

MEMORANDUM

To: Sarah London, General Counsel

From: Ryan Horvath, FPR Lands Administration Division

Date: June 13, 2016

RE: Governor's Approval to amend an easement to include:
10.1 +/- acres, in the Town of Tinmouth, from Jonathan C. Gibson, Eliza D. Mabry, the
Lloyd Realty Trust, Rustin McIntosh, Katherine B. Payne and Roger S. Payne.

The easement that is to be amended was originally granted to the state by Kenneth and Margaret Vance McIntosh on October 1, 1985. The parcel that will be added to the easement will be donated by Jonathan C. Gibson, Eliza D. Mabry, the Lloyd Realty Trust, Rustin McIntosh, Katherine B. Payne and Roger S. Payne. This parcel was excluded from the original Grant of Conservation Restrictions of Common Land that is co-held by the Vermont Land Trust and the State of Vermont.

Included with the Governor's approval memo are maps of the property and surrounding area, minutes from the Town of Tinmouth Selectboard meeting held on May 19, 2016 showing support for the acquisition, and the written deed description.

If you have any questions regarding this acquisition, please contact me at 272-4156 or ryan.horvath@vermont.gov

Thank you.

MEMORANDUM

TO: Peter Shumlin, Governor

THROUGH: Deborah L. Markowitz, Secretary, Agency of Natural Resources

FROM: Michael C. Snyder, Commissioner, Department of Forests, Parks and Recreation

DATE: June 10, 2016

SUBJECT: Acquisition Approval – Lloyd Easement Amendment – Town of Tinmouth – 10.1 acres

Your approval is requested pursuant to Title 10, Chapter 83, Section 2606(a), VSA, for the acceptance of the fee acquisition referenced above. This acquisition was recommended by the Agency of Natural Resources Land Acquisition Review Committee on 4/21/2016 and subsequently approved by the Agency Secretary for acquisition on 5/19/2016.

Description

This 10.1 acre parcel is located in the Town of Tinmouth on the easterly side of Pent Road and surrounded on all sides by the current Conservation Easement.

This parcel was excluded from the original Grant of Conservation Restrictions of Common Land. It was excluded with the intention that it could be a house lot. The addition of this parcel to the easement will protect it from development and eliminate an inholding.

Ownership and Management

This easement is co-held by the Vermont Land Trust and the State of Vermont and monitored by the Vermont Land Trust.

Budget and Funding

The amendment will be a donation to the Department of Forests, Parks and Recreation.

APPROVAL FOR LAND ACQUISITION

We, the undersigned, hereby approve the acquisition by the State of Vermont, Agency of Natural Resources, Department of Forests, Parks and Recreation of the following land and interest in land, located in the Town of Killington, from Merle P. Schoenfeld, Deborah A. Eastman, and Diane L. Eastman:

An 0.66 acre parcel of land, said parcel being shown as "Parcel No. 3" on a survey plat entitled, "Merle P. & Beverly E. Schoenfeld Property Thundering Brook Road Sherburne, Vermont", dated June 8, 1984 and recorded in Map Slide 589 in the Town of Killington Land Records.

This approval is pursuant to Title 10, Chapter 83, §2606 (a), VSA for acceptance of the land acquisition referenced above.

