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**Town of Middlebury
Infrastructure Committee
Thursday, August 12, 2021
Meeting Minutes**

NOTE: The meeting was held in the Town Office Conference Room, but some interested parties and Committee members participated remotely via Zoom.

Members Present: Heather Seeley, Esther Thomas, Gary Baker, Candy McLaughlin, Judy Wiger-Grohs, Luther Tenny and Alternate Erik Remsen. Matt DeBisschop was absent, so Remsen will be voting in this meeting

Staff Present: Town Manager Kathleen Ramsay, Director of Public Works Planning Dan Werner, Director of Public Work Operations Bill Kernan, Director of Planning and Zoning Jen Murray, Library Director Dana Hart and Accounting Services Manager Jackie Sullivan,

Others Present: Brent Rakowski and Robert Clark from Otter Creek Engineering, and residents David Pistilli, Michael Reeves and Daniel Houghton.

1. Call to Order

The meeting was called to order at 9:02 a.m. by Chair Heather Seeley.

2. Approval of Agenda

Baker moved to approve the agenda and McLaughlin seconded the motion. There was one addition to the agenda to review the Memorandum of Understanding between Middlebury College and The Town regarding the installation and maintenance of the Public Water and Sewer systems. Seeley said this item would be added following the discussion on the Transportation and Bike-Ped plans. The agenda was approved with the additions with 7 in favor, 1 absent. **MOTION PASSED.**

3. Approval of April 22, 2021 and June 10, 2021 Minutes

Baker moved to approve the minutes of April 22, 2021, McLaughlin seconded the motion. The minutes were approved as presented with 7 in favor, 1 absent.

McLaughlin moved and Baker seconded the motion to approve the minutes of June 10, 2021. McLaughlin said Line 181 had something missing. To have it read correctly, the

41 words “and the” were removed. The minutes were approved with 6 in favor, 1
42 abstention (Tenny) and 1 absent. **MOTION PASSED.**

43

44

4. Citizen Comments

45

46 Michael Reeves said he hoped since the Development Review Board and the
47 Selectboard have approved the access on Bushey’s corner on Washington Street
48 Extension, he hopes the Infrastructure Committee will be looking at the safety of that
49 corner. He said during the approval process there was testimony on how dangerous
50 this corner is, especially with increased development in the area and increased bike and
51 pedestrian traffic. He said he’s talked to the Public Health and Safety Committee as
52 well and hopes the Infrastructure Committee will also look into how to make this a safer
53 corner.

54

55 David Pistilli asked what the plan was to purchase the speed feedback devices for
56 South Street now that we’re in the new fiscal year. Ramsay said Chief Hanley would be
57 in charge of this, so she would check with him.

58

59

5. Project Updates

60

61 Werner said that weekly construction reports on the East Middlebury Flood Resiliency
62 Project are posted on the Town website and they give a good description of what’s been
63 happening. He said they’re mostly finished behind Murray’s property, the Goodro area
64 is moving along well, and this week they’re working on the wall.

65

66 He said the Court Street Waterline Project is complete and it finished \$46,660.20 under
67 the contracted price, mostly due to the coordination with the State’s paving contractor.

68

69 Werner said we will be receiving \$600,000 from the Northern Borders Regional
70 Commission for the Washington Street Waterline Project. He said this also will go along
71 with funds from the Drinking Water State Revolving Fund (DWSRF) and the project will
72 go out to bid in the next couple of weeks. He said they hope to get the line between
73 Buttolph Drive and the “five corners” done this fall and the remainder will be done in the
74 spring.

75

76 Werner said Champlain Construction is assembling the culvert on Cady Road now and
77 he hopes to have the road back open by the end of next week if not sooner.

78

79 Seeley congratulated Werner and Ramsay on their work acquiring these grants totaling
80 \$2.1 million for the Court Street and Washington Street water projects. Werner said that
81 Robert Clark from Otter Creek Engineering also played a part in these applications.

82

83

6. Iisley Library – Painting Bid

84

85 Dana Hart said this will be the third year that they’ve been working on having the
86 exterior windows painted, and this year is the final year. This year they’ll be working on
87 the backside of the 1988 addition that faces Marquis Theater. She said the only bid
88 they received was from Stearns Painting & Papering for \$4,200, and they have \$5,000
89 in the Capital Budget for this project. She said Stearns has done previous paint jobs at
90 the library and has done a satisfactory job and is a pleasure to work with, and if the
91 weather doesn’t allow for this to happen this fall, Stearns has assured him the library will
92 be the first on the list for the spring.

