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Selectboard Meeting
Large Conference Room – Town Offices
Tuesday, November 13, 2018
Meeting Minutes

DRAFT

Subject to approval by the Selectboard

Members Present: Nick Artim, Laura Asermily, Victor Nuovo, Heather Seeley, Lindsey Fuentes-George and Farhad Khan. Brian Carpenter was absent.

Staff Present: Town Manager Kathleen Ramsay and Community Liaison Jim Gish

Others Present: Amey Ryan of Neighbors Together, Karen Duguay of Better Middlebury Partnership and Mark Hamblin of VHB.

The meeting was televised on MCTV by Jim Corbett.

1. Call to Order

Nick Artim called the meeting to order at 7:00 pm.

2. Approval of Agenda

Nuovo moved to approve the agenda, seconded by Khan. The motion carried with 6 in favor, 1 absent, and the agenda was approved as presented. **MOTION PASSED.**

3. Approval of Minutes of October 23, 2018 Regular Business Meeting Minutes

Khan made the motion to approve the minutes, and Nuovo seconded the motion. The minutes were approved as presented with 6 in favor, 1 absent. **MOTION PASSED.**

4. Citizen Comments

There were no citizen comments.

5. Middlebury College Request for Limited Waiver of Right of First Refusal – Frog Hollow Mill (Old Stone Mill), 3 Mill Street

Artim said this was a request to approve a Limited Waiver of Right of First Refusal regarding Middlebury College's proposed sale of the Frog Hollow Mill property at 3 Mill Street. He explained that the Town acquired the 3 Mill Street building from Central Vermont Public Service in 1967, and when the Town sold the property in 1976 it reserved a right of first refusal (ROFR). Under the terms of the ROFR, before the property can be sold to a third party it must first be offered to the Town at the same price and terms as the third-party sale, or if they choose to proceed with the purchase, a Town Meeting needs to be held within 60 days for voter approval. He said at this time Middlebury College is proposing to sell the property to Community Barn Ventures, LLC for \$500,000.

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Nuovo moved to authorize Town Manager Kathleen Ramsay to sign the Limited Waiver of Right of First Refusal in regard to the proposed sale of the Frog Hollow Mill at 3 Mill Street to Community Barn Ventures, LLC. Seeley seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

6. Amey Ryan, Neighbors Together, and Karen Duguay, Better Middlebury Partnership, with an update on the VTrans Downtown Bridge & Rail Project Marketing Program and Midd Money Rewards Programs

Ryan said they're requesting to reallocate the remaining funds from the Midd Money Rewards Program since this program turned out to be more confusing than anticipated and there were logistics problems, and they would like to have the latitude to launch an alternative rewards program to infuse money into the community during Very Merry Middlebury.

Duguay gave a brief explanation of how the original program worked, and that \$20,000 had been allocated for the program. She said they had created a complete business data base which was needed, and expanded the Middlebury Money program to all Middlebury merchants, not just downtown. She said some of the feedback they received was a lack of communication at the point of sale, more promotion was needed, it was confusing and that the \$10 reward was not enough for spending \$100.

She said they're proposing ending the current Midd Money Reward Program on November 30th and redeeming all outstanding cards, and allocating a portion of the remaining program funds to offer giveaways and \$10 in Midd Money to the first 50 people who produce receipts showing that they have spent at least \$50 during the Midd Night Stroll events on December 6th and 13th.

She believes there is \$18,000 remaining of the \$20,000 allotment, so she proposes \$10,000 be allocated for giveaways throughout the evening during the Midnight Stroll. Ryan added that it reinforces the idea that this money can be spent anywhere in Middlebury, not just downtown stores.

Duguay said she would also like approval to move \$8,000 of the remaining allotment to the advertising budget. She said she would like to add \$4,000 to the upcoming advertising campaigns to support local businesses and \$4,000 towards the promoting Middlebury campaign. This would be a combined advertising budget of \$24,000 for the two campaigns.

