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**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)

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- 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

93 of 2, and will add at least 28 new jobs. She said this will be done in partnership with  
94 Middlebury College's College Street Children's Center, along with other local early childhood  
95 education organizations.

96  
97 January went over the proposed plans of this project showing the new entrance, expanded  
98 parking, new play spaces and the proposed timeline that hopes to begin the permitting process  
99 in early 2023.

100  
101 Weybridge resident Gioia Kuss said she was in full support of this project but was concerned  
102 about the conservation easement on the property. She said she was the Director of the  
103 Middlebury Area Land Trust (MALT) when this easement was created and none of the project  
104 maps reference this easement, and the importance of that easement was that the public had  
105 access along the Otter Creek corridor and that it would be available for wildlife. She said there  
106 is an enormous gully as well that allows for drainage, so she's just concerned that this wasn't  
107 talked about, and with all the earthmoving that will be involved to make this area flat enough  
108 for construction and playgrounds, she is concerned about the environmental impacts.

109  
110 January said this issue is talked about all the time. She said the easement is 200 feet back  
111 from the river bank and their Massachusetts based architect is aware of this easement and has  
112 been on site several times. He is also working closely with local firms in relation to all the  
113 drainage and they'll be working with MALT in hopes of extending the current path that will go  
114 all the way up to Weybridge Street. She said they are beginning work on the environmental  
115 impact study of this project which will address all these issues.

116  
117 Gorham Lane resident Chris Robbins said she walked past those woods west of the center  
118 almost every day and she feels the project is a little bit more expansive than necessary and  
119 wondered if the kids were still going to be able to play in the woods. January said they will  
120 continue to explore the surrounding woods as well as other natural parts of Middlebury.  
121 Robbins said she's concerned the parking lot may be larger than necessary, and January said  
122 they were mindful of that while also needing to provide the spaces required based on their  
123 capacity.

124  
125 Kuss said if there is going to be an increase in children at the center, this will be an increase in  
126 traffic and there will need to be a larger than average driveway and is concerned about the  
127 trees.

128  
129 Andrea Sandberg said OCCC does amazing work, and high quality programs like this is  
130 something that can improve the culture of Vermont.

131  
132 Carpenter closed the public hearing.

133  
134 Brown moved to sign the Resolution for VCDP Grant Application Authority for the Community  
135 Childcare Expansion Project. Charlestin seconded the motion. The motion carried with 6 in  
136 favor, 1 absent. **MOTION PASSED.**

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138 **7. Reconsideration of August 9, 2022 Selectboard Vote on Zoning Amendments**

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Carpenter said a review by Town Attorney Benj Putnam shows that the Board vote at the August 9<sup>th</sup> 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 9<sup>th</sup> 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

185 action they took on behavior that had recently happened at 13 Washington Street Extension  
186 when they were informed of it by the neighbor, and the neighbor received a written apology  
187 from the students.

188  
189 Doucet said they know where their off-campus students live and he's laid these locations over  
190 the Town zoning map and estimates that this would impact approximately 80 students in  
191 properties owned by 12 landlords, and of those 80, approximately 30 would end up with the  
192 potential to lose their leases because the number of students per property would be limited to  
193 4. He said the remainder of the students would be in locations that would require Conditional  
194 Use Approval, and with only 3 weeks before the start of school he doesn't believe it's  
195 reasonable. He's not disregarding the impact student housing has on residences, he's  
196 emphasizing their ability to address it effectively with their processes when they're informed  
197 and doesn't think changes to the zoning laws is necessary, and he feels they can address any  
198 future issues that arise.

199  
200 Fuentes-George asked if the number of off-campus students fluctuate, and Doucet said they  
201 keep it at 120 with the few additional requiring ADA accessibility. He said students interested  
202 in living off-campus enter a lottery and these students conduct records are reviewed. He said  
203 in the case of the football players at 13 Washington Street Extension, there is no indication in  
204 the process that they intend to live together and nothing on the application to indicate they're a  
205 member of an athletic team. He said only junior and senior students are allowed to apply to  
206 live off-campus.

207  
208 Khan asked Doucet the particulars of the problems at 53 North Pleasant Street with students,  
209 and Doucet said the disciplinary process is cumulative, so if the student hasn't had any  
210 disciplinary actions, it might be a letter of warning all the way up to a letter of discipline from  
211 the College which is quite serious because it impacts their permanent records for things like  
212 graduate school applications and government employment applications, and in extreme cases  
213 they would require the students to return to campus.

