

INTERIM REPORT OF THE CORNISH LIBRARY EXPLORATORY COMMITTEE  
Submitted to the Cornish Board of Selectmen  
February 18, 2022

Executive Summary

The Cornish Library Exploratory Committee was created by the Cornish Board of Selectmen in response to Colleen O’Neill’s offer to donate the general store property for use as a library and community center. The offer was announced at the June 8, 2021, Town Meeting. The Selectboard has charged the committee with conducting a feasibility study of the relocation of the Cornish Library (G.H. Stowell Free Library) to the Cornish General Store building. The charge directed the committee to consider all relevant factors including, but not limited to, financial and operational impacts, practicality, other impacts to the Town, timeframe, and expected benefits or liabilities to the Cornish community. The findings of the committee thus far are summarized below.

➤ The Public Library

- Equity is the foundation of our public library system. If the town is going to maintain a public library, some action must be taken: either the Stowell Library must be renovated so that it is accessible to all or the library must be relocated.
- The Library Trustees are in possession of plans for renovations that would provide handicapped access to the current library building. Article 16 on the 2022 Warrant asks the Town to approve the acquisition of a .09 acre parcel of land with donated funds. The land acquisition would allow for the installation of water and septic service to the Stowell building.
- Colleen O’Neill’s June 2021 offer to donate the general store building provides an alternative path to offering accessible and expanded library resources to the Cornish community.

➤ Proposed Donation

- Ms. O’Neill has proposed through a non-binding letter of donor intent to donate the general store building to the Cornish Community Initiative (CCI), a non-profit organization, contingent on successful fund raising for building renovations to convert the general store building into a new library and community. The CCI will oversee the building renovations. Upon completion, the CCI will donate the renovated building and land to the Town of Cornish for use as the new Cornish Library and Community Center. Per the non-binding letter of intent, the “Town of Cornish will have no cost to acquire the real estate and no cost to renovate the building.”
- The gift stipulates that the town must agree (1) to accept the future gift of a completed library on or before March 31, 2023; (2) that the library will be open to the public for a minimum of fifteen hours/week; (3) that the library will serve as a community center during and outside of regular business hours; (4) that Cornish Aging in Place will be allowed to store their equipment in the basement of the building; (5) that the Town will

be responsible for all costs associated with operating the library and community center; and (6) that furnishings for the new library are not included in the gift.

- The proposed library and community center will not include residential or commercial rental spaces.
- A town meeting vote would direct the Selectboard to enter into a legally binding agreement similar to a purchase and sales to accept the future gift of the library and community center at such time that it is completed. If for some reason the library could not be completed, the town would not be obligated to take ownership of the building.
- Legal Considerations.
  - Like the proposed library and community center would be, the G.H. Stowell Free Library was acquired by donation.
  - A library acquired by donation cannot be discontinued by the town or library trustees. The town would petition the court to grant a cy pres to remove the restrictions of the gift. The NH Department of Justice would be a party to the court proceeding.
  - Acceptance of the general store property would constitute the establishment of a new library. Unless the Town is willing to support two separate libraries across the street from each other, the G.H. Stowell Free Library would be discontinued. Court action would be required to release the town from the stipulations of the Stowell gift.
  - As with the Stowell Library, the donation of the general store building as a library would be a restricted gift. Acceptance of the general store building must be considered with the understanding that the building could not be used for anything but a library and community center without successful action through the courts.
- Financial Considerations.
  - Preliminary construction estimates for the general store renovation are \$1.98M, not including additional engineering or design costs. Although no construction costs will be borne by the Town under the donative framework, the Town will be responsible for furnishing the library, operational costs going forward, and capital maintenance costs.
  - Staffing hours are likely to increase regardless of the location of the library.
- Further Considerations.
  - The Selectboard has made clear that the question of establishing a new library at the general store property should be put before the voters. In order to make an informed choice, the voters deserve a comprehensive analysis of and plan for the relocation of the public library. Such an analysis cannot be done without addressing both the current library and the proposed library and community center. The committee proposes a comparative analysis (Town Warrant, Article 17) of potential renovations to the Stowell Building and the general store building, including but not limited to
    - Construction costs and related tax impact.
    - Operating costs and related tax impact: physical plant, staffing, library and community center operations
    - Capital maintenance costs.
    - Cost to furnish renovated current library and proposed library and community center.