There was further discussion and questions from the Board on the details of the Rewards Program.

Khan moved to end the Midd Money Reward Program and redeem all outstanding cards by November 30th, seconded by Seeley. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

96 Khan moved to approve the reallocation of remaining Midd Money Reward Program funds, as
97 proposed in the Alternative Local Shopping Rewards Program in December, seconded by
98 Seeley. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

100
101 **7. Jim Gish, Community Liaison, Downtown Bridge & Rail Project, to discuss next**
102 **steps and timeline for review of Revised Concepts for**
103 **Triangle Park & New Park off Printers Alley**

104
105 Jim Gish and Mark Hamblin of VHB joined the Board. Gish said Hamblin is the Director of
106 Land Planning and Landscape Architecture at VHB and he'll be completing the design
107 concepts created earlier this year by Landworks for Printer's Alley and Triangle Park, and
108 would be presenting revised plans based on the feedback at the earlier public meeting.

109
110 Gish reminded the Board that the State is required under the National Environmental
111 Protection Act to restore the green spaces impacted by the project to their pre-construction
112 condition. He said restoring the lower portion of Triangle Park would be straightforward, but
113 the section over the tunnel is new and would need to be designed, as would be the space in
114 Printer's Alley. He said the State said they'd restore the area as a "canvas" and the Town
115 could embellish it as it saw fit. Gish said the first round of designs by Landworks were
116 presented in September, and weren't well received by the 30 people in attendance at the
117 public meeting. He said the State is anxious to complete the final plans so they could
118 schedule the work required to relocate the multiple underground utilities in Triangle Park.

119
120 Hamblin said he was very pleased to be able to work on these plans, and had done research
121 on past plans and spoke to the people that had been at the public meeting. He said one
122 concern had been there wasn't enough "plaza" in the conceptual plans for small or large
123 gatherings. He said there were also concerns regarding connectivity to the Riverfront Park,
124 Marble Works and the Green, retaining the fountain and the integration of a Memorial Garden
125 at St Stephens. He went over the two plans with the Board and pointed out the advantages
126 of both and how they work with the connections to Printers Alley and Marble Works.

127
128 Artim suggested taking some time to think about these two plans and have a more in-depth
129 discussion at the next meeting on November 27th, and in that time have the Planning
130 Commission and Design Advisory Committee review them and comment as well. He said he
131 realizes this is asking VTrans to wait two weeks for a decision, but didn't think that was
132 unreasonable.

133
134 Seeley asked what the State was paying for and what the Town was paying for. Gish said he
135 felt the State would cover most, if not all, of the work shown in these two plans. He said he
136 could probably have an answer by the meeting on November 27th. Hamblin said the costs
137 could be controlled by what types of material are used, but the design would stay the same.
138 Seeley said having the information of what the State is paying for in one design vs. another,
139 would be helpful when making a decision.

140
141 Khan asked the significance of the fountain, since he had heard it was a replica of the historic
142 one. He also asked about the 3rd public meeting that was to be held, since the public wants

143 the opportunity for input. Artim said the meeting on the 27th could be the 3rd public meeting
144 and an opportunity for the public to comment, since there is a need to make a decision.

145
146 Nuovo said he feels the State and Federal grant for this project should cover the costs for
147 these parks, and Gish said he doesn't speak on behalf of the State, but he believes they will
148 cover the costs. Nuovo said the expenses the Town would be covering need to be known
149 before a decision is made.

150
151 Gish addressed Khan's comment on the fountain, and said Hamblin would be meeting with
152 Judith Erlich, Vtrans Historic Officer, and her initial ruling was the fountain does constitute an
153 historic resource, even though it's a replica, and would remain in place.

154
155 Artim wanted Director of Public Works Operations Bill Kernan to review these for any
156 maintenance concerns. Asermily asked about ADA compliance in Printer's Alley, and
157 Hamblin said because of the grade that would be difficult and costly.

