

1 **Regular Selectboard Meeting**
2 **Monday, June 8, 2021**

3 **Meeting Minutes**

4
5 **NOTE: Due to the need for separation to prevent the spread of COVID-19 virus,**
6 **the meeting was held remotely via video conferencing with participants.**
7

8 Members Present: Brian Carpenter, Heather Seeley, Esther Thomas, Farhad Khan, and
9 Lindsey Fuentes-George. Nick Artim and Dan Brown were absent.

10
11 Staff Present: Town Manager Kathleen Ramsay, Assistant Town Manager Chris
12 English and Director of Planning and Zoning Jennifer Murray and Director of Public
13 Works Planning Dan Werner.

14
15 Also Present: Jeremy Parker, Jean Terwilliger of Vermont Integrated Architecture and
16 interested citizens.

17
18 The meeting was streamed live on the MCTVVT YouTube channel.

19
20 **1. Call to Order**

21
22 The meeting was called to order at 7:00 p.m. by Chair Brian Carpenter.

23
24 **2. Approval of Agenda**

25
26 Khan moved to approve the agenda, and Seeley seconded the motion. Carpenter said
27 item 6 on the agenda, the discussion regarding the purchase of leased land at 2 Forest
28 Lane had been postponed. The agenda was approved as amended with 5 in favor, 2
29 absent. **MOTION PASSED.**

30
31 **3. Approval of Consent Agenda**

32
33 3.a. Approval of Minutes of the May 25, 2021 Regular Selectboard Meeting

34
35 3.b. Approval of Minutes of the May 27, 2021 DEI Workgroup Meeting

36
37 3.c. Approval of First and Third Class Liquor Licenses, Outside Consumption Permits &
38 Entertainment Permits (if any)

39
40 3.d. Transportation of Downtown Transportation Fund Grant Agreement for Rail
41 Platform Sidewalk Project

42
43 3.e. Town Manager's Report
44

45 Khan moved to approve the Consent Agenda as presented. Seeley seconded the
46 motion. The motion carried with 5 in favor, 2 absent. **MOTION PASSED.**

47 **4. Citizen Comments**

48
49 There were no citizen comments.

50
51 **5. Appointments to Positions of Fence Viewer and**
52 **Conservation Commission Member**

53
54 Carpenter said as a follow-up to the nominations made at the Selectboard's May 25th
55 meeting, and in accordance with 24 VSA § 127-308, the Board will complete the
56 appointments of Victor Nuovo to the position of Fence Viewer and Charlotte Tate as a
57 member of the Conservation Commission.

58
59 Khan moved to appoint Victor Nuovo to the position of Fence Viewer, and Seeley
60 seconded the motion. The motion carried with 5 in favor, 2 absent. **MOTION PASSED.**

61
62 Khan further moved to appoint Charlotte Tate to the Conservation Commission, and
63 Seeley seconded the motion. The motion carried with 5 in favor, 2 absent.

64
65 **6. Correspondence regarding purchase of leased Land at 2 Forrest Lane**
66 **(Postponed)**

67
68 **7. Request by Jeremy and Liz Parker for use of a portion of a Town trail (former**
69 **Class 4 Road) for a new driveway access off Washington St Extension west of**
70 **Bushey's Corner**
71 **(Information only – no decision at this meeting)**

72
73 Carpenter said the Board would hear information on this request by Jeremy and Liz
74 Parker for use of a portion of a Town trail (formerly a Class 4 Road) for a new driveway
75 access off Washington Street Extension, west of Bushey's Corner. He said there will
76 need to be a legal review as to whether they will need access to the Town's portion of
77 the right-of-way and the Development Review Board (DRB) is still in the fact-finding and
78 review process and has not made any recommendation.

79
80 Jeremy Parker said he and his wife purchased the former Bushey Trust property in
81 December of 2019 and are starting to plan a homestead and small farm. He said they
82 wish to access Washington Street Extension utilizing their frontage on that street and
83 bring a driveway through the pasture to where they will be developing a cabin, main
84 residence, barn and other outbuildings. He said this new access would remove any
85 traffic through the Painter Hills neighborhood where there is currently an agricultural
86 access through a Class II wetland, as well as provide them access to their Forest
87 District property for maintenance of the forest plan. He said originally it was thought
88 they would need to acquire an easement across the Class 4 roadway that became a
89 trail in 1999, but they've since learned that the tax map is not in alignment with the deed
90 or survey, so they actually own more road frontage than originally thought and aren't

91 sure now if they need an easement from the Town to access their property using the
92 Town trail.