- Code compliance.
  - Outdoor space, parking.
  - Shelf space, program space, community space.
- Conclusion.
- Because the committee has found that more information is required before a recommendation can be made, there is not a library acceptance article on this year's warrant.
  - The Committee would like to thank everyone who has participated in the process thus far. Public input is welcomed and encouraged. All committee meetings are open to the public, and written comment may be submitted to the committee at any time.

### Introduction

This report will summarize the findings of the Cornish Library Exploratory Committee to date and will provide an outline of work to be completed in order for the committee to fulfill its charge. The Cornish Library Exploratory Committee was created by the Cornish Board of Selectmen in response to Colleen O'Neill's offer to donate the general store property for the purposes of a library and community center. The offer was announced at the June 8, 2021, Town Meeting. Caroline Storrs read a letter from Colleen O'Neill which detailed her intention to donate the current Cornish General Store building to the Town of Cornish to serve as a new library and community center. The Selectboard charged the committee with conducting a feasibility study of the relocation of the Cornish Library (G.H. Stowell Free Library) to the Cornish General Store building. The charge directed the committee to consider all relevant factors including, but not limited to, financial and operational impacts, practicality, other impacts to the Town, timeframe, and expected benefits or liabilities to the Cornish community. (*July 2021 Cornish Library Exploratory Committee Charge*).

The committees and subcommittees enlisted the aid of Town Counsel, the New Hampshire Municipal Association, the Charitable Trusts Unit of the New Hampshire Department of Justice, the New Hampshire Association of Library Trustees, Primex, the G. H. Stowell Free Library Trustees, the Cornish Historical Society, Miles Stetson, a structural engineer, and three architectural firms. The committee worked with the citizen recommendations from the open forum, with the current librarian, Stephanie MacAndrew, and with community members who attended meetings and offered their input to understand what functionality would be needed and desired in the new library and community center.

## Background

Public libraries occupy a special place in our country's history. Our founding fathers knew the value of libraries. In 1731, Benjamin Franklin created the model of the first public library, later remarking:

These Libraries have improved the general Conversation of Americans, made the common Tradesmen and Farmers as intelligent as most Gentlemen from other Countries, and perhaps have contributed in some Degree to the Stand so generally made throughout the Colonies in Defense of their Privileges. (*The Autobiography of Benjamin Franklin*)

Thomas Jefferson, whose personal library was the foundation for the Library of Congress, wrote in 1809:

I have often thought that nothing would do more extensive good at small expense than the establishment of a small circulating library in every county, to consist of a few well-chosen books, to be lent to the people of the country under regulations as would secure their safe return in due time. (*Thomas Jefferson Papers*, e Library of Congress)

New Hampshire also recognizes the importance of public libraries. The benefit a public library provides to citizens is described in the first section of the New Hampshire's Public Library Statute (RSA 202-A), which cites the New Hampshire State Constitution:

Mindful that, as the constitution declares, "knowledge and learning, generally diffused through a community" are "essential to the preservation of a free government" the legislature recognizes its duty to encourage the people of New Hampshire to extend their education during and beyond the years of formal education. To this end, it hereby declares that the public library is a valuable supplement to the formal system of free public education and as such deserves adequate financial support from government at all levels. (NH RSA 202-A:1)

In the state of New Hampshire, public libraries are under the custody and management of the library trustees. State statute grants this authority to the trustees:

202-A:6 Library Trustees; Election; Alternates. – The library trustees shall have the entire custody and management of the public library and of all the property of the town relating thereto, including appropriations held pursuant to RSA 202-A:11, III, but excepting trust funds held by the town. Any town having a public library shall, at a duly warned town meeting, elect a board of library trustees consisting of any odd number of persons which the town may decide to elect. Such trustees shall serve staggered 3-year terms or until their successors are elected and qualified. There may be no more than 3 alternates as provided in RSA 202-A:10.

On the one hand there is no line between the town and the trustees; the trustees are part of the town. On the other, there is a very clear line with regard to their authority and control over all property of the town related to the library. The library trustees are an elected board of three members with staggered three-year terms. Among the powers and duties of the library trustees outlined in RSA 202-A:11 is the preparation of an annual budget for the support and maintenance of the library that will be required from public funds. This budget request generally is reflected in the yearly operating budget request on the town warrant. Once the library appropriation has been paid over by the town, the trustees have complete authority to expend those funds for library purposes.

