

1 **Regular Selectboard Meeting**
2 **Monday, April 13, 2021**

3 **Meeting Minutes**

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5 **NOTE: Due to the need for separation to prevent the spread of COVID-19**
6 **virus, the meeting was held remotely via video conferencing with**
7 **participants.**
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9 Members Present: Brian Carpenter, Heather Seeley, Dan Brown, Farhad Khan,
10 Lindsey Fuentes-George, Esther Thomas and Nick Artim.

11
12 Staff Present: Town Manager Kathleen Ramsay, Assistant Town Manager Chris
13 English, Director of Public Works Planning Dan Werner and Superintendent of
14 Parks and Recreation Dustin Hunt

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16 Also Present: Interested citizens.

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

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20 **1. Call to Order**

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

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24 **2. Approval of Agenda**

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26 Khan moved to approve the agenda, and Fuentes-George seconded the motion.
27 Carpenter noted the postponement of Item 11.c, the Engineering Agreement for
28 the Rail Parking Lot & Maple Street Storm Project, to the April 27th meeting. The
29 agenda was approved as amended with 7 in favor. **MOTION PASSED.**

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31 **3. Approval of Minutes of March 23, 2021**

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33 Khan moved to approve the minutes of March 23, 2021, and Fuentes-George
34 seconded the motion. Khan and Fuentes-George pointed out three corrections:

35
36 Lines 147 & 148 - change "on-way" to "one-way" and "one-say" to "one-way"
37 Line 286 - should read "Fuentes-George "moved" to award..."

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39 The motion carried with 5 in favor, 2 abstentions (Seeley & Artim) and the minutes
40 were approved as amended. **MOTION PASSED.**

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44 **4. Citizen Comments**

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Resident Laura Asermily spoke on behalf of the Safe Route to School Program, thanking the Board for all they do to make it safe to cross our roads and navigate our sidewalks. She said she is available to help write grants for improvements, and after talking to Town staff, she knows there are opportunities and she wants to help. She also said May is Bike Month and spoke about some upcoming programs, and the annual Bike Swap that would be held at the end of the month.

5. Approval of First and Third Class Liquor Licenses, Outside Consumption Permits & Entertainment Permits

Carpenter said Town Clerk Ann Webster is seeking the Board's approval for three Liquor License and Outside Consumption Permit applications.

He said the first application is Marquis Theatre, LLC for a Third Class Liquor License renewal application, and the Public Safety inspection was successfully completed earlier this year when Marquis Theatre submitted its First Class application.

Artim moved to approve the Third Class Liquor License renewal application for Marquis Theater, LLC. Seeley seconded the motion. The motion carried with 7 in favor. **MOTION PASSED.**

Carpenter said next was Middlebury College, dba The Grille, for First Class and Third Class seasonal liquor license renewal applications for The Grille, in McCullough Student Center, and Chiefs Hanley and Shaw have submitted an approved Public Safety inspection report for this application.

Artim moved to approve the seasonal First Class and Third Class Liquor License renewal applications for Middlebury College, doing business as The Grille. Seeley seconded the motion. The motion carried with 7 in favor. **MOTION PASSED.**

Carpenter said next was Silver Creek Restaurant, dba Rosie's Restaurant for a new Outside Consumption Permit application. The consumption area is described as "the entire front & side porch, with railings." The proposed time period is 7 days/week, from 8:00 a.m. to 8:00 p.m., and the Webster reports that she expects to receive the Public Safety inspection report soon, so if the Board is amenable, this application should be approved provisionally.

Artim moved to approve the Outside Consumption Permit for Silver Creek Restaurant, doing business as Rosie's Restaurant, pending the receipt of a completed Public Safety Inspection. Seeley seconded the motion. The motion carried with 7 in favor. **MOTION PASSED.**

6. Congressman Peter Welch with an update on the American Rescue Plan Act

90 Congressman Welch joined the Board and first congratulated the Town on getting
91 the railroad bridges competed. He said it's unbelievable what the town, state and
92 country has been through this past year, and said it was a staggering and abrupt
93 change for everyone. He said Vermont has done a good job to keep infections
94 down, and Congress has come up with a very ambitious response, with the Cares
95 Act last year and the American Rescue Plan Act this year. He said the American
96 Rescue Plan Act was \$1.9 trillion, and it was needed to help individuals,
97 employees and small businesses, but it also acknowledges that our states and
98 communities need money as well to get through this, so when this is over we
99 aren't leaving our communities devastated.

100
101 He said there was a big debate about including financial relief for communities,
102 and he and Senators Sanders and Leahy were all in agreement this was needed.
103 He said the amount of money going to Middlebury was \$2.57 million, and the
104 Addison Central School District will receive \$3.14 million. He said the Town would
105 have flexibility on how to use these funds, but it had to be COVID related, which is
106 broadly defined and can be anything from making up revenues lost due to COVID,
107 to working with non-profits that might be distributing food to people who were
108 impacted, or supplemental pay for frontline workers, but it also allows for flexibility
109 to address some water, sewer and broadband challenges. He said while the
110 federal government provided the resources back to our communities, the decisions
111 about how best to use these funds should be made locally by the elected officials,
112 with input from the community. He said the Board has significant responsibility
113 and authority, because the decisions they make with this money are going to have
114 lasting benefit to the citizens you represent.

115
116 Welch said the first half of the money will be received 60-days from when
117 President Biden signed the Bill, which was a couple of weeks ago, and the second
118 half will be received a year from when the Bill was signed, and the funds don't
119 need to be spent until December of 2024. He said the funds from the Cares Act
120 were administered by the State, and needed to be spent by the end of 2020, which
121 didn't allow for much flexibility.

122
123 He said his hope is we'll get through this, and how it's important to have these
124 resources. He said the Board will have a hard time with all the suggestions they'll
125 be getting on how to spend these funds, and he expressed his admiration for them
126 and wished them the best of luck. He thanked them as local leaders for helping
127 the citizens get through this.

