

**TOWN OF ASHLAND  
BOARD OF SELECTMEN  
REGULAR MEETING  
MONDAY, DECEMBER 3<sup>RD</sup> at 6:30 PM  
ASHLAND ELEMENTARY SCHOOL LIBRARY**

- I. PLEDGE OF ALLEGIANCE**
- II. CALL TO ORDER**
- III. PUBLIC COMMENT (Agenda items only)**
- IV. APPROVAL OF MINUTES**
  - a. BOS meeting(s); 11/19/18
- V. CONSENT AGENDA**
  - a. Week of 11/30/18: A/P: \$42,616 – Payroll: \$8,759
- VI. NEW BUSINESS**
  - a. Elijah Garrison – Revision Energy (solar projects presentation)
  - b. Ashland 4<sup>th</sup> of July Committee – fireworks contract
- VII. SELECTBOARD ITEMS**
- VIII. PUBLIC COMMENT (Agenda items only)**
- IX. SIGNATURE FILE**
  - a. MVSBS – TAN Request for Disbursement
- X. NON-PUBLIC SESSION**
  - a. RSA 91-A: 3, II (a)

**Posted on 11/30/2018 at the Town Office building and town website**

*The Ashland Board of Selectmen reserve the right to enter nonpublic session when necessary according to the provisions of RSA 91-A. Any person with a disabling condition who wishes to attend this public meeting and needs to be provided reasonable accommodations to participate, please contact the Ashland Town Office at 603-968-4432 so accommodations can be made. It is asked that such requests be made with prior notice.*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46

**ASHLAND BOARD OF SELECTMEN  
MEETING MINUTES  
MONDAY, NOVEMBER 19, 2018  
ASHLAND ELEMENTARY SCHOOL CAFETERIA  
6:30 PM**

**I. CALL TO ORDER**

Chairman Newton called the meeting to order at 6:30 PM with all the Selectmen – Chairman Fran Newton, Vice Chairman Harold Lamos, Selectman Leigh Sharps, Selectman Kathleen DeWolfe, and Selectman Casey Barney, present. Others present: Town Administrator Charles Smith.

**II. APPROVAL OF MINUTES**

- a. November 5<sup>th</sup>, 2018 Board of Selectmen meeting minutes – changes; pg. 3 line 2 replace the word “it” with “at.” Also, pg. 4 line 31 add the word “had” and conclude sentence “to full member of ZBA.”

**MOTION:** Vice Chairman Lamos

*To approve the Board of Selectmen meeting minutes from November 5<sup>h</sup>, 2018.*

**SECOND:** Selectman Sharps

**VOTE:** 5-0 (All in favor)

**MOTION PASSED**

**III. NEW BUSINESS**

a. **Whipple House lease agreement**

- i. Board of Selectmen reviewed their revisions for a new lease agreement with the Ashland Historical Society (AHS) and the Whipple House property. AHS member David Ruell informed the board the new lease was discussed at their meeting, but the members did not reach a decision on the lease and are considering legal counsel. Board of Selectmen had concerns over time constraints as the current lease, which expires at the end of this year, has a renewal clause that either party must put in writing by November 30<sup>th</sup> the lease shall not be renewed for immediate and subsequent years. Consensus of the Board was to approve the new lease agreement and send a memo to AHS notifying them about the expiration of old agreement and continue discussion with a new lease agreement.

