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**Town of Middlebury  
Creek Road Task Force  
Town Offices Large Conference Room  
December 5, 2019**

Members Present: Heather Seeley, Peter DeGraff, Dean Rheaume, Luther Tenny and Dean George (via phone)

Call to Order

Heather Seeley called the meeting to order at 8:10 am.

Approval of the Agenda

Rheaume moved to approve the agenda and Tenny seconded the motion. The agenda was approved as presented with 4 in favor and none opposed.

Approval of the Minutes

Tenny moved to approve the minutes from the November 15, 2019 meeting and George seconded the motion. There were no corrections or changes to the minutes. The minutes were approved with 4 in favor and none opposed.

Citizen Comments – None

Continued Review Alternatives

DeGraff suggested discussing the differences between Alternatives 1.1 and 8.1. DeGraff said in looking at Alternative 8.1 again, and looking at the Charge from the Selectboard, he felt the Board had wanted more of a long-term plan for Creek Road. He said he's fine with going forward with this alternative, as long as there is a clear long-range plan for the future. Seeley agreed with the need for a future plan or in a few years we'll be in the same spot we are now. Tenny said in his Alternative 8.1, the ultimate plan is the Town will eventually be abandoning the road and converting it to a trail or Class IV road and will be assisting the landowners in how they will get appropriate access to their properties. DeGraff asked what part of the road Tenny envisioned being abandoned, and Tenny said from the paved section of the road to Three Mile Bridge Road.

Seeley asked George about his recommendation to declassify Creek Road as a Class IV road. He said he understands it may look like the Task Force is delaying making a final decision on this, but this process has shown him that it isn't a simple solution, and by declassifying it to a Class IV road now would allow us time to work on keeping it open. He said he agrees with Rheaume that if it remains a Class III road the Town has responsibilities to maintain it, whereas if it's a Class IV it allows the Town to keep the road open at a level it can afford to do. Rheaume said he didn't believe the Town would receive any outside funding for a road classified as a Class IV, so he couldn't support it. Seeley said one problem she had with Class IV roads is that they aren't maintained in the winter. She said Town Manager Ramsay said we

39 have a Class IV Road Policy, and it says they aren't maintained, so she wants some more information on  
40 this. She said when you read the VLCT document it is clear that it isn't sufficient if the Town reclassifies  
41 a road simply for cost reasons and will not hold up in a court of law if challenged, so she doesn't think  
42 we can declassify it just because we can't afford to fix it, and warned about being careful if going in that  
43 direction. She said she likes Tenny's recommendation to fix the road enough to make it safe and  
44 passable to get it opened and buys the Town more time to talk to property owners about the fact the  
45 river may eventually win and we may need to make changes, and that may involve the Town purchasing  
46 property or paying compensation to the property owners.

47  
48 DeGraff asked what they were thinking of for the short-term repairs, since he will need to do a cost  
49 analysis. Tenny said if there was a conceptual buy-in from the Selectboard, then you hold a stakeholder  
50 site visit, including property owners and emergency services, to come to an agreement on what is a mid-  
51 term solution that would be more than the guardrails, but less than a full-blown fix, and that would  
52 better define the scope of this Alternative. He said this needs buy-in from emergency services and the  
53 Town on plowing it, and it isn't up to the Task Force to determine what's safe.

54  
55 Seeley said if the Town chooses to declassify the road to Class IV now, then the Town would no longer  
56 maintain it, so she can't support this idea without first talking to the property owners who would be  
57 responsible for the maintenance and to see how they would access their property. Tenny said if you  
58 declassify the road to Class IV up front, then you won't be able to make any kind of repairs to get it open  
59 and would have to negotiate legal ramifications. He said his Alternative acknowledges this will need to  
60 be done at some point in the future, but allows us to get it open to have the time to negotiate with  
61 landowners. Rheaume said with Tenny's plan, if you do it right and you take the time, you may not even  
62 need to declassify the road in the end and we may find it's just easier to move the road over in certain  
63 sections.