93

94 Baker moved to recommend the Selectboard award the contract to Stearns Paper and
95 Painting for \$4,200. McLaughlin seconded the motion, and it was approved with 7 in
96 favor, 1 absent. **MOTION PASSED.**

97

7. Otter Creek Engineering Agreement – Paving Project Inspection Services

99

100 Werner said this agreement would be for Otter Creek Engineering (OCE) to oversee the
101 inspection for the paving project that Pike Paving will be doing on Rogers Road, Foster
102 Circle, Fairview Circle, Monroe Street, Dwire Circle and Thomas Street. He said the
103 proposal is for \$15,500 for inspection services and \$2,500 for independent testing, for a
104 total of \$18,000.

105

106 Baker asked if any of this paving project included a sidewalk on Rogers Road, and
107 Seeley said it didn’t.

108

109 Wiger-Grohs asked if bituminous paving was the same as asphalt, and Seeley said it
110 was, and she understood Wiger-Grohs wanted a permeable surface, but this project
111 would be traditional asphalt.

112

113 Tenny moved to recommend the Selectboard approve Otter Creek Engineering’s
114 proposal for Inspection Services for a total amount of \$18,000. Baker seconded the
115 motion. The motion was approved with 6 in favor, 1 opposed (Wiger-Grohs) and 1
116 absent. **MOTION PASSED.**

117

118

8. Stormwater General Permit 3-9050 and 3-Acre Parcel, Public and Private Funding.

119

120

121 Robert Clark and Brent Rakowski of Otter Creek Engineering (OCE) joined the
122 Committee for their presentation on the Stormwater General Permit – 3-9050 that
123 became effective December 1, 2020 and serves as the “three-acre General Permit” as

124 required under the Vermont Clean Water Act. A “three-acre site” is an impervious
125 surface of three or more acres that has never had an operational stormwater permit or
126 was permitted to standards in place prior to the 2002.

127
128 Clark said on July 15th the State of Vermont issued an update to their Drinking Water
129 State Revolving Fund (DWSRF) and the Clean Water State Revolving Fund (CWSRF),
130 and he said what’s unique about it this year is the State is trying to incentivize planning
131 due to the anticipation of receiving a significant amount of money from the American
132 Rescue Plan Act (ARPA) and other stimulus money that will be around for the next 5 or
133 6 years. He said they are using this money to provide assistance with planning and
134 design, and the CWSRF fund in particular will be helpful as they’ll be timed to assist
135 with the planning and design of the 3-acre General Permit.

136
137 He said this rule change will eliminate any grandfathered property that has over 3 acres
138 of impervious surfaces (roads, drives, buildings) and require them to come into
139 compliance with current stormwater treatment standards. He said that applies
140 essentially to any property constructed before 2002.

141
142 Rakowski said these Clean Water funds are the way to help these property owners with
143 designing a new system, and Clark said those who are unable to comply, or choose to
144 do nothing, will be fined. Clark said the State doesn’t award grants to private property
145 owners, so they have developed a process through the CWSRF that will allow the State
146 to lend money to participating municipalities, who can then sponsor projects for property
147 owners. He said this year those funds would be used for the designing, planning and
148 permitting of these stormwater projects.

149
150 Clark said the State has identified 22 projects and landowners in Middlebury, but 2 of
151 them are school districts that will be eligible for funds through another program.
152 Rakowski said that means there are 20 properties that will have to go through the
153 permitting process, and that involves filing a “Notice of Intent”, followed by a required
154 engineering feasibility analysis of how to treat stormwater on the site. He said there are
155 some properties that won’t be able to do this due to site constraints, but they still need
156 to do the feasibility analysis, and if they can’t comply the fine will be \$35,000/acre. He
157 said once the feasibility analysis is complete, then the owner would need to file a Final
158 Notice of Intent. The property owners will have five years to construct whatever the
159 necessary improvements are.

