

1 Town of Middlebury
2 Creek Road Task Force
3 Town Offices Large Conference Room
4 October 11, 2019
5 Minutes of Meeting
6

7 Members Present: Heather Seeley, Peter DeGraff, Dean George, Dean Rheaume and Luther Tenny
8 Also Present: Lindsay Fuentes-George, Moe Rheaume, Bill Nop, Chris Robbins
9

10 Call to Order
11

12 Heather Seeley called the meeting to order 1:23 p.m.
13

14 Approval of Agenda
15

16 Rheaume moved to approve the agenda and George seconded the motion. Seeley said after the agenda
17 was posted, DeGraff suggested adding "Next Steps", so she would like to add that item to the agenda.
18 The agenda was approved as amended.
19

20 Approval of Minutes
21

22 George moved to approve the minutes from September 26, 2019 meeting, and Tenny seconded the
23 motion.
24

25 Rheaume had the following changes:

26 Line 61 – change "Battell Road" to "Battell and Means Woods"

27 Line 74 – change "trial" to "trail"

28 Line 187 – add "and resolve all legal issues the Town is facing."

29 Line 279 – change ...State "has" ... to ...State "says" ...
30

31 The minutes were approved as amended, with one abstention (George).
32

33 Citizen Comments
34

35 There were no citizen comments.
36

37 Review of Matrix and Continued Review of Information
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39 DeGraff thanked Seeley for preparing the draft matrix to get the process started, and while he'd
40 manipulated it somewhat, he said it was still the same general format. He said Seeley's draft had

41 included “Pros, Cons & Costs” and he had added “Outstanding Questions” and “Steps Forward” sections,
42 which may or may not be included in the final matrix for the public or Selectboard.

43

44 DeGraff went over the other additions and changes he’d made to the draft, and said he had sent a
45 memo out stating what he thought would be helpful to him moving forward to complete the matrix. He
46 said he’s looking for consensus from the Task Force on the matrix format and what are the options we
47 would be reviewing. He said currently there are options A-H, so asked if those were the ones we want
48 to work with or do we want to add others to consider. He said he thinks some will fall off the list, and
49 some may be added, but he wanted everyone to agree on the options. He said they also need to decide
50 how to work on the matrix, and there are still some outstanding legal questions that need to be
51 answered that he can be working on to keep the process moving forward.

52

53 Seeley asked the others what they thought about the format. Tenny said he liked the format and liked
54 the idea of each member taking the format and adding their own pros, cons, questions and steps
55 forward, and then compiling them together. He said he thinks by doing it independently and then
56 combining them would be more efficient, and from there we can see what we have in total, and then we
57 might want to decide how we want to evaluate and prioritize the items.

58

59 They discussed how the Railroad Platform matrix had been laid out and Seeley said it became very
60 obvious what the right option was at the end. Seeley said once the Task Force arrives at what their
61 recommendation is to the Board, then maybe part of that recommendation would be that we have a
62 public process regarding the recommendation. DeGraff said that falls into another outstanding question
63 of whether this should go through a public process.

64

65 George said that one thing he didn’t find in the Pathway’s report was the option for the Town to
66 continue to maintain the road, or a portion of the road, as it has done in the past without significant
67 relocation. He asked if that is still an option in some way, and if not should that be on the table as well.
68 Seeley said there are varying degrees of that option in options A-1 and A-2. George said not if you’re
69 putting \$4.9 million improvements to the road, and Seeley responded that’s where there is a
70 disagreement as to how much it will cost.