158
159 Chris Hammond said he understood the time limitations and that the plan looked better than
160 expected. He mentioned a design challenge by a group called "Come Alive Outside" that is a
161 student led program that learn about the environment, and when looking forward to the
162 Master Plan it's a useful resource when looking at all green spaces. He felt a 3rd public
163 meeting in some form was important, since this is a big decision.

164
165 David Hohenschau, an urban designer and public consultation specialist, thinks designing
166 something that could be embellished further in the future is a good idea. He said whatever
167 the final design looks like he doesn't want it to impact future flexibility of the space, and he'd
168 like to see a more direct outreach to organizations regarding possible uses for this area.
169 Artim said there is a time deadline now and a Master Plan for the downtown will be
170 developed in the future. Hamblin said he designed the space with a simplicity to allow for
171 flexibility that can be used as need be.

172
173 Asermily moved to refer the revised landscape design concepts for Triangle Park and
174 Printer's Alley to the Planning Commission and Design Advisory Committee for review and
175 comment. Khan seconded the motion. The motion carried with 6 in favor, 1 absent.

176 **MOTION PASSED.**

177
178 Asermily moved to request that Town Manager Kathleen Ramsay contact VTrans on the
179 Board's behalf to request an extension of the Board's approval deadline for the Triangle Park
180 and Printer's Alley landscape design concepts to December 11th. Nuovo seconded the
181 motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

182
183 **9. Consider Withdrawal from Non-Binding Term Sheet between**
184 **Town of Middlebury and Middlebury Electric, LLC, for**
185 **Development of a Hydroelectric Project at Middlebury Upper Falls**
186 (Item taken out of order)

187
188 Artim said up for consideration is the Town's intention to withdraw from the February 13,
189 2015 nonbinding Term Sheet with Middlebury Electric, LLC, for the development of a
190 hydroelectric power project at Middlebury Upper Falls. Artim said this has been a long-term

191 effort to build a hydro project on the river, and every Board member he knows of in the past
192 has been in favor of this, but progress has been elusive. He said a nonbinding term sheet
193 was signed in February of 2015 with Middlebury Electric, with the intent to make it a binding
194 agreement for Middlebury Electric to work on design and implementation of a hydro facility.
195 He said Middlebury Electric was to supply progress reports, but to date the information has
196 been negligible, and it has been suggested that the Town explore different options, which
197 would mean terminating the Term Sheet with Middlebury Electric to allow for other
198 possibilities that emerge. He said this doesn't mean we wouldn't be involved if Middlebury
199 Electric advances their plan, but leaving options open would be in the best interest for
200 Middlebury.

201
202 Middlebury Project Manager David Hallam said there had been a couple of hydro electric
203 developers who had approached Middlebury Electric about developing the site, but no
204 agreement has been reached at this point. He thought it would be in the Town's best interest
205 to make these entities aware of the fact there is a piece of property on the other side of the
206 river, the old David Page Cotton Mill, that is a possible alternative. He thought it was best to
207 withdraw from this agreement to allow discussion of this possibility with these other entities.

208
209 Hallam said he had notified Middlebury Electric that this was what we'd be doing and shortly
210 afterwards he contacted the other two entities about the site on the other side of the river,
211 and they showed some interest. Hallam said he did notice that in the Middlebury Electric
212 agreement, they would be the owner and would run the project, so that might be a concern if
213 some other developer did the project, then Middlebury Electric might not be the owner. He
214 said he did let Middlebury Electric the Town would be happy to work with them if something
215 changed in the future.

216
217 Khan made the motion to sign the letter confirming the Town's intention to withdraw from the
218 February 13, 2015 nonbinding Term Sheet with Middlebury Electric, LLC, for the
219 development of a hydroelectric power project at Middlebury Upper Falls. Seeley seconded
220 the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

221
222 **8. Update on Infrastructure Committee Meeting of**
223 **November 8, 2018, including the following recommendations**

224
225 **8.a. Asbestos Abatement Contractor for former Wastewater Treatment Plant**

226
227 Seeley said the Infrastructure Committee reviewed three proposals for asbestos removal at
228 the former Wastewater Treatment Plant, and their recommendation is to award the bid to
229 Catamount Environmental, Inc for \$23,750.