128
129 Carpenter thanked Welch for the information and said there were many on the
130 Board who were small-business people, and he thinks he speaks for everyone that
131 the Cares Act was critical to survival for so many small businesses and it helped
132 Vermont immensely. He said he also appreciates the time allotted for the use of
133 the funds that will be forthcoming so we can be methodical on reading the fine
134 print on how these funds can be used, so we can be equally as methodical on
135 spending it so we get our "best bang for our buck" for the greater community. He

136 thanked the Senator for his great work in Washington and said Middlebury and
137 Addison County have held together and kept most of our businesses and people
138 safe and continue to move forward.

139
140 Welch said State Director Rebecca Ellis was also present, and said the Board may
141 recall that with the Payroll Protection Plan there were some rules that got in the
142 way of the original rollout, and he suspects that when this money is received, the
143 Town may come up against some rules and regulations that are an impediment to
144 the best use of the money. He said if this happens to let Ellis know, because if we
145 have issues with something, then chances are other communities will have the
146 same issues. He said if they know about these problems, they can advocate to
147 write and realign the rules to achieve the goals. Welch thanked the Board for their
148 hospitality and left the meeting.

149
150 Brown asked Ellis if she was aware there are no employees right now for anyone
151 to hire. He said Middlebury restaurants lost about 170 out of 350 employees and
152 are now trying to hire staff back and are offering between \$20 and \$25 to start and
153 are getting no responses, and it will become desperate for some businesses and
154 they might be in as much trouble as during the pandemic because they can't open
155 fully and will need to reduce their hours of operation. He said he imagines this is
156 the same across the state, but Middlebury is in a great deal of difficulty right now.
157 Ellis said she would pass that on to the congressman.

158
159 Carpenter said any discussion on how to use these funds should be put off for a
160 special retreat when we have a little more knowledge about the funds and the
161 controls and limitations, as well as some of the activities we have going on, like the
162 Kick Start Program. He said he and Seeley had worked with Ramsay on the
163 upcoming retreat, but there would be a second retreat to discuss these funds.

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165 **7. Public Hearing on Minor Ordinance Amendments**

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167 Carpenter said the Selectboard is conducting a public hearing to take testimony on
168 minor amendments to eight Town ordinances recently presented by Police Chief
169 Tom Hanley and approved by the Selectboard at its March 9th meeting, and each
170 of the amended ordinances has been reviewed and recommended for adoption by
171 the Town's Public Health and Safety Committee.

172 He said as the final step before formally adopting the amended ordinances, and in
173 accordance with Chapter 127, Section 107 of the Middlebury Town Charter, they
174 are giving members of the community an opportunity to review and comment upon
175 them, and after hearing input, if the Board votes to adopt the amended ordinances,
176 with or without further revisions, each will become effective in 40 days, unless a
177 referendum petition objecting to their adoption is filed with the Town Clerk.

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180 07a - Amended: An Ordinance for Restricting Alcoholic Beverage Use on Town
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Carpenter said this revision makes the ordinance a civil ordinance, which will simplify enforcement. He said in 1995, when the blanket amendment was passed making most ordinances civil, this was retained as a criminal ordinance, and at the time, a person violating a civil ordinance was not mandated to identify themselves. He said Burlington was experiencing a rash of “John Doe” tickets when college students learned they did not have to identify themselves when police enforced open container laws, so this was corrected by an act of the legislature a few years ago, and while civil ordinances are weak with respect to enforcing judgments, in most cases they will be effective.

07b - Amended: An Ordinance for the Regulation of Noise

Carpenter said as in the case of the Alcoholic Beverage Ordinance, State’s Attorney Wygmans has agreed to prosecute if so designated by the Selectboard, but he feels it is more appropriate that these be classified as civil ordinances.

He said in addition to the change to a civil ordinance, enforcement language in section VI has been changed from:

“Each week that a violation is continued shall constitute a separate offense. Any fines collected under this section shall be paid over to the Town of Middlebury. “

To:

“Section 601 – Civil Violation.

A violation of this ordinance shall be a civil matter which shall be enforceable by the town pursuant to Title 24 V.S.A. §1974a and any other applicable provision of law.

Section 602 – Penalty

A person who violates any provision of these regulations shall be fined not more than eight-hundred dollars (\$800) for each offense, with a waiver fine of two-hundred dollars (\$200). Each violation shall constitute a separate offense.”

He said in the original Section VI, repeat violations in the same week could not be charged, and the information could only be added at the option of the state’s attorney during the charging document. He said the clause about fines coming to Middlebury becomes unnecessary when changed to a civil ordinance and fines return to the town by virtue of statute in civil cases.

07c - Amended: An Ordinance to Regulate Commercial Activity on Public Property

Carpenter said this ordinance is being amended to anticipate the potential for transportation devices such as commercial scooters and private ride-shares using public property eventually coming to town and enables town authority to regulate these if necessary.

07d - Amended: An Ordinance for the Safe Operation of Bicycles and Other Rideable Devices

226 Carpenter said these minor amendments are primarily for clarity. He said
227 definitions of bicycles, other rideable devices, and personal mobility aids are
228 clarified and made more generic to better deal with the variety of new wheeled
229 devices out there, and there was some reformatting done of the ordinance as well
230 and some language clarification.

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232 He said Printers Alley was added back into the amended ordinance, and another
233 section classifying Main Street between Seymour Street and South Street as a
234 shared roadway and to be marked as such.

235

236 He said the ordinance was simplified with respect to the amount and variety of
237 devices being used on the road and sidewalks downtown, and went on to read the
238 definitions:

239 Redefined Bicycle for the purposes of the ordinance:

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- Rideable, mountable device
- 2 or more wheels
- Motive power – human muscle
- Drive mechanism – pedals or mechanical linkage manipulated to propel the device
- Includes motor-assisted bicycles as defined by Title 23, VSA 4 (45) (B).

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Redefined Other Rideable Device:

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Defined Rideable Personal Mobility Aid:

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- Devices used as a person conveyance for those with ambulatory disabilities.
- Rideable personal mobility aids are considered pedestrians and follow pedestrian laws.