6/22/16
Date



Peter Shumlin, Governor
State of Vermont

6-13-16
Date



Deborah L. Markowitz, Secretary
Agency of Natural Resources

6/13/16
Date

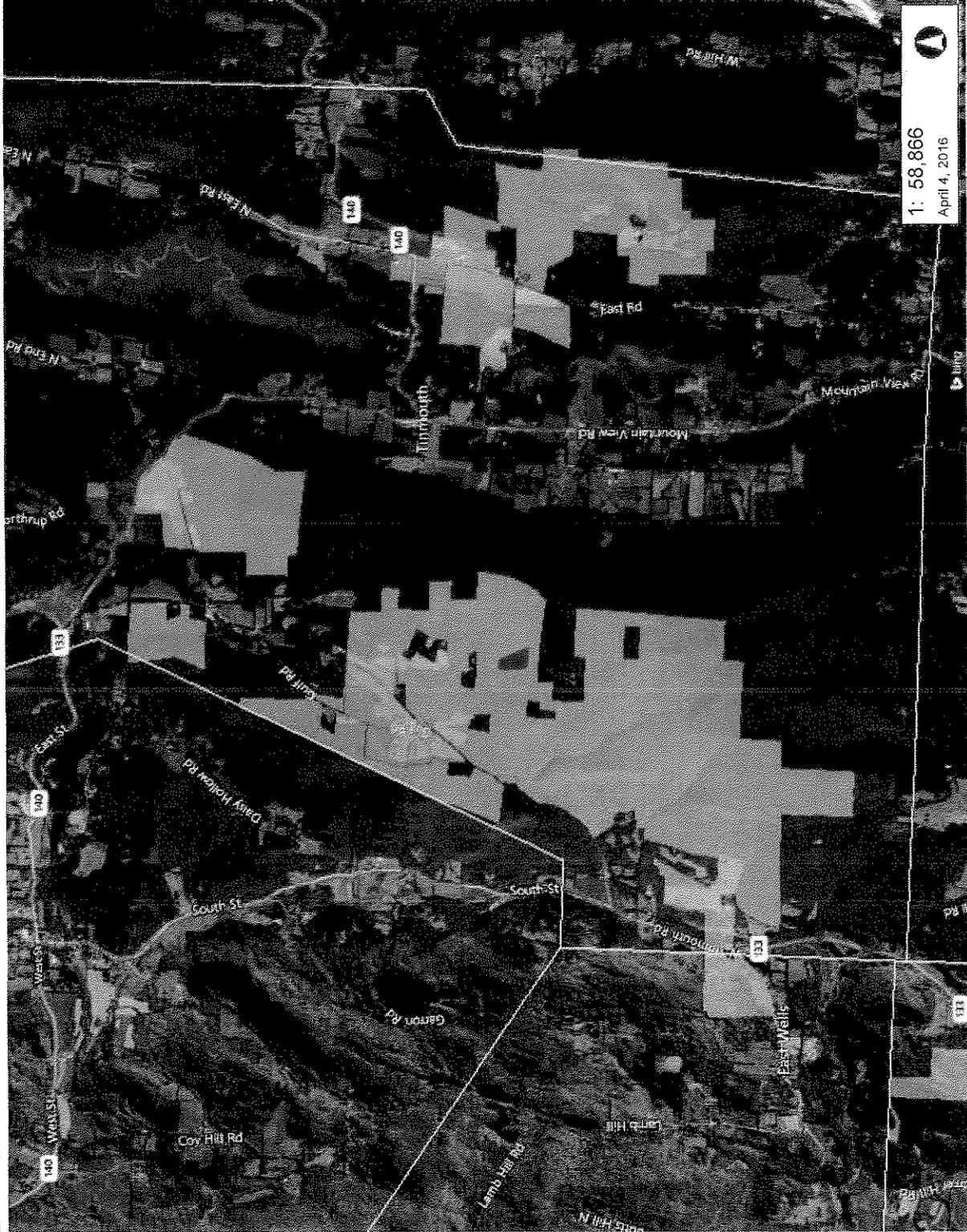


Michael C. Snyder, Commissioner
Department of Forests, Parks and Recreation



Locator
Vermont Agency of Natural Resources

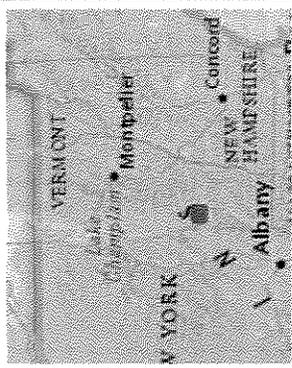
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1: 58,866
April 4, 2016

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1" = 4906 Ft. 1cm = 589 Meters
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LEGEND

- Managed Lands**
 - State Forest, Fee ownership
 - State Park, Fee ownership
 - Non-fee interest
- Conserved Lands**
 - Housing and Conservation Board
 - Local Government
 - Private Organization
 - US Dept. of Defense
 - US Fish and Wildlife Service
 - US National Park Service
 - UVM and State Colleges
 - VT Dept. Buildings and General Se
 - VT Division for Historical Preservation
- Town Boundary**