State statute contains provisions for establishing libraries and accepting gifts of libraries in trust, which is discussed further later in this report. In the case that a town chooses to discontinue its public library, the trustees are granted the authority to decide the manner in which the library property may be loaned or dispossessed, subject state approval. However, New Hampshire law governing public libraries contains a special provision for libraries acquired in whole or in part by donation:

**202-A:18 Discontinuance of Library.** – Any town now maintaining a public library established by expenditure of town funds may by majority vote at a regular town meeting discontinue said library. In case of such discontinuance, the library property of the town may be loaned or disposed of by the library trustees, subject to the approval of the commissioner of natural and cultural resources. **The provisions of this section shall not apply in cases where a public library has been acquired by the town in whole or in part by donation or bequest. {emphasis added}**

The last sentence of 202-A:18 clearly states that a library acquired in whole or in part by donation cannot be discontinued, loaned, or disposed of by the library trustees. In order to use a library acquired by donation for any non-library purpose, a town would have to file a cy pres petition with the probate court. A cy pres petition asks a court to recognize that the terms of a charitable trust or restricted gift have become impossible or impracticable to fulfill. The Charitable Trusts Unit of the NH DOJ would review the written terms of the library donation and would be a party to the court case. Of utmost importance, in such cases, the Selectboard, Library Trustees, and the Charitable Trusts Unit must come to an agreement about the future use of the building before filing the cy pres petition.

### The Cornish Public Library System

The first public library building in Cornish was acquired by donation in 1912. The Town of Cornish voted to construct the George H. Stowell Free Library in 1910. George H. Stowell was born in Cornish, but moved to neighboring Claremont and established a successful career in the hardware business. Article twelve of the 1910 town warrant shows that Mr. Stowell donated the funds for the construction and furnishing of a library to the Town of Cornish:

12. To see if the Town of Cornish will vote to furnish a suitable lot for a library building at the expense of the Town, on condition that the Hon. Geo. H. Stowell will at his expense construct said library building at Cornish Flat, at an expense not exceeding five thousand dollars, and furnish said library building at own expense not exceeding one thousand dollars. Said library building and library to be maintained by said town when so constructed, and raise money therefor. *(1910 Cornish, NH, Town Warrant, Article 12)*

Because the Town is not in possession of a letter of intent from Mr. Stowell, the warrant article is treated as the gift instrument, or record of the intent of the donor. Mr. Stowell's gift, per the warrant article, contained two stipulations: first, the Town had to buy a piece of land suitable for a library building; and second, the Town must raise money for the maintenance of the library "therefor" annually. The library lot was purchased by the Town in 1910 for the amount of \$100, so that stipulation was met. The Town has appropriated money for the support of the library every year since the Town took ownership of the property in 1912. If the Town fails to meet either of the two stipulations, the terms of the gift would be breached.

Mr. Stowell oversaw the construction of the library, and a formal dedication and presentation to the Town was held on October 4, 1912. Upon his death in 1915, Mr. Stowell established a trust for the support of the library. The Stowell Trust is restricted to support of the G.H. Stowell Library.

The library is a lovely example of the classical revival style and has served the community well for many years. In today's age, however, the current building no longer meets the minimum standards for a modern library. Indeed, it has no running water, no plumbing, limited parking, and no access for challenged citizens. On February 3, 2022, Michael York, NH State Librarian, visited both the Stowell Library and the general store building at the invitation of Colleen O'Neill. Mr. York was emphatic in his opinion that the lack of handicapped access to the Stowell Library was unacceptable.

In 2018, the Cornish Library Trustees held a public forum which gave citizens a platform to express and prioritize their concerns and needs for the library. Expanding access and space were highlighted by the forum. The small size of the lot on which the Stowell Library is located presents a constraint to building expansion; however, the following year, the trustees engaged an architectural firm to design an addition to the building that would provide handicapped access and bathroom facilities. The town has since entered into an agreement with an abutter to annex enough land to the Stowell Library lot to allow for the installation of a well and septic to serve the building. The annexation plan was approved by the Cornish Planning Board on April 15, 2021, and an article to acquire the .09-acre parcel will be placed on the 2022 Town Warrant.

