TOWN OF CHESTER 1 2 SELECTBOARD MEETING 3 February 21, 2024, Minutes 4 5 **Board Members Present:** Lee Gustafson, Arne Jonynas, Arianna Knapp, and Peter Hudkins at 6 Town Hall. Heather Chase via Zoom. 7 8 **Staff Present:** Julie Hance, Town Manager, and Preston Bristow, Zoning Administrator and Town Planner, at Town Hall; and Susan Bailey, Recording Secretary via Zoom. 9 10 11 Visitors Present: Bill Lindsay, Priscilla Melanson, Rene Melanson, Lisa Rufa, Bob MacAllister, Karen MacAllister, Barry Goodrich, Wendy Schneider, Cheryl LeClair, Michael LeClair, Leslie 12 Thorsen, Scott Kilgus, Cathy Hasbrouck, Mike Kenworthy, at Town Hall; and Jerene, Tim Roper, 13 Kay Wells, Robert Nied, James Wells, Hugh Quinn, SAPA TV, Chester Telegraph, and Bob (last 14 name unknown) via Zoom. 15 16 17 Call to Order 18 Chair Arne Jonynas called the meeting to order at 6:30 p.m. and welcomed those in attendance 19 20 and asked that they sign the attendance sheet. 21 22 Agenda Item 1, Additions or Deletions to the Agenda 23 24 Arne noted there was a request to make the executive session for the purchase of the solar field the last agenda item. Lee asked if a motion was necessary, and it was not. 25 26 27 Agenda Item 2, Approve Minutes from the February 7, 2024, Selectboard Meeting 28 Lee moved and Arianna seconded a motion to approve the February 7, 2024, Selectboard meeting 29 minutes. Lee noted the year was incorrect and Julie said Susan had just texted her the same. Page 30 2 of 9, line 29, Naomi was spelled incorrectly and on line 31, "forest" should be "forced." On page 31 5 of 9, line 17 it said, "Barre Pinske struggled with addition" and Lee said while that may be true, 32 "addition" should be "addiction." The minutes were approved, as amended. 33 34 35 Agenda Item 3, Citizens Comments/Answers from Previous Meeting 36 37 Arne told those in attendance that if they wanted to address the board about anything not on the agenda, now was the time to do so. 38 39 40 Karen MacAllister realized the board was going into executive session later to strategize with the town's attorney regarding the three Allstone Quarry properties owned by the Julians. She wanted 41 42 to make a statement on behalf of the neighbors living near them. She said for three years, they had been working with ANR to address Act 250 violations at the three sites. They are currently working 43 through the lengthy environmental court process. 351 days ago, they attended a Selectboard 44 45 meeting to alert the board about the impact the quarries had on their lives and present mountains of evidence concerning numerous permit violations. Within the last 11 months, they have attended 46

countless town and DRB meetings and gone on site visits. They have endured delays by the Julians switching lawyers and engineering firms and changing and then rescinding permit applications. It took 11 months for the Zoning Administrator to issue 7 notices of violation, including the use of unpermitted hydraulic hammers, discharge that turns the Dean Brook white, and processing in a building only permitted for storage. Within those 11 months, the illegal activities were allowed to continue without consequence to the business, but she wanted the board to know that there were continued consequences to the neighbors that severely impacted their health and well-being. She invited them to revisit their affidavits for the specifics in case they had forgotten their emotional testimonies. They have been forced to pay 11 months of out-of-pocket expenses for private lawyers and experts because she said the town didn't act and the Julians were allowed to keep extracting and processing without repercussions. Karen asked the board to keep in mind what they have gone through for the past 3 years and continue to go through when talking strategy with the town's counsel this evening. She thanked the board, and they thanked her for her comments.

Leslie Thorsen has lived in Gassetts, with Scott, for 37 years. She wanted to speak briefly about the impact of Allstone Quarry on their lives. What once was a peaceful hamlet has become a neighborhood filled with rock hammering, back up beeping, rock tumbling, and dump trucks driving down Route 10 to Chandler Road. The neighbors' conversations are dominated by what they experience daily from the quarry. They have spent countless hours making phone calls, taking pictures, writing affidavits, and attending meetings and have spent thousands of dollars. She asked the board to restore the peace in Gassetts, as quarries and residential neighborhoods don't mix. Arne thanked Leslie for her comments.

