

1 **Regular Selectboard Meeting**  
2 **Monday, May 11, 2021**

3 **Meeting Minutes**

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

6  
7 Members Present: Brian Carpenter, Heather Seeley, Dan Brown, Lindsey Fuentes-  
8 George and Esther Thomas. Nick Artim and Farhad Khan were absent.

9  
10 Staff Present: Town Manager Kathleen Ramsay, Assistant Town Manager Chris  
11 English, Community Liaison Jim Gish, Director of Public Works Planning Dan Werner,  
12 Police Chief Tom Hanley and Fire Chief David Shaw.

13  
14 Also Present: Peter DeGraff and interested citizens.

15  
16 The meeting was streamed live on the MCTVVT YouTube channel.

17  
18 **1. Call to Order**

19  
20 The meeting was called to order at 7:02 p.m. by Chair Brian Carpenter.

21  
22 **2. Approval of Agenda**

23  
24 Seeley moved to approve the agenda, and Fuentes-George seconded the motion.  
25 Carpenter said there were a couple of changes to the agenda: 4.d, a 1st and 3rd Class  
26 Liquor License and Outside Consumption Permit renewal for Vermont Cider Company;  
27 Item 10.a, Zachary Botala, a student in the Natural Resources Management Program at  
28 Hannaford Career Center with a proposal for expansion of shrubland in Wright Park;  
29 and in Item 10 the presenter changed from Dustin Hunt to Kathleen Ramsay.

30  
31 Ramsay said there was another addition of Item 10.b for an Outside Consumption  
32 Permit received today for Boho Robinson, d/b/a Swift House Inn, to expand the area of  
33 their of their existing Outside Consumption Permit.

34  
35 The agenda was approved as amended with 5 in favor, 2 absent. **MOTION PASSED.**

36  
37 **3. Citizen Comments**

38  
39 Laura Asermily asked about the status of preserving the crosswalk at the entrance to  
40 the Recreation Park on Court Street. She said she knew they were saving the electrical  
41 infrastructure in the ground so some kind of signal could be restored at that location in  
42 the future if needed, but she still wants to advocate for that crosswalk to remain in that  
43 location. She said she's glad for the safety improvements being made to Court Street

44 for pedestrians and bikes, but the preservation of this crosswalk is important to her, as  
45 well as the other crosswalks on the street.

46  
47 Asermily also mentioned there are a lot of activities for Bike Month, beginning with the  
48 Bike Swap, and there are a lot more families on bikes, so we want to maintain their  
49 safety. She said the Safe Routes group had received a bike fix-it station from Grand  
50 Fondo and they would like the Town's advice on siting and installing this station. She  
51 said a fix-it station is for repairing tires and other problems with bikes and there is a  
52 pump and lift involved, and felt it would be a good marketing tool to help make  
53 Middlebury a recreational attraction.

54  
55 Judy Wiger-Grohs said she and several others are concerned about the glyphosate  
56 herbicides being used along the fence line at the Middlebury Airport. She said it seems  
57 to be impacting the wetlands in the northwest corner of the airport, and also is  
58 interfering with Beaver Brook that crosses under School House Hill Road and connects  
59 with Middlebury River. She said the State indicates this herbicide is their standard, but  
60 that doesn't agree with what environmental organizations have to say. She said this  
61 impacts the Middlebury aquifer as well, so the Town water should be checked for  
62 herbicidal residues.

63  
64 Wiger-Grohs expressed that she is very distressed about a sign on a neighbor's lawn  
65 against liberals, but she realizes the Town has limited ability to legislate what is posted  
66 on private property. Carpenter said they'd take it under advisement.

67

#### 4. Approval of Consent Agenda

68

69  
70 4.a. Approval of Minutes of the April 8, 2021 Site Visit of the Dutton Property

71

72 4.b. Approval of Minutes of the April 22, 2021 Selectboard Retreat

73

74 4.c. Approval of Minutes of the April 27, 2021 Regular Selectboard Meeting

75

76 4.d. Approval of First and Third Class Liquor Licenses and Outside Consumption Permit  
77 for Vermont Hard Cider Company.

