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**Regular Selectboard Meeting**  
**Large Conference Room – Town Offices**  
**Tuesday, September 24, 2019**  
**Meeting Minutes**

Members Present: Brian Carpenter, Heather Seeley, Lindsey Fuentes-George, Farhad Khan, Victor Nuovo and Laura Asermily. Nick Artim was absent.

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

Others Present: Justin Sargent of Dedalus Wine Group and Eric Fitch of PurposeEnergy

The meeting was televised on MCTV by Jim Corbett.

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**1. Call to Order**

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

**2. Approval of Agenda**

Asermily made the motion to approve the agenda and Seeley seconded the motion. The motion carried with 6 in favor, 1 absent and the agenda was approved as presented. **MOTION PASSED.**

**3. Approval of Minutes of September 10, 2019 Selectboard Meeting**

Khan moved to approve the minutes of September 10, 2019, seconded by Nuovo. The minutes were approved as presented with 6 in favor, 1 absent. **MOTION PASSED**

**4. Citizen Comments**

There were no citizen comments.

**5. Application from Dedalus Wine Group LLC for a Second Class Liquor License**

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Carpenter said Dedalus Wine Group, Inc, is seeking the Board's approval for a Second Class (sale of beer and wine for off-site consumption) Liquor License for a new retail location it is opening on the 2nd floor at 3 Mill Street. He said the Dedalus Wine space is still under construction so this is similar to the Board's consideration of The Mad Taco's DLC applications at the last meeting, where approval would be pending a successful physical inspection of the premises by Police Chief Tom Hanley and Fire Chief David Shaw when construction is complete.

47 Justin Sargent of Dedalus Wine Group, Inc. said that their store would be in a shared  
48 retail space and they'd be one of the anchor tenants in the Mill. He said they'll be  
49 selling wine, cheese and charcuterie.

50  
51 Seeley moved to approve the application submitted by Dedalus Wine Group, Inc., for a  
52 Second Class Liquor License its new retail location at 3 Mill Street, pending the  
53 successful completion of the required public safety inspections when construction is  
54 completed. Nuovo seconded the motion. The motion carried with 6 in favor, 1 absent.  
55 **Motion passed.**

56  
57 **6. Eric Fitch, CEO PurposeEnergy, Sewer Connection fee for**  
58 **Middlebury Resource Recovery Center, a waste-to-energy digester facility**  
59

60 Town Manager Ramsay said she reviewed the background behind the Connection Fee  
61 Policy, and as stated at the August 27, 2019 Board meeting, the wastewater connection  
62 fee for Purpose Energy would be \$400/Equivalent Residential Units (ERU) or 210  
63 gallons of wastewater, which calculates to 700 ERU for a connection fee of \$285,000.  
64

65 She said she is looking at the possibility of applying a credit for some existing  
66 wastewater discharge that may go to the PurposeEnergy facility. Ramsay said if the  
67 Board is interested in that approach, this could amount to a credit of \$115,000. She  
68 said Fitch is working with Otter Creek Brewing and their discharge is around 20,000  
69 gallons per day (gpd), so she included that in year one, and knows he also wants to  
70 work with other beverage producers and the dairy industry in the Industrial Park, so she  
71 drew out some hypothetical numbers. She said the policy also provides for a phased  
72 implementation of the connection fee to help soften the impact. She said while  
73 PurposeEnergy hasn't finalized their final discharge amount, this example was  
74 calculated using an estimated 150,000 gpd Discharge Permit.  
75

76 Fitch said he appreciated all the work Ramsay had done on this. He said since he met  
77 with the Board on August 27th, he had submitted his draft Wastewater Permit to Bob  
78 Wells and received his feedback that they'll incorporate it into the final version. He said  
79 he understood the Board was in a hard spot because there is a Policy and there is no  
80 precedent for something like this, but he's looking at a pretty steep fee for a product that  
81 is actually going to reduce the impact on the Wastewater Plant. He appreciated the  
82 idea of reducing their flow by flows already going to the Wastewater Plant, although as  
83 discussed before, a lot of the waste they'll be processing is currently being trucked  
84 away, so that would be new load to the Plant.  
85