71

72 DeGraff said he tried to bring all the costs forward on a present-worth basis. He said you can’t look at
73 repairing the entire length of the road for \$4.9 million and compare it to spending \$200,000 one year
74 and \$300,000 another year, because you aren’t comparing apples to apples. He said he tried to take a
75 projection of what the ultimate cost would be and bring it into a present-worth basis. He said the
76 variable is how much will you get repaired and over what period of time. He said that’s why he asked if
77 everyone was in agreement with his cost analysis, because for this analysis he assumed that any part of
78 the roadway within 25 feet of the river will need work done on it at some time, and he assumed 10
79 years. He said it could be 15 or 20 years, and he can change the analysis but he needs a baseline from
80 the Task Force or the Town. He said option A-2 kind of reflects what George had said, but also Seeley
81 added Alternative H, which was just to install guard rails and open the road back up and maintain the
82 road. George said he was more in line with Alternative B, maintaining the road as it is just to the Perrin

83 residence. George said the Town had annually done whatever repairs needed to be done on Creek Road
84 until 2015 when it was closed, but each year a certain amount of work was done to keep it at a level to
85 keep the road open, and he's just wondering if that option is still on the table. Seeley told George if he
86 had an idea for an alternative, then to add it to the list.

87
88 Rheume said in light of what George has said, the Task Force at the last meeting voted to recommend
89 the Board do the minimal amount of work needed to get the road open now and work on it from there.
90 Seeley said that will go to the Infrastructure Committee on October 17th and to the Selectboard on the
91 29th. DeGraff said his understanding of the discussion was to install guardrails to make the road safe,
92 not to invest money in stabilizing the stream banks, and George is suggesting doing phased stream bank
93 repairs on an "as needed" basis. Rheume said that would be part of the phasing to get the road open
94 and keep working on it from there. DeGraff said that is not his understanding of what was voted on at
95 the last meeting.

96
97 Seeley said over the course of the last 5 years there has been a lot of discussion on what it would cost to
98 do the maintenance as needed each year, so it's difficult to say let's do that because Public Works is
99 concerned about the cost and the availability of money to do it.

100
101 There was discussion on the unanswered questions on the alternatives on the draft matrix, so Seeley
102 suggested getting all their questions to DeGraff, and some of the answers from DeGraff may generate
103 additional questions.

104
105 DeGraff said if there are other alternatives they want to add, then they should be done now, likewise if
106 there are some to remove. Seeley asked the Task Force if they wanted to add or remove anything from
107 the current list. DeGraff gave a brief description of each alternative on the current draft matrix, and the
108 outstanding questions on each were identified. Seeley thought the descriptions on the matrix needed
109 to be a little more specific.

110
111 Rheume asked if we were doing road repairs or relocating one small area within the right-of-way, is it
112 the same type of permitting that's needed if it was out of the right-of-way. DeGraff, said it was his
113 understanding that whether it's your right-of-way not, the Wetland rules would apply, since it's not the
114 ownership they address, but impact.

115
116 The Task Force looked over each alternative and discussed whether to remove it or leave it, and decided
117 to leave all the alternatives identified on the draft matrix to create as broad a spectrum of alternatives
118 as possible. George said the only other alternative is to close the road and throw it up.

119 Seeley asked if everyone liked Tenny's suggestion to individually go through the options and comment
120 on them, and if so they need to submit all their comments to DeGraff who can compile them into a
121 summary. DeGraff said the current format is difficult to work in, so he'll reformat it so it's easier for
122 them to add their comments. He said he'd identify everyone's comments and group them into
123 categories and pros and cons for each option.

124

125 Seeley said George would be going away for an extended period of time, but he will be able to comment
126 via e-mail and participate via speaker phone. DeGraff said he can reformat the matrix and get it to
127 everyone by early next week, and Seeley asked the Task Force to do their comments and have it back to
128 DeGraff by the 23rd of October and the Task Force will meet again the week of November 11th.

129
130 Moe Rheame asked if the public would be able to make comments or suggest alternatives as well.
131 Seeley said she'd like the first round to be just Task Force members, and then identify if we want to have
132 a public process on what we've put together. She said they value public input, but maybe not right now.
133 Tenny asked what if he wants to engage a broader population on their thoughts on this, which may
134 swing some of his own questions, is he prevented from doing so. Seeley said if we want to do it right
135 now, then we should make that decision. George thought the Task Force should put it together first and
136 then landowners could look at it and make their own comments. DeGraff said his concern in soliciting
137 public comment too early, is that there is material in the matrix that will annoy people, options that we
138 readily acknowledge aren't conceivable, so we don't want it construed that this first draft is what we'll
139 recommend. They did agree that at some point they do need to get the landowners' input on the
140 options at some point. DeGraff said there was nothing wrong with the public submitting suggestions to
141 Task Force members. Moe said he was trying to eliminate one step in the process by hearing from
142 interested parties. Seeley said she's trying to balance how to keep it fair and open since not all the
143 landowners know this process is going on, so she's still saying initially the Task Force should be the only
144 ones working on it. She did say that anyone can make a comment at any time to the Town Manager or
145 member of the Task Force.

