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Regular Selectboard Meeting
Large Conference Room – Town Offices
Tuesday, October 10, 2017
Meeting Minutes

Members Present: Brian Carpenter, Susan Shashok, Laura Asermily, Heather Seeley, Farhad Khan and Victor Nuovo. Nick Artim participated via phone.

Staff Present: Town Manager Kathleen Ramsay, Town Clerk Ann Webster, Police Chief Tom Hanley and Community Liasion, Jim Gish. Also present was Tree Warden Chris Zeoli and interested members of the community.

The meeting was televised on MCTV by Jim Corbett.

1. Call to Order

Chair Brian Carpenter called the meeting to order at 7:00 p.m.

2. Approval of Agenda

Shashok made the motion to approve the agenda, and Asermily seconded the motion. Carpenter said there were two items that needed to be discussed in Executive Session at the end of the regular meeting. The agenda was adopted as presented with 7 in favor.

MOTION PASSED.

3. Approval of Minutes of September 26, 2017 Regular Selectboard Meeting

Asermily made the motion to approve the minutes, and Shashok seconded the motion. The minutes were adopted as presented with 6 in favor, 1 abstention (Carpenter). **MOTION PASSED.**

4. Citizen Comments

[Opportunity to raise or address issues that are not otherwise included on this agenda]

Tree Warden Chris Zeoli gave a report on the recent tree cutting being done on Forest Ridge Drive by S.D. Ireland, under the direction of McFarland Johnson, this past Friday (10/6/17) as part of the airport project. Zeoli said a public hearing had been held on February 13, 2017, pursuant to 24 V.S.A. § 2509 which requires the Town hold a public hearing any time trees are being removed in the Town Right-of-Way (ROW) that are not a hazard, diseased or dead. He said at the hearing it was discussed how the job should be done, and he thought it was clear that large equipment was not to be used and the understory growth should not be disturbed, and these conditions had been included in the Town's Work-in-the-ROW Permit for the project. Zeoli said he was to be notified 48 hours prior to the start of the project, but he was not notified until Thursday that work would begin on Friday. Zeoli said the trees to be removed were on the ridge of a steep bank on the south side of Forest Ridge Drive, and the understory was on the bank. When he arrived there was a skidder and excavator on the bank and the trees had been dropped in no particular order and dragged down the bank damaging the understory, plus the large equipment caused soil compaction and soil erosion.

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Zeoli said he met at the site on Monday (10/9/17) with Senior Engineer of McFarland Johnson, Steve Delia, to discuss the condition. He said Delia did not feel the work done was a violation of the conditions of the permit. Zeoli said they had also removed the stumps which was a clear violation of the permit, and he said Delia did admit that was a violation. Zeoli said Delia had invited him to the project meeting on Tuesday (10/10/17) with representatives from McFarland Johnson, S.D. Ireland and VTrans and they discussed how this could be fixed. Zeoli said they will be bringing in soil, and while they can't repair the damage done to the understudy, they can avoid damaging it any more. He said he told them to not use the skidder any more, which causes more damage than the excavator. Zeoli said Steve Delia is drafting an agreement for them and the Town to sign promising to restore the site as best they can.

Shashok thanked him for his work on this, but said the Selectboard had asked for a dust barrier as part of the project, and she hadn't heard him mention it. Zeoli said he wasn't sure that was part of the contract, but he would check into it. There was further discussion on the restoration process and Carpenter said now that they're aware of this, and a remediation contract is being worked on, that it was up to Town staff to oversee and make sure that when it's done it's to the Town's satisfaction.

Judy Wiger-Grohs described to the Board her conversation with the contractors the morning they began work, and how she'd told them that the stumps were to remain and the other concerns for the site, and they said they knew. She said she was upset when she later heard the stumps had been removed and she felt they'd lied to her, and that was unacceptable. Carpenter said it's too bad that the importance of the site conditions had not been adequately relayed to the contractors, so now we need to do damage control. Khan asked what guarantee was there that they would do what they say in the next contract, if they didn't follow the last one. Ramsay said legal counsel would advise on if it was enforceable or not.

Ramsay said she feels sorry for the neighbors who had been assured repeatedly by the contractors they understood the importance of the site, and when neighbors contacted her on Friday when the work was happening, she'd contacted Delia who assured her work was being done in compliance with the permit.

