Regular Selectboard Meeting  
Tuesday, August 23, 2022  
Meeting Minutes

Members Present: Brian Carpenter, Lindsey Fuentes-George, Andy Hooper, Dan Brown, Farhad Khan and Esther Charlestin. Heather Seeley was absent.

Staff Present: Town Manager Kathleen Ramsay, Director of Planning and Zoning Jennifer Murray and Director of Public Works Planning Dan Werner

Also Present: Interested parties.

1. Call to Order

The meeting was called to order at 7:00 p.m. by Chair Carpenter.

2. Approval of Agenda

Khan moved to approve the agenda and Fuentes-George seconded the motion.

Carpenter said there were two additions to the agenda. He said the request by Director of Public Works Operations Bill Kernan to draft a new Town water ordinance had been added as Item 8.c, and the Energy Committee’s request to allow Vermont Solar Fund LLC to file Certificate of Public Good (CPG) applications for potential solar projects was added as item 10.a.

The motion carried with 6 in favor, 1 absent, and the agenda was approved as amended. 
MOTION PASSED.

3. Approval of Consent Agenda

Hooper moved to approve the consent agenda, and Fuentes-George seconded the motion.

3.a. Approval of Minutes of the August 9, 2022 Regular Selectboard Meeting
3.b. Acceptance of Selectboard Subcommittee Meeting Minutes
03b - Consent Agenda - August 18, 2022 Infrastructure Committee Meeting Minutes (Draft)
3.c. Agenda Placeholder
3.d. Agenda Placeholder
3.e. Town Manager’s Report

- August 5, 2022 Middlebury Pedestrian Connectivity between Boardman Street and Hannaford Plaza Scoping Study Local Concerns Meeting Notes (Final)
• Transit-Oriented Development (TOD) Plan for Northwest Vermont

Charlie Baker, Executive Director of the Chittenden County Regional Planning Commission (CCRPC), reports that CCRPC’s recent grant application of the US Dept. of Transportation is being awarded $2.1M in funding for the to develop a comprehensive plan for transit-oriented development for 12 communities across a five-county region in Northwest Vermont. In conjunction with TOD planning, it will also support improved bus services and/or commuter rail to connect economically disadvantaged rural residents to employment opportunities and services in the economic hub of the greater Burlington region and other employment areas”.

• Current Correspondence

03e - TM Report - Current Correspondence - Received August 5 – August 17

The consent agenda was approved as presented with 6 in favor, 1 absent. **MOTION PASSED.**

4. Citizen Comments

Resident Judy Wiger-Grohs wondered about what was going on with the property on Route 7 south that was purchased and cleaned up a few years ago by the DeBisschop’s, but nothing more has happened there and it’s an “eye sore”. Ramsay said Director of Planning and Zoning Jennifer Murray reports there is no new news on that property, but they could check with the property owner and get back to her.

6. Public Hearing for Proposed Expansion of Childcare Facility on Otter Creek Child Center Site

Carpenter said that after the Board’s July 18th Special Meeting and public hearing regarding the proposed Community Development Block Grant application for the childcare facility expansion project, Kathleen Ramsay learned that the language used to warn the hearing did not conform to the required format and, therefore, the meeting can only be considered “informational.” He said his public hearing is an opportunity for the Selectboard to take public testimony on a proposed $1M grant application by the Otter Creek Child Care Center (as the lead entity for the Community Childcare Expansion Project) to the Vermont Community Development Program (VCDP). He said the Community Childcare Expansion Project is seeking to renovate and expand the existing Otter Creek Childcare Center to meet ADA and childcare facility licensing requirements, and furnish the kitchen, workspaces and classrooms and the preliminary project cost is estimated at $10.4M.

Executive Director of Otter Creek Child Center (OCCC) Linda January joined the Board said they are looking for support this evening in their efforts to secure funds through the Vermont Community Development Program and they will be requesting between $800,000 and $920,000 to go towards the expansion and renovation of the childcare center that they anticipate will be a two-year project. She said the first phase would be construction of the addition, and phase two would be renovating the existing historic building. She said this project will add up to 77 new childcare slots, with 20 of those being for children under the age
of 2, and will add at least 28 new jobs. She said this will be done in partnership with Middlebury College’s College Street Children’s Center, along with other local early childhood education organizations.

January went over the proposed plans of this project showing the new entrance, expanded parking, new play spaces and the proposed timeline that hopes to begin the permitting process in early 2023.