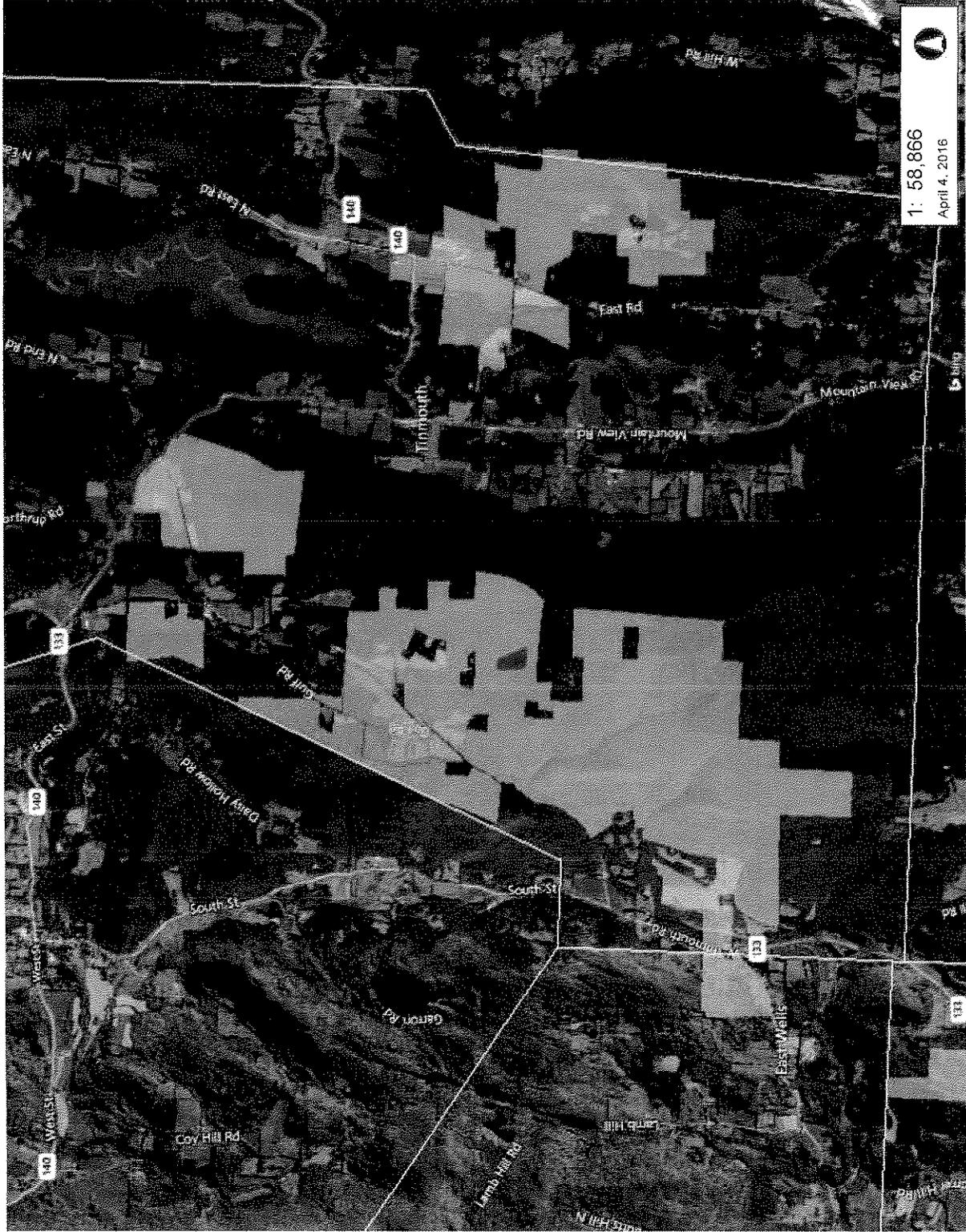
NOTES

Map created using ANR's Natural Resources Atlas



Locator
Vermont Agency of Natural Resources

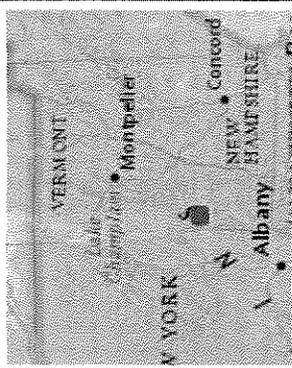
vermont.gov



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