term rentals can have a maximum of 100 days per year, they would have to abide  
43 by it and would not be grandfathered. Hugh said if they short-term rent their house for 200 days  
44 per year, if the ordinance is approved and they don't live their full time because it's their second  
45 home, and it was written for 100 days a year, that's all they could rent it for. Ian questioned  
46 requiring a manager in Windsor County and they were in Grafton which is in Windham County.

1 He suggested including Windham County, or a radius. Preston had done it simply for service of  
2 process because the sheriff can go anyplace in Windsor. He realized they were on the edge of  
3 Windham County and would look at it.

4  
5 Kathy Giurtino had been researching it because she was concerned about losing neighbors. She  
6 lives in the Stone Village and is neighbors to Ian and Polly. She had no problem and was glad they  
7 distinguished hosted versus unhosted. When she started to investigate, she called 14 townhalls  
8 across northern New England and found a tremendous amount of information from other towns  
9 dealing with it and learned the terms, hosted and unhosted. Some of what she learned was very  
10 frightening. She spoke with North Conway, New Hampshire who said they got hit with a tidal  
11 wave and hadn't seen it coming. They have one person who owns 12 houses, and Marriott owns  
12 houses. She learned from Cynthia Prairie that Marriott already owns 450 properties in Vermont  
13 for short-term rentals. North Conway has Europeans who are buying houses sight unseen and  
14 turning them into short-term rentals. They took one person, the twelve-house owner, to court to  
15 try to reign them in and put some rules into place only to lose. Now they are in the Supreme Court.  
16 She felt whatever was put into place now would prevent those problems down the road. She grew  
17 up in the area, was gone for many years but now is back. She chose Chester because she's always  
18 liked Chester. She looks at her street and knows of at least 2 homes that will turn over in the next  
19 few years and she doesn't want to look across the street and see an empty house that only has  
20 strangers coming and going. She wants neighbors. If the community loses more and more  
21 permanent residents, they will lose the town. It hollows the town out from the inside. She  
22 questioned where the volunteers would come from. They have the affordable housing problem on  
23 one hand and then the hollowing out of the community on the other. She wondered if she would  
24 have a voice if someone wanted to turn the house next to her into an unhosted short-term rental  
25 because it would be commercial property. She suggested putting a cap on the number of short-  
26 term rentals and thought the current ones weren't a problem and perhaps they should be notified  
27 to become registered. She said the cap could always be lifted. She said the majority of unhosted  
28 rentals aren't owned by people in Chester, or even in Vermont. They are owned by wealthy people  
29 out of the area because they see it as a money-making operation. She stated Chester could suffer  
30 so they could make money and wasn't something they wanted. Barre remembered when she  
31 attended a prior meeting via Zoom, and he had told her to do her homework. He was glad she had  
32 done it. Kathy stated she had shared her information with Peter and if anyone wanted it, he could  
33 forward it. Peter stated he had shared it with Preston.

34  
35 Scott Wunderle thought Ian had been talking about a duplex.

36  
37 Polly Montgomery said they need to keep in mind they are welcoming people to the community.  
38 She said as she hosts these people, they become good friends. They love the area and Vermont and  
39 are visiting family. She suggested they look at the positive part and think of themselves as  
40 welcoming. She felt there was somewhat of an antagonistic tone she didn't find helpful. She  
41 compared it to a foreign exchange program which was good. She even hosted people from Texas.

42  
43 Barre asked if it was considered commercial if it was a standalone business and had they talked  
44 about it. He thought it was an interesting point. A commercial business requires zoning and  
45 permitting. He asked if someone opened a bed and breakfast, did they have to obtain a permit and  
46 go through zoning. Cathy said yes. Barre asked if they could tie it into the bed and breakfast rules

1 and make it commercial. He said that was the whole problem with the Airbnb, which was an air  
2 mattress in an apartment with some college kids who wanted to make some extra money. That was  
3 how it all started and now someone in North Conway has 12 properties rented out that becomes a  
4 business and the loopholes of it not fitting in a certain structure creates an opportunity for people  
5 to run wild with it. They don't want to get in the way of people throwing an air mattress in their  
6 corner and having the social thing and doing this business but there's fear of losing your housing,  
7 having it be empty, and having it be only about profits when you're not even there and having that  
8 experience. He asked Preston if he had any insight.

9  
10 Preston said traditionally in zoning, anyone can rent their house without a permit. What has  
11 happened with the short-term rental phenomenon is it's a new thing that the courts haven't kept up  
12 with. The courts have said anyone can rent their house. They have not been supportive of the idea  
13 the Airbnb is commercial. The statute has now been amended to say towns can regulate it. The  
14 courts don't agree with it being commercial in a residential district. The traditional B and B is  
15 different because you're serving them a meal and renting different rooms and is more like a hotel.