Weybridge resident Gioia Kuss said she was in full support of this project but was concerned about the conservation easement on the property. She said she was the Director of the Middlebury Area Land Trust (MALT) when this easement was created and none of the project maps reference this easement, and the importance of that easement was that the public had access along the Otter Creek corridor and that it would be available for wildlife. She said there is an enormous gully as well that allows for drainage, so she’s just concerned that this wasn’t talked about, and with all the earthmoving that will be involved to make this area flat enough for construction and playgrounds, she is concerned about the environmental impacts.

January said this issue is talked about all the time. She said the easement is 200 feet back from the river bank and their Massachusetts based architect is aware of this easement and has been on site several times. He is also working closely with local firms in relation to all the drainage and they’ll be working with MALT in hopes of extending the current path that will go all the way up to Weybridge Street. She said they are beginning work on the environmental impact study of this project which will address all these issues.

Gorham Lane resident Chris Robbins said she walked past those woods west of the center almost every day and she feels the project is a little bit more expansive than necessary and wondered if the kids were still going to be able to play in the woods. January said they will continue to explore the surrounding woods as well as other natural parts of Middlebury.

Robbins said she’s concerned the parking lot may be larger than necessary, and January said they were mindful of that while also needing to provide the spaces required based on their capacity.

Kuss said if there is going to be an increase in children at the center, this will be an increase in traffic and there will need to be a larger than average driveway and is concerned about the trees.

Andrea Sandberg said OCCC does amazing work, and high quality programs like this is something that can improve the culture of Vermont.

Carpenter closed the public hearing.

Brown moved to sign the Resolution for VCDP Grant Application Authority for the Community Childcare Expansion Project. Charlestin seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

7. Reconsideration of August 9, 2022 Selectboard Vote on Zoning Amendments
Carpenter said a review by Town Attorney Benj Putnam shows that the Board vote at the August 9th meeting was defective and the action was not valid, so it is before the Board again for a new vote.

Hooper wanted to clarify that they were now voting on the zoning amendments that were presented to them prior to their amendment change made at the August 9th meeting, and Carpenter said that was correct.

Resident John Tenny said he saw in the Selectboard packet that there was a memo to the Selectboard from the Planning Commission and he wondered what it said and what they were objecting to. Director of Planning and Zoning Murray said they weren’t objecting to anything they were outlining the issue and explaining why they wrote the amendment the way they did so the Selectboard would understand, and if they wanted to make a change it should go back to the Planning Commission.

Tenny said he recapped the logic he and John McPartland applied in their request for the change in the definition of students and he thinks the confusion leads to misunderstanding the rules. He said students are allowed to find housing throughout the town without Conditional Use Approval and that’s true in the current and proposed zoning. He said the only change is the concentration of students that is defined as “four or more”, and the regulations only control or prohibit students in those numbers in an attempt to limit the concentration of students at one location to reduce the tendency and opportunity for bad behavior. He said the regulations on student occupancy needs to be applied by the property, not the apartment unit or bedrooms, or else you’ve nullified the attempt to limit the number. He said in the case of 53 North Pleasant and 13 Washington St Extension are prime examples of when a crowd creates its own dynamic of out-of-control parties as they continue to bring in student athletic teams in these properties, so you need to limit the number of students per property to reduce the tendency of misbehavior.

Dean of Students at Middlebury College Derek Doucet wanted to address the potential impact of what some of these proposed changes might be and to share with the Board the expectations the College has for students and how they hold them accountable if they don’t meet these expectations. He said in the instances on North Pleasant Street and Washington Street Extension that Tenny referred to, the College didn’t learn of them until the end of the year with students had already departed.

Doucet said the number of off-campus students is in the vicinity of 120 at any one time. Through an approval process, the student conduct records are reviewed before they’re allowed off-campus, so they’re selective, so it is not accurate that sports teams are exported into the community. He said the other group of students approved to live off-campus are a small number of students for ADA purposes, so those combined with the others totals 137 students off-campus, which is fewer than 5% of the student population. He said the students are expected to conduct themselves as respectful neighbors and to abide by all on-campus polices and the Town’s Noise Ordinance and any other applicable ordinances, and they can hold the students accountable for their conduct if they learn of it in a timely manner, and described the
action they took on behavior that had recently happened at 13 Washington Street Extension when they were informed of it by the neighbor, and the neighbor received a written apology from the students.