## Benefits and Liabilities

Ms. O'Neill's proposed donation of the general store building provides an alternative path to expanding library resources for the Cornish community. This new library and community center – in addition to offering updated services, room for expanding collections, and accessible spaces for community gatherings and programs – can become what a library is meant to be: the heart of its community. Members of the committee, in collaboration with the librarian, have identified the following benefits of acceptance of a fully modernized, energy efficient building designed to be a 21<sup>st</sup> century library and community center which will address current deficiencies in the Stowell Library and present solutions for the present and future needs of the town:

1. Access for all. Our physically challenged and many elderly townspeople have been unable to use the current library. In winter, the steep steps to the library's only door can be treacherous. The librarian reports at that, with regular frequency, she and her staff are either delivering a book directly to someone's car or even to their home because they cannot navigate our library stairs. The building will have ramps and other equipment that allows it to be accessed and used by those with physical restrictions. The new building will have two accessible bathrooms, both with changing tables for infants. The new building will have adequate parking, including handicapped spaces. Consideration: the mezzanine area will be accessible only by stairs; no elevator is contemplated at this time.
2. More space for library collections. Although a library has many functions, its first and most important purpose is providing information for the community, mostly in the form of books and other collections. The current library must discard one book for every new book it brings in. The new building will allow for an expanding collection that can meet the need of more citizens and allow the library to retain more books from the current collection. Following a recent trend in public library services, it will allow for the lending of non-book items such as telescopes, lawn games, a metal detector, ukuleles, portable DVD players, sewing machines, and more. Consideration: an increase in funding for collection purchases is possible, but not necessary, and will depend on request of the trustees and the approval of the budget at the town meeting. Most non-traditional lending programs rely on donated items or are purchased through grants.
3. Meeting space for library and community groups. Currently, there is no designated meeting room. The few groups that have met in the library, must meet after the library has closed, using the circulation and public computer area. Currently the Town Offices, Town Hall, and Cornish Elementary School offer accessible meeting spaces for community groups. The new building would provide space that is accessible during library hours as well as after library hours for library and public use. It will have an independent entrance when used after library hours, and access to a kitchen. This space will allow for programming such as local history presentations, gardening information talks, technology presentations (e.g., avoiding scammers, good internet security) and local author presentations. It would provide a craft/ maker space for

- children as well as adults, and for activities like a mahjong club, a book club discussion, for cookbook book clubs, for after-school activities, and much more. Consideration: The library would establish the meeting room policy and sign-up process, easily adapted from the policies of the many other libraries that offer this service.
4. More space for children and children's programming. Many of the comments made in the open forum and received by the committee related to the desire for more children's services. The new building will provide a Children's area, a warm/cool place for parents to play with a toddler and read to and with older children, a space for story time space, craft tables, etc.
  5. Energy efficient. The plans for the new building call for it to be energy efficient. Insulation and new windows will be part of the weatherization renovation. Although the method of heating has not yet been chosen, the increase in weatherization will compensate for the increase in square footage. Heat pumps and renewable energy sources are being considered. If implemented, the heating and cooling costs for the building would be vastly reduced. Consideration: at this time, energy costs for the new building can only be estimated.
  6. Refreshments for Library Patrons. As currently featured in the preliminary plans, the new building will have a coffee and drink service area. This will offer space for and encourage people to gather socially, drink coffee, read the Valley News and other periodicals, and chat. Further, the kitchen will remain, opening the possibility of community potlucks and meetings with refreshments. Consideration: policies will be needed to assure that the burden for clean-up does not fall on the professional library staff.
  7. Running water. It is difficult to stress enough how much lack of running water in the current building impacts day to day operations of the library. No running water (and no septic tank or sewer) means using a composting toilet, located down a very narrow set of stairs that not everyone can safely access or use. There is no running water to wash hands, no running water for watering plants, setting up a coffee station in the library or tea for evening book group. The library can't offer crafts that would involve paint or any activity that requires washing up before or afterwards. Staff and volunteers must remember to bring their own water bottle or spend a 3 to 4 hour shift without water. The new building would eliminate all of these issues.
  8. Outside spaces. The gift of the building comes with outside space, including a covered porch, an outside patio off the rear of the community room, and the green space across the road. The green space across from the store could house a play area or community gardens. It is being used for a star party at the end of the January. Comments from the community indicate that citizens are already dreaming of how they could use these outdoor spaces, from reading in rocking chairs on the porch to building a playground for children. Consideration: improvements such as landscaping or items such as porch furnishing or play sets are not included in the gift. Funds for these items would need to be donated, raised by the Friends of the Library, or proposed by the trustees in their budget to be approved at a Town Meeting.