78

79 4.e. Approval of Submission of a Grant Application to the Northern Border Regional  
80 Commission for Funding for the Washington Street/Court Square Waterline  
Improvement Project

81

82 4.f. Approval of a Grant Agreement for a 2021 Arbor Day Planning Grant with Vermont  
83 Urban & Community Forestry Program to provide funding for four shade trees that will  
be planted along the path from the Mary Hogan School parking lot to the Teen Center.

84

85 4.g. Town Manager's Report

86

87 Fuentes-George moved to approve the Consent Agenda as presented, and Seeley  
88 seconded the motion. The motion carried with 5 in favor, 2 absent. **Motion Passed.**

89 Seeley and Thomas both said they approved the consent agenda, but abstained from  
90 approval of Item 4.a, the minutes of the April 8, 2021 site visit of the Dutton Property,  
91 since neither of them had attended.

92

93

94 **5. David Shaw, Fire Chief, with a request for a**  
95 **purchase order for the replacement of turnout gear**

96

96 Chief Shaw said they've had their annual turnout gear inspection and to keep them in  
97 compliance with National Fire Protection Association (NFPA) standards, the Fire  
98 Department needs to purchase six sets of turnout gear and four pairs of boots, at a cost  
99 of \$15,389.38. He said this is a sole-source purchase from Bergeron Protective  
100 Clothing, and they're holding the price line for gear this year. He said they also sent out  
101 seven sets of gear for repairs.

102

103 Carpenter asked who did the inspections of the gear. Shaw said they have 4 on staff  
104 that are trained to do the inspections and they are training 2 additional staff as well.

105

106 Fuentes-George said she understands Bergeron is holding the price line for us, but  
107 asked might it be possible to get a lower price from another vendor. Shaw said they  
108 had compared the prices to other vendors, and they're in-line with Bergeron but they  
109 don't offer the extras that Bergeron does, such as knee-pads to extend the life of the  
110 pants.

111

112 Seeley moved to approve the request from Chief Shaw to purchase turnout gear from  
113 Bergeron Protective Clothing at a total cost of \$15,389.38, under the Sole Source  
114 Purchases provision of the Town Purchasing Policy. Fuentes-George seconded the  
115 motion. The motion carried with 5 in favor, 2 absent. **MOTION PASSED.**

116

117 **6. Local Emergency Management Director/Chief of Police Tom Hanley, Update on**  
118 **Pandemic Response**

119

120 Chief Hanley said in regard to COVID, we've only had 15 cases in Addison County in  
121 the last two weeks, which is the lowest we've had in over a year. He said they'll be  
122 closing out their COVID compliance grant they received from the State. He said at this  
123 point he doesn't anticipate having to do any more compliance inspections, so they'll  
124 close it out and recoup whatever money is coming to us to reimburse the Town for the  
125 overtime pay. He said the Police Department activity room is still not open to the public  
126 and is being used only in emergency situations for staff from other agencies – such as  
127 DCF and social services – to meet with people.

128

129 He also noted that vaccination availability is ubiquitous at this point on a walk-in, drive-in  
130 and registration basis, and if you know anyone who has been hesitant up to now to get  
131 vaccinated, now is the time to find a spot offering them and just do it. In response to a  
132 question from Board member Fuentes-George about the availability of the Pfizer  
133 vaccine for 12- to 15-year-olds, Hanley said they are expecting an announcement

134 Wednesday that vaccine registrations for this age group will open up on Thursday, at  
135 8:15 a.m. He emphasized, however, that this is only for the Pfizer vaccine.

136

137 **7. Police Chief Tom Hanley with Recommendations from the Public Health &**  
138 **Safety Committee on Amendments to the Ordinance for the Regulation of Traffic**  
139 **Lights and Traffic Signs to Establish Franklin Street as a One-Way Street and to**  
140 **the Animal Control Ordinance providing for the Proper Disposal of Dog Waste**

141

142 Hanley said the Public Health and Safety Committee discussed the suggestion made  
143 about an ordinance for people cleaning up after their dogs. He said they reviewed a  
144 sample ordinance from Hinesburg and changed some of the wording to make it more  
145 appropriate to Middlebury and are submitting it now as an amendment to our existing  
146 Dog Control Ordinance. He said it's a very difficult ordinance to enforce, but maybe it  
147 could be promoted with dog licensing and perhaps have a pamphlet to be handed out  
148 with the license. He said it will be a \$25 fine.