Doucet said they know where their off-campus students live and he’s laid these locations over the Town zoning map and estimates that this would impact approximately 80 students in properties owned by 12 landlords, and of those 80, approximately 30 would end up with the potential to lose their leases because the number of students per property would be limited to 4. He said the remainder of the students would be in locations that would require Conditional Use Approval, and with only 3 weeks before the start of school he doesn’t believe it’s reasonable. He’s not disregarding the impact student housing has on residences, he’s emphasizing their ability to address it effectively with their processes when they’re informed and doesn’t think changes to the zoning laws is necessary, and he feels they can address any future issues that arise.

Fuentes-George asked if the number of off-campus students fluctuate, and Doucet said they keep it at 120 with the few additional requiring ADA accessibility. He said students interested in living off-campus enter a lottery and these students conduct records are reviewed. He said in the case of the football players at 13 Washington Street Extension, there is no indication in the process that they intend to live together and nothing on the application to indicate they’re a member of an athletic team. He said only junior and senior students are allowed to apply to live off-campus.

Khan asked Doucet the particulars of the problems at 53 North Pleasant Street with students, and Doucet said the disciplinary process is cumulative, so if the student hasn’t had any disciplinary actions, it might be a letter of warning all the way up to a letter of discipline from the College which is quite serious because it impacts their permanent records for things like graduate school applications and government employment applications, and in extreme cases they would require the students to return to campus.

Kevin McGrath of 51 North Pleasant Street wanted to address the impacts of the students at 53 North Pleasant. Jennifer Murray pointed out there would be a DRB hearing on the 53 North Pleasant Street property on September 12th if people wanted to submit comments regarding that property and the impacts of what happens there. Carpenter asked the audience to limit their comments on examples of student behavior.

McGrath said the 53 North Pleasant Street property is marketed specifically to college students, and it’s advertised as a party house and students are packed in there with no regard to actual bedroom designation in order to collect maximum rent. He said the house is completely rented to students and has been declared a public nuisance by the Middlebury Police Department. He said the nuisance status applies to the building, not the individual units, as does the Noise Ordinance. He was not contacted by Middlebury College at any time and he doesn’t feel the College should allow any students living at that address. He said the number of cars parked on the property is extreme and he urged the Board to limit the number of students in a building.
Jason Murray said his daughter has to live with him because there is a lack of affordable rentals in town due to these 120 college students living off-campus, and it jacks up the rents beyond what a working family can afford.

Katy Koerber lives at 55 North Pleasant Street and she started calling the College in early April after a party where one of the attendees of this party drove across their lawn to their driveway to get out. She said she got no response to that call or subsequent calls until Luther Tenny reached out the Mr. Doucet. She said she disagrees that the College was not informed, and even if there isn’t a party happening, having that number of people in the house changes the character of the neighborhood, and to think a property owner can place all these students in this house makes it a very different use.

Murray said there will be a DRB hearing on September 12th for all of these concerns, but tonight the discussion is on the definition of student housing per dwelling or change it to per house. She said the Planning Commission feels it needs to be “per dwelling”, because that's the only reasonable way the zoning administrators can administer the rule. She said probably the Noise Ordinance should be looked at and there needs to be more communication with the College.

Carpenter wondered if there were other properties in town with problems, since these two are the only ones they’ve heard of. Water Street resident Cindy Slater said there is another property on Cross Street that she and her husband have had to call the police on before due to noise, so she was at this meeting to see if we can have one more piece of control. Carpenter said it seemed there used to be a call process at the College so that calls got to the right people, and he wondered if there was something in the College process that could make it easier for the town people to communicate with someone, and Doucet said absolutely. Tenny said the College has not been responsive in the past.

Peter Jette, resident and owner of an apartment building in town, said he’s housed 200 college students over the last 12 years, and growing up in town he lived between the fraternities KDR and the “SLUG” house and there were times that you could feel the thudding of the base in the walls of their house from the fraternity parties. From his perspective there has been quite an evolution of off-campus student behavior that is quite remarkable from his perspective, and he feels that they’re missing the perspective of the greater population of students that live off-campus. He owns the Dyer Block at 61 Main Street, and he has friends who own buildings that rent to students in other areas of the downtown, and he’s never had one complaint from the students at his building, and he’s quite sure that’s the case with his friends. He said the students he’s had are too serious to want to live in a dorm, and they want to save money by living off-campus, and they’re quiet and respectful. He said he did own the property at 128 Weybridge Street and he was very involved in trying to modify the behavior of those kids for over 3-years and eventually sold it to a neighbor who didn’t want to have students living next to them anymore. He said that property had 3 apartments with single tenants in each unit and he was there all the time, so he knew there were only 3 people living there, so to limit the number of students to 4 per unit is really arbitrary. He said his daughter pointed out 1 person can invite 50 people over just the same as 4 people can. He said to use a “blunt” instrument like zoning to solve the problem of a landlord who doesn't live here or have any respect for neighbors, is
like using a chain saw when a scalpel is needed, and it impacts all the other landlords who haven’t had problems. He suggests coordinating with the College that out-of-state landlords have a harder time renting to students, or maybe some neighborhoods could simply not be allowed to have off-campus students, but he feels they need to be careful that they aren’t hurting students who are obeying the rules and landlords if they use the wrong instrument.