86 He said that Otter Creek Brewing has other brewery locations and if the wastewater  
87 fees are less here, they could be trucking in their waste from other plants so their flow  
88 could grow from 20,000 gpd to 90,000 gpd, and their facility would have to  
89 accommodate the increase in the future, so having a step plan in place to be able to  
90 gradually increase their capacity would be helpful.  
91

92 Fitch said they need a decision now because they need to file their Wastewater Permit  
93 in order to move forward with the Certificate of Public Good. He said they need to know  
94 what number of requested flow to apply for now, knowing in the future they would like  
95 their flow to be 150,000 gpd to accommodate the growth in the Industrial Park. He said  
96 they think today the flow will be more like 60,000 gpd as they wait for the growth. He  
97 said if they could permit now for the whole 150,000 gpd, but not incur the entire fee of  
98 \$171,000, or what is ultimately decided it to be the fee, it would be very helpful. He said  
99 at this point he isn't sure of any other discussion points and they're looking forward to  
100 building a facility here in town.

101  
102 Asermily said she appreciated this approach and it seemed to be palatable if it can be  
103 phased, and she thinks it's important to consider equity with the connection fee we've  
104 charged other industrial users. She also wondered how Fitch had arrived at his  
105 proposed connection fee of \$15,000 that he'd discussed at the August 27<sup>th</sup> meeting.  
106 Fitch said he had looked at all the ways to charge a connection fee, and he thought  
107 charging by an episode as opposed to an impact fee made sense, since they would  
108 actually be reducing the impact on the Wastewater Treatment Plant. He said the flow  
109 will go up, but the plant isn't constrained by flow, it's constrained by the organic load  
110 and they would be reducing the organic load, as well as the phosphorus and reducing  
111 the total solids load, just by treating what the brewery is already sending, so he felt  
112 charging a per gallon fee didn't make sense. He said the \$15,000 was rather arbitrary.  
113 Asermily said while the Wastewater Plant has the capacity, we will be losing funds from  
114 the waste that's diverted to his facility.

115  
116 Seeley suggested doing some testing during Phase I to see how much the treatment  
117 really is reducing the organic load so in Phase II we could revisit how we look at things  
118 based on the actual load. Ramsay said going into Phase II we would need to look at  
119 what flow is coming from existing facilities anyway in order to calculate the allowance on  
120 the existing discharge. Fitch asked Seeley if they can prove by history and data that  
121 they have reduced the load at the Wastewater Plant, maybe we could look at a different  
122 kind of fee structure. Seeley said she wasn't opposed to that idea.

123  
124 Asermily asked if he had enough to complete his Certificate of Public Good with the  
125 phasing uncertainty, and Fitch said he could. He said if they can pay for the Phase I fee  
126 with the capital budget instead of the development budget it will help, because if they  
127 had to pay for it today it would be difficult.

128  
129 Carpenter said he agrees with the direction Seeley suggested, because if you can get a  
130 permit for the 150,000 gpd and we can agree to phase the fee, we can do a better job of  
131 defining how it impacts the load at the Wastewater Plant. He asked Fitch if they would  
132 also be trucking in product to keep the digester working at 150,000 gpd or are they  
133 depending on the growth of the existing facilities, because if they're planning on a lot of  
134 additional trucking he might look at this differently. Fitch said they would actually be  
135 removing about 20 trucks per day from the breweries and they won't be trucking in that  
136 many, so there will be a net reduction in truck traffic. Carpenter said as this project  
137 develops and becomes operational and we see what the net impact is on the

138 Wastewater Plant will be, this might help to justify a change in our policy. He said we  
139 would also have to figure out what triggered going from one phase to the next. Fitch  
140 said we would need to pick a number at the beginning that they know they're contracted  
141 for, which would be Otter Creek Brewing, Cabot, Whistle Pig and they're still negotiating  
142 with Vermont Hard Cider, and he is anticipating receiving material from Appalachian  
143 Gap, Stonecutters and AquaVitea. Carpenter said he likes Ramsay's suggestion to  
144 take a look as we go into Phase II to see what the numbers are and we may not be  
145 giving enough credit for flows from other sources that are going to the digester, so the  
146 net increase might be less than anticipated.