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Bicycles and other rideable devices must follow motor vehicle laws.

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Dismounted bicycles or other rideable devices are considered pedestrian and follow pedestrian laws.

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He said a conflict in the ordinance was removed in one section allowing bikes to operate on certain sidewalks and another which prohibited it. The enabling clause

271 was removed. He said also that the age at which a child could ride was raised
272 from 7 to 10, and the responsible person was changed from a parent to a
273 caretaker, which includes childcare person, relative, etc.

274
275 Resident Laura Asermily said she supports all these changes and said there are
276 only two places you're prohibited from riding bicycles on the sidewalk and that is
277 on Main Street from Printer's Alley to the Library and on Merchants Row, and
278 that's only during business hours. She said when bicycles are riding on Main
279 Street where there are no shoulders, bikes need to "claim the road" and that's why
280 there are sharrows on the roadway, and there is talk of extending the sharrows to
281 the beginning of South Street. She said another street that would benefit from
282 sharrows is Washington Street, where there is parking along the road.

283
284 Resident Adam Franco thanked the Board for their work on this ordinance, and
285 with the Printer's Alley addition, he wondered if it included the sidewalk along the
286 bank building, as well as the sidewalk through the future park, because that will be
287 an important connectivity point to the new train station opening up on Middle
288 Seymour Street.

289
290 Ramsay read from Section 501 of the Ordinance and said it refers to sidewalks
291 "bounding Printer's Alley", so it was determined that it was intended to mean the
292 sidewalk through Lazarus Park and not the sidewalk along the bank building.
293 Franco said while it might not be a problem now, it might become one if that
294 becomes more of a thoroughfare after the train station opens. Asermily said that
295 these restrictions are between 9:00 am and 5:00 pm, so the train station hours
296 might be outside that time frame and this might be a moot point and you could ride
297 down Printer's Alley.

298
299 07e - New: Ordinance for the Regulation of Fires and Burning

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301 Carpenter said this establishes a new Public Safety ordinance for control of open
302 burning and removes the existing burning control section from the Solid Waste
303 Ordinance. He said the re-written burning control ordinance is a civil ordinance
304 with fines consistent with statute and simplifies and clarifies the issue of open
305 burning, controlled burning, and permit issuance.

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307 07f - Amended: An Ordinance Regulating the Collection and Disposal of Solid
308 Waste

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310 Carpenter said this amendment removes *Article VII – Open Fires and Incinerators*,
311 which has been moved to the new Ordinance for the Regulation of Fires and
312 Burning.

313
314 07g - Amended: An Ordinance for the Regulation of Speed

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316 Carpenter said this amendment adopts by ordinance the recently amended state
317 speed limits on Routes 116 (Case St) and Rt. 125E (East Main St) in East
318 Middlebury consistent with T.23 VSA 1007(f).

319 He said it also amends *Section IV – Thirty-Five Mile Speed Limit* and *Section V –*
320 *Forty Mile Speed Limit* to reflect the revised speed limits.

321
322 Carpenter said these amendments were a result of a lot of hard work by some
323 East Middlebury residents with the support of Chief Hanley.

324
325 07h - Amended: An Ordinance for the Regulation of Traffic Lights and Signs

326
327 Carpenter said this establishes by ordinance changes to Merchants Row: One-
328 way street eastbound; eliminate the stop sign west bound on Merchants at Main
329 St; eliminates the Yield signs for west bound traffic on Merchants Row off of South
330 Pleasant St; eliminates the Yield sign eastbound on Merchants at Court Square
331 and replaces it with a stop sign, consistent with the reconfiguration and re-posting
332 of traffic control devices on Merchants Row. He said it also amends *Article IV –*
333 *Section 1 – Designation of Stop Signs at Intersections* and *Article V – Section 1 –*
334 *Designation of Yield Right-of-Way Signs at Intersections*.

335
336 With no further public comments, Carpenter closed the public hearing at 7:47 p.m.

337
338 Fuentes-George moved to adopt the amendments as presented, and Seeley
339 seconded the motion. The motion carried with 7 in favor. **MOTION PASSED.**

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341 **8. Planning for and Scheduling of the Board’s Annual Retreat(s)**

342
343 Carpenter said a source Ramsay had found on retreats talks about taking bite
344 sized pieces instead of trying to cover everything so there can be focus and quality
345 discussion at the retreat on Thursday, April 22nd, from 5:30 to 7:30 p.m. There
346 were no suggested changes to the draft agenda.

347
348 **9. Nominations to Appointed Boards, Committees,**
349 **Commissions & Official Positions**

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351 Carpenter said next is the review and consideration of candidates for Town panels
352 and officer positions with vacancies for 2021, and there are two competitive
353 appointments with 5 applicants for 3 positions on the Development Review Board
354 (DRB) and 3 applicants for 2 positions on the Design Advisory Committee.
355 Carpenter said they had received word from Jason Larocque, a regular DRB
356 member, that he would be willing to drop back to alternate. He said traditionally all
357 names are entered into nomination at this meeting and decisions will be made at
358 the next meeting.

359
360 Laura Asermily said she would like to be an applicant for a committee that isn’t on
361 the list, the Public Health and Safety Committee. Ramsay said the appointment

362 and members on the Public Health and Safety Committee would be discussed at
363 the Board retreat. She said this has been strictly a sub-committee of the
364 Selectboard and they have not taken nominations from the public previously.

365
366 Artim moved to enter into nomination the names of all individuals who have
367 expressed interest in appointment in 2021 to a vacancy on a Town board,
368 commission, committee or local office, and to accept the request of Jason
369 Larocque to move from a principle to alternate on the Development Review Board.
370 Seeley seconded the motion. The motion carried with 7 in favor. **MOTION**
371 **PASSED.**

372
373 Asermily said she reframed the Public Safety Committee into the Public Health
374 and Safety Committee, so she wanted the Board to consider that in their strategic
375 meeting.