149

150 Hanley said the Public Health and Safety Committee has also discussed the proposal to  
151 keep Franklin Street one-way at two meetings and they've heard no one in the public  
152 object to keeping it one-way. He said they think it improves the Academy Street  
153 intersection and it isn't a problem for the fire, ambulance or police going the wrong way  
154 in an emergency.

155

156 Carpenter said the Board needs to support the two amendments and establish a public  
157 hearing date to finalize the process.

158

159 Fuentes-George moved to approve the proposed amendment to the Ordinance for the  
160 Regulation of Traffic Lights and Traffic Signs, as presented. Seeley seconded the  
161 motion. The motion carried with 5 in favor, 2 absent. **MOTION PASSED.**

162

163 Fuentes-George moved to approve the proposed amendment to the Ordinance  
164 Regarding the Control of Dogs and Wolf Hybrids, as presented. Seeley seconded the  
165 motion. The motion carried with 5 in favor, 2 absent. **MOTION PASSED.**

166

167 Fuentes-George moved to warn a public hearing for the Selectboard's meeting on May  
168 25<sup>th</sup> to take community testimony on the approved ordinance amendments prior to final  
169 adoption. Seeley seconded the motion. The motion carried with 5 in favor, 2 absent.  
170 **MOTION PASSED.**

171

172 **8. Peter DeGraff, Creek Road Project Manager,**  
173 **Update on Contacts with Creek Road Landowners & Outline of next Steps**

174

175 Peter DeGraff joined the Board and said in their packet the Board had received a brief  
176 summary of where we've been and where we are currently with Creek Road.

177

178 Carpenter asked Seeley if she'd looked back on her Task Force notes and was in  
179 agreement with the summary. She said she had, but she had thought the Task Force

180 had agreed we wouldn't use the term of building a private drive, but that we would  
181 consider terming it as "impact compensation". She said she still struggles with the idea  
182 of the Town providing a private drive for someone, so would like to see different  
183 language so we didn't set a precedent. She said by providing the property owner with  
184 impact compensation, they could do whatever they liked with that compensation.  
185 DeGraff said he understands what Seeley is saying, but what he took away from the  
186 Task Force and Board was that the Town needs to take an active role in getting the  
187 Perrin's from point A to point B. He said while he agrees with her that the road itself  
188 would be paid for through an impact fee and would be constructed by the Perrin's, but  
189 the Town needs to actively participate in the initial steps, such as negotiating  
190 easements from some of the abutting landowners.

191  
192 DeGraff said he also provided the Board with an abbreviated proposed course of action,  
193 and he and Town Manager Ramsay are looking for affirmation from the Board that it's in  
194 agreement with this course of action and would also like to get approval for the next  
195 steps that need to be taken. He said the initial steps in the course of action have been  
196 taken, which were: to make minor repairs and reopen Creek Road in the current  
197 condition; to negotiate with the Perrins for the impact fee and the South Ridge  
198 Association for the construction of a private drive; to negotiate with other impacted  
199 property owners as to what the impacts are to their property; and in the event of future  
200 damage to Creek Road, set a pre-determined maximum expenditure that will be the  
201 trigger for when the Town moves forward with initialization of negotiations and  
202 reclassification of the roadway. He said they're looking for the Board to say they  
203 approve those recommendations and are comfortable with Ramsay and him moving  
204 forward with the next steps.

205  
206 Carpenter asked how many of the proposed steps were they looking for approval for  
207 tonight. DeGraff said they'd like to complete steps 1-3 (traffic counts, establish Class IV  
208 Road Policy and maximum repair budget), and then come back to the Board with a draft  
209 Letter of Understanding with the Perrins. He said once we have that Letter of  
210 Understanding, it gives us some confidence that we can move forward with other  
211 negotiations and easements. Seeley said she thinks the course of action is consistent  
212 with what the Task Force had agreed to and presented to the Selectboard, so she's  
213 good with it.

214  
215 Carpenter asked Ramsay if the Board should make a motion, or was she alright with a  
216 general consensus, and Ramsay said she thought a consensus was fine at this point.

217  
218 Seeley asked about the establishment of the Class IV Road Policy, since she thought  
219 we already had one. Ramsay said it could involve reviewing the existing policy and  
220 improving it or expanding on it if we need to. She said any draft changes would be sent  
221 to the Infrastructure Committee and Creek Road Task Force for comments.