214  
215 Kevin McGrath of 51 North Pleasant Street wanted to address the impacts of the students at  
216 53 North Pleasant. Jennifer Murray pointed out there would be a DRB hearing on the 53 North  
217 Pleasant Street property on September 12<sup>th</sup> if people wanted to submit comments regarding  
218 that property and the impacts of what happens there. Carpenter asked the audience to limit  
219 their comments on examples of student behavior.

220  
221 McGrath said the 53 North Pleasant Street property is marketed specifically to college  
222 students, and it's advertised as a party house and students are packed in there with no regard  
223 to actual bedroom designation in order to collect maximum rent. He said the house is  
224 completely rented to students and has been declared a public nuisance by the Middlebury  
225 Police Department. He said the nuisance status applies to the building, not the individual  
226 units, as does the Noise Ordinance. He was not contacted by Middlebury College at any time  
227 and he doesn't feel the College should allow any students living at that address. He said the  
228 number of cars parked on the property is extreme and he urged the Board to limit the number  
229 of students in a building.

230

231 Jason Murray said his daughter has to live with him because there is a lack of affordable  
232 rentals in town due to these 120 college students living off-campus, and it jacks up the rents  
233 beyond what a working family can afford.

234  
235 Katy Koerber lives at 55 North Pleasant Street and she started calling the College in early April  
236 after a party where one of the attendees of this party drove across their lawn to their driveway  
237 to get out. She said she got no response to that call or subsequent calls until Luther Tenny  
238 reached out the Mr. Doucet. She said she disagrees that the College was not informed, and  
239 even if there isn't a party happening, having that number of people in the house changes the  
240 character of the neighborhood, and to think a property owner can place all these students in  
241 this house makes it a very different use.

242  
243 Murray said there will be a DRB hearing on September 12<sup>th</sup> for all of these concerns, but  
244 tonight the discussion is on the definition of student housing per dwelling or change it to per  
245 house. She said the Planning Commission feels it needs to be "per dwelling", because that's  
246 the only reasonable way the zoning administrators can administer the rule. She said probably  
247 the Noise Ordinance should be looked at and there needs to be more communication with the  
248 College.

249  
250 Carpenter wondered if there were other properties in town with problems, since these two are  
251 the only ones they've heard of. Water Street resident Cindy Slater said there is another  
252 property on Cross Street that she and her husband have had to call the police on before due to  
253 noise, so she was at this meeting to see if we can have one more piece of control. Carpenter  
254 said it seemed there used to be a call process at the College so that calls got to the right  
255 people, and he wondered if there was something in the College process that could make it  
256 easier for the town people to communicate with someone, and Doucet said absolutely. Tenny  
257 said the College has not been responsive in the past.

258  
259 Peter Jette, resident and owner of an apartment building in town, said he's housed 200 college  
260 students over the last 12 years, and growing up in town he lived between the fraternities KDR  
261 and the "SLUG" house and there were times that you could feel the thudding of the base in the  
262 walls of their house from the fraternity parties. From his perspective there has been quite an  
263 evolution of off-campus student behavior that is quite remarkable from his perspective, and he  
264 feels that they're missing the perspective of the greater population of students that live off-  
265 campus. He owns the Dyer Block at 61 Main Street, and he has friends who own buildings  
266 that rent to students in other areas of the downtown, and he's never had one complaint from  
267 the students at his building, and he's quite sure that's the case with his friends. He said the  
268 students he's had are too serious to want to live in a dorm, and they want to save money by  
269 living off-campus, and they're quiet and respectful. He said he did own the property at 128  
270 Weybridge Street and he was very involved in trying to modify the behavior of those kids for  
271 over 3-years and eventually sold it to a neighbor who didn't want to have students living next to  
272 them anymore. He said that property had 3 apartments with single tenants in each unit and he  
273 was there all the time, so he knew there were only 3 people living there, so to limit the number  
274 of students to 4 per unit is really arbitrary. He said his daughter pointed out 1 person can invite  
275 50 people over just the same as 4 people can. He said to use a "blunt" instrument like zoning  
276 to solve the problem of a landlord who doesn't live here or have any respect for neighbors, is

277 like using a chain saw when a scalpel is needed, and it impacts all the other landlords who  
278 haven't had problems. He suggests coordinating with the College that out-of-state landlords  
279 have a harder time renting to students, or maybe some neighborhoods could simply not be  
280 allowed to have off-campus students, but he feels they need to be careful that they aren't  
281 hurting students who are obeying the rules and landlords if they use the wrong instrument.  
282