160
161 Clark said the State has done some outreach to property owners, but it has been
162 somewhat lax in explaining funding options, and they’re not aware of any notice from
163 the State to towns on the availability of these funds. He said the timing isn’t ideal with
164 the pandemic and the businesses are already struggling, so they believe it’s unique that
165 towns will have the opportunity to help these businesses with at least the engineering
166 portion of the costs. Clark said the Town would need to submit a loan application with
167 identified projects and then the State would send back the terms and conditions of the
168 loan. He said they feel it’s important that Middlebury consider this, since it does have
169 an impact on commercial property owners, and also because it’s first come, first served

170 and this was just released July 15th. He said if the Selectboard decides to go forward
171 and apply for these funds, the first thing that would need to happen would be to notify
172 everyone on this list and ask them if they're interested in participating and give them a
173 deadline to reply so the Town would have time to complete the application. Rakowski
174 said there is a deadline on this, and for those properties participating, the first Notice of
175 Intent needs to be submitted by December 1st, 2021, and if they miss that deadline
176 there are fines associated with this, but not the \$35,000/acre fine.

177
178 Seeley said her first concern is what kind of burden this place on staff time, and
179 Ramsay replied it would be a huge burden.

180
181 Seeley asked if the only way these businesses could access these funds was through
182 the Town, and Clark responded it was. Clark said there is some forgivable money in
183 these loans to help offset administrative costs for the Town, but it's geared more
184 towards the paperwork and not the time that would be involved in coordinating with the
185 property owners, and he said that's what OCE does for towns when they're involved in
186 these funding programs. He said many of the properties identified are existing clients of
187 theirs, and they've been approached by a few of them already.

188
189 Clark said Vermont will be getting about 1 billion dollars in ARPA funds over the next
190 few years and those funds will be distributed through existing programs like the DWSRF
191 and CWSRF, which already have mechanisms in place to get these funds out, and he
192 doesn't see this as the only potential grant opportunity for the Town over the next few
193 years, so having a dedicated staff person at the Town to deal with these funds might be
194 a good idea, and make acquiring future funds easier when available.

195
196 Werner asked how much OCE could manage if these properties want to be involved,
197 and what does that mean for the Town. Clark said this is new to everyone, but typically
198 when they work with smaller towns that don't have as much structure as the Town of
199 Middlebury, they shoulder almost all the administrative of dealing with the funding, and
200 he envisions this being much the case for Middlebury as well, and the Town would only
201 be the pass-through from a financial aspect. Baker asked if that meant we'd contract
202 with OCE for this service, and Clark said yes, and they'd do the designs as well.

203
204 Seeley said just the funding aspect and the pass through of the funds and keeping
205 records for audits will be time consuming, and asked if there were funds to help with
206 that. Clark said there was, but it was capped at 2% of whatever the project cost is. He
207 said they could ask for a certain amount of hours or a dollar figure.

208
209 Seeley suggested she and Ramsay could meet with Board Chair Brian Carpenter to
210 discuss this, but as she understands it, if the Town doesn't agree to apply for the funds,
211 then these businesses would be unable to access the funds, and Clark said that was
212 correct. Clark said this would be one large loan for all the properties involved, not
213 multiple individual loans. Werner said we also need to decide if we'll be partnering with
214 OCE on this. Clark said maybe you need to decide first if you're going to sponsor this,

215 then they'll help put together a notice to go to all the businesses saying the Town is
216 willing to do this and here's the deadline to apply.

217
218 Ramsay stated there's no way the Town can say no, so we'll just have to make it work,
219 and Seeley agreed, but they needed to discuss how we'd make it work and she said
220 she thinks we should take some time to think about it and discuss it, and asked if they
221 could have a couple of weeks to respond to OCE. Young said yes, as it's a first come,
222 first served process, and since there were over 700 properties in the state identified, this
223 conversation will be happening in many other communities as well.

224
225 Seeley said she's still not clear what OCE would be handling and what the Town would
226 be doing, so asked if they could put something together and get it to Ramsay to help
227 them when making the decision. She said it would be helpful to have an idea of how
228 much Town staff time they think it will take.

229
230 Werner asked if they had any idea of what the costs would be for these businesses.
231 Clark said there's a range, and some systems are between \$50,000 to \$70,000, but
232 there are some that are upwards of \$250,000 or more. Rakowski said the design costs
233 for these businesses would be in the \$10,000-\$20,000 range.

234
235 Baker said he'd like to move this along to the Selectboard. Tenny said knowing what he
236 does about stormwater issues, it's in the Town's best interest to partner anyway,
237 because some of these properties are not going to be able to do it on their own and it's
238 going to need to be a community effort in order to comply with this sweeping stormwater
239 change. Baker said he thought it was better to hire OCE than to hire a part-time staff
240 person.