222  
223 Dean Rheume, a member of the Creek Road Task Force and property owner of land  
224 accessed from Creek Road, said there seemed to have been discussions with the  
225 Perrins, but there haven't been any real meaningful conversations between the Town

226 and the other property owners impacted. He said he's pretty concerned about the next  
227 steps on this list and he knows there's a public process and asked where that comes  
228 into play with reclassifying the road. DeGraff said due to COVID they have stalled  
229 somewhat with the discussions but said they've met with the Perrin's, Nop's, Goodrich's  
230 and the Land Trust, and it may seem like there have been more with the Perrin's, but  
231 there hasn't been.

232  
233 Carpenter asked the Board to see if they were comfortable with this, and they were in  
234 agreement with moving forward with the steps outlined by DeGraff.

235  
236 **9. Update on Consideration of Acquisition of the**  
237 **Former Bourdon Property on Merchants Row**

238  
239 **9.a. Proposal for Appraisal of the Building**

240  
241 Carpenter said Town Manager Kathleen Ramsay has obtained an estimate from Luke  
242 Martin, of Martin Appraisal Services in Montpelier, who has given us a quote of \$2,200  
243 to conduct an appraisal of the Bourdon property, and Martin estimates it would take  
244 about seven weeks to complete. He said before the Board could make any decisions  
245 the about purchasing property, this would be the next step. Seeley asked if there were  
246 other proposals or just this one. Ramsay said there was just this one, and they had  
247 been recommended by our former Town Assessor Bill Benton. Seeley said she thought  
248 the seven-week timeframe seemed like a long time, but if it's a normal timeline for an  
249 appraisal. She asked whether it will work with the State's schedule for a decision.  
250 Carpenter said as long as the State knows the Town is interested they're willing to wait,  
251 and they realize we have to go through this process. He said typically an appraisal  
252 might take three to four weeks, but with the real estate market the way it is now, they're  
253 all really backlogged right now.

254  
255 Seeley asked about funding for the appraisal, since this isn't something we budgeted  
256 for. Ramsay said we could use miscellaneous funds or the Board could choose to use  
257 the Middlebury Business Development Funds (MBDF). Seeley said she thought using  
258 the MBDF funds would be appropriate for this.

259  
260 Fuentes-George moved to authorize Kathleen Ramsay to proceed with developing an  
261 agreement with Martin Appraisal Services for the appraisal of the Bourdon property.  
262 Seeley seconded the motion. The motion carried with 5 in favor, 2 absent. **MOTION**  
263 **PASSED.**

264  
265  
266  
267  
268 **10. Dustin Hunt, Parks & Recreation Superintendent, with a request for a**  
269 **purchase order for playground surfacing for the Tot Lot in Rec Park**

270

271 Ramsay said Dustin Hunt is seeking Board approval to purchase 149 cu. yds. of an  
272 engineered wood fiber product (Safety Fiber) from Durgin and Crowell Logging  
273 Company out of New London, NH, to install as surfacing material at the new Tot Lot in  
274 the Rec Park at a total cost of \$3,278. She said Hunt indicates the quantity requested  
275 will cover the 4,000-sq. ft. of playground to the required depth of 12 inches.

276 Ramsay said Durgin and Crowell was lowest-cost bid among five proposals received for  
277 the project, which also included two alternate bids for poured-in rubber or rubber tiles, in  
278 lieu of wood fiber. She said Hunt is hoping to have the material delivered this Friday for  
279 a grand opening of the much-anticipated new Tot Lot next week.

280

281 Seeley moved to award a contract to Durgin and Crowell Logging Company for the  
282 purchase of 149 cubic yards of Safety Fiber for use as surfacing material at the Tot Lot,  
283 at a total cost of \$3,278. Fuentes-George seconded the motion. The motion carried  
284 with 5 in favor, 2 absent. **MOTION PASSED.**

285

286 **10.a Addition to Agenda: Zachary Botala, Student, Natural Resource**  
287 **Management Program, Hannaford Career Center, with a proposal for Expansion**  
288 **of Shrubland in Wright Park**  
289

290

291 Aaron Townshend, Natural Resources Management Instructor at Hannaford Career  
292 Center, was present to do the presentation for Botala, who was unable to attend. He  
293 said the Natural Resources Program at the Career Center has been working with  
294 Middlebury Area Land Trust (MALT) in a productive relationship on the maintenance  
295 and upkeep and projects at Wright Park. He said it gets the students into the field and  
296 helps MALT implement their plan for Wright Park.