230
231 Seeley moved to award a contract to Wilmington, VT-based Catamount Environmental Inc.
232 for asbestos abatement at the old Wastewater Treatment Plant, for a total cost of \$23,750.
233 Asermily seconded the motion. The motion carried with 6 in favor, 1 opposed. **MOTION**
234 **PASSED.**

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239 **8.b. Electrical Contractor for Electrical Conversion for**
240 **former Wastewater Treatment Plant**
241

242 Seeley said in addition to the asbestos removal at the old Wastewater Plant, there is some
243 electrical work that needs to be done prior to the removal of the asbestos. Two electricians
244 submitted bids, and the Infrastructure Committee accepted Director of Public Works Planning
245 Dan Werner's recommendation to award the bid to Newton Electric for \$7,387, with the funds
246 coming from the Wastewater Treatment Facility settlement funds.
247

248 Seeley moved to award a contract for \$7,387 to Newton Electrical for converting electric
249 service at the old Wastewater Treatment Plant Control Building, using Wastewater Treatment
250 Plant settlement funds for the expense. Asermily seconded the motion. The motion carried
251 with 6 in favor, 1 absent. **MOTION PASSED.**
252

253 **8.c. Project Manager for Police Department Energy Conservation Measures**
254

255 Seeley said the Infrastructure Committee also looked at hiring a project manager for some
256 police department energy conservation measures. She said this person would do the
257 planning, construction documents and putting it out to bid, and since Judith Harris of Harris
258 and Harris has done work for the Town and is familiar with the Police Department, the
259 Committee agreed with the recommendation to hire her to oversee the project. Ramsay said
260 the funding for this is under energy improvements in the Capital Budget.
261

262 Seeley made the motion to award a project management contract to Harris & Harris
263 Consulting for implementing energy conservation measures at the Middlebury Police Station,
264 for a total cost of \$4,875. Khan seconded the motion. The motion carried with 6 in favor, 1
265 absent. **MOTION PASSED.**
266

267 **10. Consider Request from EDF Renewables (formerly groSolar) for Letters of Support**
268 **for Development of a 5 MW Solar Project off Halladay Road in Middlebury**
269

270 Artim said in October 23rd correspondence to Town Manager Ramsay, Lincoln Lande of EDF
271 Renewables, sought an expression of ongoing support from the Town, in the form of letters
272 from the Selectboard to Green Mountain Power and the VT Department of Public Service, for
273 the proposed 5 MW solar development project off Halladay Road, and he reminded the Board
274 they had signed a Memorandum of Understanding for the project with EDF Renewables at its
275 May 8th meeting.
276

277 Artim said Lincoln cited increasing scrutiny among State regulators regarding the
278 development of large-scale community solar projects such as the one contemplated for
279 Halladay Road, and the importance of local commitment to these projects, as the impetus for
280 his request. He said Ramsay has drafted letters of support for the Board's consideration, to
281 be sent to representatives from the VT Department of Public Service and Green Mountain
282 Power.
283

284 Khan made the motion to sign letters of support to the Vermont Department of Public Service
285 and Green Mountain Power for the EDF Renewables solar project off Halladay Road.