93
94 Khan asked Parker if he'd seen the concerns of the Fire Chief Dave Shaw regarding the
95 driveway. Parker said he saw Chief Shaw at the site visit and he was aware about his
96 concerns regarding access for emergency vehicles and the safety of the general public
97 in doing so, and he said they could design the driveway entrance to allow for safe entry
98 onto the access. Khan said Shaw was also talking about the road width and the
99 carrying capacity of the road. Parker said their intention is to not have a paved roadway,
100 but understand they need to meet the requirements of emergency vehicles for access,
101 and can certainly meet the minimum width requirements and any carrying requirements
102 needed.

103
104 Seeley asked about a couple of inconsistencies in the information that had been
105 provided to the Board, about the number of bedrooms shown, and about not wanting to
106 use the Painter Hills development roadway for farm traffic, but there is no mention of
107 farm traffic for the other access off Washington Street Extension. Parker said their sole
108 access would be off of Washington Street Extension. Seeley said there is a farm field
109 back in there and wondered how agricultural equipment is currently accessing that field.
110 Parker said the field is now being accessed through a Class II wetland and through the
111 Painter Hills neighborhood.

112
113 Fuentes-George asked what type of farm Parker was planning. Parker said their short-
114 term goal is to move to Middlebury and this would be their prime residence. He said
115 they hope to grow as many different types of things as they can and hope to utilize all
116 the fields and establish a sugarbush for maple syrup, harvest nuts, fruit trees and
117 incorporating livestock and sequester as much carbon dioxide as possible. He said
118 eventually they'd like to be able to bring products to consumers. Fuentes-George asked
119 about employees, and Parker said they do plan on employing a farm manager, but other
120 than that, any employees would be seasonal during harvest.

121
122 Jean Terwilliger, of Vermont Integrated Architecture, who has been working with the
123 Parker's, said she wanted to address where the right-of-way actually occurs and the
124 relationship to why it was not considered an appropriate right-of-way for the John
125 Reynold's property 20 years ago, since this has come up with the Development Review
126 Board. She said when you look at the map, the access from the survey of 1999, the
127 access is shown coming in at a very oblique angle to Washington Street Extension,
128 further to the north than the Bushey Corner approach the Parker's are proposing. She
129 said they agree that if that was where the access was to have been, that it is not a safe
130 and that's why they're proposing accessing Washington Street Extension in a different
131 location.

132
133 Carpenter asked if there were stakes placed where the access would be so if the Board
134 wanted to go by they could see the proposed location, and Terwilliger said there were
135 not at the moment, but they want to put the access right on the peak of that curve to
136 allow for the best sight distance. Carpenter asked about what process would be

137 involved if they upgraded the access through the Class II wetland from an agricultural
138 access to a driveway. She said they would need a State Wetlands Permit to increase
139 the width of the driveway from 9' to 12', plus the width for the utilities that would be run
140 underground from the edge of the Painter Hills Development. She said if they don't use
141 it as an access, then the utilities could be run underground using the existing 9' right-of-
142 way without as much impact to the wetland.

143
144 Director of Planning and Zoning Jennifer Murray said the DRB has heard this
145 application twice and they did a site visit. She said Fire Chief Dave Shaw, Police Chief
146 Tom Hanley and Director of Public Works Operations Bill Kernan all had concerns about
147 the location of the access, since Bushey's Corner is known for not being safe. She said
148 the DRB has been deliberating on this and will continue the hearing on June 14th, but
149 they do want Bill Kernan to go ahead and issue a permit for a curb cut and Work in the
150 Row-of-Way Permit for this location so he can do his technical review of the Parker
151 plans that includes the police and fire departments concerns. She said the Selectboard
152 have been brought into the process due to a Board policy from 1975 that says any time
153 a portion of Class 4 road is used the Selectboard has to give their permission.