16  
17 Barre wanted to see them requiring living in the house for 5 days or 1 day and then it wouldn't  
18 create a big hurdle. He wasn't sure he wanted to cap it. Hugh said one of the problems they were  
19 trying to solve was to create more housing availability for people who work and live in the  
20 community. Whatever they put in for the short-term rental regulations will not be the silver bullet  
21 that will create a lot of housing for the workforce but at the same time, if he said why encourage  
22 real estate conglomerates and corporations to buy up multiple properties in Chester and exclusively  
23 short-term rent those. Why would they think that would be good? He challenged anyone to  
24 respond. Before Airbnbs, second homes have been a thing in Vermont for a long time. People  
25 figured out how to make it work. He wondered what was wrong with creating some guardrails for  
26 short-term rentals of second homeowners, so it wasn't second homeowners only using their  
27 property 1 week out of the year and renting it out the rest of the year to make money. Second  
28 homeowners who come up to their properties regularly and become part of the community was  
29 good. He didn't see the other way as a good thing.

30  
31 Peter thought they should take the edits they have now and put it before the Selectboard and do  
32 something. As an ordinance, they could make changes but, in the meanwhile, they've started the  
33 process. They could talk about it because they meet for an hour and a half, two times a month for  
34 quite a while. He thought they were better off to just get something out there and into the  
35 Selectboard's hands. They could work on it more, but they would have their toe in the door. The  
36 one he liked so far was capacity, but they couldn't make capacity until they had data. Barre asked  
37 if Peter didn't like the number of days necessary to live there. Peter wanted data. Peter said if a  
38 certain number of days was a requirement, his nephews didn't come up last year due to COVID.  
39 He's a corporation that owns a house and would have to sell the house if a number of days was  
40 required to stay in the house. Hugh asked what about a limit on the number of days it could be  
41 short-term rented. Peter asked why even make that conversation yet. Cathy agreed and wanted to  
42 see the data and the number of days a year. Peter said the ordinance would go into effect in 60  
43 days. He liked the idea of telling the people you know because then they could look at that data.  
44 In two months, they would have a good idea of what the data was telling them and then they could  
45 change the ordinance.

1 Barre asked if they would have the company provide the data or Preston. Peter was impressed with  
2 the company's presentation and said he didn't think Preston could keep up with it. Because the  
3 data is advertised on the web, the company could pull it down easily. Kathy Giurtino thought there  
4 needed to be a distinction between hosted and non-hosted. Peter agreed and said it was the best thing  
5 that came out of what she had done. Preston said he may use the terminology going forward. Hugh  
6 was in favor of getting the data to make smart decisions. The only reason he brought up additional  
7 regulations was they may get the data and find out today it doesn't look like there's a problem but  
8 tomorrow, when the property owner comes in and buys 12 houses in Chester, it's too late. You  
9 didn't have the data before because it wasn't happening and now you don't have any teeth in the  
10 ordinance, so you're stuck.

11  
12 Barre thought the corporate thing was an umbrella for a certain purpose and maybe there would  
13 be a limit on how many parcels a single corporate entity could own but then they could put it under  
14 a different corporation. Cathy asked if it would hold up in court if they were told they couldn't buy  
15 a property. Preston said they couldn't do that, but they could tell them they couldn't register it.

16  
17 Scott Wunderle wondered if the problem could be the solution. If someone came in and bought  
18 several properties, a percentage of units had to be used for low-income rentals. Barre thought that  
19 was a good idea.

20  
21 Tim thought they had the cart before the horse. Tim said didn't realize about North Conway. He  
22 said his wife goes up there and has told him the locals aren't happy because of it. He had done his  
23 own research and Key West limited the number of short-term rentals for that very reason. People  
24 who work in the community need to have a place to live. San Diego did the same thing. They're  
25 not reinventing the wheel when they consider doing this. He appreciated the North Conway  
26 example. Now they are stuck with it and it's going to be virtually impossible trying to reel it back.  
27 He wondered what would be wrong with the Selectboard contracting for the data. It would come  
28 out of the budget this year so they could start from a place where they have hard data. He was  
29 reluctant to recommend the Selectboard pass an ordinance with the idea they will ask them to  
30 amend it in a very short time. He thought they should have their act together better than that. He  
31 was just looking for solutions to keep moving forward so they aren't caught short. At the same  
32 time, they don't want to make a bad recommendation. His proposal was to suggest the Selectboard  
33 contract with the firm that gave the presentation so they have the data and take it back and talk  
34 about it for another meeting and see if they can come to an agreement on what steps they should  
35 or shouldn't take.