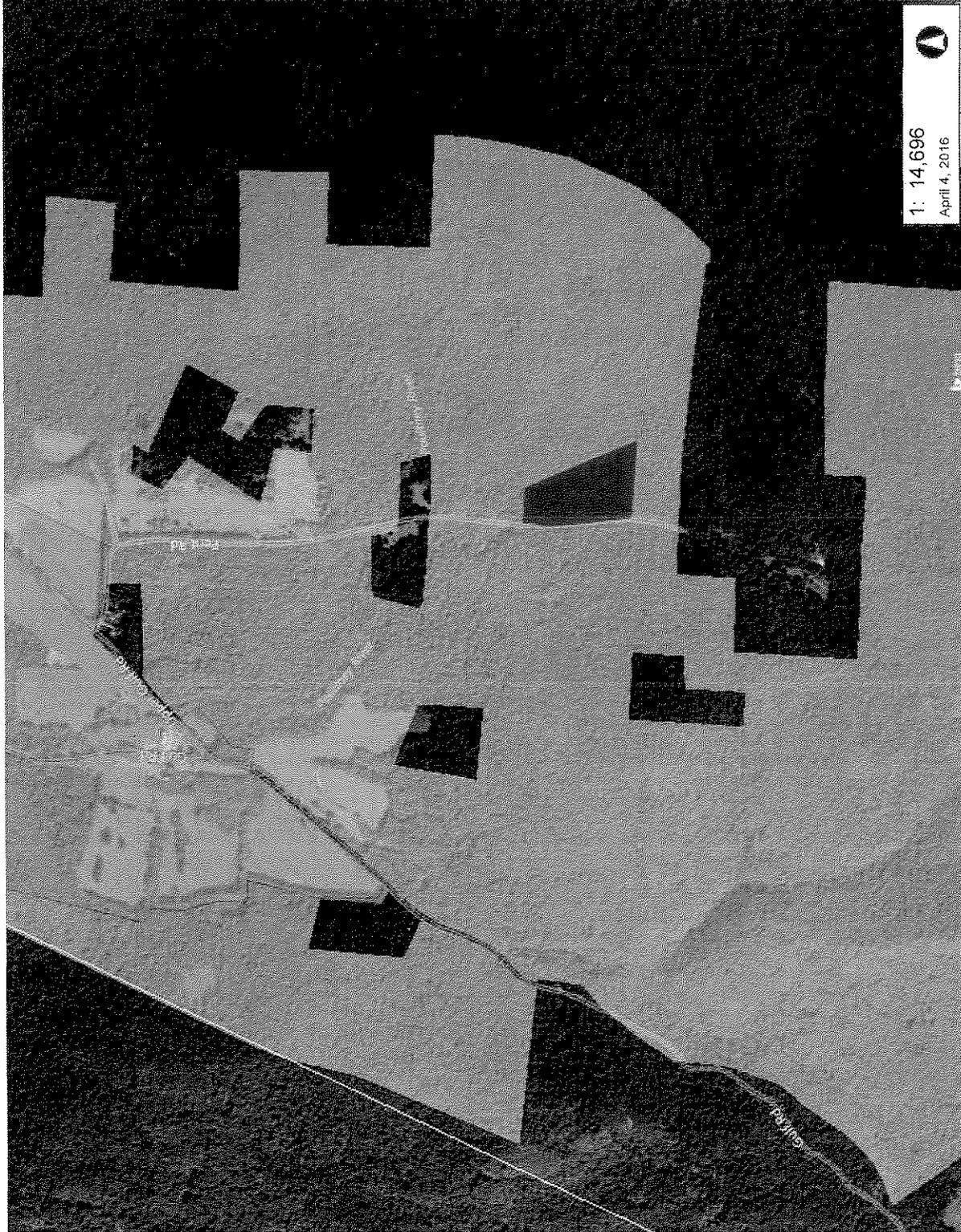


VERMONT

Detail

Vermont Agency of Natural Resources

vermont.gov



747.0

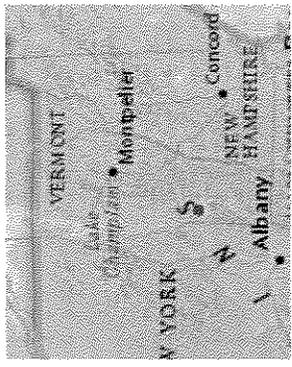
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1" = 1225 Ft 1cm = 147 Meters