64  
65 DeGraff said he still sees it as two separate issues. One issue is what the long-term plan is; and the  
66 second issue is what the short-term plan is. He asked whether the short-term plan is to maintain it the  
67 way it is now until we can implement the long-term plan, or is the short-term plan to get the road open  
68 at the minimum cost we can to meet the Town's obligation to keep the road open.

69  
70 Seeley said she disagreed with Rheaume's statement about maybe not needing to declassify the road at  
71 some point. She said it wouldn't be her first choice, but if another event similar to Irene happens and  
72 washes that road away, then we may need to close it. She said it would be beneficial to talk about the  
73 future with the property owners so we're prepared in the event that did happen. Rheaume said State  
74 Statutes allow towns to move the road over in situations such as that, and this Town has chosen not to  
75 do that in the past on Creek Road. He said the Statute is the plan for what to do with the road in that  
76 situation, but it's the Town's willingness to do it that prevents it from happening. Seeley said she  
77 believes with climate change, there may be some type of event that happens that we may not be able to  
78 recover that road. Tenny said while the road is still accessible there should be negotiations with  
79 landowners and easements obtained in a non-stressful situation, so there's a contingency plan in place  
80 should the road need to be closed after a significant flood.

81  
82 Seeley said she thinks they need to tell the Selectboard that they don't have the answer right now and  
83 more work needs to be done for a long-range plan. She wondered if they should take the time to have  
84 the discussions with the property owners now, or do we make the recommendation and say there's  
85 more work to be done. DeGraff said he didn't think they could go to the Board with a short-term plan  
86 without having a long-term vision and doesn't feel the Task Force is completing the charge if it doesn't  
87 present a long-range plan to the Board. Rheaume said he felt uncomfortable making these plans  
88 without talking to everyone involved. DeGraff agreed and said part of the work left to do is discussions  
89 with the stakeholders. Seeley said the goal at the beginning of the Task Force was to have a decision in  
90 4 to 6 meetings and be done by December, but if the group wants to go in the direction of going on with  
91 discussion with stakeholders for a long-term plan, then she felt she needed to go back to the  
92 Selectboard and let them know that it would take more time.

93  
94 DeGraff said as he understood it, Public Works did not want to continue to put money into that road  
95 without a long-term plan, and his initial charge was to help the Board come up with alternatives for  
96 long-range plans and help decide which one was appropriate. He said he may be confusing what his  
97 charge was with what the charge of the Task Force is.

98  
99 Tenny said there are a lot of problems with that road and it's going to be very expensive long-term to  
100 maintain it, and that road is flooded sometimes twice a year, so the landowners may welcome an  
101 opportunity to negotiate access to their property that doesn't flood. Rheaume said he wouldn't mind  
102 either so long as it was a public road so there was another access to his neighborhood, because that is a  
103 deep concern on his end of town. He said that is another access to his neighborhood for emergency  
104 services and its valuable, so that's why he takes issue with just building private driveways.

105  
106 George said he's in agreement with Tenny, but he worries that at some point we'll get to a decision to  
107 invest a significant amount of money in that road and it isn't going to be supported, which Alternate 8.1  
108 addresses, ~~that~~ and will then need to discuss with the property owners the possibility of closure in the  
109 future. He felt that leaving it a Class III road while we figure it out makes sense if declassifying it to a  
110 Class IV now would eliminate any possibility for outside funding to help with repairs.

111  
112 There was continued discussion on Alternative 8.1 and whether it was ready to go to the Infrastructure  
113 Committee and Selectboard. Tenny said he feels it will take \$250,000 to \$500,000 to get the road in a  
114 condition that it can be open to two-way traffic for Alternative 8.1, and this could be a long-term  
115 solution depending on when there is enough damage to the road that it's beyond the Town's ability or  
116 willingness of the taxpayers to continue to keep it open. He said as long as that contingency plan is in  
117 place, closing the road is not such a crisis. DeGraff said the investment should outlast the bond, so  
118 wonders if the road can be sustain for the life of a 20-year bond. He said based on the Pathways report  
119 and what he's seen in the last few years, he's guessing over the next 20 years another \$400,000 to  
120 \$500,000 will need to be invested in that road, and if the Town chooses not to spend that additional  
121 money, then the original investment is wasted. Seeley said a \$1 million dollar investment over a 20-year  
122 period is minor, and Tenny disagreed. He said for that road and the shape it's in compared to the other

123 investments that need to be made in this town, that's a ton of money. DeGraff said if there is a  
124 possibility you might need to close that road in the future, you're throwing that money away.

