

**Special Selectboard Meeting
Monday, November 7, 2022
Agenda Notes**

[View Full Meeting Packet](#)

7:00	1. Call to Order	Presenter: Brian Carpenter	
	2. Approval of Agenda	Presenter: Brian Carpenter	Action: Decision

	3. Informational Meeting on Ballot Article 1: Vermont Gas Service to 3 Mill Street	Presenter: Brian Carpenter	Action: Discussion
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At its meeting on June 28, 2022, the Selectboard approved a request from Vermont Gas Systems (VGS) for an [easement on a parcel of Town-owned property](#) that will allow the company to install natural gas service to 3 Mill Street. The approval triggers a required 30-day public notification and comment period, [under 24 VSA § 1061](#), regarding the conveyance of Town-owned land. The Board authorized Town Manager Kathleen Ramsay to work with town counsel to initiate the notification process and, if no objection is raised within the 30-day period, as prescribed by Section 1061, to sign the [Deed of Easement](#).

On August 3, 2022, Town Clerk, Ann Webster reported that resident, Ross Conrad submitted a citizens' petition in response to the Board's June 28th decision to grant an easement deed to Vermont Gas for the installation of natural gas service at 3 Mill Street. The petition seeks to put the matter before Middlebury voters on the [General Election ballot in November](#). The [petition](#) included 291 verified signatures (5% of 5,819 registered voters) required by Statute in order for it to be placed on the ballot.

On September 1st, the Selectboard received an [email from Dave Walker](#), Gas Control and Right of Way Supervisor for Vermont Gas, notifying the Town that the contractor was able to install gas service to 3 Mill Street without entering the Town's right of way and, therefore, the request for an easement is no longer needed. Regarding the citizens' petition that had already been filed, calling for a Special Town Meeting in November to discuss whether the Town should grant VT Gas an easement to install gas service at 3 Mill Street, Town Manager Kathleen Ramsay informed the Board that [Town Counsel advised proceeding with the meeting and vote](#), even though the matter is moot at this point. Counsel explained that there is no explicit language in statute authorizing the Board to rescind the meeting notice or cancel the town vote, despite the changing circumstances.

	4. Approval of Consent Agenda	Presenter: Brian Carpenter	Action: Decision
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4.a. Approval of Minutes of the October 25, 2022 Regular Selectboard Meeting
[04a – Consent Agenda – October 25, 2022 Selectboard Meeting Minutes \(Draft\)](#)

4.b. Acceptance of Selectboard Subcommittee Meeting Minutes – October 19, 2022, Middlebury Energy Committee Meeting & October 27, 2022, Infrastructure Committee Meeting

4.c. Agenda Placeholder

4.d. Agenda Placeholder

4.e. Town Manager’s Report

- **Turning Point of Addison County request for allocation of National Opioid Settlement**
[Turning Point of Addison County \(TPCAC\) has submitted a request](#) for \$3,500 of the first payment from the National Opioid Settlement to continue providing services for individuals and families struggling with substance use disorders.

- **Pre-Award notice for ARPA funds for Combined Sewer Overflow Abatement Project(s)**
 In an [email from Renee Miller, Program Technician with Vermont Agency of Natural Resources, Department of Environmental Conservation](#), she congratulates the Town of Middlebury on being selected to receive ARPA funding for the Combined Sewer Overflow (CSO) Projects in an amount of up to \$664,000.

- **E-mail from Leon Smith regarding Posting of Property and Trails of Washington Street Extension**
 In an [email from Leon Smith](#), Mr. Smith asked the Town to clarify the allowed uses of the legal trail off Washington Street Extension, a [discontinued Town Highway](#) formerly known as Means Wood Road, and requirements and authorization for building and maintaining trails on Town property, and further suggested that the Town convene all stakeholders to solicit input and coordinate efforts, policies and messaging about legal trails and recreational trails.

- **Ilsey 100 Project Team Community Engagement Meetings**
 The Ilsey 100 Project Team plans to [host four community engagement meetings](#) to discuss the vision for the expansion/renovation project and hear feedback in the month of November.

- **Current Correspondence**
[04e - TM Report - Current Correspondence – Received – October 21 – November 3](#)

5. Citizen Comments [Opportunity to raise or address issues that are not otherwise included on this agenda]	Presenter: Brian Carpenter	Action: Discussion
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Suggested preamble, if the Board anticipates a high level of participation:

Next on the agenda is Citizen Comments. This is an opportunity for community members to briefly comment upon, or share their concerns about, items that are not on tonight’s warned agenda.