147  
148 Fitch said he'd like to begin at 80,000 gpd and he thinks 20,000 gpd from Otter Creek  
149 and potentially 20,000 gpd from Vermont Hard Cider, giving PurposeEnergy a net  
150 increase of 40,000 gpd. He said with Cabot there won't be as much growth, but there  
151 are certain byproducts that are hauled off now that they may decide to put down the  
152 drain, but that would be hauled waste. Ramsay said they could do a Memorandum of  
153 Understanding (MOU) for a period of time that they think would get them to 150,000 gpd  
154 with an outline of what had been discussed this evening, the review process and what  
155 might trigger those reviews. Fitch also suggested a sunset provision, because he's  
156 seen towns that gave away hydraulic capacity. Ramsay said she intended to cap the  
157 amount of time this could go on, and as Fitch has pointed out, it isn't just the hydraulic  
158 capacity but the pollutant loading that is a contributing factor on our permits as well.

159  
160 Carpenter asked Fitch if this was sufficient guidance for his future planning until the  
161 MOU is complete, and Fitch said he believed it was. Fitch said they would have an  
162 MOU for a starting capacity of 150,000 gpd that will be paid for in phases; there will be a  
163 sunset provision so at some point in the future they would need to either purchase the  
164 allocation or forfeit it; there is a way to credit the flows that go to their facility for  
165 pretreatment; and, if they go for an increase in capacity in the future there may be an  
166 argument as to why the fee structure could be different for this type of facility. He  
167 thanked the Board and said they look forward to building a digester facility here in  
168 Middlebury.

169  
170 **7. Dan Werner, Director of Public Works Planning, regarding the Infrastructure**  
171 **Committee Meeting of September 12, 2019**

172  
173 Werner began by giving the Board an update on the Reuse Project at the old  
174 Wastewater Plant. He said there were several parts to this project: Converting the old  
175 Control Building to storage; converting the old Sand Filter Building to police cruiser  
176 parking; converting the old loading building to hazardous material storage; infilling the  
177 windows in the Police Department meeting room; and construction of a small brick  
178 building for explosive storage. Werner and Seeley also pointed out the various areas of  
179 the project where the Vermont Integrated Architects (VIA) had found cost savings.

180  
181 Carpenter asked about the basement of the old Control Building. Werner said some of  
182 the wall near the storage tanks will be retained to divert stormwater away from the  
183 building, and a wall will be built in a portion of the basement that will be part of solving

184 the drainage issue as well. He said the key will be the backfilling around this building to  
185 protect that foundation. Carpenter said he'd be concerned about putting all that money  
186 into the building to have a moisture problem in the basement.

187  
188 **7.a. Recommendation on Award of Contract for**  
189 **Route 116 Water Main Project Engineering**  
190

191 Werner said there is a culvert under Route 116 by Dow Pond that is in need of  
192 replacement. He said the State is concerned that the culvert will collapse and take that  
193 portion of the highway with it, so they have lowered the water level in Dow Pond to  
194 prevent this from happening. He said the Town's water main is located above this  
195 culvert, so our water main needs to be moved prior to replacement of the culvert in  
196 2020. He said this proposal is for the design work for relocation of this water line. He  
197 said one thing that they are going to look at is extending the new line to the end of the  
198 chlorine contact project upgrade done a few years ago. He said the State will be  
199 covering the cost of the design work for the portion of the project in their work area, but  
200 the further south we go to reconnect to the existing main the cost will be up to the Town.  
201 He said this is an asphalt cement pipe that is perhaps 50 years old and is reaching the  
202 end of its life, so it isn't bad timing to eliminate it. He said this proposal is for \$11,100  
203 and the design work will be done over the winter and the work done next summer.