Shashok and Carpenter both said they weren't happy with this, and to have it not happen the way it was anticipated is very disappointing. Zeoli said he had not issued more conditions to the contractors at the project meeting for fear they would just leave it as it was. Carpenter said now that the Town is aware, staff can monitor the work being done going forward. Zeoli said one of the men present at the project meeting said he had not seen the condition on the permit, so Zeoli is concerned about what other things are being missed on this project.

5. Consideration of Application for a First Class Liquor License and Entertainment Permit – The Rough Cut – 51 Main Street

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Town Clerk Ann Webster told the Board they should have a First Class Liquor License application and Entertainment Permit for 2MJ, LLC, dba The Rough Cut, in their packet, along with an inspection report from Police Chief and Fire Chief. She introduced representatives from The Rough Cut in case the Board had any questions. Khan asked if they would have loud music, as this had been a problem in the past, but they said they were not having any music.

Seeley moved to approve the application for a 2017 First Class Liquor License and Entertainment Permit for 2MJ, LLC, dba The Rough Cut, at 51 Main Street. Nuovo seconded the motion. The motion carried with 7 in favor. **MOTION PASSED.**

Seeley also moved to approve an Entertainment Permit application for 2MJ, LLC, dba The Rough Cut, at 51 Main Street. Nuovo seconded the motion. The motion carried with 7 in favor. **MOTION PASSED.**

6. Chief of Police Tom Hanley regarding Replacement of Logging Recorder for Radios and Telephones

Tom Hanley joined the Board and said the Police Department is looking to replace their current leased logging recorder because the costs have increased over the years to over \$11,000 annually and requires three separate contracts – for software, equipment and service contract. He said they had researched other companies and they are recommending Acorn Recording Solutions out of New Hampshire, that offers a bundled package and a five-year lease option that will reduce the PD's cost by \$7,400 annually, and at the end of the lease period, the Town will own the equipment.

Hanley noted there are no VT-based companies that provide this equipment, and the Addison County Sheriff have been using this for a year and are happy with it, and it is being installed by the Williston Police Dept and other Chittenden County agencies, so they will make them all compatible. Hanley said they are requesting this purchase as a Sole Source exception to the Purchasing Policy, because of the technical issues that would make writing an RFP difficult.

Asermily moved to approve a Purchase Order, under the Sole Source provisions of the Town's Purchasing Policy, in the amount of \$15,361.05, to replace the police department's current radio and telephone logging recorder with a leased unit from Acorn Recording Solutions, under a new five-year lease term. Khan seconded the motion. The motion carried with 7 in favor. **MOTION PASSED.**

Hanley said this system would be here around December 1st, about half-way into the budget year. He said they've been working on having all contracts on the same fiscal year, so this is the only one that is still on a half-year basis.

7. Consideration of Library Trustees' Request for Selectboard Resolution Supporting the Goals and Vision of the Ilsley Library Building Feasibility Study of August 2017.

146 Carpenter said this is a discussion on an agenda item begun at the September 26th meeting,
147 regarding the request for a Selectboard statement of support for the Ilsley Library Trustees
148 proposal for Library expansion project and capital campaign.
149

150 John Freidin said it would be very difficult for the Library to move ahead with this project if the
151 Selectboard did not come out with their support. He said their support would be important to
152 the feasibility study they're undertaking, as well as any decision on whether to move ahead
153 with the project or not. Freidin said the new Library Director they are looking to hire will need
154 the skills necessary to educate the community on the need for this expansion project, to help
155 with the feasibility study and be able to raise the funds needed. He said the true test on if this
156 project moves forward is the number of large gifts they receive, and he thinks these people
157 want to be asked by the person running the organization, not the Trustees. He said he would
158 like to see the Trustees and the Selectboard do this together.
159

160 Nuovo said he considers the Library an essential institution of the Town that parallels with the
161 Recreation Department – healthy mind/health body. He sees the Selectboard expressing
162 support, but he doesn't feel they're in the position to make any commitments beyond support
163 and thanks for the preliminary work done by the Library Committee. He said he thinks the
164 others will agree that a very large portion of the money for this project will need to come from
165 somewhere other than from tax dollars, and would urge them to pursue the feasibility study.
166