 Priscilla Melanson, previously of Gassetts, spoke. She and her husband put up with noise from the quarry for two years before they had to make the painful decision that they couldn't live there any longer. She was stranded at her home as a gardener with the sound of the rock hammer going 7 days a week from 7 to 5 every day, all summer. It affected her nerves and peace of mind and because of it, she had to leave her dream house they built 29 years ago which was supposed to be their forever home. Despite all their efforts, the Julians continued. They are taxpayers of Chester and feel like they've had to do all the work for Chester and are tired.

Mike LeClair said many are lifelong residents of Vermont. Growing up in Vermont, he had the highest respect for Act 250 and the highest respect for town boards, law enforcement and in the last 3 years he is wavering. They started the argument 3 or more years ago with the pollution of Dean Brook. They've been to ANR, Fish & Wildlife, Wildlife Biology, the Town of Chester, and other agencies, and have not seen any cleanup whatsoever in 4 years. The quarry owners are being convicted of the largest hazardous waste dumping in the State of Connecticut in history. Mike said they invited them to Chester and they're crippling them and making a mockery of Act 250. Mike thought the owners had taken advantage of the board. Mike said they have spent time and money documenting and still have not had the State of Vermont, or the Town of Chester come out and test what is going into Dean Brook and the first they knew about it was when it was highlighted in Connecticut about distributing their hazardous material. They have documented trucks coming in in the middle of the night dumping things on the Dean Brook Quarry but have not documented anything from the Town of Chester or the State of Vermont trying to do something or test what they were dumping.

 Roberta Alexander said the fact that they had now seen a person in the dark there and said there was a picture of someone with a hose dumping something white into the river and hiding behind a tree when he saw his picture being taken. When she was with the group walking the quarries, the gentleman who took them around was offering to answer questions and showed them where it was fixed and that there would be no more dumped into the river, he talked about the white stuff. She asked him what the blue stuff was, and he told her he didn't know anything about blue stuff. She told him she had seen it and he walked away and didn't respond. She thought it should be investigated.

Mike Kenworthy said at the last meeting, the memo written to the Julians saying they were in violation was a very good letter and hit all the points. The problem he saw was there was no enforcement. He saw fines but no mechanisms for someone to go in and inspect it and given the history of the town, he didn't think it would happen. He asked if they had any plans to send anyone to the properties to look for violations. He proposed the board deputize several people a lot more interested in it than the board, who would be happy to photograph and document things and do the board's job for them. He said they can be their posse and the board wouldn't have to do a thing. Mike said he has 1500 feet of border with the quarry and would be happy to go there weekly. He wanted the question of why the board didn't do it addressed specifically.

Priscilla said they are still paying taxes to Chester and can't sell their home because it's directly across from the north quarry until this is stopped and has put them in a financial hardship because they can't finish where they're now living because they don't have the money and was all because of the quarry.

Jim Wells of 406 Cummings Road said he was in support of all the comments that had been made.

Arne had a hard time addressing their comments and said it would come up in executive session and the town attorney would address them before the executive session. Arne felt bad as a board and himself that they didn't have the authority to do anything magical or quick to fix everything. Act 250 is state law and Arne realized they have responsibility as a town and wasn't trying to pass off anything they could do themselves and would try their best to do what they could to fix the problem and put it behind them. Arne said their authority is limited and the notice for the violations was a step they could take and wasn't sure what else could happen but would do what they could.

Roberta Alexander wondered why they couldn't go to the hole in the ground and take a sample. Arianna didn't think they were permitted. Arne said he would ask the town's attorney in executive session, including deputizing and taking pictures, to see what actions they could take as a board and a town to alleviate the problem. Arne said they were limited in what they could discuss as Citizens Comments was for people to address something not on the agenda and this was on the agenda. Arne said when they got to that agenda item and the attorney gave a statement regarding what would happen, he wasn't sure he could answer questions. Roberta asked if when the board met in executive session, they could ask the attorney and perhaps the board and the attorney could work with the environmental people. Arne said they would have an in-depth conversation with the attorney regarding the matter and see what happened from there.