9. Furnishings. Consideration: The CCI's current plans do not include furniture for the new library. Some furnishing can convey from the current library building. However, to completely furnish the new building, funds would need to be raised from private sources, grants, soliciting donations, or public funds.
10. Operating Expenses. Consideration: It is likely that there will be an increase in the amount the Town contributes to the support of the library after the donation of the new building. Donations, in-kind contributions, and grants will lessen the impact of the increase, and an energy-efficient building could even reduce operating costs compared to the current building, but it may not eliminate cost increases completely. The collection budget should and likely would increase. Cost for staff may also increase with increased hours, although this is likely to be the case regardless of the building chosen, as demand for library services is increasing. Of course, no increases in budget are possible without approval at the Town Meeting.
11. Tax revenue. Consideration: Tax revenue for the current general store would continue to be received until the building is conveyed to the CCI. However, should the town decline the gift of the building as a library, the donor is likely to repurpose it for a different non-profit purpose. The town may lose the tax revenue whether it accepts the building as a library or not.
12. Visibility. A library on a main street on a known place for gathering and meeting will attract more people. It's easy, right on the main road, and visible. Even though the current building is in the Flat, it is tucked away on a side road. Many Cornish residents don't even know it's there. The general store building, on the other hand, is on the corner of 120 and Stage Road which means that on Saturdays, almost everyone in town passes by it.
13. Bringing the community together. One of the most important characteristics of the modern library, and the most important consideration for the donor of the building, is the ability of the library to bring the community together. Especially in a rural community, it provides us with an opportunity to see and speak to people in our community that we would otherwise not meet. It allows us to come together for mutual purposes – to talk about books we have read, to go to a meeting to learn about and share different gardening techniques, to read books to our children and neighbors' children, to share recipes and food. During a time when we may feel like a divided community, we can sit side by side and read a newspaper or book, sip a cup of tea or coffee, and maybe share a pleasant conversation about something we all have in common - our love for our town of Cornish.

Anticipated benefits carry specific design, furnishing, and apparatus requirements. In order to translate proposed programming into physical space, the Library Trustees have engaged Banwell Architects to design phase one plans for the renovation of the general store building. The contract with Banwell includes construction and operating cost estimates. Although no construction costs will be borne by the Town under the donative framework described in the next section, the Town will be responsible for furnishings, operational costs, and capital maintenance costs.

A portion of the general store property lies within the Regulatory Floodplain. The Cornish General Store received a Letter of Map Amendment (LOMA) on April 10, 2007, which removed the structure only from the Regulatory Floodplain. A copy of the LOMA has been included in this report. This exception applies so long as there is no expansion of use. The following extract is taken from the 4/10/2007 LOMA:

PORTIONS OF THIS PROPERTY REMAIN IN THE SFHA *{Special Flood Hazard Area}* Portions of this property, but not the subject of the Determination Comment document, may remain in the Special Flood Hazard Area. Therefore, any future construction or substantial improvement on the property remains subject to Federal, State/Commonwealth, and local regulations for floodplain management. (LOMA, Case No. 07-01-0640A, pg. 2)

It is possible that renovations or alterations to the general store building may require a new Letter of Map Amendment (LOMA) or a Conditional Letter of Map Amendment (CLOMA). Additionally, there may be restrictions on the use of the basement level if it is found to lie below the base flood elevation. The services of a civil engineer will be required in the next phase of the design process in order to ensure compliance with floodplain regulations.

The septic system that serves the general store building lies partially on an abutting property. Use of the septic system will be considerably different from the use stated in the recorded easement. After donation of the building, the grantee should seek a new easement that would specify the grantee and restate the use as for the benefit of the grantee.

Preliminary cost estimates for the general store renovations, which do not include additional engineering or design costs, have come in at \$1.98M. As previously stated, per the donative framework described in the next section, no construction costs will be borne by the Town. Because these figures came in much higher than expected, the donor has stated her intention “to step back and take more time to consider the plan for the Cornish Library and Community Center.” Although the town will not be responsible for construction costs, higher than expected costs could affect the timeline of the project and projected capital maintenance expenses. Should the design be altered in response to the cost estimate, operating costs based on building design and interior furnishing requirements may be subject to change.

An opportunity cost is defined as the “the loss of potential gain from other alternatives when one alternative is chosen.” (OED). The offer of the general store presents a unique opportunity to the Town, but even this opportunity represents the loss of other alternatives. The general store building is one of the few viable commercial building spaces in the Town. Repurposing the store as a library and community center represents the loss of the building as a commercial, property tax revenue-generating space. The very attributes that make the general store an attractive location for the library and community center— ample parking, accessibility, floor space, etc. — make it one of the few buildings in the Flat that could support a commercial enterprise such as a general store. The lack of suitable alternative properties in the area casts doubt on the possibility of a general store ever establishing in Cornish Flat.