36  
37 Hugh thought that contracting with the town for the data could be a hurdle because it would be  
38 unfunded. As the ordinance is currently written, it's not a hardship. They could put the ordinance  
39 through, pay the fee, collect the data, and if they find they didn't turn the screws tight enough, they  
40 will have to go back with another recommendation.

41  
42 Peter said they have some data. With the sales pitch from the firm, 8% of the town was now Airbnb  
43 a month ago. Peter asked what was wrong with making the cap 10% in the ordinance. Hugh thought  
44 it was one of the most restrictive requirements. Peter thought they already had a pretty good idea  
45 of what was out there. The number could go up and would give them control. Hugh thought there  
46 was something inequitable about it because it limits it to the people who have them. Peter said they

1 were trying to control the amount there is. Hugh disagreed and said he was suggesting they create  
2 some guardrails, so they don't end up like North Conway. Peter again suggested a 10% cap of the  
3 housing stock. In all the reading Hugh had done about short-term rental regulations, he had never  
4 seen that one.

5 Kathy Giurtino said in Rockland, Maine they capped unhosted Airbnbs. They are now considering  
6 raising the number because they haven't had problems. Barre asked if they offered a license. Kathy  
7 wasn't sure but it was something they could find out. She added Burlington only allows hosted  
8 Airbnbs. If you have a multi-unit building, you are allowed one short-term rental provided you  
9 give up one other for affordable housing. She had lived in the Florida Keys for a good many years  
10 and they had to bus people to work at the grocery store. In the 1980s when they bought their  
11 property, it was rural and when they sold, it was maxed out. It was mostly high-end seasonal rental  
12 or second houses. The people who grew up there couldn't afford to live there. She was concerned  
13 about young people who want to remain in Chester but can't. Barre said one of the things the  
14 Selectboard does is have a special meeting between meetings, if necessary, and he wondered if the  
15 Planning Commission should do the same to move it forward and not decide. He thought what  
16 Preston wrote was well done and the comments at tonight's meeting were awesome. He thought if  
17 there was a way to combine it without becoming too crazy to come up with something that has  
18 more teeth but is flexible and then implore Preston to include it and within a few weeks, they  
19 would have something.

20  
21 Hugh thought one way to decide so they could close the topic for tonight, was to send it forward  
22 as is or hold it back and think about additional regulations. They weren't going to solve the problem  
23 tonight as to what the additional regulations would be, but they could agree they didn't think they  
24 need it and send it forward as is or they could decide they needed more time to consider whether  
25 there will be additional regulations. Peter wanted to know about Preston's edits.

26  
27 Preston said there were a couple things he would want to do before sending it to the Selectboard.  
28 One was to clarify the definitions as to what an entire dwelling unit is versus a partial. The other  
29 was to clarify how ADUs were treated. He's persuaded they need to be fixed. Beyond that, the  
30 question of was the framework okay. He would also explore whether for serving process they  
31 could do Windham County. He figured they could get a sheriff. They have number of days to rent,  
32 cap on rentals, resident versus non, and corporate versus individual. It was up to them if they  
33 wanted to explore things like that. They needed to see another version before it went to the  
34 Selectboard. Tim pointed out a typo in 4a, which Preston would change.

35  
36 Peter moved they table it until they receive the revisions from Preston. Peter noted they wouldn't  
37 see it for another month. Barre said maybe he wasn't clear, but there were issues that came up for  
38 the Selectboard and they warn a special meeting. He wondered if they should hold a special  
39 meeting regarding this. Preston noted that the DRB usually met on the alternate Mondays but that  
40 they didn't have a hearing this month so there were 2 Mondays available. Barre said he had always  
41 been about them being able to do things and thought it was great they had been and would advocate  
42 for a special meeting. He thought when they met, if they had specific things to decide on and didn't  
43 get too far in the weeds with philosophy and made those choices, they could get it to the  
44 Selectboard quicker. Tim would support it if the agenda tried to capture the alternatives, so they  
45 don't end up in another circular conversation. He wasn't complaining because it was a good  
46 discussion. Tim moved they meet next Monday with the agenda item of finalizing the proposed

