

**Selectboard Meeting
Tuesday, October 9, 2018
AGENDA NOTES**

SELECTBOARD SITE VISIT TO CREEK ROAD

5:00

Creek Road Site Visit – Recreation Center – 154 Creek Road. The purpose of the site visit is to review the condition of the road and the extent of erosion of the banks of Otter Creek running along Creek Road as a follow-up to a 2017 study of options for sustainable solutions for reopening the road. A summary of the background of the issue and the 2017 study are available on the Town’s website, www.townofmiddlebury.org, under [Latest Events](#) on the home page.

A 28-passenger ACTR bus will depart the Rec Facility shortly after 5:00 p.m. to transport Board members and interested members of the public on the tour of Creek Road. Should it be necessary, a limited number of standing passengers can be accommodated on the bus and several private vehicles will also be available to provide supplemental capacity.

Dinner for Board members – comprising a variety of meat and vegetarian sandwiches, bean salad, chips and cookies – will be available in the Rotary Meeting Room at the Town Offices upon your return from the site visit.

REGULAR BUSINESS MEETING AGENDA

7:00

1. **Call to Order

2. *Approval of Agenda

[Addition to agenda: Item 15.a. – Approval of Check Warrants](#)

3. *Approval of Minutes of September 11, 2018 Selectboard Meeting

4. **Citizen Comments [Opportunity to raise or address issues that are not otherwise included on this agenda]

7:05

5. *Matthew Corrente, The Arcadian, 7 Bakery Lane – Request for Approval of First Class Liquor License and Outside Consumption Permit

Requested action: *Approve a request for a first-time 1st Class Liquor License and Outdoor Consumption Permit for Corrente LLC, (dba the Arcadian Restaurant).*

Matthew Corrente, owner of The Arcadian at 7 Bakery Lane (former site of The Lobby restaurant), will present his request for a [1st Class Liquor License and Outdoor Consumption Permit](#). In alignment with Middlebury's Noise Ordinance, the proposed hours of outdoor liquor consumption are from 4:00 – 10:00 p.m. (normal dinner hours), Tuesday through Saturday, and 8:00 a.m. – 2:00 p.m for Sunday brunch. We anticipate having Chief Hanley's completed safety inspection in hand prior to Tuesday's meeting. If not, the Board may wish to provide provisional approval, pending the satisfactory completion of the safety inspection.

In your packet: 1st Class Liquor License Application and Outdoor Consumption Permit for The Arcadian

Recommendation: If the Board is amenable, a motion would be in order to approve the request from Corrente LLC for a First Class Liquor License and Outdoor Consumption Permit for The Arcadian restaurant at 7 Bakery Lane [pending satisfactory completion of the public safety inspection].

7:10

6 * Holmes Jacobs – Request for the Town of Middlebury to join with the Towns of Cornwall and Bridport to advocate for safety improvements to Route 125 in the vicinity of Cider Mill Road

Requested action: Sign a joint letter to Transportation Secretary Flynn, prepared by Regional Planning for the Selectboards of Middlebury, Cornwall and Bridport and Middlebury College, regarding safety concerns about the Rt. 125 corridor between Middlebury and Cider Mill Road.

In response to a September 19th email from Two Brother's Tavern owner Holmes Jacobs about the need for safety improvements on Rt. 125, Town Manager Kathleen Ramsay contacted Adam Lougee of Addison County Regional Planning to request guidance on how to bring visibility to the issue at the State level. [Adam replied](#) that the recent fatal accident on Rt. 125 had been the subject of discussion at the September 19th Transportation Advisory Committee meeting and that the Committee had asked him to draft a joint letter to Agency of Transportation Secretary Joe Flynn for review and discussion by Middlebury College and the Selectboards of Middlebury, Cornwall and Bridport. Adam is working on a draft of the letter and we expect to have it available for the Board's inspection before Tuesday's meeting.

Holmes is planning to attend Tuesday's meeting to share his safety concerns and suggestions for improvement.

In your packet: 1) September 20, 2018 email exchange with Adam Lougee

Recommendation: If the Board is amenable, a motion would be in order to endorse and sign the joint letter to AOT Secretary Joe Flynn regarding the need for safety improvements to Rt. 125.

7:15

7. *Request for Change Order to Contract with Northeast Archaeology Center (NE ARC) for One Additional Day of Fieldwork on Middlebury River Flood Resiliency Project

Requested action: *Approve a change order, totaling \$1,599, to the contract with NE ARC for the Phase I Archaeological Survey for the Middlebury River Flood Resiliency Project.*

At its July 31st meeting, the Board awarded a \$5,182-contract to NE ARC to conduct a mandated Phase I survey of Archaeologically Sensitive Areas within the boundaries of the Flood Resiliency Project. On September 28th, Project Manager Amy Sheldon reported to Kathleen that the scope of the archaeological study would need to be expanded slightly to include a portion of a temporary access road that had not originally been part of the defined project area. Consequently, Gemma Hudgell, principal investigator with NE ARC, has prepared a [revised cost proposal and work plan](#) reflecting one additional day of field work that will be required to survey this area. The total cost of the additional work is \$1,599.