Town Counsel has found that the donative intents that created the Stowell Library and the proposed Cornish Library and Community Center are incompatible. The Stowell Library cannot become the Cornish Library and Community Center, nor can the new library and community center be treated as an extension of the Stowell Library. Acceptance of the general store property would constitute the establishment of a new library. Unless the Town is willing to support two separate libraries across the street from each other, the G.H. Stowell Free Library will be discontinued. A cy pres petition would be filed with the probate court to remove the restrictions from Mr. Stowell's gift of the library and the Stowell Trust Fund. The dissolution of the Stowell gift and the loss of the G.H. Stowell Free Library represent another opportunity cost to the Town.

Likewise, the donation of the general store building as a library would be a restricted gift, and the provisions of RSA 202-A:18 would apply. Acceptance of the general store building must be considered with the understanding that the building could not be used for anything but a library. A future discontinuance of the use of the general store building as a library would require a cy pres petition. Without a compelling reason for discontinuance, such a petition stands little chance of succeeding. The legal ramifications of the proposal to establish a new library and discontinue the Stowell Library should be addressed with a comprehensive plan for both buildings.

#### Legal Framework for Donation

From the beginning, Ms. O'Neill has expressed a willingness to work with the Town and the Committee. In that spirit, several of the original stipulations to Ms. O'Neill's gift have been amended or removed. The September 7, 2021, draft letter of intent proposes that the general store property would be donated to the Town and would be known as the Cornish Library and Community Center. The Town would be responsible for funding the renovation of the general store building, whether through an appropriation or fundraising. Among the additional stipulations placed on the gift were that under ownership of the Town, the current apartments would remain as rental units for a period of at least five years and that the rental of the "old bank space" to the current lessee would continue for a period of at least six months.

The committee identified and addressed with Ms. O'Neill two concerns with the original donative framework. After seeking advice from Town Counsel, it was determined that maintaining the residential and commercial rental spaces presented too many liabilities to the Town. Upon acceptance of the building, the Town would have become a landlord with all the obligations to tenants outlined in State statute. As a landlord, the Town could have been responsible for damages to tenants in the case of a failure to meet statutory obligations as a landlord. Should the rental spaces have become uninhabitable during the construction phase, the Town would have had an obligation to find alternative housing for tenants. Moreover, costs associated with management, repair, and maintenance would have minimized any tax rate offset from rents received. Lastly, maintaining the commercial rental spaces could have jeopardized the Town's ability to apply for grants for the renovation of the library spaces.

The original proposal to accept the donation would have placed an article on the 2022 Town Warrant to accept the general store property. The Town, in conjunction with associated groups such as the Friends of the Library, would subsequently fundraise and apply for grants throughout the year. The following year, an article on the 2023 Warrant would authorize the expenditure of funds raised and if necessary, would have appropriated funds through taxation, municipal bond, etc., in order to fund the renovation of the general store building. The Implementation Subcommittee found that the acceptance of the gift by the Town at least a year prior to the establishment of a definite funding source created an unacceptable level of uncertainty.

Through discussions with the Implementation Subcommittee, Ms. O'Neill, in consultation with her accountant, proposed a revised framework for the donation and renovation of the general store property to serve as a library and community center for the Town of Cornish. The signed non-binding letter of intent, dated February 15, 2022, describes the following donative framework: Ms. O'Neill to pledge the general store property to the Cornish Community Initiative (CCI), a 501(c)3 non-profit organization, contingent on successful fundraising by the CCI for the building renovation for a new Cornish Library and Community Center and the written acceptance by the Town of Cornish of the conditions set forth below. Once the CCI reaches its fundraising goal, Ms. O'Neill will donate the general store property to the CCI. The CCI will manage the renovation of the general store property to create the new home of the Cornish Library and Community Center. Upon completion of the renovation, the CCI will then donate the renovated property to the Town of Cornish for use as the new Cornish Library and Community Center. The Town will have no cost to acquire the real estate and no cost to renovate the building. *(2/15/2022 Letter of Donor intent Colleen (O'Neill) Salinger to the Town of Cornish, NH)*

The proposed gift will be donated to the Town of Cornish through the CCI, provided that the Town of Cornish agrees in writing on or before 3/31/2023 that:

1. It will accept the future gift from the CCI of the Property converted for use as a library and a community center.
2. The library will be open to the public a minimum of 15 hours/week, and more as needed, based on community interest and needs, as determined by the Cornish Library Trustees, with the possible exception of weeks including Federal holidays and during emergencies.
3. In addition to service as a library, the building will serve as a community center, during and outside of regular business hours, available for meetings, events and gatherings, for community groups, civic groups, educational groups, and others, with a priority given to groups in Cornish, Plainfield, and Sullivan County, and available to all without bias to race, creed, ethnicity, sexual orientation, disabilities, and/or political party affiliation.
4. The Cornish Aging in Place group will be allowed to store their handicap equipment in the basement of the building for loan to the community and others in need for as long as this storage area is not required for another Library or Community Center purpose.

5. It is understood that the town will be responsible for all costs associated with operating the library and community center, including salaries etc., and maintenance of the property going forward.
6. Furnishings for the new library are not included in the gift.  
(2/15/2022 Non-binding Letter of Donor Intent, Colleen O’Neill to the Town of Cornish)

Legal Counsel has advised that the Town may accept the donation of the general store property for the purposes of creating a library under the provisions of RSA 31:19, which allows Selectboards, once authorized by the town, to accept gifts in trust without further action at town meeting. Libraries are considered public trusts and qualify as an authorized gift, legacy, or devised under the provisions, below. The Selectboard was granted the legal authority by majority vote of the town in 1996 to accept donations pursuant to the provision of RSA 31:19, indefinitely until rescinded:

**31:19 In General. –**

- I. Towns may take and hold in trust gifts, legacies, and devises made to them for the establishment, maintenance, and care of libraries, reading-rooms, schools, and other educational facilities, parks, cemeteries, and burial lots, the planting and care of shade and ornamental trees upon their highways and other public places, and for any other public purpose that is not foreign to their institution or incompatible with the objects of their organization.
- II. Towns may authorize the board of selectmen, or town council if there is one, to accept such trusts without further action by the town.
- III. Such authority to accept shall continue in effect for one year from the date of town meeting or action by the town council. The authority to accept trusts may be granted for an indefinite period, in which case the warrant article or vote granting such authority shall use the words, "indefinitely" or "until rescinded" or similar language.

This statute gives the Selectboard the authority to accept a donation “without further action by the town,” or in other words, without town meeting approval.

In order to meet the first stipulation of the donation, the Town must agree, before any funds are raised or renovations begun, to accept the future gift of the completed library. The Town would indicate acceptance through majority vote approval of a warrant article directing the Selectboard to enter into a binding agreement with the CCI on behalf of the Town to accept the building upon completion through the mechanism provided in RSA 31:19. This agreement would be similar to a purchase and sales agreement, but instead of between a buyer and seller, the agreement would be between the donor and the donee and would direct the Selectboard to accept the completed building as long as the following conditions are met by the CCI:

1. The premises are in move-in ready condition, the renovations are substantially consistent with renovation and design plans presented at the 20\_\_ town meeting, and

- the building is considered fit for use as a public library and community center by the Library Board of Trustees;
2. The property is not subject to any mortgages, liens, leases or encumbrances of any kind;
  3. The condition of the building and property is compliant with all applicable local, state and federal laws and requirements; and
  4. The Town's acquisition of ownership of the property shall not subject the Town to any pre-existing liabilities related to the property.

The legal rationale for acceptance of the building through such a warrant article was developed in collaboration with Town Counsel and the Director of the Charitable Trusts Unit of the New Hampshire Department of Justice. It represents an effort to protect the interests of both the donor and the Town. The binding agreement protects the interests of the donor. It would be unreasonable to ask the CCI to dedicate the extensive time, resources, and energy that will be required to fundraise for and oversee the renovation of the general store property without a guarantee that the Town will take ownership upon completion. Conditions one through four, outlined above, are designed to protect the interests of the Town. If the CCI cannot raise the funds to renovate the general store property, or cannot complete the renovations of the general store property, by a mutually agreed upon date certain codified in the agreement entered into by the Selectboard and the CCI, the Town would be under no obligation to take ownership of the property. At the time of this writing, the agreement itself has not been drafted, nor has an expiration date to any prospective agreement been discussed. **Of utmost importance, the legally binding agreement as described in this paragraph must be drafted and mutually agreed upon by the CCI and the Town of Cornish prior to the placement of an article on the warrant to accept the gift of the library and community center.**