204  
205 Seeley made the motion to award a contract to Green Mountain Engineering for  
206 engineering design services for the Route 116 Water Main Project, for a total cost of  
207 \$11,100. Fuentes-George seconded the motion. The motion carried with 6 in favor, 1  
208 absent. **MOTION PASSED.**

209  
210 There was discussion on how there is a need to do this work due to the State project,  
211 but concern about delaying other more important projects because of this work.  
212 Carpenter said once the engineering is done and we have some cost estimates, they  
213 can discuss the impacts on the budget.

214  
215 **7.b. Recommendation on Award of Contract for**  
216 **Court Street and Charles Avenue Drainage Structure Replacement**  
217

218 Werner said this request is to award a contract to Acker Excavation for replacement of a  
219 catch basin and some other minor work at the corner of Court Street and Charles  
220 Avenue. He said there was a concrete basin there that has totally disintegrated, so this  
221 will replace that basin and connect it to the existing 24" concrete pipe. He said across  
222 Charles Avenue by the gas station there is a frame and cover that needs to be lowered  
223 so the water will stop ponding at that intersection. He said Acker was the only bid  
224 received and is comparable to similar work they've done for us and they do good work,  
225 so he's requesting the Board approve the contract for \$13,900.

226  
227 Seeley moved to award a contract to Acker Excavating for the Court Street and Charles  
228 Avenue Drainage Structure Replacement Project, for a total cost of \$13,900. Nuovo

229 seconded the motion. The motion was carried with 6 in favor, 1 absent. **MOTION**  
230 **PASSED.**

231  
232 Asermily asked if the catch basin would be flush with the pavement for the safety of  
233 bicyclists, and Werner said there might be a slight dip to it.

234  
235 **8. Jennifer Murray, Director of Planning & Zoning, with a proposal for an FY20**  
236 **Municipal Planning Grant to update the**  
237 **Middlebury Zoning and Subdivision Regulations**  
238

239 Murray said she was looking for approval from the Board to submit a Municipal Planning  
240 Grant application. She said these grants come up every fall and are one of the few  
241 grants that actually pay for planning work to create bylaw revisions and she thinks it  
242 makes sense to do a revision of our zoning bylaws following the completion of our  
243 Downtown Master Plan next summer. She said zoning is one of the easiest ways to  
244 implement the Master Plan so it makes sense to line up funding now.

245  
246 Asermily made the motion to approve the submission of an application for a \$20,000  
247 FY2020 Municipal Planning Grant application – including a local match commitment of  
248 \$2,000 – to fund an update to Middlebury’s Zoning and Subdivision Regulations.  
249 Seeley seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION**  
250 **PASSED.**

251  
252 Asermily further moved to sign the Municipal Planning Grant Resolution. Seeley  
253 seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

254  
255 **9. Set penalty amount for late Homestead Declaration filings,**  
256 **as required by 32 VSA § 5410**  
257

258 Ramsay said each year homeowners are required to file their Homestead Declaration to  
259 the State by April 15<sup>th</sup>, and if they miss this deadline towns are enabled by Statute to  
260 charge a fee for that. She said the Board has waived the penalty in the past, so they  
261 are requesting the Board to waive it again.

262  
263 Following some discussion, Asermily moved that the Selectboard agree to waive any  
264 municipal late filing penalty for Homestead Declarations due April 15, 2020. Khan  
265 seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

266  
267 **10. Approval of Check Warrants**  
268

269 Khan moved to approve total expenditures in the amount of \$2,428,942.57, consisting  
270 of \$2,325,136.00 for accounts payable, and \$103,806.56 for payroll, for the period  
271 September 11, 2019 through September 24, 2019. Seeley seconded the motion. The  
272 motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

## 11. Town Manager's Report

Ramsay said Friends of Middlebury Hockey, has been awarded a \$15,000 VT Recreational Facilities Grant toward the completion of the 2nd floor capital improvements underway at the Memorial Sports Center.