154
155 Carpenter asked the Board to familiarize themselves with the area, since there is a
156 chance they will need to make a decision on this at some point. Seeley asked if anyone
157 was using this as a trail now, such as the Trail Around Middlebury (TAM). Parker said
158 he believes the TAM is a little further south on Washington Street Extension. He said
159 there is a trail access that's on the edge of his property, but it's not considered the TAM,
160 and he said they'd be happy to help maintain or improve that access to make it safer in
161 that location.

162
163 Terwilliger asked if the Class 4 road regulations apply to this since it is no longer a
164 Class 4 road. Carpenter said the Town is seeking legal review on this to see what the
165 requirements are at this point. Murray said whether it is required or not, she suspects
166 the DRB will still want the Selectboard to give their okay on the process.

167
168 **8. Discuss Charging the Infrastructure Committee with Continuing the Work of**
169 **the Creek Road Task Force and Dissolving the Creek Road Task Force**
170

171 Carpenter said the Board has been following the recommendations made by the Creek
172 Road Task Force, and now the next steps are the responsibility of staff and the
173 Infrastructure Committee. He said since both the Creek Road Task Force and the
174 Infrastructure Committee are chaired by Heather Seeley, she has agreed to continue
175 this process. He said Dean Rheaume has resigned from the Creek Road Task Force
176 and Dean George thinks this action is appropriate. Seeley said the other member of the
177 Task Force was Luther Tenny, who is also a member of the Infrastructure Committee,
178 so there is some continuity.

179
180 Khan said they had a very robust group, and thanked Seeley for all their hard work.
181

182 Seeley moved to dissolve the Creek Road Task Force and move responsibility for future
183 planning for the road to the Infrastructure Committee. Khan seconded the motion. The
184 motion carried with 5 in favor, 2 absent. **MOTION PASSED.**

185

186

9. Award Sidewalk Bid to Low Bidder

187

188 Werner said the sidewalk project went out to bid and there were three bidders. He said
189 he's bringing this to the Board tonight without Infrastructure Committee review, because
190 the low bidder on this project, Champlain Construction, is the contractor on the Main
191 Street sidewalks that will begin in a week or so. He said in a conversation they had
192 after the bid opening, Champlain Construction asked if there was any way this could
193 move up in the process, so their sub-contractor who is doing the flat-work would be able
194 to stay with them as a unit. He said the concern was that if they split these projects,
195 there could be a delay in getting the other sidewalk work complete. He said Champlain
196 Construction's bid was \$61,870, Munson Earthmoving was 2nd lowest at \$74,800 and
197 Beldon Company came in 3rd with \$99,300.

198

199 He said on Seymour Street where Methodist Lane comes into it, there was a pop-up
200 project a few years ago for a potential crosswalk there and people really liked it, so now
201 they'll be putting that new crosswalk across Seymour Street. He said this will involve a
202 new curb cut and sloping to make it handicapped-accessible and some changes will
203 also be made to adjust the traffic access coming out of Methodist Lane.

204

205 Seeley asked if they were really only doing three separate small sections on Court
206 Street and not connecting them, because she thinks it would be cost effective to do that
207 entire area, since it costs more to stop and start than to do that whole section. Werner
208 said he can work on getting a cost for doing that, but the three small sections were to
209 correct a tripping hazard spot and where the sidewalk plow has trouble.

210

211 Werner went over the other areas of sidewalks to be replaced as part of this project. He
212 pointed out one area on Court Street opposite the entrance to Charles Avenue where
213 the sidewalk has had drainage issue onto the Les Foshay property, and said we'll be
214 pitching the sidewalk to drain towards the road. He said last year the Highway
215 Department regraded the greenbelt and installed a couple of yard drains so the water
216 will not go over the sidewalk towards Foshay's and the new sidewalk will be raised up
217 about 6" so the water will not flow over it onto Foshay's property. He said we'd planned
218 on doing this last year, but COVID interrupted things and the one bid the Town received
219 as very high, so he delayed it until now. Carpenter asked if Les Foshay was aware the
220 Town is doing this work this year. Werner said he spoke to him a couple of months ago
221 about doing this work, and he spoke to him again recently and Foshay is very happy the
222 work is being done since the house is currently for sale.