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377 **10. Allen Karnatz, Vermont Land Trust, with a request for funding from the**
378 **Town's Land Conservation Fund to leverage grants to fund the**
379 **Dimuzio II farmland conservation project**

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381 Farhad Khan left the meeting at this time.

382
383 Allen Karnatz of Vermont Land Trust (VLT) was present to discuss the permanent
384 conservation of 142 acres of land owned and operated by Hank Dimuzio and
385 Rhonda Roberts as LedgeEnd Farm, located east of Munger Street and south of E.
386 Munger Street, and abutting a 132-acre parcel of LedgeEnd Farm on the west side
387 of Munger Street that the Selectboard helped preserve in 2019.

388
389 Karnatz said they were meeting with Vermont Housing and Conservation Board for
390 the bulk of the funding in early May, but anytime there was town funding added to
391 the mix elevates the cause. He showed a map highlighting the other properties in
392 this area that are already conserved with VLT, and already had support of other
393 groups. He said the request is for \$25,000 from the Town's Conservation Fund.

394
395 Carpenter said he would be abstaining on this decision since it abuts his property.

396
397 Executive Director of Middlebury Area Land Trust Jamie Brookside expressed
398 support and said she wanted to understand how this parcel fits into the
399 conservation landscape of Middlebury and Addison County, and Vermont Land
400 Trust. Karnatz said he thinks whenever they can connect and create a critical
401 mass of farmland as they've done in this part of town, it really accentuates the
402 agricultural use of that property in the future. He said their main restrictions are
403 about subdivision and residential or commercial development, and while they do
404 allow a farm labor house or other dwellings, it couldn't be subdivided off of the
405 property. He said the other thing is the unique ecological features on this property
406 that meld well with the Pomerville property and fits well overall with Town Planning
407 efforts.

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Fuentes-George moved to approve an allocation of \$25,000 from the Middlebury Land Conservation Fund to support the permanent conservation of 142 acres of land owned by Hank Dimuzio and Rhonda Roberts, also known as LedgEnd Farm. Artim seconded the motion. The motion carried with 5 in favor, 1 absent (Khan) and 1 abstention (Carpenter).

11. Director of Public Works Planning Dan Werner with recommendations from the April 8, 2021 Infrastructure Committee Meeting

11.a. Class II Grant Application for Cady Road

Public Works Director of Planning Dan Werner said the first item for approval was a Class II Paving Grant application to VTrans for Cady Road. He said VTrans rotates these grants to districts and we're in District 5 and they try to distribute the money to communities evenly. He said last year we were close to being within the fundable range for funds, and he's not sure how it will work out this year, but certainly we would be eligible for next year.

He said Cady Road paving project would run from Route 7 to Route 116 and is a little over 1.25 miles long. He said the road surface would be reclaimed and 4" of asphalt put down. He said the application is due this coming Thursday.

Seeley moved to approve the submission of a grant application to VTrans for the recycling and paving project on Cady Road. Fuentes-George seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION CARRIED.**

11.b. Engineering Agreement for Washington Street Water Main Project

Werner said this is an engineering agreement for the Washington Street Water Main Project with Otter Creek Engineering. He said we were notified by the Drinking Water State Revolving Fund that we would receive a \$750,000 grant to replace the water line on Washington Street and Court Square and over to Seymour Street. He said part of the process to receive these funds is to have an approved engineering services agreement. He said Otter Creek Engineering has submitted this agreement to the State in their required format and it has been approved, so the next step is for the Board to approve it. He said the amount of this agreement is for \$156,970 and all is grant eligible. He said this project will go to bid late this fall/winter with work beginning in the spring. He said the reason for the delay on this project was to get the State paving of Route 7 out of the way, and the urgency is that the State to get this money out into the communities' hands.

Seeley moved to approve the Engineering Services Agreement with Otter Creek Engineering (OCE) for the Washington Street Water Main Project, at a total cost of \$156,970. Fuentes-George seconded the motion. The motion carried with 5 in favor, 1 absent, 1 abstention (Artim). **MOTION PASSED.**

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11.c. Engineering Agreement – Rail Parking Lot & Maple Street Storm Project (Postponed)

11.d. Engineering Agreement for Main Street Sidewalks

Werner said this agreement with Green Mountain Engineering is for the construction administration services of the project that includes construction review, inspection services, construction administrative services (construction review and public notifications) and record drawings. He said the previous agreement with them only went through the bid process. This agreement is for \$26,750 and the project will begin in early May and they are hoping to have it completed in late June.

Seeley moved to approve Amendment No. 1 to the Engineering Services Agreement with Green Mountain Engineering (OCE) for the Main Street Sidewalks Project, at a total cost of \$26,750. Artim seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

11.e. Engineering Agreement for Colonial Drive

Werner said is for Amendment #2 with Green Mountain Engineering. He said work stopped on this project in part because of COVID and other factors, and since then we've had a chance to see some other problems with Colonial Drive. He said he's requesting an amendment for an additional \$3,000 to address some additional storm drains needed on the backside of Colonial Drive and to solve some existing water main problems for the project. He said another part of this amendment is to update the cost and to help him determine the cost to each department, since this project has a water department, wastewater department and highway department component. He said this project goes around the entire loop of Colonial Drive and includes some water mains, all sanitary and storm sewer and street reconstruction and paving. He said they're hoping on putting this out to bid this fall with construction in 2022.

Fuentes-George moved to approve Amendment No. 2 to the Engineering Services Agreement with Green Mountain Engineering for the Colonial Drive Improvement Project, at a total cost of \$3,000. Seeley seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

11.f. Bid Award for Flood Resiliency Project

Werner said this is to award the bid for the Flood Resiliency Project and the low bidder was Markowski Engineering for \$1,543,463.54. He said Engineer Roy Schiff did background checks on Markowski and we have personal experience with them, and they did a lot of work on the bridge replacement in downtown

500 Brandon. He said there were several bidders and several were quite close, but he
501 is asking the Board to award the bid to Markowski. He said some work can begin
502 before July 1st, which is the first they can begin work in the water, and has to be
503 completed by October 1st. Werner said the estimate for the work had been around
504 \$2 million.