241
242 Thomas asked why saying "no" is not an option. Seeley said because if the Town said
243 "no" then these businesses wouldn't be able to access these CWSRF funds since they
244 only loan to municipalities, so it has to come through the Town, and saying "no" makes
245 it difficult for our local businesses. Ramsay said this is a huge price tag and this is a
246 good opportunity to take advantage of these funds to help our businesses. Werner
247 asked how much funding CWSRF has available for the design phase, and Young said it
248 was between \$2.5 and \$3 million.

249
250 Wiger-Grohs said whatever group was formed to discuss this should include a
251 Conservation Commission member or a conservationist or environmentalist so that
252 perspective is included. Wiger-Grohs left the meeting at this time.

253 254 **9. Transportation and Bike-Ped Plans**

255
256 Planning and Zoning Director Jen Murray said she wanted to discuss the tools some
257 town committees have when doing infrastructure planning, and that's a town-wide
258 Transportation Plan or Transportation/Bike-Ped Plan. She said it's nice to have this
259 plan in place that lists the priorities formed with an involved public participation process,

260 so that you know the plan will meet the needs of the people and not just responding to
261 the most vocal people in town.

262
263 Murray reviewed the process of developing the plan, and all the planning data that
264 would be gathered to create the plan, and she said it will include some type of matrix
265 that prioritize projects. She said a Transportation Plan is a broad, comprehensive plan
266 looking 10 to 20 years into the future and is on the same level of the Downtown Master
267 Plan. She said as far as cost, she thought it could easily be done for about \$20,000,
268 which is about the amount of the Municipal Planning Grants (MPG) that are awarded
269 each fall. She said she feels the Transportation Plan is an important planning tool that
270 we don't have right now, and the Planning Commission is in support of this, and
271 recommend applying for a Municipal Planning Grant this fall.

272
273 She said there are also Transportation Alternative Program Grants (TAP) coming up as
274 well, but these grants are typically awarded for smaller scoping studies, but it's possible
275 we could use TAP funds for a project to provide data for the Transportation Plan.
276 Ramsay asked if Jennifer had any idea of a project for TAP funds, and she said she's
277 thinking maybe the level-of-service at an intersection and how much that improvement
278 might get used, but it could also be used to solve the problem at the Bushey Corner,
279 especially since that area may be looked at for future development. She said she'd also
280 like to do something at the Boardman Street intersection, as well, at some point, as she
281 sees that area as a place for future development.

282
283 Tenny said as the Town changes we tend to react to and address things that come up
284 rather than plan for it and so is in favor of spending the \$20,000 for the Plan. Murray
285 said that \$20,000 will get the background data needed.

286
287 Seeley asked if we do this Plan now, are we bumping something else we need. Murray
288 said there are other plans in process, but none of them need grant funds right now. She
289 said the Transportation Plan would help with future bike/ped and trails planning, so it
290 would be laying the groundwork for future plans, and it will help the Transportation
291 Section of the Downtown Master Plan.

292
293 Erik Remsen said in his work with Safe Routes he connects with Local Motion quite
294 often, and they've said often that they'd like to work with Middlebury, but they'd like to
295 see a Transportation Plan so they know they'd be working on a plan the Town is looking
296 to implement. He said all the various committees have been hearing about the needs
297 for traffic calming and speeding issues, so he feels moving forward with this plan is a
298 way of making concrete steps to deal with the issues these committees have heard
299 about this spring and summer. She said ideally the Transportation Plan would identify
300 projects so when grant funds become available, everyone will be working off the same
301 playbook.

302
303 Ramsay said the MPG application is due in early October, so we would need to get that
304 on a Selectboard agenda. Murray said the project would be done in late winter early
305 spring.

306
307 Baker made the motion to recommend the Selectboard approve the grant application for
308 the Transportation Plan.

309
310 Houghton asked if the Town moves forward with the long-term planning, will they also
311 be doing some low-cost pilot projects, specifically road design alternatives that were
312 discussed at the Public Health and Safety Committee meeting that would be very low,
313 or no-cost, paint projects on the roads. Murray said she thinks pop-up or pilot projects
314 are best done after a Transportation Plan, and Werner agreed that without a
315 comprehensive plan these projects tend to bounce around without any connection to
316 one street or another.

