

**Town of Norwich, Vermont**  
**Minutes of the Special Selectboard Meeting**  
**Wednesday, June 3, 2026**

**Active Participants at Tracy Hall:** Kimo Griggs (SB Chair), Brendan Classon (SB Vice Chair), Matt Swett (SB member), Mary Layton (SB member), Rob Gere (SB member), Brennan Duffy (Town Manager), Priscilla Vincent (Town member), Cheryl Lindberg (Town member)

**Active Participants on Zoom:** Pamela Smith (Town member), Beriah Smith (Town Counsel), David Rugh (Town Counsel)

**Key:** *Motions noted in italics.*  
Public comment noted in blue.

**The meeting was called to order by Chair Kimo Griggs at 6:01 pm.**

**YouTube Timestamp: 6:58**

**1. Agenda**  
**Timestamp: 7:58**

Layton proposed amending the item on the response to the Katucki public records request lawsuit to say “proposed executive session” to be consistent with the language that they had agreed would adhere to the open meeting law and requested adding the option for a proposed executive session to the Katucki open meeting law violations complaints item.

Layton shared that it was difficult to navigate the agenda and packet, as the most recent version came out that day during her work hours, and there had been last-minute rearrangements.

Griggs explained that they had gotten something from the lawyers using the original agenda, which led him to recommend using the original agenda.

Classon echoed Layton’s comments about last-minute contributions and wondered if a 24-hour halt on agenda additions ahead of the meeting would be helpful.

Swett explained that there were some last-minute suggestions about changing the agenda, in addition to a letter from Counsel referring to different numbers on the agenda, and that it was difficult to get last-minute information.

*I move to accept the agenda as amended, accepting the version that was warned with the amendment for number three, replacing “possible” with “proposed” and copying that language for item number four. – Classon moved (2<sup>nd</sup> Swett) Vote: yes (unanimous)*

## **2. Public Comments for Items not on the Agenda**

**Timestamp: 15:11**

None.

## **3. Response to Katucki Public Records Request Lawsuit**

**Timestamp: 15:20**

Griggs explained that the possible motions on the motion sheet should be swapped to match the reverted agenda. Griggs read through the five possible motions relating to the open meeting law violations complaints, which included disclosing the substance of the executive sessions and associated emails from January 28<sup>th</sup>, ratifying or voiding the associated actions, and acknowledging a policy.

Duffy shared that he was “baffled and confused” regarding the reordering of the motion sheet and agenda.

A voice on Beriah Smith’s camera offered that they, as attorneys for the town, could suggest motion language to enter into executive session for both items to eliminate confusion.

Classon shared that he found the change simple due to the definitive item titles.

*I move to find that premature public knowledge regarding confidential attorney client communications concerning the lawsuit filed against the town on May 4th, 2026 by Mr. Katuki would clearly place the Selectboard at a substantial disadvantage by disclosing the town's litigation strategy, the town attorney's liability assessment, waving attorney client privilege and litigation strategy, which could be used against the town. – Layton moved (2<sup>nd</sup> Swett) Vote: yes (Layton, Gere, Swett, Griggs), no (Classon)*

Pamela Smith asked that everyone participating in the meeting identify themselves before making a comment, since the person speaking through Zoom on Beriah Smith’s login stated that they were the town’s attorney but was not Beriah Smith speaking.

Beriah Smith explained that Attorney David Rugh was in the room with him but was off-camera.

Classon reiterated Pamela Smith's comment about identification.

Priscilla Vincent shared that she did not understand the need for executive session.

David Rugh moved in-camera with Beriah Smith and explained that he was with SP&F Attorneys. Rugh voiced regret at violating the town's policy by not introducing himself.

Layton responded to Vincent that she found it important to seek legal advice from Counsel and hear their point of view. Layton added that she was uncertain as to whether her questions would impact the lawsuit in a way that would hurt the town.

Griggs added that the topic had been discussed at length in the public forum with Counsel.

Layton shared that the reasons stated in the finding relating to the town's litigation strategy, liability assessment, and waiver of attorney-client privilege were reasons to get input from Counsel. Layton highlighted that she was hearing different interpretations of the statute on agenda setting from Katucki and the town attorneys, which reflected some "gray area" that required judgement.

Griggs read an excerpt from the motion sheet with an overview of the case:

The case being considered is Katucki v. Town of Norwich, pending in Vermont Superior Court, Windsor County. It's a public records case, involving five claims. In general terms, the plaintiff alleges the Town improperly redacted records he requested and overcharged him for copies. The Complaint was filed May 4, 2026; the Town's response is due July 5. The purpose of an executive session to hear from counsel and get their candid assessment of the merits of case and how we might proceed. If we discuss our assessment of our own weaknesses, our legal strategy, and any settlement posture in open session, then the plaintiff could use this information to the Town's detriment in court and negotiations. That would clearly put the Town at a substantial disadvantage. If you have general questions about the case, we might be able to answer them in open session.