John McPartland said if the definition of student housing was reduced to 4 students per dwelling unit, then the apartment next to his house would be allowed 12 students. Murray said student housing is defined as 4 students per unit, and as Peter Jette pointed out, zoning is not the right tool for trying to regulate this at all. She said if they were to use it for a specific housing type, it might be geared towards a congregate house where all the student share a kitchen, dine together or party together. She said that’s how the Planning Commission decided on no more than 4 students per dwelling unit and the hope is they won’t be gathering together to party since they’ll be living in separate units.

McPartland said Doucet said this could be impacting 40 students across town, but he thinks it’s actually impacting 20 landlords who might have to pay a penalty for breaking the zoning regulations, and they could write that off as a business expense.

Carpenter asked for a show of hands in the audience of who was there because of this one property, and most all raised their hands, and Carpenter said the problem seems to be with the property owner and not zoning, and he hopes they all attend the DRB hearing on September 12th, because that’s the way to limit the use of that property.

Former Town Planner and resident Fred Dunnington said the issue of student housing isn’t new to the Town and when he worked for the Town it came up often. He said the Noise Ordinance was drafted, and it changed how the Town dealt with the College and zoning as a Planned Unit Development, and the first decision on this required them to disclose all of its off-campus housing and the total enrollment and to deal with it as a development and how it impacts the town. He thinks the zoning amendments are worth adopting, and said zoning is not a great tool to regulate human behavior and urges them to update the Noise Ordinance and Public Nuisance Ordinance, since this isn’t just about students. He said there’s also interim zoning that the Selectboard can enact under 24 VSA 4415, that allows them to enact emergency measures more readily after a Selectboard hearing after the process. He said they need to use all the tools and not just focus on the zoning.

Sue Ritter of Middlebury College said the College supports the zoning amendments as presented and agrees with the comments today that the way to deal with this is through the public disturbance ordinance and not through a broad-scale change to the definition of student housing in zoning. She said one of the residents of those residences is present at the meeting and will speak if they’d like.

Carpenter surveyed the Board and asked if they’d heard enough information. Hooper felt they should use the other avenues mentioned to deal with this specific problem, and not hold up the entire zoning ordinance amendments for two properties.
Khan agreed with what Jette had said and agrees they should work on the Noise Ordinance.

Hooper moved to adopt the 2022 Bylaw Amendment to the Middlebury Zoning and Subdivision Regulations as warned, dated April 22, 2022, and last revised July 15, 2022. Khan seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

Carpenter asked Doucet to get back to him on the communication process, since he wants to be assured there is a process in place that when residents call the police the police can contact the right person at the College to address the problem. He also encouraged everyone with experiences to let the DRB know of the issues, and he will encourage the Public Health and Safety Committee look at updates on the Noise Ordinance. One resident urged the Board to look at increasing the fine from $500 to $5,000 to make an impact.

8. Dan Werner, Director of Public Works Planning with updates and recommendations from the Infrastructure Committee meeting of August 18, 2022

8a. Water Storage Tank Engineering Agreement

Director of Public Works Planning Dan Werner said there is an engineering agreement with the Dufresne Group to accept for final design phase services for the supplemental for final design phase services for the supplemental water storage tank to be installed on Chipman Hill, at a total estimated cost of $62,000. He said once The Board accepts it, its sent to the State for their review and then returns it to us, so the Board could authorize Town Manager Ramsay to sign it following review by the State.

He went over the timeline on this, and said the design will begin by Sept 1st with a permitting to construct in December, so by February of 2023 we would have 100% final design plans and specifications and at that point we’d need to decide how to fund this project. He said the obvious way is to submit it for a Drinking Water State Revolving Fund grant with loan forgiveness that will be determined by the State next year, but this will get us in a good position to apply.