1 ordinance and forwarding it to the Selectboard. Hugh seconded the motion. There was discussion  
2 that it was the election, and the meeting room wouldn't be available. Cathy felt like they were  
3 rushing and wasn't sure people would have time to think things through and gather information in  
4 a week. Barre said the objective was to try to get it done tonight and maybe they could get it done.  
5 Hugh was in favor of the special meeting, as the next Planning Commission meeting was dedicated  
6 to a workshop. There was no DRB meeting on the 22<sup>nd</sup>, so Tim moved to meet on August 22<sup>nd</sup>.  
7 Cathy reminded them that Peter's motion was on the floor to table it. Peter wanted to table it to the  
8 next meeting. Hugh agreed it wasn't ready to move forward. To Cathy's point, Tim felt some  
9 urgency around it and they should treat it as such. Tim moved that they hold a special meeting on  
10 Monday, August 22<sup>nd</sup> in an effort to forward a final recommendation of the ordinance for short-  
11 term rentals to the Selectboard. Hugh seconded it. Cathy asked if they would assign topics to  
12 people to research or think through, such as the implications of setting a limit based on a certain  
13 percent of available housing units or finding out how they could count the number of days a person  
14 rents their place or count the number of days they live there. She suggested they each take  
15 something and develop some real information about it. Peter thought Cathy had control of most of  
16 the information and he had a project he had a deadline for so he wouldn't have time to do anything  
17 on this.

18  
19 Preston knew the changes he needed to do to make it ready to go to the Selectboard. He didn't  
20 think they were ready for the bigger teeth yet. Hugh was okay with that. It was one of the reasons  
21 he wanted to create a big switch decision. Could they decide tonight that they were not ready to  
22 contemplate a stricter ordinance and therefore, they wanted to send the crawl ordinance forward?  
23 If they could decide that tonight, they wouldn't need to figure out the higher level of regulation in  
24 a short time window to keep the urgent matter moving forward. He was okay to vote if they decided  
25 to do that. The only thing they would need to consider was if the Selectboard wanted more teeth  
26 or needed more teeth, they would need to address it. Peter said it was their ordinance and they  
27 were only making a recommendation to them.

28  
29 Barre said if they needed to do something anyway, Preston could bring it to them, they could  
30 review it at the special meeting, and then talk about the other things. He asked if it was possible  
31 for them to add other things to the language at the meeting if it got into the minutes. They could  
32 review some of it and if they wanted to send what Preston brought, they could and if they wanted  
33 to add something little, they could. They could decide all of that then. Their goal would be to send  
34 them something. Tim said his motion still stood and they could do that under his motion.

35  
36 Hugh said the goal of the Special Meeting on August 22<sup>nd</sup> was to finalize something so they could  
37 move forward. If they agree at that meeting that what they have is what they can do, he was fine  
38 with it. Others agreed. Tim said they needed a second and a vote and Hugh seconded it. Peter  
39 stated he had moved to table it and they got lost in the discussion. Tim said it was never seconded  
40 so it wasn't official but added Peter could talk about it. Peter was in favor of a special meeting but  
41 was also in favor of procedure. He had made a motion to table, and everyone went into discussion.  
42 Tim made a motion, and they never discussed the motion they were on. Barre asked what the  
43 proper structure was. Hugh asked if anyone would second Peter's motion to table the matter to  
44 another meeting. Cathy seconded Peter's motion to table it to another meeting. Hugh thought it  
45 sounded the same as Tim's motion. Peter thought that was the point. He said to follow the  
46 procedure. Hugh asked if Peter wanted to amend his motion to include the date. Peter changed his

1 motion to include Monday, August 22<sup>nd</sup>, so that the matter was tabled until the meeting of August  
2 22<sup>nd</sup>. Cathy seconded the motion. Tim added to Peter's motion the sole topic was to forward a  
3 completed draft of this ordinance to the Selectboard for their approval. Hugh asked Peter if he  
4 wanted to amend the motion. Peter said the problem was Preston would be asked to immediately  
5 edit the document approved. Tim said it could be done at that meeting and then vote. A vote was  
6 taken, and the motion passed.

7  
8 **Agenda Item 5, Discussion and Takeaways from 7/18 Workshop**

9  
10 Not addressed.

11  
12 **Agenda Item 6, Review the Updated Draft Community Survey**

13  
14 Not addressed.

15  
16  
17 **Agenda Item 8, PC Roundtable**

18  
19 Not addressed.

20  
21 **Agenda Item 9, Adjournment**

22  
23 Tim moved to adjourn, and Hugh seconded. Ian Montgomery asked if the meeting would be open  
24 to them and was told it would be. A vote was taken, and it passed unanimously. The meeting was  
25 adjourned at 8:35 p.m.