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1: 14,696
April 4, 2016



LEGEND

Managed Lands

- State Forest, Fee ownership
- State Park, Fee ownership
- Non-fee interest

Conserved Lands

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Town Boundary

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**Town of Tinmouth
Select Board
May 19, 2016
Minutes**

Board members present: Matt Patry, Laurie Phillips, and Frank Sears

Others present: Eric Buffum – Road Commissioner, Hollis Squier, Larry and Cris Carabeau, Jan Krantz, and Gail Fallar- Board Assistant

Matt called the meeting to order at 5:00 PM.

Reviewed agenda – added lap top computer, gravel for old creamery, transfer station inspection, electronic recycling collection, and SWAC appointment. Board approved minutes of 4/7/16 as written, moved by Frank, 2nded by Laurie, all in favor.

Eric reported the road crew has been busy grading and graveling back roads. He mentioned the need for an excavator; several surrounding towns now have them. He also looked into a wood chipper – there is a used one available for just under \$10,000 – renting them costs \$275 per day, but those are not sturdy enough. Laurie raised a concern about equipment just setting, Eric noted that it could help fill in the time schedule and was more efficient than piling it in the truck and hauling it to the town garage. A new backhoe set up as needed might cost \$135,000. Board decided it needs more information and a plan, they will appoint a committee to make recommendations regarding equipment replacement. (Board will look for volunteers.)

Board reviewed driveway applications from the Carabeaus. Approved three with conditions, one near the old Capron place – doesn't need a culvert, the other two are on the old Valentine farm – both need culverts, one will replace two.

Gail reported that the town did not receive a paving grant this year, but was advised that more than likely would be in line for next year. Board decided to skip over area that needs reconstruction and pave up through Crampton's woods on Rte 140, near the intersection of Rte 140 and North End Road. Paving bids will be due June 9th.

The town did receive a grant for dump loks (a safety device for working on dump trucks) from VLCT PACIF – the town's insurance company. They will pay half.

Board was updated on the progress with the safety inspection, electrical work is all done, furnace has been cleaned, still working on moving the chimney.

Board discussed roadside mowing – Hollis advised he was willing to work as a town employee and charge rent for the equipment as in the past, noting his mower could mow wider and faster than a brush hog. Laurie expressed concern with the tractor lacking safety features like a roll bar/cage and the town's liability. It may be exempt due to its age, this will be researched. Hollis is still waiting for an insurance quote to be a sub contractor.

Board read letter from Terry McGann. He expressed concern about water in the ditch on his property on Tinmouth Pond Road. Eric noted that water does not run uphill and that there is a wetland nearby. Hollis added that it had been that way for years, Board took no action.

Board reviewed two quotes for a lap top computer for the road crew, Frank moved and Laurie 2nded to approve the purchase from Staples along with a 2 year warranty. All voted in favor. Gail, on behalf of the Old Creamery Committee, requested the town haul a load of gravel for use under the new porch, and that the school and community center all needed some as well. The OCC will pay for the gravel, and all the buildings belong to the town. Board approved.

Gail reported that the transfer station had been inspected by the state, no written report yet, but the issue of the gate being locked re-emerged and the tarp needs replacing. Eric advised that Middletown Springs has two dumpsters with compactors and their road crew does not have to do anything (such as move paper gaylords, compact the trash with the backhoe, etc.). Board will have the Solid Waste and Recycling Committee look into it.

Board appointed Wheaton Squier as Tinmouth's representative to the Solid Waste Alliance Communities.

Board approved collecting electronics – have to wait for gaylords- if computer stuff is sorted/separated the town will be paid for that. One bin will be for computer components, another for other electrical gadgets.

Some folks have been mowing their lawns onto and leaving the grass clippings on the road. This is a safety concern, Board will write a letter advising them to stop. Another person is filling the ditch with leaves and grass clippings, they too will be sent a letter.

It was also reported that someone is burning trash near Rte 140 and Rte 133. They will be sent a letter to stop as it is illegal to burn trash.

Board signed Warrant for unlicensed dogs. Constables and Animal Control Officer may now round them up.