317
318 Seeley said one concern she had is that the Board has heard several concerns recently
319 on South Street, High Street and Rogers Road, and she wants to be sure they treat
320 each neighborhood equitably. Houghton said comparing South Street, which has two
321 sidewalks with High Street and Rogers Road, which don't have sidewalks, was rather
322 slanted. Seeley said she struggles when discussing High Street and Rogers Road,
323 which have similar issues and how do you prioritize when budgeting. Murray said that's
324 a good conversation to have with the Transportation Planner to develop a good scope
325 of work.

326
327 Pistilli said he has no problem letting the Town's elected officials prioritize the projects
328 and the equity issue. He said he agrees with Houghton that they don't need perfection
329 if they can do some low-cost things now if the Town can budget for it. He said he thinks
330 we can move ahead on near-term, low-cost things to improve safety, and plan
331 comprehensively to have a roadmap for the future.

332
333 Seeley said Baker had made a motion. McLaughlin seconded the motion. The motion
334 to recommend the Selectboard approve the grant application for the Transportation Plan
335 was approved with 6 in favor, 2 absent. **MOTION PASSED.**

336
337 Murray asked if they wanted to discuss the TAP grant that's due now, and there was a
338 discussion on various projects to focus on.

339
340 **10. Middlebury College and Town Memorandum of Understanding**
341 **On Water and Sewer installation and maintenance**
342

343 Luther Tenny is Associate Director of Facility Services for Middlebury College, as well
344 as a member of the Infrastructure Committee. Tenny said there is an unwritten
345 agreement on how the College and Town work together, and it works well, but when the
346 College applies for Act 250 permits, the application wants to know that the College can
347 provide the infrastructure. He said now they have a draft agreement and it needs to be
348 formalized. Director of Public Works Operations said the need to formalize this now is
349 because the state permit for a recent project said that if there is infrastructure, they
350 need to provide the State with this agreement. Kernan said in order for the College to
351 move ahead with this construction permit now, they're going to do a letter saying that

352 this agreement is being worked on and supply them with a date to have it finalized.
353 Tenny said this is a draft and needs to be tightened up and reviewed by counsel.

354
355 Thomas left the meeting.

356
357 Kernan said the Infrastructure Committee didn't need to do anything further with this,
358 and when the agreement was finalized it would go directly to the Board for approval.

359
360 **Stormwater Motion**

361
362 Baker moved to send the stormwater funding program to the Selectboard for a decision.
363 McLaughlin seconded the motion, and it was approved with 5 in favor, 3 absent.
364 **MOTION PASSED.**

365
366 **11. Committee Concerns**

367
368 Remsen said in light of the recent heat waves, he wondered if the Town had thought, or
369 should start thinking about, a cooling station somewhere in town other than the Town
370 Pool. He also asked about the improvements at the Cross Street traffic light to give
371 pedestrians more protective time to cross without traffic trying to turn. Kernan said
372 there is a new no right turn arrow for a dedicated crossing. Remsen said he thought the
373 left turn off of Cross Street going north on Court Street doesn't leave enough time for
374 someone to cross before traffic moves. Kernan said they'll review the timing and check
375 to see if there is a dedicated pedestrian cycle and he will report back.

376
377 McLaughlin said the traffic light at Monroe Street onto Court Street doesn't allow for
378 more than 2 cars to enter Court Street, so the cars behind them keep going through a
379 red light. Kernan said a radar detector was installed there and he can watch the timing
380 and make adjustments if needed.

381
382 Baker stated a person tried to reach Karen Duguay of Better Middlebury Partnership
383 and was unable to. Ramsay said she will pass the information on to Duguay.

384
385 Tenny asked what the colors of the tops of fire hydrants indicated, and Werner said
386 they're based on flow-rates. Tenny said he went to the Town Pool and he noticed the
387 condition of the pool coating is deteriorating and hopes in the off-season it can be
388 redone. Kernan said it will be prepped this fall and retreated in the spring. Tenny asked
389 about the status of the climbing wall approved for the swimming pool, and Kernan said it
390 had been ordered, but it is currently backordered.

391
392 There was further discussion about the signals and their synchronization. Seeley said
393 she has a struggle with the Middle Road intersection being disconnected from the
394 Hannaford intersection. They feel the light synchronization issue might be causing
395 additional traffic on Rogers Road, so getting them in synch might stop some of that
396 traffic.

397

12. Adjournment

398

399

400 The meeting adjourned at 10:30 a.m. upon motion by McLaughlin, seconded by Baker.

401

402 The next meeting is 9:00 a.m. on Thursday, September 9, 2021.

403

404 Respectfully submitted,

405 Beth Dow