Khan moved to accept the proposed engineering agreement with Dufresne Group for final design phase services for the Chipman Hill Water Storage Tank Project, at a total estimated cost of $62,000. Fuentes-George seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

8b. Adams Acres Stormwater Agreement

Werner said this development is in the Boardman Street area and there were 10 individual State stormwater permits for these properties, then the State decided they didn’t want to manage these individual permits any anymore and turned it over to the communities. He said this agreement is a Stormwater Maintenance Agreement where the Town would coordinate routine compliance activities required by the permit, the cost of which would be shared by the property owners on a prorated basis, based on the acres of impervious coverage on their respective lots.
Brown asked if there were any that had signed on yet, and Werner said once this was approved they’d take it to the property owners for signatures. Carpenter asked if administrative charges had been added to the fees, and Werner said they weren’t, but any work done on their property is 100% their responsibility, and the amount we’re billing them is for the State permit fee. Carpenter felt we weren’t charging them for all the work we were doing for them. Werner said the State has pretty much mandated the Town to be the managing partner. He said every 5 years there needs to be an inspection by an engineer of these properties, and any problems are at the expense of the individual property owner, it is not a joint expense spread to others or the Town. Carpenter asked if the engineering fees were billed to the property owners, and Werner said we have the ability to bill them for all fees.

Khan moved to authorize Town Manager Kathleen Ramsay to sign the Adams Acres Stormwater Memorandum of Understanding as a duly authorized agent of the Town of Middlebury. Hooper seconded the motion. The motion carried with 6 in favor, 1 absent.

MOTION PASSED.

8c. Request from DPW Operations Director Bill Kernan for Board approval to draft a new Town Water Ordinance

Ramsay said at the Infrastructure Committee meeting last week, DPW Operations Director Bill Kernan is seeking the Board’s approval, as the Town’s Water Commissioners, to begin drafting a new Water Ordinance that addresses potential conditions under which the Town can turn off service to water customers, beyond non-payment of bills. She said Kernan said there is a Water Policy and not an ordinance, and that this policy hasn’t been reviewed in 24 years and is outdated and he questions whether it should be an ordinance instead of a policy. He said that, by statute, he isn’t sure what he is allowed to do and that right now the only reason he can do a disconnect is if it’s for non-payment.

Ramsay said Kernan stated they have a commercial user that has refused the Town access to their property and they have a meter that does not work so Kernan shut the water off but had to turn it back on after legal involvement because of no policy for this being a reason to shut off water. She said because they are paying the bills that are being generated by an estimate, water access has to remain on. She said Kernan also provided an example where an employee had an electrical shock while changing out a curb stop that wasn’t working at a residential property from the service line from the house and the staff member was able to have the homeowner throw their service line disconnect to stop the shock from continuing while they completed the work. She said Kernan indicated we do not have authority to not provide service because of this safety issue because it’s not in the policy.

Ramsay said Kernan and the Water Department staff are gathering info from other water districts on their policies and ordinances and this will need to go to legal review at some point because of the statute. She said Selectboard member and Chair of the Infrastructure Committee Heather Seeley is interested in participating in the drafting of this ordinance.

Hooper moved to authorize DPW Operations Director Bill Kernan to begin drafting a new Town water ordinance for consideration by the Selectboard, once it has undergone the appropriate
legal review. Khan seconded the motion. The motion carried with 6 in favor, 1 absent.

**MOTION PASSED.**

9. Discussion of Middlebury Airport Master Planning Process & Act 250 Application

Carpenter asked the members of the Middlebury Area Neighborhood Association (MANA) who were present if they had brought their position paper, because the Board had not seen it. Andrew Sambrook of 287 Airport Road said that he and many of the other MANA members had submitted questions to the State in regards to the Act 250 application and since they have not received answers to these questions they have no position at this time since it might change. He said the Master Plan is not complete and there are key portions of the plan they haven’t seen yet.

Sambrook said the public comment period on the Airport Master Plan has been extended until August 30, 2022 and comments can be emailed to shaun.corbett@vermont.gov.

He said the master permitting Act 250 hearing had been this past Friday, August 19th, and it was well attended, however he said there were some adjoining property owners who had not received notice of the hearing. Sambrook said when they were on the site visit, the State had not marked out the hangar development area, so it was hard to imagine what it would look like, so he had found images of various sized hangars and had included them in a package he’d handed to Selectboard. Planning and Zoning Director Murray pointed out the VTrans plans show the envelope of where these hangars will be, and they may or may not be as large as the building envelope shown on the plans. Sambrook said 9 hangars are proposed and the sizes proposed are out of scale and out of character of the current airport.