Board discussed request from the State of Vermont, Agency of Natural Resources, Department of Forest, Parks and Recreation regarding amending a 1985 easement to include the conservation of 10.1 acres (house lot 8) in the Tinmouth Mountain Land Condominium. There are currently hundreds of acres conserved there; this is a separate lot that was not, and it is now being added to the common land. Frank moved and Laurie seconded to approve the proposed amendment and protection of the 10.1 acres. All voted in favor. The state is involved as they hold the restrictions as well as the Vermont Land Trust for the entire property.

Board approved and signed the Agreement with the Tinmouth School District involving the use of the Community Center. This replaced the interlocal contract recently dissolved by a special town meeting.

Laurie moved and Frank seconded to approve the LEOP (Local Emergency Operations Plan) for 2016, all voted in favor.

Board created two classes for disability insurance benefits, Class 1 for all full time highway employees and Class 2 for full time town office employees, effective March 1, 2016. Employees must work 30 hours per week to qualify. Laurie moved and Frank seconded, all voted in favor.

Laurie reported that chainsaw chaps and helmets have been purchased – they are good for five years unless they get dinged and then they have to be replaced. Vise grips, can for oily rags and tag-out/lock-out equipment have been purchased. Still working on list of tools needed. Frank inquired about the tool inventory; Laurie will meet with Eric to keep working on it.

Matt expressed appreciation to Holly Noble for stepping in as moderator for the special town and school town meeting in early May.

Board signed Bills and Orders and reviewed the financial report.

Meeting adjourned at 6:55 pm.

Respectfully submitted,

Gail Fallar Board Assistant

**FIRST AMENDMENT TO
GRANT OF DEVELOPMENT RIGHTS AND CONSERVATION RESTRICTIONS**

WHEREAS, Kenneth McIntosh and Margaret Vance McIntosh (the "Original Grantors"), through a Grant of Conservation Restrictions of Common Land (Parcels G & H), (the "Grant"), dated October 1, 1985, and recorded in Book 23, Page 37 of the Tinmouth Land Records, conveyed to the OTTAQUECHEE REGIONAL LAND TRUST, INC. (n/k/a VERMONT LAND TRUST, INC.), a Vermont non-profit corporation with its principal offices in Montpelier, Vermont, and the VERMONT DEPARTMENT OF FORESTS PARKS AND RECREATION, and their respective successors and assigns, (the "Grantees") a perpetual conservation easement on 82.2 acres, more or less, of land located in the Town of Tinmouth, Vermont (the "Protected Property"), which is more particularly described in the Grant.

WHEREAS, in said description of the Protected Property, a 10.1 acre parcel, so-called "House Lot 8" or the "Lot" therein, is specifically excepted and excluded from the Protected Property;

WHEREAS, by quitclaim deed dated February 12, 2015, and recorded in Book 43, at Page 315, Nadia D. McIntosh conveyed House Lot 8 to the Grantors for the purposes of adding House Lot 8 to the Protected Property; and

WHEREAS, by a Fifth Amendment to the Declaration of Condominium for Tinmouth Mountain Land Condominium Association (TMLCA), dated March 23, 2015, and recorded in Book 43, at Pages 371-376 of the Tinmouth Land Records, the Grantors unanimously agreed to merge House Lot 8 with the TMLCA common lands and add it to the Protected Property.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantors, (1) JONATHAN C. GIBSON and ELIZA D. MABRY, husband and wife, of Shrewsbury, Rutland County, Vermont; (2) ROBERT A. LLOYD and SUSAN M. LLOYD, TRUSTEES, OF THE LLOYD REALTY TRUST DATED JUNE 4, 1996 both of Tinmouth, Rutland County, Vermont; (3) RUSTIN MCINTOSH of Weymouth, Norfolk County, Massachusetts; and (4) KATHARINE B. PAYNE of Ithaca, Tompkins County, New York and ROGER S. PAYNE of South Woodstock, Windsor County, Vermont, on behalf of themselves and their heirs, successors and assigns, pursuant to Title 10 V.S.A. Chapters 34 and 155, do freely give, grant, sell, convey and confirm unto the Grantees, the VERMONT LAND TRUST, INC., and the VERMONT DEPARTMENT OF FORESTS, PARKS AND RECREATION and their successors and assigns, forever, the development rights and perpetual conservation easement and restrictions on land of Grantors in the Town of Tinmouth, Rutland County, Vermont consisting of 10.1 acres, more or less, and do hereby amend the Grant as follows:

1. The language excepting House Lot 8 from the description of the Protected Property in the Grant, as contained in the second to last sentence of such description, is hereby deleted in its entirety.
2. The following is hereby inserted immediately following the description of Parcel G on Page 1 of the Grant:

HOUSE LOT 8: Specifically included is a parcel of 10.1 acres, bounded to the east by the above described "Parcel G" and to the west by Town Road # 16, (also known as Pent Road), said parcel is depicted as "K. & M. McINTOSH, 10.1 ACRES, LOT #8" on a survey by Kenneth A. Grant entitled "LANDS OF The Tinnmouth Gulf Land Condominium And The Tinnmouth Mountain Land Condominium ~PROPERTY OF~ R.A. & S.M. Lloyd, R.G. & N.D. McIntosh, J.H. McIntosh, R.S. & K.B. Payne LOCATED Easterly & Westerly of Gulf Road TINMOUTH, VERMONT", dated February 12, 1980 and recorded at Map Book 1, pages 30-32 of the Tinnmouth Land Records.

3. The following is hereby inserted on page 2 of the Grant, immediately before the language "such restrictions to be in accordance with the terms of this Agreement", and is intended to be the last paragraph of the description of the Protected Property:

"Reference may be made to the above described deeds, declaration, survey, and records, and to the deeds, maps and records referred to therein for a more complete and particular description."

4. The following language is hereby deleted from lines 8-13 of Restriction Section 6 of the Grant as it currently appears on page 3 of the Grant:

"for use on the properties designated as House Lot #8 on a survey and plan of lands prepared by Kenneth Grant of Poultney dated August, 1985 and to be recorded in the Land Records of the Town of Tinnmouth, and entitled, "Division of Land of Kenneth and Margaret McIntosh, Town Highway No. 16, Tinnmouth, Vt.", (hereinafter "Lot") and"

5. Restriction Section 8 of the Grant, as it currently appears on page 4 of the Grant is hereby deleted in its entirety.

6. The following language is hereby deleted from Permitted Use Section 4 of the Grant, as it currently appears on page 4 of the Grant:

From lines 3-4 of said section: "and for providing water to the Lot"

From lines 11-15 of said section: "Waste disposal systems servicing the Lot may also be constructed and maintained if approved by Ottauquechee, such approval not to be unreasonably withheld, unless such construction and maintenance conflicts with an important purpose of this Agreement."

7. The following language is hereby deleted from line 4 of Permitted Use Section 5 of the Grant, as it currently appears on Page 4 of the Grant:

"or for use on the Lot."

8. In all other respects, the Grant is unchanged and remains in full force and effect.

TO HAVE AND TO HOLD said development rights and conservation restrictions, as described in the Grant as hereby amended, with all the privileges and appurtenances thereof, to the said Grantees, **VERMONT LAND TRUST, INC.**, and the **VERMONT DEPARTMENT OF FORESTS, PARKS AND RECREATION**, and their successors and assigns, to their own use and behoof forever; and the said Grantors: (1) **JONATHAN C. GIBSON** and **ELIZA D. MABRY**, husband and wife; (2) **ROBERT A. LLOYD** and **SUSAN M. LLOYD**, **TRUSTEES, OF THE LLOYD REALTY TRUST DATED JUNE 4, 1996**; (3) **RUSTIN MCINTOSH**; and (4) **KATHARINE B. PAYNE** and **ROGER S. PAYNE**, for themselves and their heirs, successors and assigns, do covenant with the said Grantee, its successors and assigns, that until the ensealing of these presents, they are the sole owners of said premises, and have good right and title to convey the same in manner aforesaid, that the premises are free from every encumbrance, except those of record, not intending hereby to reinstate any interest or right terminated by operation of law, abandonment or 27 V.S.A Ch. 5, Subch 7, and they hereby engage to warrant and defend the same against all lawful claims whatever, except as aforesaid.

We set our hands and seals this _____ day of December, 2015.

[Signatures follow on the subsequent seven pages]