**MOTION:** Selectman DeWolfe

*To approve the new lease agreement with the Ashland Historical Society for the Whipple House property.*

**SECOND:** Vice Chairman Lamos

**VOTE:** 4-1 (Vice Chairman Lamos voted “nay”)

**MOTION PASSED**

1                   **MOTION:** Selectman DeWolfe  
2                   *To write a memo to the Ashland Historical Society notifying the party in*  
3                   *writing that the current lease shall not be renewed.*

4                   **SECOND:** Selectman Barney

5                   **VOTE:** 4-1 (Vice Chairman Lamos voted “nay”)

6                   **MOTION PASSED**

7  
8   **IV.    OLD BUSINESS**

- 9           a.   **Town Administrator updates** – TA Smith reviewed an update report for the month  
10           of October and the recent activities from the following departments; Library, Parks &  
11           Recreation, Town Clerk/Tax Collector, Building Inspector, Department of Public  
12           Works, Police Department and Fire Department.
- 13           b.   **Project List** – TA Smith provided current updates to the Board of Selectmen for the  
14           following projects;
- 15                i.   NHDOT – Transportation Alternative Program (TAP) grant – TA Smith and  
16                the DPW Director are to have a meeting with NHDOT District 3 and KV  
17                Partners about the preliminary design phase for the sidewalk project
- 18                ii.   Ashland Properties (L.W. Packard Mill Site) – TA Smith answered a few  
19                follow up questions for the CDFA feasibility study grant application
- 20                iii.   NH Land & Community Heritage Investment Program grant – TA Smith  
21                informed the Board how Williams Architect and a structural engineer  
22                consultant visited the Town Office to analyze the building.
- 23                iv.   Town Parcel Audit (GIS mapping project) – CAI Technologies picked up the  
24                property records from the town office and are starting the project sooner than  
25                expected.
- 26                v.   Building Permit Fees – Board of Selectmen prefer a work session before  
27                holding a public hearing. TA Smith to invite the Planning Board members to  
28                work session.
- 29                vi.   Grant Opportunities – TA Smith informed the Board that the CDBG grant for  
30                Harvey Properties was approved and the RFP for grant administrator was sent  
31                out for advertising.

32  
33   **V.    SELECTBOARD ITEMS**

- 34           a.   **Planning Board member appointment to ZBA** – Board appointed Planning Board  
35           Chairman Mardean Badger to ZBA. Chairman Newton administered the oath of  
36           office to Chairman Badger.

37  
38                   **MOTION:** Selectman DeWolfe

39                   *To appoint Mardean Badger as a member to the Ashland Zoning Board of*  
40                   *Adjustments.*

41                   **SECOND:** Selectman Sharps

42                   **VOTE:** 5-0 (All in favor)

43                   **MOTION PASSED**

- 1 b. Selectman Sharps approached the Board about having their Work Sessions like  
2 session meetings in the past. Consensus of the Board was to have the work session  
3 meetings to discuss policy, items on the agenda, etc. but no formal votes and public  
4 comments are taken.  
5 c. TA Smith requested town employees have Monday, December 24<sup>th</sup>, 2018 the day  
6 before Christmas off.  
7

8 **MOTION:** Selectman Sharps

9 *To allow town employees the day off before Christmas – Monday, December 24<sup>th</sup>,*  
10 *2018.*

11 **SECOND:** Vice Chairman Lamos

12 **VOTE:** 5-0 (All in favor)

13 **MOTION PASSED**  
14

15 **VI. NON-PUBLIC SESSION**  
16

17 **MOTION:** Selectman DeWolfe

18 *To enter nonpublic session under RSA 91-A;3, II (a).*

19 **SECOND:** Selectman Barney

20 **VOTE:** 5-0 (All in favor)

21 **MOTION PASSED**

22 Board of Selectmen entered nonpublic session at 7:49 P.M. and reconvened at 8:40  
23 P.M. Non-public session minutes were sealed.  
24

25 **VII. Board of Selectmen adjourned their meeting at 8:41 P.M.**  
26

27 *The minutes for this meeting have been transcribed by Town Administrator Charles Smith on*  
28 *November 20<sup>th</sup>, 2018.*  
29  
30  
31



*Atlas PyroVision Entertainment Group, Inc.*

P. O. Box 498, Jaffrey, New Hampshire 03452  
 Tel: (603) 532-8324 \* Fax: (603) 532-4530  
[www.atlaspyro.com](http://www.atlaspyro.com)