167 Shashok said the Board had already approved the Library Committee and the Feasibility
168 Study, but feels the "pause button" has been pressed with the Library Director leaving and
169 she thinks when the new Director is hired, then you can go forward with the Feasibility Study.
170 She feels pretty confident that they're all in it together, so she's unsure what more they can
171 do.
172

173 Carpenter asked why the Trustees think they need Board support so they can move forward
174 hiring a Director with these special skills, but if the Board doesn't support the project you'd
175 just hire a Director without these skills. Carpenter wondered why they wouldn't want a
176 Director with those skills anyways. He also said he was wondering if there might be some
177 way to tie this project together with another one, such as EDI, and fund them together. He
178 said it needed to be done incrementally, and to keep the excitement alive you need the right
179 person as Director, like former Director Kevin Unrath, who was a great person for our
180 community and if you don't find someone to fill that void the project starts to lag. He thinks
181 that is more critical to this project.
182

183 Freidin felt it would be hard to find someone willing to come here without some kind of signal
184 this project was going to happen. He felt the Board simply needed to say they support the
185 Trustees building proposal and encourages them to proceed. He said they didn't expect the
186 Board to make any statement recommending funding for the project, since that was still a few
187 years down the road.
188

189 There was further discussion regarding the timing of the project and the hiring of the Director
190 prior to the Feasibility Study. Freidin and Catherine Nichols, Chair of the Library Trustees,
191 said they felt a hesitation from the Board to commit. Seeley said any reluctance she feels is
192 financial, but she's supported the concept from the beginning. Freidin said their request is in

193 no way asking for financial support from the Board. Asermily said she felt there was also
194 reluctance on the Board's part to state support again when they felt they'd done that already.

195
196 There was more discussion on the reason for the support and the timing of the approval of
197 the feasibility study.

198
199 Artim wanted to address the idea of hiring the new Director for fund raising. He said that one
200 of the reasons IIsley is such a loved institution is because it is so well run, so when hiring the
201 new Director, first and foremost they need to be a librarian who continues the good mission of
202 the library. He said there are others out there who can raise funds. Nuovo said he had
203 problems giving guidance to the Trustees on who to hire, and whether or not the have a
204 degree in library science may not be necessary so long as they know how libraries function.

205
206 Seeley moved that the Selectboard supports the IIsley Trustees building renovation proposal
207 and encourages them to proceed. Khan seconded the motion. The motion carried with 7 in
208 favor. **MOTION PASSED.**

209
210 Carpenter wanted the record to show that there is no commitment on funding, but they
211 support the work the Trustees and Building Committee have done.

212 213 **8. Discussion of Next Steps in Middlebury's Economic Health Initiative**

214 215 **8.a. *Recruitment of Economic Health Committee** 216 **and**

217 **8.b. Appointment of Task Force to Develop Recommendation** 218 **on Aqua ViTea's Application for Tax Stabilization.**

219
220 Carpenter said that at the recommendation of the Economic Health Task Force, the Town
221 advertised in August for persons interested in serving on a new Economic Health Committee
222 to review applications for a Town Revolving Loan Fund (RLF) and to advise the Selectboard
223 on local economic development issues. He said that so far, no one has stepped forward to
224 express interest in serving on such a committee, so now there are some new ideas on ways
225 to go from here.

226
227 Artim said he felt the lack of anyone stepping forward for this committee was in part due to
228 lack of definition of what the committee would do and the time commitment involved. He said
229 it had been determined it was up to Middlebury to determine its economic fate, but the
230 question is how do we accomplish it. He said he'd talked to various business people in town
231 about how we could go about implementing this committee, and in summary, economic
232 development is not accomplished by one person or entity, it should be a group of connected
233 individuals who would meet on a periodic basis to review conditions, trends and offer
234 assistance to the business community, and could meet as needed to review and strategize if
235 a specific opportunity arose. He said connection means an expertise in a specific discipline,
236 such as Real Estate, has connections to similar disciplines, such as planners, developers and
237 property owners. He said other disciplines could be manufacturing, finance, utilities,
238 professional services, transportation, hospitality/tourism, education and government.