505
506 Seeley moved to award a contract to Markowski Excavating, Inc. for construction
507 of the East Middlebury Flood Resiliency Project, at a total cost of \$1,543,463.54.
508 Fuentes-George seconded the motion. The motion carried with 6 in favor, 1
509 absent. **MOTION PASSED.**

510
511 Seeley said this project was a long-time coming and she's thankful to finally see
512 this project get underway. She also thanked Ramsay and Werner for their great
513 work.

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515 **11.g. Bid Award for Installation of Cady Road Culvert**

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517 Werner said this bid is for the installation of a 48" culvert under Cady Road just
518 east of Lower Foote Street, similar to the one done last year. He said there were
519 several bidders on this project with Champlain Construction the low bidder at
520 \$92,822.05. He said because there is a stream involved, work needs to begin
521 after July 1st, so they'll start soon after and Cady Road will be closed for
522 approximately 3 weeks.

523
524 Artim moved to award a contract to Champlain Construction Company for
525 construction of the Cady Road Culvert Replacement Project, at a total cost of
526 \$92,822.05. Seeley seconded the motion. The motion carried with 6 in favor, 1
527 absent. **MOTION PASSED.**

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529 **11.h. Bid Award for Jack Brown Park**

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531 Werner said Superintendent of Parks and Recreation Dustin Hunt went out for
532 pricing for some fencing for the backstop behind the ball diamond, and the low
533 bidder was Vermont Recreational Surfacing and Fencing out of Barnet, Vermont at
534 a cost of \$9,764. He said the contractor recommended putting in a wire around
535 the bottom of the fencing to minimize the curling up that tends to happen over
536 time, and that was an additional \$422, making the total for the award \$10,186.

537
538 Fuentes-George moved to award a contract to Vermont Recreational Surfacing &
539 Fencing, Inc. for replacement of the backstop at Jack Brown Park at a total cost of
540 \$10,186. Seeley seconded the motion. The motion carried with 6 in favor, 1
541 absent. **MOTION PASSED.**

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544 **11.i. Climbing Wall for Pool**

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546 Werner said this is another request from Hunt for a climbing wall at the swimming
547 pool. He said they researched a climbing wall that was 4 panels high, by 2 panels
548 wide, and the wall has the full support of the Parks and Recreation Committee. He
549 said they feel it will increase attendance at the pool and they hope to have it
550 installed for at least part of this year's season.

551

552 Seeley moved to award a contract to Spectrum Aquatics for the purchase of an
553 AquaClimb climbing wall for installation in the Town pool, under the Sole-Source
554 Exception provision of the Purchasing Policy, at a total cost of \$26,423. Fuentes-
555 George seconded the motion.

556

557 Brown said he assumed this is included in the budget, and Ramsay said it was in
558 the Capital Improvements Budget. Carpenter asked about the sole-source bid for
559 something that cost this much. Dustin Hunt was present, and he said they're the
560 only company that made a wall that fit the pool well and hung over the pool in a
561 way others didn't.

562

563 The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

564

565 **11.j. Replacement of Wastewater Treatment Facility Influent Valve**

566

567 Werner said there are 4 basins at the Wastewater Plant that rotate, taking in
568 wastewater and go through the aeration process. He said we replaced one of
569 these valves last year, and now another one of these valves is leaking a bit
570 allowing for wastewater to seep through, so Superintendent of Wastewater Bob
571 Wells has some pricing from Atlantic Fluid Technology out of Massachusetts to
572 replace it. He said this is a sole-source exception provision and the price is
573 \$5,944, and this does not include installation that will be done by a local
574 contractor.

575

576 Seeley moved to award a contract to Atlantic Fluid Technology for the purchase of
577 a replacement influent valve at the Wastewater Treatment Facility, under the Sole-
578 Source Exception provision of the Purchasing Policy, at a total cost of \$5,944.

579

580 Fuentes-George seconded the motion. The motion carried with 6 in favor, 1
581 absent. **MOTION PASSED.**

581

582 **11.k. Crosswalk at Court Street & Mary Hogan Drive**

583

584 Werner said this had been discussed by the Infrastructure Committee, but wanted
585 the Board to discuss it as well. He said he'd verified that part of the Class I paving
586 project includes that the Cross Street/Court Street light will get a "blackout box",
587 which displays a "no right turn arrow" if someone is southbound on Court Street
588 wants to turn right when there's a pedestrian phase. He said the pedestrian phase
589 will be its own phase, so no other traffic would move for pedestrians crossing
590 Cross Street or Court Street.

591

592 He said the State thought that if the crosswalk remained at Mary Hogan north and
593 a rapid flashing beacon light were installed, they might want it to interface with the
594 Cross Street signal, because it would be too hazardous to have cars pulling out of
595 Cross Street heading north and come to what is essentially an at-will STOP sign,
596 just when traffic is starting to accelerate. He said the existing black arms and
597 flashing lights at Mary Hogan north will be coming down.

598
599 Artim asked if the add-on item for rapid flashing beacons was for the Mary Hogan
600 north crosswalk, and Werner said it is not part of the State contract.

601
602 Adam Franco said he doesn't have a strong opinion on the presence of the
603 crosswalk at Mary Hogan north, but one of the features of Court Street is that
604 there is a very long distance between each crosswalk, so he wanted to note that
605 while mid-block crossing isn't ideal, it is something for people coming from the
606 Recreation Park so they don't have to deviate too far in one direction or the other
607 to get to a crosswalk. He asked if the Cross Street/Court Street light will be a
608 protected pedestrian phase, would it be possible to have a crosswalk on the south
609 side of the light. Werner said there's a driveway there and you can't have a
610 crosswalk going into a driveway, but there might be a place they could place one,
611 but it isn't part of this paving project.