283 John McPartland said if the definition of student housing was reduced to 4 students per  
284 dwelling unit, then the apartment next to his house would be allowed 12 students. Murray said  
285 student housing is defined as 4 students per unit, and as Peter Jette pointed out, zoning is not  
286 the right tool for trying to regulate this at all. She said if they were to use it for a specific  
287 housing type, it might be geared towards a congregate house where all the student share a  
288 kitchen, dine together or party together. She said that's how the Planning Commission  
289 decided on no more than 4 students per dwelling unit and the hope is they won't be gathering  
290 together to party since they'll be living in separate units.  
291

292 McPartland said Doucet said this could be impacting 40 students across town, but he thinks it's  
293 actually impacting 20 landlords who might have to pay a penalty for breaking the zoning  
294 regulations, and they could write that off as a business expense.  
295

296 Carpenter asked for a show of hands in the audience of who was there because of this one  
297 property, and most all raised their hands, and Carpenter said the problem seems to be with the  
298 property owner and not zoning, and he hopes they all attend the DRB hearing on September  
299 12<sup>th</sup>, because that's the way to limit the use of that property.  
300

301 Former Town Planner and resident Fred Dunnington said the issue of student housing isn't  
302 new to the Town and when he worked for the Town it came up often. He said the Noise  
303 Ordinance was drafted, and it changed how the Town dealt with the College and zoning as a  
304 Planned Unit Development, and the first decision on this required them to disclose all of its off-  
305 campus housing and the total enrollment and to deal with it as a development and how it  
306 impacts the town. He thinks the zoning amendments are worth adopting, and said zoning is  
307 not a great tool to regulate human behavior and urges them to update the Noise Ordinance  
308 and Public Nuisance Ordinance, since this isn't just about students. He said there's also  
309 interim zoning that the Selectboard can enact under 24 VSA 4415, that allows them to enact  
310 emergency measures more readily after a Selectboard hearing after the process. He said they  
311 need to use all the tools and not just focus on the zoning.  
312

313 Sue Ritter of Middlebury College said the College supports the zoning amendments as  
314 presented and agrees with the comments today that the way to deal with this is through the  
315 public disturbance ordinance and not through a broad-scale change to the definition of student  
316 housing in zoning. She said one of the residents of those residences is present at the meeting  
317 and will speak if they'd like.  
318

319 Carpenter surveyed the Board and asked if they'd heard enough information. Hooper felt they  
320 should use the other avenues mentioned to deal with this specific problem, and not hold up the  
321 entire zoning ordinance amendments for two properties.  
322

323 Khan agreed with what Jette had said and agrees they should work on the Noise Ordinance.

324

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

328

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

335

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

338

### 339 **8a. Water Storage Tank Engineering Agreement**

340

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

347

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

354

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

359

### 360 **8b. Adams Acres Stormwater Agreement**

361

362 Werner said this development is in the Boardman Street area and there were 10 individual  
363 State stormwater permits for these properties, then the State decided they didn't want to  
364 manage these individual permits any anymore and turned it over to the communities. He said  
365 this agreement is a Stormwater Maintenance Agreement where the Town would coordinate  
366 routine compliance activities required by the permit, the cost of which would be shared by the  
367 property owners on a prorated basis, based on the acres of impervious coverage on their  
368 respective lots.



369

370 Brown asked if there were any that had signed on yet, and Werner said once this was  
371 approved they'd take it to the property owners for signatures. Carpenter asked if  
372 administrative charges had been added to the fees, and Werner said they weren't, but any  
373 work done on their property is 100% their responsibility, and the amount we're billing them is  
374 for the State permit fee. Carpenter felt we weren't charging them for all the work we were  
375 doing for them. Werner said the State has pretty much mandated the Town to be the  
376 managing partner. He said every 5 years there needs to be an inspection by an engineer of  
377 these properties, and any problems are at the expense of the individual property owner, it is  
378 not a joint expense spread to others or the Town. Carpenter asked if the engineering fees  
379 were billed to the property owners, and Werner said we have the ability to bill them for all fees.

380

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

384 **MOTION PASSED.**

385

386 **8c. Request from DPW Operations Director Bill Kernan for Board approval to draft a new**  
387 **Town Water Ordinance**

388

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

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

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

411

412 Hooper moved to authorize DPW Operations Director Bill Kernan to begin drafting a new Town  
413 water ordinance for consideration by the Selectboard, once it has undergone the appropriate

414 legal review. Khan seconded the motion. The motion carried with 6 in favor, 1 absent.  
415 **MOTION PASSED.**

416  
417 **9. Discussion of Middlebury Airport Master**  
418 **Planning Process & Act 250 Application**  
419

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

427  
428 Sambrook said the public comment period on the Airport Master Plan has been extended until  
429 August 30, 2022 and comments can be emailed to [shaun.corbett@vermont.gov](mailto:shaun.corbett@vermont.gov).