**This agreement as of this 28th day of November, 2018 by and between Atlas PyroVision Entertainment Group, Inc., of Jaffrey, New Hampshire (**"ATLAS"**) and Town of Ashland (**"CUSTOMER"**) of C/O PO Box 392, Ashland, NH 03217 hereby agree as follows (**"Agreement"**).**

1. **Engagement:** CUSTOMER hereby engages ATLAS to provide to CUSTOMER a fireworks display (**"Display"**), and ATLAS accepts such **AGREEMENT** upon all of the promises, terms and conditions hereinafter set forth. The **Display** shall be outlined in the Bid, RFP, Quote or Proposal (**"Scope of Work"**) and attached hereto and incorporated herein as Appendix A, if applicable.

1.1 **Atlas Duties:** ATLAS shall provide all pyrotechnics, pyrotechnic equipment, licensed and trained personnel, applications for permits (the cost of which, including all public safety and security fees, which shall be paid by CUSTOMER), worker compensation insurance by state statute, automobile insurance and liability insurance (solely covering pyrotechnic activity by ATLAS) relating to the **Display** described in this **Agreement**.

1.2 **CUSTOMER Duties:** CUSTOMER shall provide to ATLAS a suitable site (**"Site"**) for the **Display**, security for the **Site** as set forth in Paragraph 6 hereof, access to the **SITE**, any permission necessary to utilize the **Site** for the **Display**, and the other responsibilities as may be set forth below in this **Agreement** and may be within the **Scope of Work** attached hereto. All **Site** arrangements are subject to ATLAS' reasonable approval as to pyrotechnic safety, applicable State regulations, suitability and security. All other conditions of the **Site** shall be the responsibility of CUSTOMER, including, but not limited to, access, use, control, parking and general safety with respect to the public as outlined in paragraphs 5 and 6 of this **Agreement**.

2. **Fireworks Display:** CUSTOMER agrees to pay Atlas the total "Contract Amount" for a Display, on the following date(s), time, and location as follows:

<b>Display Amount :</b>	_____ <b>\$15,000.00</b>	<b>Display Date:</b>	_____ <b>7/3/2019</b>
<b>Permit Fee(s):</b>	_____	<b>Postponement Date:</b>	_____ <b>7/5/2019</b>
<b>Miscellaneous:</b>	_____	<b>Time of Display:</b>	_____ <b>9:30pm</b>
<b>Total Contract Amount:</b>	_____ <b>\$15,000.00</b>	<b>Location:</b>	_____ <b>Field Behind Ashland Elementary School</b>
<b>Less Deposit Amount:</b>	_____ <b>\$15,000.00</b>		_____ <b>16 Elementary Drive, Ashland, NH</b>
<b>Balance Due:</b>	_____ <b>\$0.00</b>		_____

**Other:** \_\_\_\_\_  
 \_\_\_\_\_

2.1 **Deposit:** CUSTOMER agrees to pay ATLAS the "Deposit Amount" by: **1/1/2019**

2.2 **Expenses:** ATLAS shall pay all normal expenses directly related to the Display including insurance as outlined, pyrotechnic products, pyrotechnic equipment, licensed and trained personnel to set up and discharge the pyrotechnics and those additional items as outlined as ATLAS' responsibility in the Scope of Work. CUSTOMER shall pay all costs related to the Display not supplied by ATLAS including, but not limited to, those items outlined as CUSTOMER'S responsibility in this Agreement and Scope of Work.

2.3 **Interest:** In the event that the "Total Contract Amount" is not paid in full within 30 days after the Date of Display, CUSTOMER will be responsible for the additional payment of 1.5% interest per month or 18% annually on the unpaid balance. If Atlas prevails in any litigation arising out of this Agreement, it shall be entitled to all costs incurred in connection with the litigation, including but not limited to reasonable attorney's fees.