612
613 Laura Asermily asked if Werner was saying the crosswalk at Mary Hogan north
614 couldn't remain, because she thought a rapid flashing beacon was going to be
615 added to take the place of the blinking lights that were coming down. She said
616 with Dunkin Donuts there, it is a place people want to cross the street and she
617 feels it's an important crosswalk. Werner said it was up to the Selectboard, but the
618 State has concerns about a rapid flashing beacon light at that intersection because
619 it's so close to Cross Street. He said it is not a great spot for a crosswalk, and
620 then having cars have to stop at a moment's notice when someone push the
621 button after they've just come through the Cross Street light. Asermily said at the
622 last Bike Walk Council meeting, Andrew L'Roe was able to see the crossings
623 during the meeting and there were people crossing at that crosswalk then, and
624 she's heard from the community that there is a lot of desire to maintain that
625 crosswalk, including the Mary Hogan Principal and staff. She said she feels pretty
626 strongly about this and thought there would be a public hearing on this before
627 deciding to abandon it.

628
629 Carpenter asked about the distance between the crosswalks. Werner said he
630 thought it was around 280 feet. Carpenter said he has a hard time dotting Court
631 Street with another crosswalk with one less than 100 yards away. He said we
632 struggle with traffic flow and we get complaints about it, so if we have an
633 opportunity to have crosswalks where we can stop all traffic and have them be the
634 safest crosswalk we have, then he doesn't think it's prudent to rely on a flashing
635 beacon light on one of our main routes. Asermily said it's a school zone and it's
636 the most important stretch for families from Court Square to Cross Street and Mary
637 Hogan's entrance and she thinks it helps calm traffic in that section. She said

638 Mary Hogan families tell them the most important thing the Town can do is make
639 Route 7 safe to cross, and she knows that's what Carpenter is saying that by
640 diverting people to Court Square and Cross Street, and she understands the
641 argument for keeping traffic flowing because you don't want idling, but you want to
642 provide for safe crossings for families.
643

644 Werner said this is not an official school zone, and Asermily's point about making
645 Route 7 as safe as possible to cross is what the adjustment to the Cross Street
646 light is all about. He said when that crosswalk at Mary Hogan north was put in
647 many years ago, all there was at Cross Street was a STOP sign, and then when
648 the Cross Street Bridge went in and Court Street was widened, the lights went in,
649 so it's far safer to cross at the Cross Street lights than at a rapid flashing beacon
650 or flashing yellow lights.
651

652 Artim said he goes this way on his walks, and he thinks that the current yellow
653 flashing light at the Mary Hogan north crosswalk goes unnoticed and that traffic
654 only stops there if the lights at Cross Street are red, so if someone is trusting that
655 light to cross safely, it's a mistake. He said he thinks what is being proposed will
656 only need to shift people's patterns slightly. He said he wondered if something
657 could be done at the Court Square light to allow for crossings, and he also noted
658 that people going to Dunkin Donuts don't use the crosswalk, they cross further
659 north, and they'll continue to do that no matter what is there. He said he thinks the
660 proposal is the safest all around and thinks that's the direction to go.
661

662 Fuentes-George said she thinks if we take out this crosswalk people are going to
663 cross the street anyway, since it's too far to go to the other crosswalks. She also
664 pointed out the Teen Center is there and said it would be a concern to have 13
665 and 14 year olds trying to cross here at 6:00 in the evening in the winter when it's
666 dark.
667

668 Carpenter said other than the houses across the street or your going for a donut,
669 why wouldn't people go to one of the other crosswalks. Artim said that's the point,
670 if you go to the left then the natural procession is to cross at Cross Street, and if
671 you go right to Court Square there's no more additional steps involved than if they
672 crossed at Mary Hogan north and then went right or left to Cross Street and Court
673 Square. He said the only reason he'd cross there would be to go to Dunkin
674 Donuts, and as he said before, they all seem to cross north of the crosswalk.
675

676 Fuentes-George said that for herself, people utilize this crosswalk because they
677 don't have to wait, because if you have to push a button, you have to wait. She
678 said it isn't that she isn't going to support it, but the school and Teen Center should
679 be alerted if we're going to remove it.
680

681 Resident Fred Dunnington said when the Court Street Signalization Project went
682 in, the flashing lights were installed at this crosswalk at Mary Hogan north, so if in
683 the future it became a major crossing there could be signalization added. He said

684 of course no one wants this crosswalk to obstruct traffic flow, and it's a balance to
685 maintain traffic flow and pedestrian safety. He said if the arms and lights are
686 removed, he urged them to leave the infrastructure in the ground so the light can
687 be replaced should the Recreation Park get greater use and there's more activity
688 there. He said the major traffic flow is from Route 30 and Route 125 to Route 7 on
689 Cross Street and there isn't a lot of traffic turning north, and urged the Board to
690 keep their options open.

691
692 Jen Kravitz, Principal of Mary Hogan School, spoke of the how she felt the
693 crosswalk at Mary Hogan north is very important for the students at Mary Hogan
694 and for the Teen Center. She said she crosses Court Street every single day, so
695 she's not speaking not just as a Principal, but as a pedestrian and biker. She said
696 keeping just the crosswalk at Cross Street would be problematic, because you
697 can't cut through by Zeno House, the options are either to go north or south to get
698 to Mary Hogan, and you have to go through a gas station either way, which isn't
699 safe. She said the beginning and ending of each day at Mary Hogan is very busy
700 and vehicular traffic is often given precedent and she feels keeping this crosswalk
701 would make it safer for students. She also thinks it's important to increase
702 opportunities for kids and families to walk and bike, and removing that crosswalk is
703 just reducing opportunities, and for some people that's the safest place to cross.
704 She said she feels removing the crosswalk because traffic has to stop for
705 pedestrians is favoring cars over pedestrians who are trying to walk and bike to
706 school. She also thinks Fuentes-George's point about the Teen Center is valid,
707 because they're going to cross there whether there's a crosswalk or not.

708
709 Carpenter asked if the infrastructure would be left in place so if the crosswalk was
710 put back in they could reinstall lights, and Werner said it would be.