286 Asermily seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION**
287 **PASSED.**

288
289 **11. Approval of Submission of Grant Application for Update of the**
290 **Local Hazard Mitigation Plan (LHMP)**
291

292 Artim said this request is for the Board to authorize Town Manager Kathleen Ramsay to sign
293 a 25% Match Certification Letter committing the Town to providing a local match to FEMA
294 funds made available for updating Middlebury's Local Hazard Mitigation Plan (LHMP). He
295 said Stephanie Smith, of Vermont Emergency Management, reached out to Ramsay in
296 September to determine the Town's interest in participating in a Statewide grant application
297 to FEMA to obtain funding for individual municipalities to hire consultants to update their
298 LHMPs. He said while Middlebury's plan won't expire until 2021, this requires significant lead
299 time, hence the request for a local match commitment in 2018, and since the cost to update
300 an LHMP typically ranges from \$6,000 to \$14,000, and with FEMA covering 75%, the Town's
301 match would likely run from \$1,500 to \$3,500.

302
303 Seeley made the motion to authorize Town Manager Kathleen Ramsay to sign the 25%
304 Match Certification Letter committing the Town to providing a local match – estimated to be
305 between \$1,500 and \$3,500 – to FEMA grant funds that may be made available for updating
306 Middlebury's Local Hazard Mitigation Plan. Nuovo seconded the motion. The motion carried
307 with 6 in favor. **MOTION PASSED.**

308
309 **12. Placement of Signs on Public Property**
310

311 Asermily wanted to take this opportunity to remind everyone of the Town's policy on signs on
312 public property. She said this was brought to her attention when people came to her because
313 their political signs in the public right-of-way were removed. She said this policy also applies
314 for event signs as well, but you can obtain a permit from the Planning and Zoning Office
315 provided they meet the criteria. She said the Signs on Public Property Policy is available on
316 the Town's website.

317
318 Artim said that Town Counsel has recommended replacing the current policy with an
319 ordinance, so if the Board is agreeable it could be referred to the Town's Policy Review
320 Committee. He said the Committee is currently working on the Employee Handbook as
321 asked for by the Board, so they could work on this ordinance following the completion of the
322 handbook.

323
324 **13. FY19 Year-to-Date Budget Reports as of**
325 **September 30, 2018 and October 31, 2018.**
326

327 Ramsay reported that while it is still early in the fiscal year, there aren't any concerns at this
328 time.

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333 **14. Approval of Grant Agreement with the Vermont Department of Public Safety for**
334 **Reimbursement of Expenses Associated with July 1, 2017 Flooding Event**
335

336 Artim said this request is to authorize Town Manager Ramsay to sign a Standard
337 Subrecipient Agreement with the Department of Public Safety to close out a FEMA grant that
338 funded repairs to Town roads damaged by the July 2017 storms, and authorizing the Town's
339 local match commitment of \$18,072.50. He said DPW Operations Director Bill Kernan said
340 final FEMA closeout of the flooding event that took place in July of 2017 is \$54,217.48 for
341 repair cost incurred by the town on the following roads: Blake Roy, Three Mile Bridge, North
342 Branch, Middle (South) and East Munger. He said this also covers costs estimated by FEMA
343 at \$41,699.63 for losses incurred along Creek Road that will need to be repaired at some
344 point in the future. He said signing these documents will close out all active FEMA grant
345 events for the Town of Middlebury. Artim said the total cost of all repairs (including the
346 estimate for anticipated repairs to Creek Road) is \$72,289.98, of which FEMA has covered
347 \$54,217.48 (75%) and the State, \$18,072.50 (7.5%), leaving a 7.5% local match of
348 \$18,072.50 for the Town to fund.
349

350 Seeley made the motion to authorize Town Manager Kathleen Ramsay to sign the
351 Subrecipient Agreement (and related documents) with the Department of Public Safety to
352 close out the FEMA grant for repairs to Town roads damaged by the July 2017 storms, and
353 authorizing the Town's local match commitment of \$18,072.50. Nuovo seconded the motion.
354 The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**
355

356 **15. Approval of Check Warrants**
357

358 Fuentes-George made the motion to approve total expenditures in the amount of
359 \$929,655.28, consisting of \$736,437.50 for accounts payable, and \$193,217.78 for payroll,
360 for the period October 23, 2018 through November 13, 2018. Asermily seconded the motion.
361 The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**
362