3. **Postponement:** If CUSTOMER elects to postpone/reschedule the Display and requests a Postponement Date within this Agreement, ATLAS shall be paid the Display Amount plus a rescheduling service fee equal to one of the sub-provisions below. If there is no Postponement Date stated within this Agreement, CUSTOMER and ATLAS shall mutually agree upon a suitable reschedule date taking into consideration availability of permits, materials, equipment, transportation, labor and further provided CUSTOMER accepts ONE of the additional terms of 3.2 (A – C). However, in no event shall the DISPLAY be rescheduled for a date more than 90 Days from the date first set forth within this Agreement.
  - 3.1 If CUSTOMER postpones up to 36 hours prior to Display Date there shall be no additional fee, provided the stated Postponement Date herein is within ten (10) days of the Display Date.
  - 3.2 IF CUSTOMER postpones with less than 36 hours notice, one of the following provisions shall apply:
    - A. If CUSTOMER elects postponement and ATLAS is notified by either contacting ATLAS staff by telephone at 603-532-8324 or by email to sales@atlaspyro.com, prior to 7:00 a.m. on the Display Date, CUSTOMER agrees to pay an additional Postponement Fee of ten percent (10%) of the Display Amount.
    - B. If CUSTOMER elects postponement after 7:00 a.m. on the Display Date, there shall be an additional Postponement Fee of twenty percent (20%) of the Display Amount; and CUSTOMER agrees to forfeit their Postponement Date stated herein, if applicable. If stated postponement date is no longer available CUSTOMER and ATLAS shall mutually agree upon a suitable reschedule date taking into consideration availability of permits, materials, equipment, transportation, labor and CUSTOMER agrees that the Display shall be rescheduled for a date not more than 90 days from the date first set forth within this Agreement. If CUSTOMER and ATLAS cannot agree on a reschedule date with the best efforts of both parties, all provisions of Paragraph 4 shall apply.
    - C. If ATLAS technicians have begun the setup of the Display and adverse weather conditions cause the **Authority Having Jurisdiction (“AHJ”)** to exercise its sole and absolute discretion to determine the performance of any Display to be impossible, impractical or would unnecessarily increase the risk of damage or danger to person(s) and/or property, all parties agree to immediately hold a Postponement Date meeting by contacting ATLAS corporate staff by telephone or in person in order to attempt to reschedule the Display for a mutually satisfactory Postponement Date and time. In the event the mutually satisfactory Postponement Date and time is beyond the day following the scheduled Display Date and it is impracticable for the personnel and equipment of ATLAS to remain at the SITE until the rescheduled Display Date, then CUSTOMER agrees to pay the actual expenses incurred by ATLAS, not to exceed thirty percent (30%) of the Display Amount. Actual expenses include, but are not limited to, expenses for travel, lodging, labor, meals, rentals, permit fees, set-up and/or dismantling of Display, additional taxes or surcharges, or any other additional expenses that incurred to and/or as a result of the Postponement or Cancellation.
4. **Cancellation:** If CUSTOMER cancels this Agreement for any reason liquidated damages for such Cancellation shall be paid by CUSTOMER to ATLAS as follows:
  - 4.1 In the event the Display is cancelled more than thirty (30) days before the Display Date, CUSTOMER agrees to pay to ATLAS 10 percent (10%) of the Contract Amount.
  - 4.2 In the event the Display is cancelled less than thirty (30) days but more than 36 hours before the Display Date, CUSTOMER agrees to pay to ATLAS twenty-five percent (25%) of the Contract Amount.
  - 4.3 In the event the Display is cancelled less than 36 hours prior to the scheduled Display Date, CUSTOMER agrees to pay to ATLAS fifty percent (50%) of the Contract Amount.
5. **Safety:** CUSTOMER shall provide and pay all fees associated with the Fire Department Detail as may be required by the AHJ and/or by state statute and/or regulation. ATLAS and CUSTOMER shall each comply with the applicable federal, state and local laws and regulations and employ safety programs and measures consistent with recognized applicable industry standards and practices. At all times before and during the Display, it shall be within ATLAS' sole discretion to determine whether or not the DISPLAY may be safely discharged or continued, apart from when the AHJ makes a determination to cancel or postpone due to reasonable safety concerns. It shall not constitute a breach of this Agreement by ATLAS when fireworks fail or malfunction, or when ATLAS and/or the AHJ determines that the Display cannot be discharged or continued safely due to conditions or circumstances affecting safety beyond the reasonable control of ATLAS.
6. **Security:** CUSTOMER shall provide and pay for adequate security personnel, barricades, snow-fencing (if required by statute, regulation or AHJ), Police Department services as may be necessary to preclude individuals other than those authorized by ATLAS from entering an area to be designated by ATLAS as the area for the set-up of the Display, including a fallout area satisfactory to ATLAS where the pyrotechnics may safely be discharged and any debris may safely fall. ATLAS shall have no responsibility for monitoring or controlling CUSTOMER'S other contractors, vendors or volunteers; the public; areas to which the public, contractors, vendors or volunteers have access including vehicular traffic, roadways and parking areas.