239

240 Artim said there seemed to be two options for establishing and managing this council. Option
241 1 would be for the Selectboard to establish the council and the Town Manager would manage
242 it. He said Option 2 would be a privately established and managed effort by the business
243 community, similar to ones established in the past that had diminished over time due to
244 players changing, leaving or retiring. This group would be re-energized and perhaps work
245 with ACEDC and would provide periodic reports to the Selectboard.
246

247 Artim said the main obstacle with the Town option is how to handle proprietary information,
248 since businesses had indicated previously a reluctance to share business plans with the
249 Town for fear of premature release. He said if it was managed privately, the Town would still
250 have a role in any future development through the permitting process.
251

252 Asermily asked if there was already a group of businesses that could be tapped into, and
253 Seeley said that would be the Board of Directors of Addison County Economic Development
254 Corporation (ACEDC). Artim thought that was an option that could be explored, especially
255 with a new ACEDC Director coming on board.
256

257 Seeley disagreed with Artim. She felt the Economic Health Task Force did not support the
258 idea of a private entity because there were concerns about how that would work and how the
259 Town would stay involved, so she was reluctant to go that route considering the time and
260 effort given by the Task Force to come up with a recommendation. She said one thing that
261 was a high priority for the Task Force was setting up a Revolving Loan Fund and establishing
262 a procedure and application process, so Seeley wondered about asking a smaller group from
263 the Task Force to come back and work on getting this accomplished. She would like to see
264 things proceed as the Task Force recommended. Seeley did agree with Artim that the ad for
265 the Committee may have been too open ended around the time commitment.
266

267 Shashok thought it was unfortunate no one stepped forward to serve on this Committee, but
268 agreed about a smaller group in the short-term, and they also need to look at the tax
269 stabilization request by Aqua ViTea.
270

271 Ramsay said she had received a call today from Hudson Tilford saying he was willing to work
272 on a tax stabilization review group, and also Robin Scheu would be willing to work on tax
273 stabilization review and on the RLF process. Nuovo thought that was a good beginning and
274 he hesitates creating a vague, new committee.
275

276 Seeley said she wouldn't be opposed to the business community forming their own group as
277 Artim had mentioned, and they could come and advising the Board on an annual or semi-
278 annual basis.
279

280 The Board discussed the new task force to review the tax stabilization request first, and then
281 work on the RLF process. It was suggested the group be 3-5 people, but could be more if
282 there is interest. Seeley will reach out to the members of the Economic Health Task Force to
283 see if any of them are interested in serving on this smaller task force that will have a relatively
284 short-term commitment. The task force would be appointed by the Board at their October
285 24th meeting and would review the tax stabilization request by Aqua ViTea for action by the
286 Board on November 14th. Following that, the group would begin work on the RLF process.
287

288 Asermily made the motion to form a Task Force to evaluate the application by Aqua ViTea for
289 tax stabilization, with appointments being made at the October 24, 2017 Selectboard
290 meeting, and for the Task Force to work toward creating policy and procedure for a Town
291 Revolving Loan Fund. The motion was seconded by Shashok. The motion carried with 7 in
292 favor. **MOTION PASSED.**

294 **9. Update on Downtown Bridges Replacement Project.**

295
296 Community Liaison Jim Gish joined the Board to give a summary of what is being done to
297 wrap up this past summer's construction project and to look ahead to the 2018 construction
298 program.

299
300 Gish said a 12-question survey had gone out to the community for feedback on how they felt
301 the project went. He said around 250 responded and 50% of those said they were downtown
302 on a daily basis. He's working on the results and they will be published next week and an
303 executive summary for the Board with all the comments.

304
305 Gish is working with VTrans to create storyboards to go in the downtown that will tell the
306 history of the project and give people a very clear picture of what can be expected in the next
307 few years and how they might be impacted. Asermily asked about the possibility of including
308 some history of the railroad in town into the project as well.

309
310 Gish said he is attending weekly meetings and planning sessions in Montpelier to fully
311 understand the project so he can communicate this to the community and the Board. He's
312 also advocating on the town's behalf, such as the importance of keeping Printers' Alley
313 opened for pedestrians. Gish said right-of-way work will begin in November with the Town
314 and property owners.