In your packet: Archaeological Phase I Survey – Revised Cost Proposal and Work Plan

Recommendation: If the Board is amenable, a motion would be in order to approve the change order for the Phase I Archaeological Survey for the Middlebury River Flood Resiliency Project for a total cost of \$1,599.

7:20

8. *Judy Olinick – Request for Naming the Park in Printers Alley “Lazarus Park”

Requested action: *Endorse a citizens’ petition requesting that the park to be constructed at the end of the Bridge & Rail Project on the site of the former Lazarus Department Store property be named “Lazarus Park.”*

Judy will present a [petition signed by 45 residents](#), and a second list of individuals who responded informally via email, in support of a request to name the park to be built on the former Lazarus Department Store site upon completion of the Bridge & Rail Project “Lazarus Park,” as a “lasting memorial to the contributions of Stan Lazarus and other members of the Lazarus family to our town and State of Vermont.”

In your packet: 1) September 20, 2018 email from Olinick; 2) Lazarus Park petition and cover letter

Recommendation: Anticipating that some form of public engagement process will be needed at a later date to fully consider naming options for the park, at this time a motion would be in order to accept the citizens’ petition in support of naming the park to be constructed at the end of the Bridge & Rail Project on the site of the former Lazarus Department Store property “Lazarus Park.”

7:25

9. *Rewa Worthington, Director of Asset Management, Housing Vermont – Request for Consent to Withdrawal of General Partner (Smith Housing Limited Partnership)

Requested action: *Authorize Town Manager Kathleen Ramsay to sign a Consent to Withdrawal of General Partner from the Smith Housing Limited Partnership*

In [October 4 correspondence to the Selectboard](#), Rewa Worthington advises of HOPE's (Helping Overcome Poverty's Effects) interest in withdrawing from the housing partnerships in which it is involved in order to focus on other areas of need. As a consequence, Housing Vermont is requesting the Board's consent to allow HOPE, aka Bristol Affordable Housing, Inc., to exit the Smith Housing Limited Partnership. As the mortgage deed-holder for the Smith Housing LP - which includes 17 affordable housing units at 32 Seminary Street, and 76, 78 and 88 South Pleasant Street – the Selectboard's authorization is required to allow a partner organization to withdraw from the LP.

Rewa will be in attendance to present the [Consent to Withdrawal of General Partner](#) and answer any questions the Board may have.

In your packet: 1) October 4, 2018 letter from Worthington; 2) Consent to Withdrawal of General Partner (Smit Housing Limited Partnership)

Recommendation: If the Board is amenable, a motion would be in order to Authorize Town Manager Kathleen Ramsay to sign the Consent to Withdrawal of General Partner, allowing Bristol Affordable Housing, Inc. to withdraw from the Smith Housing Limited Partnership.

7:30

10. *Review of Creek Road Site Visit & Discussion of Next Steps.

Following the Board's September 11th discussion on this matter, Kathleen contacted Town attorney Benj Putnam for guidance regarding how discontinuing a Town road could impact the rights of property owners whose land may lie beneath the road. [Benj's analysis](#) is included in your packet, for reference.

With this information in hand and the site visit complete, this agenda item is an opportunity for Board members to discuss potential next steps, including what additional information it may wish to request from Kathleen regarding the Creek Road Study, various alternatives for reopening or discontinuing the road, and the costs associated with each. A more extended discussion can then be scheduled for the Board's October 23rd meeting, with the goal of agreeing upon a course of action and determining what public engagement process may be required to carry it out at that time.

In your packet: Email exchange with Counsel on Creek Road Options

7:50

11. *Routine Purchases

11.a *Award Contract for Winter Sand

Requested action: *Accept Public Works Operations Director Bill Kernan's recommendation to award a contract to J.P. Carrara & Sons to provide winter sand to the Town for the 2018-19 season at a quoted price of \$9.75 per ton.*

In his [award recommendation memo](#), Bill Kernan reports that, of five vendors solicited for bids for the Town's winter sand contract, J. P. Carrara was the only firm to respond. The opportunity was also advertised in local media but received no responses. Bill notes that a testing sample taken from Carrara's stockpile by Vermont Testing & Consulting met the Town's specifications. Carrara's current price quote is \$9.75 per ton (compared to its 2017-18 quote of \$9.25 per ton).

In your packet: Kernan winter sand contract award recommendation memo

Recommendation: If the Board is amenable, a motion would be in order to award a contract to J.P. Carrara & Sons to provide winter sand to the Town for the 2018-19 season at a quoted price of \$9.75 per ton.