711
712 **11.I. PD Building Reuse Project: VIA Architectural Service Change Order 2**
713

714 Werner said Ashar Nelson of VIA Architectural Services is requesting some
715 additional funds for time spent managing the Police Department Reuse Project.
716 He said this request for \$3,600 was briefly discussed at the Infrastructure
717 Committee as well, but they wanted a more detailed letter, which is before the
718 Board now. He said there was definitely more time spent with COVID restrictions
719 delaying delivery of items, as well as the unknowns that were discovered while
720 doing the project. Werner said the documentation shows the extra administration
721 time totals \$4,690, but they are requesting \$3,600 and he believes this extra cost
722 is well worth the compensation for their time.

723
724 Seeley moved to approve Change Order No. 2 for the PD Building Reuse Project,
725 as submitted by Vermont Integrated Architecture, for a total cost of \$3,600.
726 Fuentes-George seconded the motion. The motion carried with 6 in favor, 1
727 absent. **MOTION PASSED.**

728

729 Carpenter asked the Board to look at all of these approvals in Item #11 and if they
730 were lumped into one agenda item it would allow them to spend more time talking
731 about one item, such as the crosswalk. He said if there was something someone
732 wanted to discuss, they could single it out, but otherwise it would speed things up
733 to put them all in a consent agenda. He said this would be discussed at their
734 retreat. He said all these individual items are thanks to a lot of work being done by
735 Ramsay, Werner and the Infrastructure Committee, and while they don't want to
736 shortchange it, at the same time the work has been done and they don't need to
737 micromanage it if the staff, Town Manager and the committee has already
738 reviewed it.

739
740 **12. Director of Public Works Planning Dan Werner with request for approval**
741 **of the Annual Financial Plan for Town Highways and Town Road Standards**
742

743 Werner said this is part of the grant application for the Cady Road paving. He said
744 one is the approval of the Town financial plan for Town highways class 1, 2 and 3.
745 He said we have to prove we spend \$300/mile for all the highways, and we're way
746 above that at \$3,008,065 in total maintenance cost.

747
748 He said the other part of the request is the Certification of Compliance with Town
749 Road and Bridge Standards, that is also part of the grant application. He said we
750 have to certify we've adopted these standards, and we have an up-to-date
751 highway network inventory, which identifies several parameters, which we have.

752
753 He said the Board has to approve these two documents and they will need to be
754 signed. Seeley asked if the motion could authorize the Town Manager to sign or
755 did the Board need to sign. Werner said it could be a duly authorized
756 representative.

757
758 Seeley moved to authorize Town Manager Kathleen Ramsay to sign the Annual
759 Financial Plan for Town of Middlebury Highways, certifying total estimated
760 maintenance expense for FY22 of \$3,008,065. Fuentes-George seconded the
761 motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**
762

763 Seeley further moved to authorize Town Manager Kathleen Ramsay to sign the
764 2021 Certification of Compliance for Town Road and Bridge Standards and
765 Network Inventory. Fuentes-George seconded the motion. The motion carried
766 with 6 in favor, 1 absent. **MOTION PASSED.**
767

768 **13. Vermont Gas request for an easement on**
769 **Town-owned land to provide gas service to 65 Main St.**
770

771 Dave Walker of Vermont Gas joined the Board. Walker said the Town granted
772 Vermont Gas an easement a couple of years ago to run services behind the Town
773 Offices and down through the parking lot to Bakery Lane with the intent of
774 servicing the businesses on Bakery Lane. He said in the process, the big focus

775 was getting service to these businesses, and the cross piece behind the library
776 was just a line with a T going down to the parking lot. He said Vermont Gas has
777 been asked to provide service to 65 and 73 Main Street, so they are looking for
778 another easement to extend from the end point of the existing easement to
779 Vermont Gas and exit to the property at 65 and 73 Main Street. He said the new
780 easement he presented to Ramsay has the identical language as the original
781 easement already granted them, other than adding the ability to provide service to
782 those two addresses.

783
784 Carpenter reviewed the map of the location of the proposed line and asked if it
785 would prohibit development of that space, and Walker said it wouldn't. Ramsay
786 said Seeley had pointed out that the Board requested previously that if this line did
787 interfere with any future development, either of the EDI site or the library, then
788 Vermont Gas is required by easement to remove it at their expense, so that's in
789 the current easement and will be mirrored in the new easement. Walker said
790 again that it is the exact same language and commitments that are in the last
791 easement other than the wording describing the two new addresses.

792
793 Artim moved to authorize Town Manager Kathleen Ramsay to work with Town
794 Counsel to initiate the required Section 1061 public notification process regarding
795 the request from Vermont Gas for a permanent easement on Town-owned land to
796 provide service to 65 Main St. and 73 Main St. If no citizens petition objecting to
797 the conveyance is filed with the Town Clerk within 30 days of the publication of the
798 Section 1061 notice, he further moved to authorize Town Manager Kathleen
799 Ramsay to execute the Deed of Easement. Seeley seconded the motion. The
800 motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

801

802 **14. Follow-up Discussion on Dutton Property Site Visit**

803

804 Carpenter said a number of Board members went on the site visit of the Dutton
805 property and asked if there were any thoughts or comments, and did anyone have
806 changes to the guidance given to Ramsay regarding this property.

807

808 Brown said he wondered where we were on getting an assessment of the
809 property. He said the value had been told to them, but he assumed there would be
810 some type of appraisal. Ramsay said she'd reached out to a local appraiser who
811 is currently reviewing the appraisal the seller provided, and will provide an
812 estimate on how much it would cost to do the appraisal and what would the scope
813 of services be, such as would it be just an update of the appraisal we already
814 have. She said the appraiser indicated they're very, very busy right now so it
815 would take 6 to 8 weeks to come back with any finished project. She said she had
816 also secured Jim Carroll to act as the Town's attorney if it moves to a transaction.

817

818 Carpenter said the ones that walked the property felt it would be a good addition,
819 but want to hear from the professionals.