Should the proposal go forward, the question would be put on the 2023 Town Warrant. Alternatively, the Town could avail itself of the provisions in the statute which allow for a special town meeting. The Selectboard can call a special town meeting at any time. Alternatively, if fifty voters submit a petitioned warrant article to the Selectboard and present it not less than sixty days before the Annual Meeting, the Selectboard is required to warn a special town meeting to act upon the question. (*NH RSA 39:3*) Importantly, the rules change for articles that include appropriations, or "money articles". In such cases the vote must be by ballot and the number of ballots cast shall be equal to at least ½ the number of legal voters on the checklist. (*NH RSA 31:5*) However, the proposed article to accept the general store property would be a non-monetary article so the provisions of RSA 31:5 would not apply.

Passage of the warrant article, described above, would enter the Town – not the Selectboard, not the Trustees, not Committee – but the Town of Cornish into the legally binding agreement. This vote should not be taken lightly, and it is the sense of the committee that despite the work completed to date, more data is required to create a thorough report that will inform the voters in making their decision. The data required for the final report of the committee includes, but is not limited to, the final building design and construction cost estimates, programming costs, operation costs based on the final building design, capital maintenance costs, and costs to furnish the new library and community center.

## Conclusion and Resolution

Statutorily, the Selectboard has the authority to accept the donation of the general store building without further town meeting approval. Yet from the outset, the Selectboard has made clear that the question of establishing a new library at the general store property should be put before the voters. In order to make an informed choice, the voters deserve a comprehensive analysis of and plan for the relocation of the public library from its current location. Such an analysis cannot be done without addressing both the current library and the proposed library and community center. Equity is the foundation of our public library system. If the town is going to maintain a public library system, some action must be taken: either the Stowell Library must be renovated so that it is accessible to all or the library must be relocated. Each option comes with its own set of benefits and liabilities, which should be explored through a comparative analysis of the renovation of the Stowell Building and the general store building including, but not limited to:

- Construction costs and related tax impact.
- Operating costs and related tax impact: physical plant, staffing, library and community center operations.
- Projected capital maintenance costs.
- Cost estimate to furnish current library if renovated and proposed library and community center.
- Code compliance.
- Outdoor space, parking.
- Shelf space, program space, community space.

Lastly, due to the pandemic, the committee has been unable to gather the community input which is vital the work of the committee. Hopefully, the coming year will bring safer times to gather so that the committee can hold at least one community forum.

In consideration of the above, the committee submits to the Selectboard the following resolution and motion made at the committee's January 25, 2022, meeting:

Whereas the proposed library acceptance warrant article, developed by Town Counsel with the advice of the Director of the Charitable Trusts Unit of the New Hampshire Department of Justice, authorizes the Selectmen to enter into a legally binding agreement with the Cornish Community Initiative; and

Whereas said legally binding agreement would be similar in nature to a purchase and sales agreement; and

Whereas said warrant article makes reference to the renovation and design plans presented at the 2022 town meeting; and

Whereas to date, the available phase one renovation and design plans are not in their final form; and

Whereas in light of the recent \$1.98M construction estimate, the Cornish Community Initiative has stated its intention “to step back and take more time to consider the plan for the Cornish Library and Community Center.”; and

Whereas in spite of the extensive work completed by the committee to date, more data is required to create a thorough report that will inform the voters in making their decision; and

Whereas in order to make an informed choice, the voters of Cornish deserve a comprehensive analysis of and plan for the relocation of the public library from its current location.

Heidi Jaarsma moved that the Selectboard be informed that the committee’s work remains in an information gathering phase, and at present time the committee does not have enough information to make a final report and recommendation regarding the feasibility of relocating the library. Without such a report available to the public, the committee does not recommend placing an article for library acceptance on the 2022 warrant and respectfully requests that the Selectboard charges the committee to continue its work.

The motion was moved and seconded and voted in the affirmative 4-0 with Laura Cousineau, Susan Chandler, Larry Dingee, and Heidi Jaarsma voting in favor and Kathi Patterson abstaining.

Respectfully submitted,

The Cornish Library Exploratory Committee

Laura Cousineau, Library Trustee and Chair  
Susan Chandler  
Larry Dingee  
Dillon Gallagher, Selectboard Representative

Heidi Jaarsma  
Kathi Patterson, Library Trustee  
Caroline Storrs