430  
431 He said the master permitting Act 250 hearing had been this past Friday, August 19<sup>th</sup>, and it  
432 was well attended, however he said there were some adjoining property owners who had not  
433 received notice of the hearing. Sambrook said when they were on the site visit, the State had  
434 not marked out the hangar development area, so it was hard to imagine what it would look like,  
435 so he had found images of various sized hangars and had included them in a package he'd  
436 handed to Selectboard. Planning and Zoning Director Murray pointed out the VTrans plans  
437 show the envelope of where these hangars will be, and they may or may not be as large as the  
438 building envelope shown on the plans. Sambrook said 9 hangars are proposed and the sizes  
439 proposed are out of scale and out of character of the current airport.

440  
441 Sambrook spoke to the lack of data provided by VTrans on how these hangars would be used  
442 and he said they could be plane storage, manufacturing or industrial. He said he hopes the  
443 Town will support their request that VTrans stop this Master Planning exercise and submit a  
444 full-application at this time so we can fully adjudicate what the merits are, or they can wait until  
445 they have a fully formed plan before they got to permitting. Sambrook said Carpenter had said  
446 back in March that he had spoken to Act 250 Secretary Flynn and he would require a Master  
447 Plan hearing before any permitting began, but the permitting has already begun and it isn't  
448 shown in an approved Master Plan yet.

449  
450 Sambrook went on to list the information that is lacking in the Master Plan, such as lighting and  
451 plans for runway extension, although it is still shown in other VTrans plans. He said the other  
452 thing that isn't mentioned is the impact on the Town aquifer and the environmental impact has  
453 yet to be seen by the MANA members.

454  
455 Sambrook said they are proposing enough hangar space for 39 aircraft, and there are 42  
456 aircraft registered in Addison County, of which 13 are based out of Middlebury which already  
457 has hangars, so this is completely out-of-scale.  
458

459 Carpenter said what the airport is doing is saying if someone wants to build a hangar, this is  
460 the area they will go. He said the State does not build hangars, they lease the land and  
461 someone else builds them subject to permitting by the Town, and it would need approval by  
462 Act 250. He said the State is looking for the maximum buildout and how would that impact the  
463 environment, and if a manufacturing facility wants to build there, it would go to Act 250 to see if  
464 it exceeds the environmental constraints, whether it be noise or pollutants.  
465

466 Carpenter and Sambrook disagreed on the Act 250 process, and Sambrook said two hangars  
467 were just approved at the airport by Act 250 without a hearing, and that's the fear is that one of  
468 these large hangars will get approved and they won't evaluate it. There was also a  
469 disagreement over whether or not projects at the airport would be subject to local Development  
470 Review Board (DRB) review, and Sambrook said the past runway extension was reviewed by  
471 the DRB. Murray said it was reviewed by the DRB, but at the end of the review they  
472 determined it was outside of their jurisdiction because of the Federal Aviation Administration  
473 (FAA) rules that it's a health and safety issue.  
474

475 Carpenter said they tried to negotiate having these hangars at the south end of the airport, but  
476 there is ledge there and no access road, and he and Sambrook continued to disagree and  
477 discuss the process and the potential danger of approving these building envelopes for future  
478 development and the possibility they'd be approved without a hearing.  
479

480 Munson Road resident Mike Davis said the airport's consultant at the Act 250 hearing was  
481 looking for positive findings on all 10 criteria, with the exception of #4, so he asked Carpenter if  
482 the Act 250 Board gives them the positive criteria they're asking for on this potential  
483 development at the airport, and then 5-years down the road a developer wants to put a  
484 manufacturing facility and they go before Act 250 and that specific development doesn't meet  
485 one of the criteria that the earlier application met, do they get approval anyway, because that's  
486 what they're worried about. Carpenter said that was a good question, because some of that  
487 criteria involves knowing what's going there and the impacts it will have, so he isn't sure how a  
488 preliminary finding could trump real data, but he will ask.  
489

490 Murray said this happens in Planned Unit Development (PUD) applications where the PUD is  
491 reviewed and then when other applications come in within the PUD, they are reviewed again.  
492 Murray said one thing she heard in the hearing was MANA was entered as an interested party,  
493 so she's concerned the future notices might not go to individual property owners, but just to the  
494 MANA representative, so they might want to check the mailing list. There was then a brief  
495 discussion on the way the hearings are warned and how people can register as an interested  
496 party, whether they received a notice from the State or not.  
497