Ramsay reported that based on his analysis of the winter sand bids the Town has received from FY15/16 to FY18/19, showing J.P. Carrara & Sons as the consistent low bidder, DPW Operations Director Bill Kernan has recommended that the Town forego the bid process and continue procuring winter sand from Carrara as a Recurring Purchases Exception under the Town's Purchasing Policy. Carpenter asked if a motion was needed, and Ramsay responded she was just informing the Board that we would be following this provision in the Town Policy. Seeley asked if there would be a Memorandum of Understanding on the percentage increase each year, and Ramsay said that Kernan would review it each year with them if there's any change in the market and maybe there would be new bidders, but he checked with previous bidders about submitting a bid and they weren't even interested in bidding this year.

Ramsay said on Thursday, September 19, 2019, the Parks & Recreation Department officially opened the new picnic pavilion at the Recreation Park and expressed its gratitude to the Middlebury Lions Club, the funding source and driving force behind the project as well as local contractors and suppliers for their contributions to project: Debisschop Excavating for doing the site work at a discounted cost before the project began; for designing and constructing the pavilion; Donnie Sargent and his crew from Sargent Concrete & Construction for pouring and completing the slab at a discounted labor rate; and J.P Carrara & Sons for providing the concrete at a discounted cost. She said additionally, the Town of Middlebury Highway Crew provided support in the form of machinery and manpower during construction and doing the remedial site work after the project.

She said Judy Wiger-Grohs wanted the Board to know that there would be a public meeting on Wednesday Oct, 2<sup>nd</sup> regarding information on the Emerald Ash Borer.

She said the Board has received a letter from Richard Cole of Butternut Ridge Drive expressing concern about the Randall property which has fallen into disrepair, and lacking a good solution for this type of problem we're investigating an ordinance to address these types of properties going forward.

## 11. Board Member Concerns

Fuentes-George wanted to express her gratitude for the Department of Public Works, because whenever she notices something and reports it to Ramsay, they're already working on it.

320 Seeley said she couldn't make it to the Pavillion opening, but Lynn Morris has some  
321 great photos if we wanted them for Town Meeting. She also wanted to thank Bill  
322 Kernan, Kathleen Ramsay, Jackie Sullivan and Chris Robbins who helped Seeley set  
323 up a display window in the National Bank of Middlebury about our water system.  
324 Asermily said she'd already had people reply about how awesome a display it is.  
325

326 Asermily said she was impressed with the turnout of people at the Climate Action event  
327 last week and as a town we continue to push for reduction of our carbon footprint. She  
328 said they were sitting in a net-zero building and working on an energy efficiency project  
329 at the Police Department. She said she is concerned about transportation and is  
330 excited that the rail bridge project planning that includes ways for people to access the  
331 downtown next year without having to use cars. She also said that October 4<sup>th</sup> is Walk  
332 and Bike to School Day. She's also happy we're looking at electric vehicles and also  
333 amending the ordinance to adjust for electric cars and bicycles. She also hopes to  
334 debrief the Selectboard soon about the Public Health and Safety Committee meeting  
335 where they talked about the expansion of the vagrant and transient population in  
336 Middlebury that is stressing our services.  
337

338 Carpenter said he would not be at the October 8, 2019 meeting, but Artim would be at  
339 that meeting.  
340

## 341 **12. Adjournment**

342  
343 The meeting adjourned at 8:09 p.m. upon motion by Khan, seconded by Seeley.  
344

345 The next meeting of the Middlebury Selectboard will be Tuesday, October 8, 2019 at  
346 7:00 p.m. in the Town Offices at 77 Main Street.  
347

348 Respectfully submitted,  
349 Beth Dow  
350