296

297 He said Botala's proposal is to clear-cut approximately 2 acres of overgrown white pine  
298 and buckthorn at Wright Park, consistent with the Audubon Society's goal of expanding  
299 shrubbery habitat for declining species of songbirds, particularly the Golden Warbler.  
300 He said they've also met with the County Forester and the Town's Tree Warden to look  
301 at the site. He went over the areas where the trees would be harvested, in order to  
302 generate more bird-friendly shrubland.

303

304 Fuentes-George asked how Botala chose the parcels to do the cutting. Townshend  
305 said the students have already been removing buckthorn and honeysuckle in the  
306 existing shrubland, so this parcel was selected for logistical reasons and to create and  
307 expand a contiguous habitat area.

308

309 Townshend said in cooperation with County Forester Chris Olsen, Botala is proposing  
310 to use Roundup on the buckthorn stumps, since it is very expensive and exhaustive to  
311 try to eradicate it, and it chokes out native plants. Carpenter said there was a  
312 discussion earlier in the meeting regarding the use of Roundup at the Middlebury  
313 Airport, so it would be interesting to see other points of view on the utilization of it. Dan  
314 Brown said he knows Olsen recommends the use of it on the buckhorn stump to kill it.  
315 He said it isn't used in any great amount or spread around, but if you don't put it on the  
316 stump it will grow back. Seeley said what may be going on at the airport may be

317 spraying and not spot application, so that makes a big difference on the surrounding  
318 area and vegetation. Townshend said his students in the Natural Resource  
319 Management Program had made a presentation recently to the MALT board about the  
320 project and he would be happy to make a copy of the video available to the  
321 Selectboard.

322  
323 Fuentes-George said she was very impressed with the presentation and moved to refer  
324 the Wright Park Shrubland Expansion Proposal to the Conservation Commission for  
325 further review and a recommendation to the Selectboard. Seeley seconded the motion.  
326 The motion carried with 5 in favor, 2 absent. **MOTION PASSED.**

327  
328 **10.b Boho Robinson (Swift House Inn) Outside Consumption Permit Approval**

329  
330 Ramsay said this permit application is for the lawn area immediately east of the main  
331 house driveway, bordered by Stewart Lane on the south and High Street on the east.  
332 The trees on the side of the lawn provide a natural barrier and additional temporary  
333 fencing will be provided on the Stewart Lane side on the south and along the west and  
334 north side of the raised gardens. There will be controlled entry egress points at the two  
335 sets of stone steps.

336  
337 Brown, former owner of Swift House Inn, said they've had a license for this area to do  
338 events before, and he thinks this is a good area and important for the business.  
339 Ramsay said Chief Hanley consulted with them on the development of the proposal.

340  
341 Brown moved to approve the Outside Consumption Permit pending safety inspections.  
342 Seeley seconded the motion. The motion carried with 5 in favor, 2 absent. **MOTION**  
343 **PASSED.**

344  
345 **11. Approval of Check Warrants**

346  
347 Seeley said she'd reviewed the check warrant, and under the authority granted by the  
348 Selectboard on April 28, 2020, she has reviewed and approved, on behalf of the Board,  
349 total expenditures in the amount of \$576,470.29, consisting of \$470,254.04 for accounts  
350 payable, and \$106,216.25 for payroll, for the period April 28, 2021 through May 11,  
351 2021, and moved the Board's approval of payment of these expenditures. Brown  
352 seconded the motion. The motion carried with 5 in favor, 2 absent. **MOTION PASSED.**

353  
354 **12. Board Member Concerns**

355  
356 Thomas said it was great to see Chief Hanley and she was surprised at the cost of the  
357 turnout gear.

358  
359 Fuentes-George pointed out the upcoming Muslim holiday on Wednesday and  
360 reminded everyone to wish their Muslim friends well.

361  
362



**13. Adjournment**

363

364

365 The meeting adjourned at 8:11 p.m. upon motion by Seeley, seconded by Brown.

366

367 The next meeting of the Middlebury Selectboard will be May 25, 2021 at 7:00 p.m.

368

369 Respectfully submitted,

370 Beth Dow

371

372

373

374