315
316 Gish said VTrans has agreed to do granite curbs in the area of construction at the Town's
317 request, but they want to caution us about the maintenance issues. They will need a definite
318 answer by December on whether to go with granite or concrete. Gish has reached out to the
319 Barre Town Manager about the granite curbing installed as part of their big downtown project
320 and he'll try to reach out to some other towns as well. Carpenter said the Town is familiar
321 with granite curbing and have used it in some other high visibility areas of town. Seeley said
322 she was in favor of the granite curbs until Luther Tenny made the comment in an
323 Infrastructure Committee meeting that the College is actually replacing their granite curbs
324 with concrete because of the maintenance issues. Shashok said she wanted to know the
325 difference in costs between replacing sidewalks when there are granite curbs, or replacing
326 the concrete curbs periodically. Carpenter said it would be left up to the Infrastructure
327 Committee to review and recommend.

328
329 Seeley asked about signs on Merchants Row instructing pedestrians of where they should be
330 walking, because she saw some walking in the travel portion of the bridge instead of the
331 pedestrian walkway. Gish said there wasn't, but they could put something up directing
332 people to walk at the crossing. Gish said there is also some issue with cars going down
333 behind the Battell Block as well, so some signs are needed indicating it's a private drive. He
334 said it's a work in progress and they're still working these types of things out. Asermily said
335 it's exciting to see the possibilities of a potential plaza on Merchants Row, now that traffic has

336 calmed down a bit and it's more pedestrian friendly. Nuovo said there are all kinds of
337 possibility and he hopes VTrans will pay for some of these improvements. Gish said the
338 clock is ticking on the chance to get these changes into the final plans.

340 **10. Extension of Sewer Usage Agreement with Agri-Mark.**

341
342 Ramsay said this is a request for another 3 month extension to the Agri-Mark agreement to
343 end of the year, while the Town and Agri-Mark continue to negotiate the terms of a new one.
344 All existing terms and conditions will remain in effect until the extension expires on January 1,
345 2018.

346
347 Shashok moved to authorize Town Manager Kathleen Ramsay to sign the Eighth
348 Amendment to the Agri-Mark Sewer Usage Agreement, extending the current agreement to
349 January 1, 2018. Khan seconded the motion. The motion carried with 7 in favor. **MOTION**
350 **PASSED.**

351
352 Seeley inquired if this would include the recent rate increase, and Ramsay said this was the
353 basis for the negotiations and had been reiterated to Agri-Mark.

355 **11. Discuss Next Steps for Engaging College in 356 Potential Community Broadband Partnership.**

357
358 Carpenter said this is an opportunity for the Board to begin considering how to advance a
359 discussion begun during the Town-College Lunch on July 14th regarding strategies for
360 expanding community broadband access.

361
362 Shashok said at the time of the lunch it was left that representatives of the Town and College
363 would get together to discuss this. She said Executive Vice President of Finance &
364 Administration, David Provost would be one of the College representatives, but they weren't
365 sure who else would be included in the discussion. Shashok asked the Board if they were
366 okay with 2 or 3 people from the Town meeting with the College to discuss this.

367
368 Asermily asked if the College had a copy of the Tilson Report and Shashok said they did, but
369 that report was outdated now that the school system has changed, but it was a good place to
370 start.

371
372 Carpenter asked Shashok if she would like to lead this discussion, and she accepted. She
373 said she would like to bring Bryan Alexander who is very knowledgeable on the subject.
374 Carpenter suggested a staff person be involved, and thought Assistant Town Manager Chris
375 English would be a good person to participate.

376
377 Shashok said the College itself has excellent Broadband, but as soon as their staff, faculty or
378 students go off campus, they often find areas where it can't be accessed. Carpenter asked
379 Ramsay to reach out to Dave Donahue about this group meeting with the College to discuss
380 the needs and what opportunities might be available.

381 382 383 **12. Approval of Check Warrants**

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Khan said he had reviewed the checks and all was in order. Khan made the motion to approve total expenditures in the amount of \$280,539.91, consisting of \$186,389.64 for accounts payable, and \$94,150.27 for payroll, for the period September 27, 2017 through October 10, 2017. Seeley seconded the motion. The motion carried with 7 in favor.

MOTION PASSED.