11.b *Approve Maintenance Agreement for Wastewater Pumping Station Emergency Generators

Requested action: *Approve a one-year preventive maintenance agreement with Powers Guaranteed Generators for annual maintenance of five wastewater pump station emergency generators, for a total cost of \$3,595.*

Citing performance issues with the Town's current preventive maintenance service provider, Wastewater Superintendent Bob Wells is requesting the Board's approval to award a one-year, \$3,595 generator maintenance contract to Swanzey, NH-based Powers Guaranteed Generators under the Sole Source Purchases exception to the Purchasing Policy. [In an October 1st memo to Kathleen Ramsay](#), Bob explains his rationale for the request, which would include annual maintenance for five wastewater pump station emergency generators.

In your packet: Request for Maintenance Agreement for Wastewater Emergency Generators

Recommendation: If the Board is amenable, a motion would be in order to approve a one-year preventive maintenance agreement with Powers Guaranteed Generators for annual maintenance of five wastewater pump station emergency generators under the Sole Source Purchases exception to the Purchasing Policy, for a total cost of \$3,595.

7:55

12. *Approve Purchase Order for Asphalt Hot Box

Requested action: *Accept the Infrastructure Committee's recommendation to award a contract to HP Fairfield of Morrisville, VT, for the purchase of an asphalt hot box for a total cost of \$24,480.*

Funds for the asphalt hot box were included in the FY19 budget approved by the voters at Town Meeting and on September 13th the Infrastructure Committee endorsed Bill Kernan's recommendation to make award to HP Fairfield. In his [award recommendation memo](#) to Kathleen, Bill reports that he received quotes from the only two companies that sell asphalt boxes in Vermont – HP Fairfield and Viking Cives. Public Works staff tested both machines and, finding them equally acceptable, Bill proposed making the award to low-bidder HP Fairfield, for a total cost of \$24,480.

In your packet: 1) Kernan asphalt hot box purchase recommendation; 2) Asphalt Hot Box presentation from 2018 Town Meeting

Recommendation: If the Board is amenable, a motion would be in order to award a contract to HP Fairfield for the purchase of an asphalt hot box, for a total cost of \$24,480.

8:00

13. *Ross Conrad, Chair, Energy Committee – Request for Approval of Revised Middlebury Renewable Energy Policy Proposal

Requested action: *Adopt the Energy Committee's revised Renewable Energy Policy draft*

Energy Committee Chair Ross Conrad will review the revised draft of the Committee's [Renewable Energy Policy](#), prepared with guidance from Board member Victor Nuovo. Among the revisions incorporated into the proposal, the policy raises the cost-gap threshold that would trigger a recommendation to purchase a renewable energy-sourced alternative from 10% to 15%.

In your packet: Revised Renewable Energy Policy proposal

Recommendation: If the Board is amenable, a motion would be in order to adopt the Energy Committee's revised Renewable Energy Policy.

8:05

14. **Report on Town/College Lunch of September 17, 2018

Board Chair Brian Carpetner will report on the [September 17th Town/College Lunch](#), which included updates on the Bridge and Rail Project, the work of the Economic Health Committee, planning for the development of a Downtown Master Plan, siting options for a

new passenger rail platform and possible uses for the Cross Street Bridge/Local Option Tax Surplus.

In your packet: September 17, 2018 Town/College Lunch Highlights

8:10

15. **FY19 Year-to-Date Budget Report

Kathleen Ramsay will report on August 31st FY19 budget results for the [General Fund](#) and [Equipment-Water-Sewer Funds](#).

In your packet: 1) FY19 August YTD Budget Report – General Fund; 2) FY19 August YTD Budget Report – Equipment, Water & Sewer Funds

15.a. Approval of Check Warrants

A motion would be in order to approve total expenditures in the amount of _____, consisting of _____ for accounts payable, and _____ for payroll, for the period September 26, 2018 through October 9, 2018.

8:15

16. **Town Manager's Report

16.a. Update on Forest Ridge Drive. The Board's August 28th letter to VTrans Rail and Aviation Program Director Dan Delabruerre seeking \$1,200 in funding to plant 40 Sumac and evergreen trees on the embankment on Forest Ridge Drive was well received. The trees have been ordered and should be planted before the end of October.

17. **Board Member Concerns

8:25

18. *Executive Session – Anticipated – Contracts

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 [contracts](#) would clearly place the Selectboard at a substantial disadvantage, because the Select Board risks disclosing its litigation strategy if it discusses the [contracts](#) in public.

2. I further move that the Board enter into Executive Session to discuss [contracts](#) and, under the provisions of Title 1, Section 313(a)(1) of the Vermont Statutes.

19. ** Action on Matters Discussed in Executive Session

20. *Adjourn