Sambrook spoke to the lack of data provided by VTrans on how these hangars would be used and he said they could be plane storage, manufacturing or industrial. He said he hopes the Town will support their request that VTrans stop this Master Planning exercise and submit a full-application at this time so we can fully adjudicate what the merits are, or they can wait until they have a fully formed plan before they got to permitting. Sambrook said Carpenter had said back in March that he had spoken to Act 250 Secretary Flynn and he would require a Master Plan hearing before any permitting began, but the permitting has already begun and it isn’t shown in an approved Master Plan yet.

Sambrook went on to list the information that is lacking in the Master Plan, such as lighting and plans for runway extension, although it is still shown in other VTrans plans. He said the other thing that isn’t mentioned is the impact on the Town acquifer and the environmental impact has yet to be seen by the MANA members.

Sambrook said they are proposing enough hangar space for 39 aircraft, and there are 42 aircraft registered in Addison County, of which 13 are based out of Middlebury which already has hangars, so this is completely out-of-scale.
Carpenter said what the airport is doing is saying if someone wants to build a hangar, this is the area they will go. He said the State does not build hangars, they lease the land and someone else builds them subject to permitting by the Town, and it would need approval by Act 250. He said the State is looking for the maximum buildout and how would that impact the environment, and if a manufacturing facility wants to build there, it would go to Act 250 to see if it exceeds the environmental constraints, whether it be noise or pollutants.

Carpenter and Sambrook disagreed on the Act 250 process, and Sambrook said two hangars were just approved at the airport by Act 250 without a hearing, and that’s the fear is that one of these large hangars will get approved and they won’t evaluate it. There was also a disagreement over whether or not projects at the airport would be subject to local Development Review Board (DRB) review, and Sambrook said the past runway extension was reviewed by the DRB. Murray said it was reviewed by the DRB, but at the end of the review they determined it was outside of their jurisdiction because of the Federal Aviation Administration (FAA) rules that it’s a health and safety issue.

Carpenter said they tried to negotiate having these hangars at the south end of the airport, but there is ledge there and no access road, and he and Sambrook continued to disagree and discuss the process and the potential danger of approving these building envelopes for future development and the possibility they’d be approved without a hearing.

Munson Road resident Mike Davis said the airport’s consultant at the Act 250 hearing was looking for positive findings on all 10 criteria, with the exception of #4, so he asked Carpenter if the Act 250 Board gives them the positive criteria they’re asking for on this potential development at the airport, and then 5-years down the road a developer wants to put a manufacturing facility and they go before Act 250 and that specific development doesn’t meet one of the criteria that the earlier application met, do they get approval anyway, because that’s what they’re worried about. Carpenter said that was a good question, because some of that criteria involves knowing what’s going there and the impacts it will have, so he isn’t sure how a preliminary finding could trump real data, but he will ask.

Murray said this happens in Planned Unit Development (PUD) applications where the PUD is reviewed and then when other applications come in within the PUD, they are reviewed again. Murray said one thing she heard in the hearing was MANA was entered as an interested party, so she’s concerned the future notices might not go to individual property owners, but just to the MANA representative, so they might want to check the mailing list. There was then a brief discussion on the way the hearings are warned and how people can register as an interested party, whether they received a notice from the State or not.

East Middlebury resident Anne Christi said she really appreciates that the Selectboard is looking at the airport and that Carpenter has gone to such an extent to make sure they’re involved. She said the number of people that live adjacent and close to the airport are all impacted by the noise and activity at the airport. She said she is replacing Prem Prakash on the communications committee, and their next meeting is August 31st at the airport. She said MANA was started a few years ago at the time of the airport runway extension because of the mixed messages they were receiving from the airport and the State. She said since the
runway extension, which was said to have been done for safety reasons, there are now larger planes that can fly in their safety and it has increased the noise. She said the group of residents closest to the airport who bear the majority of the impact of this change, it’s important to them that the Selectboard represent them and their basic concerns around noise, visual, vibration, activity and wildlife, along with the views of the business community and other property owners of Middlebury who don’t live around the airport.

Christie said she was at the Act 250 hearing and site visit, and she thought there must be a better area than to place the largest, ugliest building in front of a residential property taking away the view. She said since the residents are being asked to put up with the noise and activities at the airport, shouldn’t the airport also take the residents into consideration when siting these structures.