125  
126 Rheaume said if they take the part of Alternative 8.1 out that says the road will eventually be thrown up,  
127 he'd be okay with it, but there has to be an alternative access for stakeholders. Tenny said he isn't  
128 suggesting the Town throw up ownership, but keep it as a trail and recreation area. Seeley said that  
129 gets us back to the discussion that if we're going to invest large sums of money in a recreation area, why  
130 wouldn't we invest that same money in the road now so everyone can use it. DeGraff said that's fine as  
131 long as the Selectboard goes into this knowing it will probably cost about \$4 million. Rheaume said why  
132 is this any different than North Branch Road and why wouldn't we treat all roads the same.

133  
134 There was continued discussion on Alternative 8.1 and what the long-range "emergency action plan"  
135 might look like, as well as pros and cons and questions that still need to be answered, and what might  
136 happen to that road in a catastrophic event.

137  
138 Seeley asked how the members of the Task Force wanted to proceed. She said they have agreed on  
139 Alternative 8.1, but there was still disagreement on what the future long-range plan might look,  
140 especially in respect to the potential to declassify the road.

141  
142 George suggested submitting the recommendation the Task Force agrees on to the Selectboard, but let  
143 them know there is still additional work to be done, and let them decide who they would like to have  
144 proceed with the long-range planning. DeGraff agreed, but said it would be difficult to have discussions  
145 with property owners without a clear goal of what the outcome is going to be, so thinks the Task Force  
146 needs to provide the Selectboard with some goals.

147  
148 The Task Force then discussed Charlie Kireker and what he might or might not be willing to negotiate for  
149 future private accesses or a possible public road across his property, and whether there should be  
150 discussions with the property owners prior to going to the Board with a recommendation.

151  
152 The Task Force then began discussion on how to further refine the agreed upon Alternative 8.1, and  
153 what the outstanding questions were. Rheaume wanted the language softened regarding the potential  
154 abandonment of the road in the future should there be catastrophic damage. George felt a statement  
155 regarding the potential for the road to eventually be closed needed to be in there in order to negotiate  
156 with landowners.

157  
158 DeGraff asked what types of modest modifications to the road were they talking about, and were they  
159 talking about one-way traffic in some areas, or two-way the entire length of the road. Tenny said there  
160 really needed to be a site visit of stakeholders to discuss and determine what is necessary from a safety  
161 point of view. Rheaume said Chief Hanley had already stated that the road was safe for two-way traffic,  
162 with one-way sections, because of the sight distance. Tenny said he was trying to continue on the  
163 theme of a collaborative approach.

164 Seeley said with a little more polishing of the language, they might be at the point where they can take  
165 this recommendation to the Infrastructure Committee and Selectboard. Tenny agreed, and said he'd  
166 work on the language of 8.1 and send it to the others for review, and DeGraff said others should put  
167 down what they feel are the outstanding questions. It was decided that following one more meeting of  
168 the Task Force to finalize the Alternative and outstanding questions, they would have it ready to present  
169 to the Infrastructure Committee at its January 9, 2020 meeting and to the Selectboard on January 14,  
170 2020.

171

172 DeGraff informed the Task Force that he has a new State Wetlands Map and there are some areas on  
173 Creek Road that will cause some permitting hurdles, and he isn't sure if they're insurmountable or not,  
174 but wanted them to know about the regulatory hurdles the Town may be facing.

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176 The meeting adjourned upon motion by Tenny, seconded by Rheaume at 9:55 a.m.

177

178 The next meeting of the Creek Road Task Force will be Friday, January 3, 2020 at 8:00 a.m.

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180 Respectfully submitted,

181 Beth Dow