13. Town Manager’s Report

13a. Update on GMNF Staffing in Middlebury. Ramsay said that in response to a question raised under Board Member Concerns on September 26th, she contacted District Ranger Chris Mattrick to request an update on the Park Services’ staffing plan for Middlebury following the closing of the Middlebury District Office on September 29th. Chris reports that the Park Service will have a staff member stationed at the Addison County Chamber office at 93 Court Street, Monday – Friday from 9 a.m. to 4 p.m., through October, and then on Thursday – Friday from 9 a.m. to 4 p.m. in November and December. Staffing will likely be only 1-day per week during the winter months and then will return to part-time staffing in April next year.

13b. Follow Up on Academy St. ACTR Hub Planning. Ramsay said the 50% design plans for the Academy Street hub were in their packets and she would relay any concerns regarding the design to the ACTR Bus Hub Relocation Working Group.

Shashok said she thought the location shown for the bus stop in front of the Post Office was too close to the handicap parking space. She felt it might cause problems for both the driver in the handicap space and the bus trying to unload a handicap person.

Carpenter said his concern was the plan shows a bus stopping across a crosswalk. He said it might work if this is a drop and go stop, but otherwise he was worried it would become the same safety problem Merchants Row used to be.

Seeley was concerned about the people waiting for the bus at the crosswalk, and would that desensitize drivers and create a dangerous situation for people wanting to cross the street in the crosswalk

Ramsay said she knew the Working Group had similar concerns for these two spots as well, but she would relay the Board’s concerns as well.

14. Board Member Concerns

Seeley commented on how really beautiful the downtown gardens and planters were this year.

Shashok said she was very pleased to hear the amendment the Board approved, and Ramsay proposed to the VLCT Board for their Legislative Policy, was approved.

Asermily said there had been a discussion going on around the community regarding speeding and some suggestions made, such as using radar signs and speed tables. She said

432 the Public Health and Safety Committee would be discussing this at their meeting on October
433 16th at 4:00 p.m.

434

435 Asermily asked about the status of Halpin Road and Ramsay said paving would be done this
436 week and then it would be open, and North and South Pleasant Street were also scheduled
437 for paving.

438

439 Asermily also wanted to remind the Board that the Climate Economy would be having
440 another public meeting on October 26, 2017 at the American Legion and this would be an
441 opportunity to prioritize the projects.

442

443 Carpenter said the Board wanted Ramsay to know how impressed they are that she was able
444 to get the amendment approved at the VLCT meeting. He said he knew it wasn't easy going
445 into those meetings with representatives from all these other towns and he thought it showed
446 how well respected she is by her peers.

447

448 **15. Executive Session – Personnel & Legal Matters**

449

450 Shashok stated that in accordance with Vermont's Open Meeting Law requirements, she
451 moved that the Board find that premature general knowledge of the consideration of a
452 personnel matter would clearly place the Selectboard at a substantial disadvantage, because
453 the Select Board risks disclosing its litigation strategy if it discusses the personnel matter in
454 public. Seeley seconded the motion. The motion carried with 7 in favor. **MOTION PASSED.**

455

456 Shashok further moved that the Board enter into Executive Session to discuss a personnel
457 matter, under the provisions of Title 1, Section 313(a)(1) of the Vermont Statutes. Seeley
458 seconded the motion. The motion carried with 7 in favor. **MOTION PASSED.**

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460

461 In accordance with Vermont's Open Meeting Law requirements, Shashok moved that the
462 Board find that premature general knowledge of the consideration of a legal matter would
463 clearly place the Selectboard at a substantial disadvantage, because the Select Board risks
464 disclosing its litigation strategy if it discusses the legal matter in public. Seeley seconded the
465 motion. The motion carried with 7 in favor. **MOTION PASSED.**

466

467 Shashok further moved that the Board enter into Executive Session to discuss a legal matter,
468 under the provisions of Title 1, Section 313(a)(1) of the Vermont Statutes. Seeley seconded
469 the motion. The motion carried with 7 in favor. **MOTION PASSED.**

470

471 The Board moved into Executive Session at 9:15 p.m.

472

473 The next meeting of the Middlebury Selectboard is Tuesday, October 24, 2017 in the Town
474 Offices at 77 Main St.

475

476 Respectfully submitted,
477 Beth Dow