Classon emphasized that the key word in the motion was "public" and shared that he viewed the Selectboard as compromising themselves as representatives of the public. Classon shared that he thought it was unwise to continue insisting on an executive session. Classon recounted that he had written to the Selectboard and Town Manager on April 17<sup>th</sup> requesting the unredacted emails, which Katucki then also requested. Classon shared that he did not receive a response from the Selectboard members and that the Town Manager said that he appeared to be "misguided."

Swett added that he felt that they had done everything Classon had requested on the topic of the public records request lawsuit, that they had done as much talking in public as possible, and that talking with their lawyers would enable Swett to do his best as a member of the Selectboard to make a decision.

Classon stated that all Selectboard members beyond Gere and himself were present during the executive sessions being discussed. Classon stated that he had not seen the redacted emails and felt “decidedly underprivileged.” Classon questioned why he and Gere had not been afforded full access to the 537 emails.

Griggs responded that they did have access to the emails; Duffy noted that the unredacted emails were put into a shared file.

Classon stated that they were shared on May 27<sup>th</sup> after his initial request on April 17<sup>th</sup>.

Griggs restated that the documents had been released to the Selectboard.

Classon referenced a memo he wrote in May and stated that he questioned whether the town’s legal firm was “fully cognizant of our statutory obligation by virtue of our oath of office.”

Griggs redirected the conversation, stating that Classon’s comments did not relate to the motion being discussed.

Classon stated, “I don’t trust the lawyers.”

Vincent asked if the purpose of the executive session was to decide whether the Selectboard would wish to pursue litigation.

Griggs explained that they each may have different reasons for wanting to or not wanting to enter executive session but that there was some discomfort among some members in making a decision without getting all the available expertise. Griggs stated that the decision would be made on their own and in public.

Swett shared that they would not make decisions in executive session but that they would ask questions of the lawyer to gather information.

*I move to enter executive session pursuant to 1 V.S.A. §§313(a)(1)(E) and (F) for the purposes of discussing the pending litigation filed against the town by Mr. Katuki on May 4th, 2026 and receive confidential attorney client communications regarding the same, inviting the Town*

*Manager and the Town's attorney to attend. – Layton moved (2nd Gere) Vote: yes (Layton, Gere, Swett), no (Classon, Griggs)*

Griggs explained that discussions in executive session would be limited to the topic described in the motion and that no formal or binding actions would take place during executive session.

Time entered executive session: 6:37 pm

*I move to enter public session. – Layton moved (2nd Classon) Vote: yes (unanimous)*

Time entered public session: 7:51 pm

Swett shared that the Selectboard talked with town attorneys about the public records act lawsuit filed by Katucki against the town. Swett stated that no other matters were discussed, no actions were taken, and no documents were produced.

**4. Response(s) to Katucki OML complaint(s) of 9 April 2026**  
**Timestamp: 1:57:16**

Layton shared that she would find it valuable to hear Counsel's perspective on the violation of open meeting law.

Classon confirmed that the agenda item was regarding the disclosure of the substance of the January 28<sup>th</sup> executive session, which he reiterated that Swett, Layton, and Griggs participated in, and the Norwich Fire District letter. Classon recapitulated the five subsections and draft motions associated with the agenda item and asked if Counsel was needed for all five.

Swett stated that all five were asked in the cure and it was therefore worth hearing Counsel's perspective on them all.

Classon reflected that they had "moved a long way forward with this" and wondered whether they could "make a call."

Swett responded that he felt like they were missing an obvious piece, which was Counsel's advice in executive session.

Vincent shared that she thought the Selectboard had admitted to the violations and presented a cure, meaning that the matter had been settled.

Griggs explained that some of the cures involved actions that the Selectboard had said they would do but had not yet done.

Vincent responded that she did not understand why that would require an executive session.

Swett explained that voting at the last session included doing “a number of the things that he asked for,” but that there were more things that he asked for that they needed to discuss that came up in an email.

Classon quoted Alexis de Tocqueville.