Because comments under this part of the agenda are about issues that are not before the Board for discussion this evening, we are not in a position to discuss them in depth or try to resolve them now. We will, however, enter your comments into the public record for this meeting and, if appropriate, refer your concerns to the Town Manager for further action.

Please keep your comments to less than two minutes. We will provide you with a 15-second warning as the time limit approaches.

7:15	6. Public Hearing on Charter Amendment for Appointment of a Town Treasurer by the Selectboard	Presenter: Brian Carpenter	Action: Discussion
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Item Summary and Primary Documents:

1. In preparation for a March 6, 2023, Town Meeting vote for a [proposal to amend the Town’s Charter](#) to provide for the appointment, rather than the election of the Town Treasurer, tonight is an opportunity for the Selectboard to take public testimony.
2. **Suggested opening remarks:**
 - In accordance with governing statutes [17 VSA 2641](#) and [17 VSA 2645](#), the Board is conducting a public hearing to take questions and comments from the Middlebury community regarding a proposed change to the Town’s Charter for the appointment, rather than the election of Town Treasurer.
 - If you have a question or comment, please raise your hand if you are in the room and, when recognized, come up to the table in front. If you are on Zoom, please use the Raise Hand button at the bottom of your Zoom window to be recognized. In either case, please state your full name for the public record before you make your comment.
 - With that, I will open the public hearing.
3. **Suggested closing remarks:**
 - If there are no further comments regarding the charter amendment for Town Treasurer, I’m going to call the public hearing closed. [The next public hearing is scheduled for Tuesday, November 29, 2022.](#)

Additional Background:

[06 – Charter Change Timeline Draft 2](#)

7:30	7. Agenda Placeholder	Presenter:	Action:
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7:35	8. Dan Werner and Emmalee Cherington, Directors of Public Works Planning with updates from the October 27, 2022 Infrastructure Committee Meeting	Presenter: Dan Werner Emmalee Cherington	Action: Discussion
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[08 – October 27, 2022 Infrastructure Committee Meeting Minutes \(Draft\)](#)

	8.a. FY24 Capital Budget approved with changes by the Committee	Presenter: Dan Werner Emmalee Cherington	Action: Discussion
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Item Summary and Primary Documents:

The minutes from the October 27, 2022 Infrastructure Committee Meeting state:

“Following further discussion, the following changes were made to the budget: Court Street & Monroe Street Intersection Improvements reduced \$10,000 to \$50,000 Downtown Transportation Grant was

eliminated for a reduction of \$40,000 Salt Storage Building was eliminated for a reduction of \$15,000 Memorial Sports Center Roof was reduced \$10,000 to \$15,000 This was a total reduction of \$75,000, bringing the total Capital Improvements Budget to 178 \$1,653,455.”

Additional Background:

[08a – FY24 Capital Budget v3](#)

[08a – FY24 Capital Budget v3 Chart](#)

[08a – FY24 Capital Budget v3 – Summary of Changes by Infrastructure Committee](#)

	9. Dan Werner and Emmalee Cherington, Directors of Public Works Planning with requests for:		
	9.a. Approval of Application for Drinking Water State Revolving Fund (DWSRF) funding for Water Storage Facility Improvements	Presenter: Dan Werner Emmalee Cherington	Action: Decision

Item Summary and Primary Documents:

1. The Drinking Water State Revolving Fund (DWSRF) program is set up to offer financing assistance to municipalities for capital improvements. The [State of Vermont provides an overview of this program](#) with the different loan options.
2. The Town of Middlebury intends to apply for DWSRF funds to assist in the construction of a water storage tank at an estimated cost of \$3,000,000.

Additional Background:

[EPA’s Eligibility Handbook](#)

[09a – Table of DWSRF loan terms 09-2019](#)

Recommendation/Potential Motion:

“I move to authorize the submission of an application for the DWSRF program funding for construction of a water storage tank at a preliminary-estimated cost of \$3,000,000.”

	9.b. Approval of Declaration of Intent to Bond for Water Storage Facility Improvements	Presenter: Dan Werner Emmalee Cherington	Action: Decision
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Item Summary and Primary Documents:

1. In preparation for presenting an Article to the voters regarding bonding for construction of a water tank for public drinking water system, the Board is required to approve a [Declaration of Official Intent](#) setting out terms and conditions for borrowing and reimbursement of funds in compliance with both Treasury Regulations and IRS Rules. It should be noted that approving the Declaration does not bind the Selectboard to a specific course of action, even if the voters ultimately approve the warned article at Town Meeting.

Recommendation/Potential Motion:

“I move to authorize Town Clerk, Ann Webster to sign the Declaration of Official Intent of the Town of Middlebury in relation to potential bonding for the construction of a water tank for public drinking water system.”

