



# TOWN OF WAITSFIELD

## Memorandum

**TO:** The members of the Waitsfield Selectboard  
**FROM:** Trevor M. Lashua, Town Administrator  
**DATE:** April 24, 2019  
**RE:** Initial analysis of draft MOU.

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The memo includes an analysis of the draft memorandum of understanding (MOU; dated 3/24/19) created by the members of the vitality subcommittee. The contents of the memo are intended to assist the Waitsfield Selectboard in its discussion generally, and the two representatives to the MOU negotiating committee more specifically.

A few areas of more general concern are also noted at the end.

The Selectboard is strongly encouraged to discuss and develop a set of negotiating priorities and parameters for the MOU development process.

The memo uses the section numbers from the draft MOU.

#1) In the, "NOW, THEREFORE," paragraph of the introductory section, the list of option tax categories does not include meals. Has the proposal changed, or is this simply a drafting oversight?

#2) Article II, "DURATION" – The Board could consider a finite term with an option to extend. Nearly all contractual arrangements – which is what the MOU is – are not open-ended. The defined term also allows for a natural expiration if the venture does not succeed, creates other issues, or if underlying conditions change.

#3) Article III, "ORGANIZATION" – Why would the Planning District Steering Committee need to appoint the LOT commission chair? The Selectboards don't appoint the Steering Committee chair, nor do they appoint the chairs of their respective committees and commissions. Why not have the commission members elect officers directly? Alternatively, why not rotate the chair amongst the three towns, with each town holding the position for a one-year term?

#4) Article III, "ORGANIZATION" – In subsection C, the language calls for the, "full amount of monies" to be pooled. The total pool would be nearly \$700,000, based on FY18 data, with more than 60% of the funds raised in Waitsfield. The Board could consider whether or not 100% of the revenue is an appropriate level of funding for a collaborative effort without much precedent, and when the Town has capital and operational needs of its own.

For discussion and illustration purposes, the table below shows various scenarios using the FY18 data. The scenarios show that even at the minimum funding contribution level – 50% of the total proceeds – Waitsfield would be contributing more than \$200,000 to the funding pool.

Ratio	Pool "Share"	Waitsfield "Share"
50/50	\$ 204,378	\$ 204,378
40/60	\$ 245,254	\$ 163,502
30/70	\$ 286,129	\$ 122,627
20/80	\$ 327,005	\$ 81,751
10/90	\$ 367,880	\$ 40,876

Funding contributions could also be tiered, with additional funding contributed to the pool based on need, success, or a combination of the two.

The Board could also consider contributing an amount equivalent to that of the next largest contributor (Warren, at nearly \$268,000 in FY18). That would leave nearly \$141,000 in funds to be assigned by the Waitsfield Selectboard and voters.

#5) Article III, "ORGANIZATION" – How will the funds be managed? Is the expectation that current Planning District staff would add this to their respective workloads? Is additional staff to be hired, and if so, paid by LOT revenues? Who hires that staff? What systems will ensure appropriate accounting and accountability? There is a lot of important mechanical work to be done to ensure that public funds are spent appropriately, effectively, and transparently.

#6) Article III, "ORGANIZATION" – In subsection C, a set of bylaws is referenced. Where are those and how will those be (or how were they) created? If the bylaws will dictate distribution of funding, as described, they should be developed and negotiated along with the MOU.

#7) Article III, "ORGANIZATION" – In subsection C, some of the entities listed are advisory bodies only. If the goal is to fund areas of need or value, then why not be more explicit: for example, local option tax revenue may be used to fund public transit initiatives, through the towns or other entity as identified.

#8) Article III, "ORGANIZATION" – Subsection D again calls for the Planning District Steering Committee to appoint a chair. (See #3).

#9) Article III, "ORGANIZATION" – Subsection H relates to the same points made in #5.

#10) Article IV, "POWERS AND DUTIES OF THE MRVLOT" – The reference to 24 V.S.A. § 4866 is to a section that outlines the powers and duties of a union municipal district. Union municipal districts may only be created by voters. The statutory reference is enclosed with this memo, with areas of concern highlighted (for example, the powers and duties include law enforcement contracts and borrowing money).

Why is it necessary for the LOT commission to hold powers comparable to a union municipal district, if the purpose (as described publicly on multiple occasions) is to collect local option tax revenue and distribute it to applicants through a grant-based process?

The union municipal district components have often been the most objected to and none of the powers listed are necessary to accomplish what has been discussed.

The Selectboard should assume that any entity it participates in or creates that is given certain powers and duties – regardless of intention or current composition – will use (or attempt to use) those powers at some point. The MOU isn't limited in term in its draft form, so this is a grant of powers without a stated end.

Any powers and duties of the LOT commission could be simply and clearly defined in the MOU, and only expanded if or when there is a need.

#11) Article V, "FINANCING" – Should Towns be allowed to bill for any administrative costs associated with collecting and transmitting the funds?

#12) Article IX, "DISSOLUTION" – Why is the dissolution process the same as that for dissolving a union municipal district? Why aren't towns allowed to leave the agreement at the discretion and direction of their voters? Why couldn't the agreement be for a specified term, with a town allowed to exit once a certain threshold of time has been met and following a local vote to withdraw?

Other areas of concern or note:

*VLCT's concerns.*

To ensure the concerns expressed by the Vermont League of Cities and Towns (VLCT) are consistently and accurately described, Town staff recommends that VLCT be asked to submit them in writing and that the document be made a part of the more formal record. The organization's rationale is thoughtful, rooted in history and experience, and designed to serve all municipalities in all years.