363 **16. Town Manager's Report**
364

365 **16.a. Update on Selectboard Project Priorities.**
366

367 Ramsay said there are quarterly reports on the status of key projects in the Board packet,
368 and overall things are on track.
369

370 Asermily asked about the Hydraulic Study. Seeley said the Dufresne Group gave a
371 presentation to the Infrastructure Committee at their last meeting; the Committee had some
372 questions they wanted addressed, so they will be back to the next meeting with answers to
373 those questions and then the Committee will make their list of priority projects based on the
374 report.
375

376 Seeley said she was surprised that our water storage capacity isn't adequate and it is
377 recommended that an additional storage tank be one of the top three priorities.
378

379 Ramsay said the Executive Summary and charts are in the Infrastructure Committee packet
380 on the Town's website, and the full report is available in her office.

381 Seeley said they would be back to the Infrastructure Meeting on December 13th.
382
383

384 **16.b. November 27, 2018 Public Hearing on the Naming of the**
385 **Park to be Constructed Adjacent to Printer’s Alley**
386

387 Ramsay reminded the Board that there would be a public hearing at 7:15 p.m. on November
388 27th to take community input on a petitioned suggestion to name the park to be built off
389 Printer’s Alley, “Lazarus Park.”
390

391 Asermily said she keeps thinking about the BMP’s suggestion that there be something in the
392 name that says what the function of the park is, so it might be “Lazarus Information Park”.
393 Nuovo said the suggestion is to honor a person who contributed a great deal to this
394 community, so he doesn’t think if you’re honoring someone you have to have a function
395 identified with it.
396

397 **17. Board Member Concerns**
398

399 Fuentes-George said how nice it was to vote in the Town Offices, and thank you to the Town
400 Clerk’s Office and all the volunteers.
401

402 Khan asked Ramsay about organizing a tour of all the Town facilities, since he hasn’t seen
403 them and Fuentes-George is new to the Board.
404

405 Asermily spoke about the Black Walnut trees next to the Marquis Theater and the library that
406 will be coming down as part of the installation of the gas line, and while they’re very old and
407 need to come down, they have provided shade to the library. She said it reminded her of the
408 value of having trees in the downtown and suggested that replacing these trees would be
409 something Vermont Gas could do to help the Town. She said she isn’t sure what happens to
410 the wood and is the Town getting any value for that wood.
411

412 Asermily also spoke about attending the movie “Fallen” about all the police officers in the
413 Nation that have been killed in the line of duty, and how fortunate Middlebury is to have such
414 excellent officers. She said every May 15th they have a Peace Officers Memorial Day.
415

416 Artim also mentioned voting and thinks it’s a great social event and thanked Town Clerk Ann
417 Webster for all the work.
418

419 **18. Executive Session –Contracts**
420

421 Asermily said that in accordance with Vermont’s Open Meeting Law requirements, she
422 moved that the Board find that premature general knowledge of the consideration of contracts
423 would clearly place the Selectboard at a substantial disadvantage, because the Select Board
424 risks disclosing its litigation strategy if it discusses the contracts in public. Seeley seconded
425 the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**
426

427 Asermily further moved that the Board enter into Executive Session to discuss contracts and,
428 under the provisions of Title 1, Section 313(a)(1) of the Vermont Statutes. Seeley seconded
429 the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

430

431 The Board entered Executive Session at 8:40 p.m.

432

433 **19. Action on Matters Discussed in Executive Session**

434

435 The Board exited Executive Session at 8:47 p.m. upon motion by Seeley, seconded by Khan,
436 with no further action.

437

438 **20. Adjourn**

439

440 The meeting adjourned at 8:47 p.m. upon motion by Khan, seconded by Fuentes-George.

441

442 The next meeting of the Selectboard will be Tuesday, November 27, 2018 at 7:00 p.m. in the
443 Town Offices at 77 Main Street.

444

445 Respectfully submitted,

446 Beth Dow