Airport Road resident Jason Murray said everyone is looking at what is happening at the Airport, while he’s concerned about what is happening on Airport Road leading to the airport. He said the State has indicated that any improvements such as widening the road, or adding streetlights, is up to the Town. He spoke of the dangers to animals and children on the road, and while he supports the airport and the activity there, he just wants a safer road and a good deal of the speeding vehicles are coming from the airport, so he hopes there is something they can do to hold VTrans accountable for safety improvements if they want to develop the airport further. Jason said even though Airport Road is a Town Road, it is the only way into the airport. Carpenter said it would be referred to the Public Health and Safety Committee regarding the speeding problem.

Paula Nath said her property abuts the southern end of the runway, and she attended the Act 250 site visit, and she looked at the footprint of the area that would be impacted on the plans and felt that the development area would effect many of the Act 250 criteria, but in terms of the aesthetics and impacts for the entire Middlebury community, such as the aquifer. She’s urging the Selectboard to remember that what happens at the airport will impact the entire community.

Louise Prescott is an abutting landowner to the airport and has never received a notice for anything from the State, and she’s found that trying to find out what is happening at the airport is turning into a full-time job and was appalled at what she heard at the Act 250 hearing this past Friday. She said when they talk about the bat habitat, they just say the bats will be okay, they aren’t providing the data and she’d like to have a clearer picture and the target keeps changing. Carpenter said there are State agencies that will monitor the bat population and all these other environmental concerns, and just because this is a state project means they’ll approve it. Christie just felt that there is not enough transparency and a “shadow” over the plans they aren’t telling us about, so how can we evaluate it.

Judy Wiger-Grohs said her concerns are the availability of data that the State is presenting as far as the permitting process, such as green-infrastructure on future development, airport data and bat monitoring and mitigation. She said she asked for this information on August 5th and has not had a response. She also objects to their definition of a forest canopy and that they
are requesting additional cutting for parking and are providing no information regarding demolishing bat habitat.

10. Discuss and Consider the Energy Committee’s Correspondence Regarding the Proposed Summit Housing Development off Seminary Street Extension

Energy Committee Chair Howard Widelitz joined the Board. Carpenter read the draft letter that had been prepared to go to Summit Housing offering the assistance and expertise of the Town Energy Committee during the early design phase of the development off Seminary Street Extension, and Widelitz said the letter sounded great. Carpenter had also spoke with one of the developers and he’s willing to talk to the Widelitz on ways the Energy Committee can help. Widelitz said the Energy Committee is fully supportive of the project and they understand the need for affordable housing in town.

Fuentes-George moved to sign the letter to Zeke Davisson, of Summit Properties, conveying the Energy Committee’s offer of information and assistance in incorporating green housing and high efficiency construction principles into the planning of Summit’s Seminary Street Extension housing project. Khan seconded the motion. The motion carried with 6 in favor, 1 absent. MOTION PASSED.

10a. Request from Energy Committee to allow Vermont Solar Fund LLC to file Certificate of Public Good (CPG) applications for potential solar projects

Widelitz said a representative from Vermont Solar Fund came and spoke to the Energy Committee about their business model, and they offered to submit an application for the Town Office building on the two south facing roofs and the canopy at the Amtrak station. Ramsay pointed out the Amtrak canopy is not owned by the Town, and Widelitz said they have reached out to VTrans, but they’re not getting much response from them. He thinks they’ll be agreeable if whatever solar from the canopy pays for the electricity at the passenger depot. He said the rates change on September 1st, so that’s why they’re trying to get the CPG application in prior to that date. Hooper asked if those rates are locked in if the application is in prior to September 1st, and Widelitz said yes, but the clock starts ticking and there is only so much time to complete the project. He said the Town would not be obligated to go with Vermont Solar Fund, so once we have the CPG the Town could put this out to bid and go with the best option, but the nice thing about Vermont Solar Fund is they can do this without any up-front costs. Carpenter said tonight we just have to approve to apply for the CPG and if successful, at some point in the future Vermont Solar Fund would have to come before the Board to propose a project.

Hooper moved to authorize Ian Phair, of Vermont Solar Fund LLC, to file applications for a Certificate of Public Good for two potential Town solar projects, with the understanding that such filings will not bind the Town to any specific future action. Fuentes-George seconded the motion. The motion carried with 6 in favor, 1 absent. MOTION PASSED.
11. Adoption of Policy Prohibiting the Practice of Texting While Driving, in compliance with Executive Order 13513, and Policy Prohibiting the use of a portable electronic device while operating a moving motor vehicle, in compliance with 23 VSA § 1095b

Carpenter said a 2021 update to the Vermont Community Development Program’s (VCDP) Municipal Policies & Codes includes a new requirement that any municipality applying for VCDP grant funding must attest that it has adopted written policies that 1) prohibit employees from texting while driving, and 2) require employee compliance with 23 VSA § 1095(b), which prohibits the use of handheld portable electronic devices while operating a motor vehicle. He said two draft policies are in the meeting packet for the Board’s consideration and the Board will need to adopt both policies before it can address re-adoption of VCDP’s Municipal Policies and Codes in Item 12 on the agenda.