Mike Kenworthy didn't see how their hands were tied because it was a town and not a state permit.

Mike gave an example of the storage facility they had built that was not in compliance. Mike questioned if the town could take away their permit rather than the state and didn't see how their hands were tied.

Arne encouraged everyone to stick around as the first item for executive session was the Julian Quarry and they would have more information.

Agenda Item 4, Old Business

Julie had nothing because all the old business items were executive session items to take advantage of Jim being present.

Agenda Item 5, Economic Development Loan; REDD Holdings

REDD Holdings is redoing the Masonic Temple in the center of town and originally had taken out a \$50,000 loan to supplement some of the monies they had for refurbishing the building and were requesting another \$25,000 to cover unexpected expenses that came up. Julie had contacted Bob Flint at Regional Development who oversees the loans and advises the board on what direction to take, and he did not see any issues and felt it was a good risk and use of those funds. Arne entertained a motion to increase the loan from \$50,000 to \$75,000. Arianna asked if it was still a single loan or if it would be an additional loan and Julie confirmed it was still a single loan. The original loan was for two years with no interest and at the beginning of year 3, interest would be at the market rate. The loan would be amended, and the two years would be from the originating date and would not be extended. Arianna moved to increase the loan amount by \$25,000 for REDD Holdings and Lee seconded the motion. Arne thought it would be interesting when the building was done because the building had always been tax exempt and would no longer be when the project was finished and would help the Grand List and tax base. They would be preserving the architectural character of the building. There will be two apartments and a law office in the center of town. It will add to the center of the village given the empty buildings there. A vote was taken, and the motion passed unanimously.

Agenda Item 6, Legislative Update; Rep. Heather Chase

Heather said she is a Selectboard member for around two more weeks and this is her last meeting as a member. Heather loved being a Selectboard member and appreciated all the work the board does. The legislative update will be monthly, and she hoped this was a good format for the board. HB 289 for the renewable energy standard is currently in Ways and Means and they had questions for the board. Heather had attended a couple of seminars on it and deferred to Julie and had some contacts for her to discuss it with. The bill looks like it's going forward but Heather didn't know for sure what would happen. Julie and Lee had specific questions so Heather thought it would be better for them to speak with someone who knew it inside and out. Julie, Lee, and Arne are meeting with Candace Morgan on Friday. Heather was invited to the meeting but decided not to attend since she was still a Selectboard member and didn't want to create a quorum but later she could join in the discussion. H.850 is an act related to transitioning education financing to a new system for pupil weighting and has been in the news a lot. Heather thought the legislature was quite concerned about Act 127 that was enacted before Heather's time in the legislature at the last session. Some of the factors that went into it could drive costs up so because this year was

problematic for many reasons including healthcare costs, recovery from the pandemic, and years 1 of delaying construction spending. The State is in quite a quandary so what they've done is remove 2 a cap that was in Act 127. Heather has spoken with Lauren, Chester's superintendent, and some 3 4 school districts are choosing not to vote on their budget at Town Meeting. The legislature has given some towns time to postpone that to get budgets down. Lauren is confident the budget is what it 5 will be, so Chester is going forward with the vote. Heather thought education spending will be 6 problematic this year and when discussing 850, the Legislature said this was the first step in how 7 Vermonters need to look at education spending and how they're going to go forward. Heather has 8 been staying in touch with it as much as she can but felt if they can get education funding and the 9 principles behind it more easily, the transparency will be increased. She noted she is one person 10 out of 180 in Montpelier. 11