*Descriptions of local option tax use in other municipalities.*

Town staff created a document that summarizes the use of local option tax revenue in other municipalities. The document is intended to be a "living" one, at least until complete; currently there is information from 12 cities and towns (slightly more than half of those with local option taxes). The purpose of the document is to create an accurate and consistent baseline for the policy discussion.

*Meeting Times.*

The LOT MOU commission is encouraged to explore a mixture of meeting times, with an emphasis on evening meetings, to ensure broad access and participation. The goal should be an open, vibrant, and transparent process. Afternoon meetings tend to depress attendance and access, as those working standard hours and days are precluded from attending. The Town of Waitsfield's meeting space is one that can be available, is centrally-located within the Mad River Valley, and is fully accessible.

# The Vermont Statutes Online

The statutes were updated in November, 2018, and contain all actions of the 2018 legislative session.

## Title 24 : Municipal And County Government

### Chapter 121 : Intermunicipal Cooperation And Services

#### Subchapter 003 : Union Municipal Districts

(Cite as: 24 V.S.A. § 4866)

#### § 4866. Powers and duties

A union municipal district may:

- (1) Hire and fix the compensation of employees.
- (2) Contract with consultants and other experts for services.

~~(3) Contract with the state of Vermont or the federal government, or any agency or department thereof, for services.~~

(4) Contract with any participating municipality for the services of any officers or employees of that municipality useful to it.

~~(5) Contract with a county sheriff to provide law enforcement services to the union district.~~

(6) Promote cooperative arrangements and coordinated action among its participating municipalities.

(7) Make recommendations for review and action to its participating municipalities and other public agencies which perform functions within the region in which its participating municipalities are located.

(8) Exercise any other powers which are exercised or are capable of exercise by any of its participating municipalities, and necessary or desirable for dealing with problems of mutual concern.

~~(9) Borrow money and issue evidence of indebtedness as provided by chapter 53 of this title. Obligations incurred under such chapter shall be the joint and several obligations of the district and of each member municipality but shall not affect any limitation on indebtedness of a member municipality. The cost of debt service shall be included in the annual budget of the district, and shall be allocated among the member municipalities as provided in the agreement for the allocation of the assessment for the ordinary expenses of the district. Where voter approval is required pursuant to chapter 53 of this title, the governing body of the district shall determine the number and location of polling places, and when a majority of all the voters present and voting on the question from all of the member municipalities at such meeting vote to authorize the issuance of bonds, the district shall be authorized to issue the bonds as provided in said chapter. The counting of ballots~~

~~shall be conducted by the governing board of the district together with the town or city clerk from each member municipality or his or her designee.~~ (Added 1969, No. 197 (Adj. Sess.), § 1; amended 1973, No. 250 (Adj. Sess.), § 6; 2003, No. 122 (Adj. Sess.), § 85j.)

Local Option Taxes - by type, use, and municipality

"Type" Key [1]	
S= Sales	M = Meals
R= Rooms	A = Alcohol

	Municipality	Type/LL	Use	Notes
1	Barre City	R, M, A	For capital investments in paving and sidewalks only.	Implemented in October 2018, after multiple previous attempts were defeated by voters.
2	Colchester	S, R, M, A	Primary uses are debt and property tax reduction; revenues may be used for capital improvement projects with voter approval.	Adopted in March. Information per website.
3	Hartford	R, M, A	Variable, FY20 budget calls for purchase of an ambulance, cemetery restorations, and a community swimming pool conceptual design.	FY18 was the first full year of implementation. FY20 uses were approved by voters at Town Meeting.
4	Manchester	S, R, M, A	All revenue is applied to the operating budget to lower property taxes. If there is excess revenue, it may be placed in a special fund, the uses of which are subject to voter approval.	Implemented the sales tax in 1991; all other LOT types in 2008.
5	Middlebury	S, R, M, A	Adopted primarily to fund debt service for the Cross Street Bridge project (~\$600,000 per year), the tax generates additional revenue. For the past two fiscal years, the revenue beyond projection has been used for capital improvements (\$400,000 allocated for FY20).	Adopted and implemented in 2009.
6	St. Albans Town	S, R, M, A	LOT revenue must be used for infrastructure projects, based on voter approval. A new public works garage is being built now with LOT revenue.	Neighboring St. Albans City also has a local option tax on rooms, meals, and alcohol.
7	South Burlington	S, R, M, A	LOT revenue is used for infrastructure, notably the debt service for a police station project. The other primary use is property tax reduction.	An effort to expand the LOT to rental cars met with legislative resistance in 2019. Voters approved the tax locally.
8	Stowe	R, M, A	Use is primarily for capital enhancement projects - i.e. those projects other than those required by law. Examples include debt service for the Stowe Arena (ice) and undergrounding/relocation of utilities on Main Street. Any remaining funds are directed to the General Fund capital fund.	Stowe's discussions about the use of funds can be instructive. The response received included historical context, and recommendations.
9	Williston	S, R, M, A	Property tax reduction.	The use of LOT revenue to reduce property taxes has been seen as crucial component of voter support for various bond issues and areas of substantial increase in the budget.
10	Wilmington	S, R, M, A	Revenue is placed in an LOT reserve fund. The Selectboard can authorize the use of funds for requests equivalent to 20% of the total reserve or less. Voters and the Selectboard must authorize requests greater than 20%. Unused funds remain in the reserve. Voters may also authorize transfer of funds from LOT reserve to other Town reserves or uses. Examples of use include: economic development initiatives (events, revolving loan fund, entrepreneurial grants, etc.), social service requests, public use infrastructure, facade improvements, downtown WiFi, and so on.	Wilmington provided a copy of its usage guidelines for information as well.
11	Winhall	S, R, M, A	Debt service on a Town Office project (a new building) and general property tax reduction.	
12	Woodstock	R, M, A	Revenue is used for economic development initiatives.	Seeking examples of use.