146
147 DeGraff wondered if there were other outstanding questions he should be looking into while the Task
148 Force does their analysis. Rheame said he would like to hear from Fish & Wildlife on where they'd like
149 to see the road located based on the wildlife area to be open at the south end of the road, and if they
150 want a thru road it might be an opportunity for funding. DeGraff wondered if the Class IV vs. Trail
151 question was critical, because that will need to come from the Town Attorney or Vermont League of
152 Cities and Towns, and Rheame said he'd like it clarified. Further discussion identified some other
153 questions DeGraff will work on getting answered, such as trees along the bank, gates, culverts, and a
154 clarification on the Municipal Road General Permit requirements.

155
156 DeGraff said there are some alternatives that don't have cost estimates, and asked whether the Task
157 Force wanted him to go to the effort to at least establish cost ranges for them, or do they want him to
158 wait. Seeley said she would think he should wait, because she wants more discussion on how to arrive
159 at the cost and what numbers we use. Rheame agreed, because he tried to explain present-worth cost
160 and it's very hard to explain and we don't use that value on most other projects, so he feels it's
161 artificially inflating the costs. DeGraff said the other way of looking at it is it's the realistic cost, and the
162 reason he took that approach was because the Town was struggling with Public Works saying we don't
163 want to continue spending additional money year after year with no plan for the future of the road.
164 Rheame said it's just hard for people to grasp. Seeley said she was uncertain, but she does want a long
165 conversation about cost. She said if a section of road is going to be closed off, she wants to include the
166 legal costs of doing this in the estimate, and all the other costs involved to do this. She said maybe they

167 don't use numbers, but come up with some kind of system that is a range. She asked if they wanted to
168 put costs on these alternatives now or wait and do it until later, and it was determined they'd hold on
169 the costs until the list was more finalized.

170
171 Seeley asked about what steps were needed to happen to make a recommendation, and did they want
172 to add that as an agenda item for the next meeting.

173
174 The public process was discussed, and Seeley felt they shouldn't go to the public until they finalize a
175 recommendation and if they didn't like it, then we'd go back to the drawing board. DeGraff said there
176 are different levels of public process. He said on a water line project you would have public information
177 meetings when you're going for a bond vote, but you don't have public information meetings on
178 whether the line should be installed or not.

179
180 Seeley again reviewed the upcoming schedule; DeGraff would have the updated matrix format to
181 members by October 16th, they were to have their comments back to DeGraff by October 23rd, and the
182 Task Force would meet again the week of November 11th.

183
184 Rheaume asked DeGraff about permitting work on the road and if there was any wiggle room in the
185 permitting process if you're improving a buffer along the river on one side and moving the road to the
186 agricultural land in the wetlands on the other side, with no net loss of wetlands. DeGraff said in his
187 experience dealing with ANR and the Army Corp of Engineers it depends on the region, and one of the
188 things he's found consistent is that the wetlands rules don't allow a lot of room for judgment; it's all
189 pretty black and white. He said they might be a little more lenient in this situation, but there's no way
190 of knowing. Rheaume asked if he could look into it, and DeGraff suggested getting representatives
191 together to answer these questions. Tenny said in general their concept is to get away from the river
192 bank and let the river do its thing and find another way to access the properties. DeGraff said
193 Middlebury just incorporated fluvial erosion zones in their bylaws, and Rheaume said that was a bad
194 move and he was against it.

195
196 The meeting adjourned shortly after 3:00 p.m. upon motion by Tenny, seconded by Rheaume.

197
198 Respectfully submitted,
199 Beth Dow

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