Julie had asked Heather to talk about what may affect Chester and one bill they had been working 12 on in her committee, the Commerce and Economic Development Committee, is H.121 which is an 13 act related to enhancing consumer privacy. They are looking at fingerprints, irises, and DNA and 14 how Vermont laws protect this. Heather said it was 85 pages long and would impact all Vermonters 15 who use the Internet or have cellphones. Other states have enacted similar bills over the past few 16 years and Vermont has leaned into Connecticut's version but modified it and California and 17 possibly 7 or 8 other states also had Connecticut's version. It hasn't been addressed much at the 18 19 federal level so that's why state legislatures are addressing how to protect personal and sensitive data. The attorney general has supported it and Heather offered to present it when it is enacted. 20 She thought it would protect information and a part of the bill she likes is data minimization which 21 tells companies who consumers interact with that they can't gather more data than what's 22 reasonably expected. It involves data brokers and those who collect personal data to resell. 23

Heather said a constituent brought to her attention H.536 which is an act pertaining to dog discrimination. Heather loves dogs and said they have received complaints that insurance companies are restricting coverage if someone owns a specific dog breed. Heather has checked with the Department of Financial Regulation, and they regulate all the insurance companies and the practice in Vermont is to not allow insurance companies to do this, but the DFR is looking at codifying into law that insurance companies won't be able to refuse insurance for a certain breed unless the dog has a biting history and has been aggressive.

Heather looks forward to speaking more when she is no longer a board member. She thought it was important to not only inform them of what's happening but also receive feedback.

Arne thanked her and asked how frequently she would attend Selectboard meetings and give legislative updates. Heather said it was up to the board. She will attend Town Meeting and give a legislative report that will go into detail on other bills for the last three months and will also have a report at the end of session and distribute those at Town Hall. Heather is available to speak with them about what's up and do it monthly or every other month depending on their desire. Heather was willing to accommodate their request. The members thanked Heather for the update.

Agenda Item 7, Liquor Licenses: American Legion – 1st Class, 3rd Class, Entertainment

Arianna moved to approve the American Legion 1st Class and 3rd Class liquor licenses and entertainment permit and Lee seconded the motion. A vote was taken, and the motion carried unanimously.

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MacLomainn's - 1st Class, 2nd Class, 3rd Class, Entertainment

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4 5 Lee moved and Arianna seconded a motion to approve a 1st, 2nd, and 3rd Class liquor licenses and an entertainment permit for MacLomainn's. A vote was taken, and the motion carried unanimously.

Agenda Item 8, New Business/Next Agenda

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Arne announced that Julie had gone downstairs to get their attorney for the executive session and to give a synopsis. While they were waiting, Arne asked if there was anything they wanted to see under new business. None of the members had anything. Arne mentioned they would begin discussing Class 4 roads at the second meeting in March.

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(Brief 1 minute recess at 7:13 p.m.)

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Agenda Item 10, Executive Session: Legal Counsel regarding Julian Quarry proceedings

Arne announced they would be entering executive session shortly but first, Jim Carroll, the town's attorney, addressed the audience. Jim said, as they were all aware, the application had been withdrawn and he had been meeting with Preston, the Zoning Administrator, who had issued a notice of violation in connection with all three quarries: North, South, and Chandler Road, and there were a variety of issues that had been raised and were to be corrected. Jim said anyone could get a copy of the notice of violation from the town. By statute, the notice of violation is what initiated the process of enforcement under the zoning bylaws. There's a period of 7 days where the landowner can cure the stated violations. The 7 days had come and gone. There's an appeal period where the landowner can appeal the notice to the DRB. Within that 15-day period, they received a notice of appeal so there will be a hearing on that before the DRB instead of on a pending application for a conditional use permit which had been withdrawn. The town will be present at the DRB hearing to assist Preston in the hearing and provide evidence for the DRB to consider whether to uphold the notice of violation. It is a process statutorily granted and people can participate in that process where the issues would be whether the DRB agrees with the Zoning Administrator that violations exist and have or have not been cured and render a decision based on that. The enforcement action can also go directly to the environmental court. Jim was present to discuss that option with the board and Preston and whether it should be undertaken. That could mean two separate proceedings underway in connection with the notice of violation which could be rejoined and heard together at the environmental court. It's the statutory process given with enforcement, and they must follow. Jim was present to provide strategic advice about the initiation of a separate complaint that would be filed in the environmental court, and to protect the interests of the town in connection with the strategies, advice, and costs, it needed to be done in executive session. Jim told the audience to stay tuned in connection with the administrative proceeding that was going through the DRB and believed they would all have opportunities to attend and testify and may even hear from either Preston or himself asking for their attendance and testimony in connection with the violations. Jim added they also may hear from them about any hearings before the environmental court, which would happen before a judge. It will take time, but they will pursue it as quickly as the law allows.