820

821 **15. Correspondence regarding the so-called**
822 **“Bushey Cemetery” on Washington Street Extension**
823

824 Carpenter said this cemetery is on Washington Street Extension just past the
825 sharp corner and it has been suggested the Town take over this cemetery since
826 it’s been somewhat abandoned.

827
828 Ramsay said every now and then we’ll get an inquiry from someone wanting to
829 purchase a burial lot in the cemetery, so we did some work to find out the status.
830 She said the Bushey’s who were the adjacent property owners claim that it doesn’t
831 belong to them, so the Town Counsel has suggested we ask them to execute a
832 Quitclaim Deed because a survey indicates they would be the owners if anyone
833 were. She said that is the proposal if the Board wants to pursue securing this
834 cemetery.

835
836 Carpenter asked if we had any idea how many vacant spaces there were in the
837 cemetery. Ramsay said on a recent visit she had to the property there didn’t
838 appear to be a lot of spaces left.

839
840 Brown inquired about the costs associated with taking the cemetery over and
841 would she support this as the Town Manager. Ramsay said it will probably come
842 to the Town one way or the other. She said if it becomes abandoned and
843 unkempt, then people can petition the Town to take it over, or the Town can take it
844 over now, which allows for an orderly takeover. She said Public Works is
845 agreeable to taking on the responsibility and the Town Clerk is in favor of going
846 forward so we clarify the ownership.

847
848 Fuentes-George moved to authorize Town Manager Kathleen Ramsay to have
849 Counsel prepare a quitclaim deed relinquishing any rights that the Bushey’s may
850 have in the property to the Town. She further moved to authorize reimbursement
851 of the Bushey’s reasonable expenses for legal review of the document. Brown
852 seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION**
853 **PASSED.**

854
855 **16. Approval of Check Warrants**
856

857 Brown said by the authority of the Selectboard granted on April 28, 2020, he had
858 reviewed and approved total expenditures of \$5,495,267.98 consisting of
859 \$5,289,430.58 for accounts payable, and \$205,837.40 for payroll, for the period
860 March 24, 2021 through April 13, 2021, and he moved the Board’s approval of
861 payment of these expenditures. Seeley seconded the motion. The motion carried
862 with 6 in favor, 1 absent. **MOTION PASSED.**

863
864 **17. Town Manager’s Report**
865

866 Ramsay said in addition to the current correspondence in the Board packets, we
867 have received good news from the Northern Border Regional Commission. She
868 said we submitted a letter of interest after the last Selectboard meeting for
869 \$650,000 for the Washington Street/Court Square water main and they deemed
870 our letter of interest as a competitive project and invited us to submit a grant
871 application to them by May 14th.

872

873

18. Board Member Concerns

874

875 Brown said there is a huge discussion within the restaurants about the incredible
876 shortage of workforce right now, and they may speak come in to the Selectboard
877 about this at some point.

878

879 Brown also said when the Selectboard agree to get back together and meet in
880 person, he thought everyone should have their vaccinations before that happens,
881 and he's hoping that will be pretty soon. He said he also feels that there should be
882 a Zoom component involved when the Board does begin to meet in person.

883 Ramsay said the Town has acquired the technology for hybrid meetings and
884 MCTV is working on fine-tuning the installation.

885

886 Fuentes-George said in terms of meeting in person she's open to that as long as
887 everyone is vaccinated, but she has 3 children who can't be vaccinated, so hopes
888 they'll be able to be properly distanced in a responsible way.

889

890 Thomas said how impressed she is by how much work Ramsay does. She also
891 said she doesn't plan on being vaccinated for medical reasons, and she has 2
892 kids, but she still wants to meet in person.

893

894 Seeley said in reading some other committee minutes they use acronyms that she
895 has no clue what they stand for, and she knows they mean something to the
896 person writing the minutes and the committee approving the minutes, but others
897 don't know. She asked Ramsay to put a request out for committees not to use
898 acronyms unless there is somewhere in the minutes that say what they stand for.
899 She said she also wanted to thank Ramsay and Werner again for their great work
900 on the Infrastructure Committee projects and is so happy to see we're finding
901 funding sources.

902

903 Artim said that Zoom has worked for meetings, but meetings are much more in-
904 depth when they can meet in person, so he looks forward to everyone getting the
905 vaccine or whatever is needed so they can meet in person again.

906

907 Artim said to Brown that if the restaurant group comes to the Board with this
908 staffing problem, he wants them to come with their ideas and suggestions of what
909 help they need, because otherwise what can the Board do to help? Brown said
910 they're coming up with suggestions and are willing to pay \$20-\$25 per hour to
911 work in the kitchens, and no one is applying. Artim said he understood that, but

912 what can the Board do to help? Carpenter said he thinks it's the way the current
913 unemployment pay is structured with the size of the payment and the lack of a
914 requirement to show you're looking for a job. He said it's a little different from
915 workforce development; it's like an entire workforce disappeared. Artim said he's
916 heard that as well the last six months.

917
918 Fuentes-George asked if the employers have reached out to their former
919 employees to see why they aren't coming back, and Brown said some got other
920 jobs, and some have left their job to go to other restaurants who are paying more.

921
922 Carpenter said in regards to the Mary Hogan north crosswalk discussion, that
923 instead of hearing individual stories and experiences, it would be nice to have
924 actual data and isn't sure if there is a way to get any on actual utilization. Ramsay
925 said she'd check with Werner, Chief Hanley and Regional Planning to see if they
926 have any, but she suspects gathering the information is rather labor-intensive.

927

19. Adjourn

928

929
930 Carpenter said the Board would meet again on April 22nd at 5:30 p.m. for the
931 Board retreat.

932

933 Brown moved, and Seeley seconded the motion, and adjourned at 9:30 p.m.

934

935 The next regular meeting of the Selectboard will be Tuesday, April 27, 2021 at
936 7:00 p.m.

937

938 Respectfully submitted,

939

Beth Dow

940

941

942