Hooper moved to adopt the Selectboard Policy on Texting While Operating a Municipal Vehicle. Khan seconded the motion. The motion carried with 6 in favor, 1 absent. MOTION PASSED.

Hooper moved to adopt the Selectboard Policy on Texting While Operating a Municipal Vehicle. Khan seconded the motion. The motion carried with 6 in favor, 1 absent. MOTION PASSED.

12. Re-adoption of Municipal Policies and Codes, as required by the Vermont Community Development Program (VCDP), as needed for the Lindale Mobile Home Park Septic System Upgrade Projects and other upcoming grant applications to the VCDP Program

Carpenter said at the November 27, 2018 Selectboard meeting, the Board adopted the Vermont Community Development Program’s (VCDP) Municipal Policies & Codes as a condition of the grant award received for the Lindale Mobile Home Park Septic System Planning Project. He said in a July 26th update to Kathleen Ramsay, Isaac Wagner, of Wagner Development Partners, the consulting firm working with the Addison County Community Trust on the Lindale Project, reported that a Mobile Home ARPA construction funding request totaling $900,000 is being submitted to the VT Agency of Natural Resources, setting the stage for potentially putting the project out for bid in September. He said among the items that Isaac is seeking from the Town in preparation for moving to the construction phase, Isaac is requesting that the Board adopt an updated Municipal Policies and Codes document, which reflects additions and revisions that VCDP has made since the Board’s 2018 approval.

Khan moved to adopt the Vermont Community Development Program’s updated Municipal Policies and Codes for the Lindale Mobile Home Park Septic System Upgrade Project. Hooper seconded the motion. The motion carried with 6 in favor, 1 absent. MOTION PASSED.

13. Approval of Check Warrants
Hooper said he reviewed the payments and he moved to approve total expenditures in the amount of $5,891,988.44, consisting of $5,745,920.75 for accounts payable, and $147,067.69 for payroll, for the period August 10, 2022 through August 23, 2022. Fuentes-George seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION CARRIED.**

**14. Board Member Concerns**

Brown asked to have a Public Health and Safety Committee scheduled soon, and Ramsay said she would.

Esther Charlestin read a statement she’d written about her struggles trying to find a place for her and her children to live, and said she was unable to find housing in Middlebury so will be moving to a nearby town, so said this would be her last Selectboard meeting. She said she’s happy with the way the Town is moving in zoning and with affordable housing and she said how grateful she was for her time on the Board and thanked the other Board members for their kindness.

Fuentes-George said sadly this is a story she’s heard over and over, and it’s a stress on the family unit, and while the zoning amendments will help, it will take time. She cited the 13 Washington Street Extension property as an example of a property that had been apartments to two families and a day care center, two things badly needed in this town, and it is now rented by Middlebury College students who have housing for them on campus. She said 40% of the population of Middlebury rent, and she thinks as a Board and community leaders, they have to think about what voices are being heard and make sure to keep the conversation going.

Carpenter said they all know people in this situation and that’s why they made affordable housing and childcare priorities, and that they are critical issues for this community.

**15. Executive Session**

Fuentes-George said in accordance with Vermont’s Open Meeting Law requirements, she moved that the Board find that premature general knowledge of the consideration of personnel matters & contracts would clearly place the Selectboard at a substantial disadvantage, because the Select Board risks disclosing its negotiating strategy if it discusses the personnel matters & contracts in public. Khan seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

Fuentes-George further moved that the Board enter into Executive Session to discuss personnel matters & contracts, under the provisions of Title 1, Section 313(a)(1) of the Vermont Statutes. Khan seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

The Board entered into Executive Session at 10:45 p.m.
16. Action on Matters Discussed in Executive Session

The Board exited Executive Session at 10:54 p.m. and Khan moved to approve the review and sign the contract with Town Manager Kathleen S. Ramsay. Charlestin seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

17. Adjournment

The meeting adjourned at 10:55 p.m. upon motion by Khan, seconded by Charlestin.

The next meeting of the Middlebury Selectboard will be Tuesday, September 13, 2022 in the Town Offices.

Respectfully submitted,

Beth Dow