Arne asked if they could have questions and Jim said yes with the proviso that if they touched on a strategic issue or question, he could not answer.

Rene Melanson was curious about the DRB, and the quarry having 7 days to comply and 15 days to appeal which struck him as odd. Jim said there was a lot about Vermont statute that could potentially strike him as odd. Jim said this wasn't necessarily odd but what was odd about enforcement actions before the environmental court that went in that direction was that they have this possibility of initiating two different proceedings over the same notice of violation. The statute is clear that the zoning administration must provide a notice of violation, serve it, and then they have 7 days to cure, which means if they do what the notice asks, there's no enforcement action because they've stopped the violation. Once the 7-day cure period runs, and there's evidence the violation has continued, fines and penalties can commence. They never get assessed until enforced in environmental court but start to run after the 7 days. Anyone who receives a notice of violation has 15 days to appeal it to the DRB which starts the administrative proceeding that many have participated in during a permit application, but the concept was totally different and was about whether they were violating an ordinance or permit. Jim said it was the proof required for a DRB hearing and an environmental action. Jim said the town can file a complaint and for strategic reasons, it was good to wait until there was some understanding if the notice of violation was appealed. Because this was appealed, the town needs to think about initiating other steps. Rene wondered if it could have been done 3 years ago and Jim said potentially, but there was a lot of strategic thinking that goes into it by the zoning administrator, the town's attorney, the board, and others. Jim said there was a lot of information that was available.

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Mike Kenworthy said one letter went out about violations and there are 3 quarries which all had issues, and he was concerned if it was all together. Mike was worried that they wouldn't be acted on separately. There is an issue with the Chandler Quarry. 18 months ago, they received a permit for a storage facility and within three months, they brazenly violated it by bringing rock sawing equipment in. He didn't understand if the board gave them a permit and they abused it, why the environmental court or anyone in the state or county needed to be involved. He wondered why the town couldn't enforce it. Jim said the point was well taken but the town didn't have the authority to enter a civil judgment to issue an injunction and those remedies needed to come through a court. The DRB can issue permits or agree about violations but is not able to issue a civil judgment which is required to act against people and property. Mike was under the impression the police could do it and questioned why they had to go to an environmental court, and Jim explained it was because it was the law. Mike wondered if the quarry was in a special category and Jim replied no, that the same would apply to Mike or anyone else who owned property. Jim said the DRB can agree with a violation but are unable to issue a civil judgment. Mike asked if the people that got the loan for the building decided to make it a dance hall if they would have to go to court to get them to comply and Jim said they would ultimately have to go to court to get a judgment. Jim said it was something they needed to speak with their legislature about.

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Mike LeClair said they had heard no noise there for a week and a half and it was awesome. They are looking for a continuance of the noise and pollution and that they were prepared to use their existing permits for quarry number three where their stone is processed. Mike said their system doesn't work when they're cutting stone in a building that was permitted for storage. The stone cutting has caused pollution to go into Dean Brook for the last three years and they do not have a system to take care of it. Mike said the board and others saw the system does not work and wondered how much longer they would be allowed to pollute the stream. Mike was under the impression that the Selectboard had the ability to have inspections. Mike wondered when they

started operations up who would do that. Mike said they are tired, he's getting poor, and was mad. Barry Goodrich wondered if the quarry would be allowed to start up when they returned. Jim said they were in the process of moving to enforce the zoning regulations but could not give a date certain of when that would happen. Preston could instruct them to stop but that's all they could do until a court order was issued. Barry didn't think it should take four years.