*I move to find that premature public knowledge regarding confidential attorney client communications concerning the additional demands Mr. Katuki has made of the Selectboard concerning the Selectboard's cure of the admitted open meeting law violations in his May 21st, 2026 email to the Selectboard would clearly place the Selectboard at a substantial disadvantage because otherwise it would lead to the town's release of confidential communications subject to the attorney client privilege which could be used against the town, a disclosure of the town attorney's liability assessment, and discussions regarding litigation strategy and resolution of the litigation. – Layton moved (2nd Gere) Vote: yes (Layton, Gere, Swett), no (Classon, Griggs)*

*I move to enter executive session pursuant to 1 V.S.A. §§313(a)(1)(F) for purposes of receiving confidential attorney client communications concerning the additional demands Mr. Katuki has made in his May 21st, 2026 email to the Selectboard regarding alleged open meeting law violations inviting the Town Manager and the town's attorney to attend. – Layton moved (2nd Swett) Vote: yes (Layton, Gere, Swett) no (Classon, Griggs)*

Time entered executive session: 8:01 pm

*I move to enter public session. – Classon moved (2nd Swett) Vote: yes (unanimous)*

Time entered public session: 8:50

Griggs shared that the Selectboard met with Counsel about the open meeting law violation concerns from Katucki. Griggs stated that there were no new documents and no action taken, solely a discussion for further information.

- 5. Consider adjustment to item 2.15 of the Town Manager Job Description on the Norwich Town website “Is the case manager for litigation except for litigation related to the performance or retention of the manager” to one more clearly aligned with Vermont statute and the needs of the Town.**

**Timestamp: 2:56:05**

Griggs reflected that there was some confusion over what was the Selectboard's responsibility and what was the Town Manager's responsibility with regard to the role of case manager for litigation. Griggs noted that the term was not fully defined in the job description or included in state statute as a responsibility of the Town Manager.

Classon highlighted that it was specifically case matter for issues in litigation.

Griggs shared that he had heard that a case manager needed to have legal training but that he did not think that was true, and that his research instead indicated that most case managers came from administration, social, or hospital work.

Classon stated that he could not find anything in statute regarding the role. Classon read from a 1973 book that included a section on town officers' roles and responsibilities, including a position to prosecute and defend suits.

Layton shared her appreciation for the last paragraph of Griggs's memo with suggested language and questioned whether any changes to the existing set-up were needed. Layton noted that the topic description on the agenda might not have come across as intended.

Classon asked Layton if the decision to make redactions was placed in the "administrative bucket or the case manager bucket."

Layton advocated for not changing the Town Manager's role as the case manager for litigation and to not "throw out the baby with the bathwater."

Swett echoed Layton's comments and suggested taking more time to consider the matter. Swett reflected that there were many moving targets with the current cadence of meetings and acknowledged the amount of associated work done by Griggs to keep matters moving forward.

Classon pointed out that the Town Manager job description was on the town website with the case manager responsibility. Classon shared that what had been missing was proactive consultation from the Town Manager as case manager with the Selectboard.

Griggs stated that he was surprised when a lawsuit was filed because he "didn't see that happening" and thought they were negotiating in good faith.

Griggs and Classon discussed the responsibilities of a Town Manager in relation to the Selectboard and the need for greater Selectboard consultation ahead of time, which Classon strongly advocated for.

Gere cautioned that they risked slipping into micromanagement and advocated for maintaining balance. Gere stated that it made sense to have the Town Manager be the case manager, but that beyond that “should be common sense.”

Griggs provided the metaphor of a fence between Selectboard responsibilities and Town Manager responsibilities, and how a request for documents turning into a complaint and lawsuit could make the boundaries of responsibility and communication murky.

Duffy shared that he had not yet read Griggs’s memo that had been submitted that day and that he viewed his role as working on ongoing legal matters up to the point of approaching litigation or involving a decision from the town, at which point it would be the Selectboard’s responsibility. Duffy reflected that he thought he had always been good about bringing up matters with possible imminent litigation to the Selectboard in a timely manner.

Classon shared that he expected updates on all ongoing cases “in the spirit of the case manager.”

Griggs stated that that was not on the agenda for that night.

Cheryl Lindberg shared that she found it wrong that certain members of the public knew about the Trussell v. Norwich lawsuit before all of the members of the Selectboard knew. Lindberg stated that she found that wrong, as the Selectboard was elected to manage the town, reduce exposure, and reduce cost.

Classon interjected that this was in his memo and recounted an executive session on March 13<sup>th</sup> regarding the Trussell lawsuit. Classon stated that they had their “necks put into a noose for open meeting law violation for not warning the item and not explaining.”

Griggs stated that that was not on the agenda.

Swett stated that there were “a lot of assumptions that might be false in those statements because we just can’t disclose what we knew.”

## **6. Adjournment**

**Timestamp: 3:17:10**

*I move to adjourn the meeting. – Layton moved (2<sup>nd</sup> Gere) Vote: yes (unanimous)*

Meeting adjourned at 9:12 pm.

Minutes taken by Jenny Tolman.