223

224 Seeley asked if the Board would consider adding that extra section of sidewalk on Court
225 Street to connect those three small areas. There was discussion on whether to include
226 this in the motion or vote it as is. Carpenter suggested voting it through as is and if

227 needed, Werner can come back with a Change Order for this additional section.
228 Werner said he'd he would know by the next Board meeting.

229
230 Seeley moved to award a contract to Champlain Construction Company for the 2021
231 Sidewalks Replacement Project, at a total cost of \$61,870. Fuentes-George seconded
232 the motion. The motion carried with 5 in favor, 2 absent.

233
234 Khan asked about the status of the Court Street water line and paving project. Werner
235 said the water line work has a short section left to complete and then connect to the
236 existing main. He said paving is moving along and they'll work on finishing the north
237 and southern end while they wait for the completion of the water line.

238
239 Jack Northrup said he missed the first part of the meeting and Citizen Comments, and
240 went on to express his continued unhappiness with the traffic speeds in front of his
241 house that is near the Washington Street/Seminary Street 5-way intersection.

242
243 **10. Discuss Agenda for June 23, 2021 Selectboard Retreat**

244
245 Carpenter said the Board had previously discussed that the focus of the retreat would
246 be on the downtown, but since that time we've heard from many different people with
247 ideas for spending the ARPA money coming to the Town. He said he has asked Town
248 Manager Ramsay to prepare a list of possible projects and the Board needs to go
249 through the process for prioritizing these projects. He said the Board has different
250 members from the last time projects were prioritized, so he wants the Board to read
251 through the projects and familiarize themselves with them. He said if the Board is good
252 with this, then he and Ramsay will prepare the list, so they can prioritize them and see
253 what resources are available to get them done.

254
255 There was discussion on when the Board would be meeting again in person. Carpenter
256 said they'd agreed at the last meeting they'd meet in person for the retreat, but he
257 wasn't sure if they could meet in-person sooner than June 23rd. Ramsay said staff still
258 need to work on getting familiar with the new equipment needed to do an in-person
259 meeting with a Zoom component, so the first meeting in July would give us time to work
260 on that.

261
262 **11. Approval of Check Warrants**

263
264 Fuentes-George said the authority of the SB granted on April 28, 2020, she has
265 reviewed and approved total expenditures of \$947,947.97 consisting of \$801,358.61 for
266 accounts payable, and \$146,589.36 for payroll, for the period May 26 through June 8,
267 2021, and moved the Board's approval of payment of these expenditures. Seeley
268 seconded the motion. The motion carried with 5 in favor, 2 absent. **MOTION PASSED.**

269
270
271
272

12. Board Member Concerns

273
274
275 Fuentes-George said a citizen came to her and said she remembers that before Rogers
276 Road was connected to Buttolph Development, there was concern that traffic would be
277 an issue if they were connected, so this has been a long-standing concern.

278
279 Thomas said she appreciated the information Ramsay had sent out to her on prioritizing
280 and financing projects.

281
282 Khan congratulated the Middlebury College graduates and the upcoming High School
283 graduates.

284
285 Carpenter said there was a note in the Addison Independent thanking the College
286 Students and he feels that group of young adults did a phenomenal job over the last
287 year and it was nice to have them back in the community so they had some semblance
288 of in-person classes and graduating.

289
290 Carpenter read a letter of thanks to the American Legion Post 27 from Moira Cook of
291 the local Vermont Health Department office for their help and generosity in making the
292 Legion available during the COVID vaccination clinics, and mentioned specifically
293 Adjutant Tom Scanlon and Commander Laura Flint.

294
295 Carpenter said Middlebury Fire Department announced the passing of Retired Captain
296 Ronald "Bugger" Warner. He said Warner joined the East Middlebury Fire Department
297 in 1983, and served Middlebury and East Middlebury for 32 years and retired in April of
298 2021.

13. Adjournment

299
300
301 The meeting adjourned at 8:11 p.m. upon motion by Khan, seconded by Seeley.

302
303 The next meeting of the Middlebury Selectboard will be on Tuesday, June 22, 2021 at
304 7:00 p.m.

305
306 Respectfully submitted,
307 Beth Dow