Julie asked Jim to address Act 250 as a lot of the violations were Act 250 violations. Jim said there was an environmental court matter currently pending that involves a jurisdictional opinion issued by the local district coordinator that said they were in violation of their Act 250 permit and there was an appeal and there is discovery process and a hearing before the environmental court had not yet been set.

Priscilla Melanson asked if they could attend the hearing and Jim said yes, as they are public hearings.

Jim expected that he or Preston would try to get in touch with them in the coming weeks to prepare for the hearing.

 Arne thanked Jim for taking questions and speaking to the audience and board. Arne understood the community had been suffering but they had to follow the law and go through the procedures. Jim warned that if they missed a step, the court would require them to go back to the beginning, so they had to follow the steps in proper order but as quickly as they can.

Arne entertained a motion to find that the premature general public knowledge of confidential attorney-client communications made for the purpose of providing professional legal services relative to the legal matter involving the Julian Quarry would place the Town of Chester at a substantial disadvantage. The first motion was for the authority to go into executive session. Heather moved and Lee seconded the motion. The motion carried unanimously.

Arne entertained a motion to enter into executive session pursuant to 1 V.S.A. § 313(a) for the purpose of receiving and discussing the town legal strategy on Julian Quarry. The motion included inviting Attorney Jim Carroll, Town Manager Julie Hance, and Town Planner Preston Bristow. Arianna moved and Lee seconded the motion. Tim Roper asked if anything would happen after the executive session and Jim said he expected there would be no action. A vote was taken, and the motion carried unanimously.

(Entered Executive Session at 7:38 pm.)

Arianna moved and Heather seconded a motion to exit executive session. The motion carried.

(Executive Session exited at 8:41 p.m.)

A motion was made by Lee and seconded by Peter to authorize the town attorney to issue an enforcement action.

Agenda Item 11, Executive Session: Legal Counsel regarding Discontinuance of Bailey Hill Road

A motion was made by Arianna and seconded by Peter to find that premature general public 1 knowledge of confidential attorney-client communications made for the purpose of providing 2 professional legal services relative to the potential discontinuance of Bailey Hill Road would 3 place the Town of Chester at a substantial disadvantage. The motion carried. 4 5 6 A motion by Lee and seconded by Arianna to enter into executive session, pursuant to 1 V.S.A. §313(a), for the purposes of receiving and discussing the town's legal position regarding the status 7 8 of Bailey Hill Road. This motion included inviting in Attorney Jim Carroll and Town Manager Julie Hance. The motion carried. 9 10 11 (Executive session was entered at 8:43 p.m.) 12 A motion to exit executive session was made by Lee and seconded by Arianna. The motion 13 carried. 14 15 (Executive session was exited at 9:27 p.m.) 16 17 18 No action taken. 19 20 Agenda Item 12, Executive Session: Solar Field 21 A motion was made by Lee and seconded by Arianna to find that premature general public 22 knowledge of discussions relating to negotiations for the potential purchase of the solar field 23 located at the Jeffrey Well Site would place the Town of Chester at a substantial disadvantage. 24 The motion carried. 25 26 27 A motion was made by Lee and seconded by Arianna to enter into executive session, pursuant to 1 V.S.A. §313(a) for the purposes of discussing negotiations of the purchase of the solar field 28 29 located at the Jeffrey Well Site. The motion included inviting in Town Manager Julie Hance. 30 (Executive session entered at 9:29 p.m.) 31 32 33 Lee moved and Arianna seconded a motion to exit the executive session. The motion carried 34 unanimously. 35 36 (Executive session exited at 9:58 p.m.) 37 No action taken. 38 39 40 Agenda Item 13, Executive Session: Town Manager 41 42 Lee moved and Ariana seconded a motion to enter executive session for the purpose of town manager review. The motion carried. 43 44 45 (Executive session entered at 9:58 p.m.)

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1	Lee moved and Peter seconded a motion to exit executive session. The motion carried.
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3	(Executive session exited at 10:15 p.m.)
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5	Agenda Item 13 Adjourn
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7	Lee moved to adjourn, and Peter seconded a motion to adjourn. A vote was taken, and the motion
3	passed, and the meeting was adjourned at 10:16 n m