7. **Cleanup:** ATLAS shall be responsible for the removal of all equipment provided by ATLAS and clean up of any "Live" or "Unexploded" pyrotechnic material (shall mean any device that contains unexploded mixtures or components) associated with the Display. CUSTOMER shall be responsible for the SITE after 9:00 a.m. the day following the Display for any other cleanup of "non-pyrotechnic" debris (non-pyrotechnic debris shall mean paper, paper disks, plastic, foil, rubber bands, etc.) that may be associated with the Display. CUSTOMER shall provide ATLAS with a trash receptacle or other suitable means for the disposal of all non-pyrotechnic material; cardboard boxes and incidental lumber from the Display. ATLAS is not responsible for replacing sod, dirt, or gravel to its original condition, or the cleaning up of sand or non-pyrotechnic debris.
8. **Insurance:** ATLAS agrees to provide; 1) General Liability insurance coverage for damages to persons or property arising from or related exclusively to the Display provided by ATLAS; 2) Automobile Liability Insurance; 3) Workers' Compensation Insurance (by State Statute.) The description, certificate holder and additional insured, if any, will be provided upon request and/or outlined within the Scope of Work.
9. **Indemnification:** ATLAS represents and warrants that it is capable of furnishing the necessary experience, personnel, equipment, materials, providers, and expertise to produce the Display in a safe and professional manner. Notwithstanding anything in the Agreement to the contrary, ATLAS shall indemnify, hold harmless, and defend CUSTOMER and the additional insured's from and against any and all claims, actions, damages, liabilities and expenses, including but not limited to, attorney and other professional fees and court costs, in connection with the loss of life, personal injury, and/or damage to property, arising from or out of the Display and the presentation thereof to the extent such are occasioned by any act or omission of ATLAS, their officers, agents, contractors, providers, or employees. CUSTOMER shall indemnify, hold harmless, and defend ATLAS from and against any and all claims, actions, damages, liability and expenses, including but not limited to, attorney and other professional fees and court costs in connection with the loss of life, personal injury, and/or damage to property, arising from or out of the Display and the presentation thereof to the extent such are occasioned by any act or omission of CUSTOMER, its officers, agents, contractors, vendors, providers, or employees. In no event shall either party be liable for the consequential damages of the other party.
10. **Limitation of Damages for Ordinary Breach:** Except in the case of bodily injury and property damage as provided in the insurance and indemnification provisions of Paragraphs 8 and 9 above, in the event CUSTOMER claims that ATLAS has breached this Agreement or was otherwise negligent in performing the Display provided for herein, CUSTOMER shall not be entitled to claim or recover monetary damages from ATLAS beyond the amount CUSTOMER has paid to ATLAS under this Agreement, and shall not be entitled to claim or recover any consequential damages from ATLAS including, without limitation, damages for loss of income, business or profits.
11. **Warranty and Disclaimer:** ATLAS acknowledges and CUSTOMER agrees that it is an acceptable industry occurrence to experience up to three percent (3%) of pyrotechnic failure-to-ignite during Display. Any amount over the acceptable industry standard may be inventoried and an equitable refund may be provided to CUSTOMER within 30 days of Display. ATLAS may make pyrotechnic substitutions to the Scope of Work of equal or greater value if, in its sole opinion, such substitutions are reasonable and necessary. ATLAS shall notify CUSTOMERS of such changes prior to Display. In the event that the Display is reduced or modified by the AHJ or by ATLAS for safety concerns, the full dollar amounts outlined in this Agreement remain enforceable.
12. **Force Majeure:** CUSTOMER agrees to assume the risks of weather, strike, civil unrest, terrorism, military action, governmental action, and any other causes beyond the control of ATLAS which may prevent the Display from being safely discharged on any scheduled date, which may cause the cancellation of any event for which CUSTOMER has purchased the Display, or which may affect or damage such portion of the equipment as may be placed and exposed prior to the Display. If ATLAS is not reasonably able to safely discharge the Display on the scheduled date, or at the scheduled time, or should any event for which CUSTOMER has purchased the Display be canceled as a result of such causes, CUSTOMER may; 1) Reschedule the Display and pay ATLAS such sums as provided in Paragraph 3; or 2) Cancel the Display and pay ATLAS such sums as provided in Paragraph 4, based upon when the Display is canceled.
13. **Assignment** – CUSTOMER'S consent is not required for an assignment of this Agreement in connection with a sale, disposition or transfer of business assets to an affiliate company of ATLAS, which may be a majority-ownership affiliate of ATLAS. The assigned party shall unconditionally guarantee all of the provisions for the term of this Agreement.
14. **Taxes:** CUSTOMER agrees to pay all applicable sales, use, and entertainment taxes that may be required within the state the display is located and furnish ATLAS with a certificate of exemption prior to the Date of Display.