498 East Middlebury resident Anne Christi said she really appreciates that the Selectboard is  
499 looking at the airport and that Carpenter has gone to such an extent to make sure they're  
500 involved. She said the number of people that live adjacent and close to the airport are all  
501 impacted by the noise and activity at the airport. She said she is replacing Prem Prakash on  
502 the communications committee, and their next meeting is August 31<sup>st</sup> at the airport. She said  
503 MANA was started a few years ago at the time of the airport runway extension because of the  
504 mixed messages they were receiving from the airport and the State. She said since the

505 runway extension, which was said to have been done for safety reasons, there are now larger  
506 planes that can fly in their safely and it has increased the noise. She said the group of  
507 residents closest to the airport who bear the majority of the impact of this change, it's important  
508 to them that the Selectboard represent them and their basic concerns around noise, visual,  
509 vibration, activity and wildlife, along with the views of the business community and other  
510 property owners of Middlebury who don't live around the airport.

511

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

517

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

528

529 Paula Nath said her property abuts the southern end of the runway, and she attended the Act  
530 250 site visit, and she looked at the footprint of the area that would be impacted on the plans  
531 and felt that the development area would effect many of the Act 250 criteria, but in terms of the  
532 aesthetics and impacts for the entire Middlebury community, such as the aquifer. She's urging  
533 the Selectboard to remember that what happens at the airport will impact the entire  
534 community.

535

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

545

546 Judy Wiger-Grohs said her concerns are the availability of data that the State is presenting as  
547 far as the permitting process, such as green-infrastructure on future development, airport data  
548 and bat monitoring and mitigation. She said she asked for this information on August 5<sup>th</sup> and  
549 has not had a response. She also objects to their definition of a forest canopy and that they

550 are requesting additional cutting for parking and are providing no information regarding  
551 demolishing bat habitat.

552  
553  
554 **10. Discuss and Consider the Energy Committee’s Correspondence Regarding the**  
555 **Proposed Summit Housing Development off Seminary Street Extension**  
556

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

564  
565 Fuentes-George moved to sign the letter to Zeke Davisson, of Summit Properties, conveying  
566 the Energy Committee’s offer of information and assistance in incorporating green housing and  
567 high efficiency construction principles into the planning of Summit’s Seminary Street Extension  
568 housing project. Khan seconded the motion. The motion carried with 6 in favor, 1 absent.

569 **MOTION PASSED.**  
570

571 **10a. Request from Energy Committee to allow Vermont Solar Fund LLC to file Certificate**  
572 **of Public Good (CPG) applications for potential solar projects**  
573

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

589  
590 Hooper moved to authorize Ian Phair, of Vermont Solar Fund LLC, to file applications for a  
591 Certificate of Public Good for two potential Town solar projects, with the understanding that  
592 such filings will not bind the Town to any specific future action. Fuentes-George seconded the  
593 motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**  
594

595 **11. Adoption of Policy Prohibiting the Practice of Texting While Driving, in compliance**  
596 **with Executive Order 13513, and Policy Prohibiting the use of a portable electronic**  
597 **device while operating a moving motor vehicle, in compliance with 23 VSA § 1095b**  
598

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

607  
608 Hooper moved to adopt the Selectboard Policy on Texting While Operating a Municipal  
609 Vehicle. Khan seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION**  
610 **PASSED.**

611  
612 Hooper moved to adopt the Selectboard Policy on Texting While Operating a Municipal  
613 Vehicle. Khan seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION**  
614 **PASSED.**

615  
616 **12. Re-adoption of Municipal Policies and Codes, as required by the Vermont**  
617 **Community Development Program (VCDP), as needed for the Lindale Mobile Home Park**  
618 **Septic System Upgrade Projects and other upcoming grant applications to the VCDP**  
619 **Program**  
620

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

632  
633 Khan moved to adopt the Vermont Community Development Program's updated Municipal  
634 Policies and Codes for the Lindale Mobile Home Park Septic System Upgrade Project. Hooper  
635 seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

636  
637  
638 **13. Approval of Check Warrants**  
639

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

644

645

646

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

649

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

656

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

665

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

668

669

670

#### 15. Executive Session

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

677

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

681

682

683 The Board entered into Executive Session at 10:45 p.m.

684

685 **16. Action on Matters Discussed in Executive Session**

686

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

690

691

**17. Adjournment**

692

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

694

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

697

698 Respectfully submitted,

699 Beth Dow

700

701

702