7:55	10. Fire Chief David Shaw request for purchase of replacement of Chipman Hill Repeater from sole source provider, Radio North Group under the Sole Source Provisions Policy, as recommended by the Infrastructure Committee	Presenter: David Shaw	Action: Decision
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Item Summary and Primary Documents:

1. [Chief David Shaw provided a memo](#) requesting the purchase of replacing the Chipman Hill Repeater. Chief Shaw explains that this repeater is 25-years old, with a life cycle of 20-years.
2. Money has been set aside for years in the Capital Budget for this expense so Chief Shaw explains he would like to move forward with the purchase before something happens to the repeater.
3. The Infrastructure Committee has approved the recommendation by Chief Shaw for sole source provider, Radio North Group to do this replacement in the amount of \$19,993.00.

Recommendation/Potential Motion:

“I move to award a contract to sole source provider Radio North under the Sole Source Provisions Policy for the replacement of the Chipman Hill Repeater at a total cost of \$19,993.00.”

8:00	11. Police Chief Tom Hanley, Chair of the Public Health & Safety Committee, with updates from the Committee’s October 24, 2022 Meeting, including the Committee’s recommendation to change the noise ordinance timeframe	Presenter: Tom Hanley	Action: Decision
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Item Summary and Primary Documents:

1. In an [email from Chief Tom Hanley](#), he says that the Public Health and Safety Committee recommended at their October 24, 2022 meeting that the weekend noise ordinance be changed from the current 1:00 a.m. to 11:00 p.m. Tom provided the [draft of the amended ordinance](#) for review.

Additional Background:

[11 – PHS 10-24-22 Meeting Minutes DRAFT](#)

Recommendation/Potential Motion:

“I move to amend the noise ordinance from 1:00 a.m. on weekends to 11:00 p.m. as recommended by the Public Health and Safety Committee.”

8:10	12. Addison County Community Trust (ACCT) Executive Director Elise Shanbacker with a request for an agreement between the National Bank of Middlebury, ACCT and the Town of Middlebury regarding the administration of Vermont Community Development Program (VCDP) Grant funding for the Lindale Mobile Home Park Septic System Improvement Project to facilitate financing for the project	Presenter: Elise Shanbacker	Action: Decision
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In recognition of the vital role mobile home parks play in the provision of affordable housing, the Selectboard supported the Addison County Community Trust’s successful grant application and agreed to serve as the pass-through agency for Vermont Community Development Program funding for the Lindale Mobile Home Park Septic System Improvement Project.

To facilitate and minimize the cost of financing for the [\\$3.3M project](#), Christopher Lapierre, Vice President, Northern Market Manager, of the National Bank of Middlebury, drafted a [payment agreement](#) wherein the Town of Middlebury will remit reimbursements from the \$450,000 Community Development Block Grant (CDBG) from the Vermont Community Development Program (VCDP) for the project to the National Bank of Middlebury, rather than to the Addison County Community Trust.

Recommendation/Potential Motion:

“I move to authorize Town Manager, Kathleen Ramsay to sign the payment agreement for the administration of VCDP Grant funding for the Lindale Mobile Home Park Septic System improvement Project as a duly authorized agent of the Town.”

	13. Approval of Check Warrants	Presenter: Heather Seeley	Action: Decision
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Motion:

“I move to approve total expenditures in the amount of _____, consisting of _____ for accounts payable, and _____ for payroll, for the period October 26, 2022 through November 7, 2022.”

	14. Board Member Concerns	Presenter: Selectboard	Action: Discussion
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	15. Executive Session – Not Anticipated	Presenter: Brian Carpenter	Action: Discussion / Decision
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In accordance with Vermont’s Open Meeting Law, the following two motions are in order prior to entering into Executive Session:

1. In accordance with Vermont’s Open Meeting Law requirements, I move that the Board find that premature general knowledge of the consideration of consideration of _____ (pending litigation, contracts, personnel and/or a real estate matter) would clearly place the Selectboard at a substantial disadvantage, because the Select Board risks disclosing its litigation strategy if it discusses the _____ (pending litigation, contracts, personnel and/or a real estate matter) in public.
2. I further move that the Board enter into Executive Session to discuss _____ (pending litigation, contracts, personnel and/or a real estate matter), under the provisions of Title 1, Section 313(a)(1) of the Vermont Statutes.

	16. Action on Matters Discussed in Executive Session	Presenter: Brian Carpenter	Action: Decision
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8:30	17. Adjourn	Presenter: Brian Carpenter	Action: Decision
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Recent Town Committee & Other Meeting Information (received October 21 – November 3):
[November 3, 2022 Planning Commission Meeting Agenda](#)