15. **Joint and Several Responsibility:** If there is more than one CUSTOMER, they agree to be jointly and severally responsible for performance of CUSTOMER'S obligations under this Agreement. This Agreement shall become effective after it is executed and accepted by CUSTOMER and after it is executed and accepted by ATLAS at its' corporate offices in Jaffrey, New Hampshire. This Agreement may be executed in several counterparts, including faxed and emailed copies, each one of which shall be deemed an original against the Party executing same. This Agreement shall be binding upon the Parties hereto and upon their heirs, successors, executors, administrators and assigns.
16. **Price Firm:** If any changes or alternations are made by CUSTOMER to this Agreement, or if this Agreement is not executed by CUSTOMER and delivered to ATLAS on or before the "PRICE FIRM DATE" shown below, then the price, date, and Scope of Work of the Display are subject to review and acceptance by ATLAS for a period of 15 days following delivery to ATLAS of any executed Agreement. In the event it is not accepted by ATLAS, ATLAS shall give CUSTOMER written notice, and this Agreement shall be null and void.

16.1 Price Firm Date: 12/1/2018 **EXECUTED AGREEMENT MUST BE DELIVERED TO ATLAS BY THIS DATE.**

17. **Legal Construction:** This Agreement constitutes the entire Agreement of the parties and may not be altered except in writing signed by both parties. This Agreement and the rights and obligations of the Parties hereunder shall be construed in accordance with the laws of the State of New Hampshire. Should any provision of this Agreement be determined by a court of competent jurisdiction to be invalid, such provision shall be stricken and the remaining provisions shall be interpreted in a manner to fulfill the intent of the parties. By signing this Agreement, CUSTOMER agrees that they have read, understand, and agree with all of the terms, conditions and obligations of the Agreement.

**Atlas PyroVision Entertainment Group,  
Inc.**

**By:** \_\_\_\_\_  
Matthew J. Shea, Vice President

**Customer, duly authorized**

**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_