

Excerpt from E-mail from Bill Kernan, October 3, 2019

From: Bill Kernan

Sent: Thursday, October 03, 2019 10:32 AM

To: Kathleen Ramsay <KRamsay@TownOfMiddlebury.org>; 'Thomas Hanley' <THanley@middleburypolice.org>; David Shaw <DShaw@TownOfMiddlebury.org>; Dan Werner <DWerner@TownOfMiddlebury.org>; Chris English <CEnglish@TownOfMiddlebury.org>

Subject: RE: Creek Road Task Force

Kathleen,

My plan was not meant as a permanent solution to reopen the road it was only intended to protect those still using the open portion under limited traffic conditions. Opening the road will encourage more traffic and put more at risk of accident either with the river itself, other vehicles or the guardrails. The river will also continue to scour additional areas along the road and at some point the temporary guardrails will no longer be a practical solution.

It seems like the task force is getting off track from the charge given to it by the Selectboard.

History

- The Town closed the road based on safety concerns
- The Selectboard reviewed the issue and in conjunction with the ACRPC commissioned a study that was performed by Pathways
- The Infrastructure committee reviewed the Pathways report and recommended that the Selectboard reopen the road as soon as possible using the methods described in the report as funding was available
- The Selectboard moved to have the Infrastructure Committee investigate the costs to reopen the road by making a small repair while exploring phasing options and grant funding opportunities
- Amy Sheldon was retained to assist with pursuing grants for repairs to the road and it was discovered that none were available
- The Selectboard commissioned Peter DeGraff to review the Pathways report to clarify alternate approaches and to perform a cost benefit analysis of a phased approach to needed road repairs
- Peter DeGraff submitted his analysis with 3 alternatives
 - o Keep the road open in its current location and make either comprehensive repairs or phase them over time
 - o Keep the road open to Perrin's residence and only repair the northern portion of the road
 - o Maintain the road to the Bingham's residence and provide alternate access to Perrin's
- The Selectboard reviewed DeGraff's report and commissioned a Task Force to identify the specifics of each option in the report, answer any outstanding questions and evaluate each option in a matrix

Current

- The Task Force met and made a motion to reopen the entire length of Creek Road by installing guardrails along impaired areas which was not in keeping with their commission from the Selectboard
- The Task Force created a matrix that only addressed 1 of the 3 alternatives that were proffered in the DeGraff report. The matrix also laid out 5 additional alternatives that were not part of the Task Force's commission from the Selectboard

Clear Path Ahead

- Have the Selectboard look at rebalancing the Task Force with individuals with a "high degree of neutrality" as discussed in the June 6th meeting and recharge the Task Force with...
 - o Identifying the specifics of each option presented in the DeGraff report
 - o Answering any outstanding questions
 - o Developing and presenting a matrix evaluating each of the 3 alternatives presented in the DeGraff report

Supporting documentation is attached.

Based on the above information and my involvement in the Creek Road process over the past 3 years I do not agree with the decision by the Task Force to reopen the entire road by installing guardrails at impaired areas.

Bill Kernan
Dept. of Public Works
Director of Operations
Town of Middlebury
1020 Route 7 South
Middlebury, VT 05753
bkernan@townofmiddlebury.org
802-388-8100 ext. 298

160 Seeley disagreed, and thought the engineers don't always give the right information or
161 have the right answers. She said the engineers said to clean out the river in the 80's
162 and that wasn't right, and the recent information on the work done on the river wasn't
163 right either. She feels that the people that work on the edge of the river and have fixed
164 and repaired these areas may sometimes know more than the engineers.

165
166 Baker said in the 80's the farmers in the area wanted the river cleaned out, so they went
167 in and cleaned the trees out. Keeler said the problem in the north end began when they
168 put the dry hydrant in and a box culvert right next to it, and we have to stop doing these
169 things to the river.

170
171 Perrin said he's traveled this road for 27 years and there are some sections that have
172 been repaired that haven't budged, and we need to know what they did to those
173 sections, because that's what needs to be duplicated.

174
175 Hubbard said when they do the work the need to layer it and follow the curve, because
176 if they deviate even a little they'll cause a back eddy or erosion on the other side. He
177 said trees along the river that are leaning need to be cut and the stump and roots left in
178 place, otherwise if the tree tips over it will take the bank with it.

179
180 Robbins asked for clarification on what happened when the river was "cleaned out" and
181 did that mean cleaning out the trees on the banks. Seeley said the river was actually
182 dredged, and Keeler said old trees that had fallen in the river were taken out.

183
184 Shashok asked for final comments, and then said the Committee needed to decide what
185 to take back to the Selectboard.

186
187 Keeler asked Dan Werner if there was anyone at Public Works with the expertise to put
188 some stone in and fix it. Werner said no and a permit from the Army Corp of Engineers
189 was needed first. Dean Rheame said he thought the permit for the Creek was good
190 for any work done on that road for 5 years. Werner said no, it's "per spot" and the work
191 done last year had to have a start and end date and was issued for only 140 feet.
192 Werner said when the work was done by Perrin's house, he stood close to the work
193 area and he couldn't even feel vibration from the machine, but when they did the work
194 last year on the north end, he stood 200' away and the ground was like jello. He said
195 it's just a different area. He said he knows some areas that have been repaired have
196 held up better, but he thinks it's just the area of the river and not necessarily because of
197 the way it was installed.

199 Shashok said the Committee had completed their charge, but she wonders if they now
200 need to ask the Board if they should continue to explore phasing the project, or explore
201 fixing the worst spot and open the road, and explore the right-of-way costs. Keeler
202 asked where the money was coming from, since there's no money in the budget for this.
203 Shashok said if they explore these things over the next couple of months, we'd be in
204 another capital budgeting phase. Werner said different techniques to fix this are going
205 to have different costs, so that still needs to be looked at.

206
207 Shashok said Dale Hazzard (former Town Highway Division Chief) had estimated the
208 cost to repair all the areas that needed repairs, to be \$1.2 million, which is not much
209 less than the estimate to put in buffer zones and armor the different areas, which is
210 long-term and more sustainable. Keeler asked about looking into FEMA funds.
211 Shashok said East Middlebury River Project is dealing with FEMA funding and they are
212 now in year 6 and only in Phase II. Werner said this wouldn't qualify for FEMA funding.
213 Seeley said the Study indicated Alternative #1 of the study had potential for grant
214 funding. Shashok said there are a couple of other projects that we want to apply for, so
215 those would be competing for funds as well.

216
217 Seeley moved to recommend to the Selectboard to find a way to fix and open Creek
218 Road as soon as possible, and to develop a plan for phasing in and exploring grant
219 funding for recommended Alternative #1 of the Study. Fiske seconded the motion.

220
221 Keeler asked how this was going to be paid for since there is no money. Seeley said
222 that the Selectboard is required to maintain the road, as Mr. Rheaume pointed out, so
223 she would like to see the Board do what they're supposed to do. Shashok felt by
224 exploring these options to do the necessary repairs, that they were fulfilling their
225 requirements, and not at any point has she been forgetting her duties.

226
227 Robbins asked if the repair could be done as recommended in the study. Seeley said
228 she was okay with amending her motion to include that, but said when looking at the
229 slope in the design, she questions whether it actually goes the way they've shown and
230 believes the slope is long-gone. Shashok said Seeley and Hubbard have made some
231 great points, so having recommendations from them would be very helpful in the
232 process going forward. Seeley said she'd like to see what's recommended in the
233 design done in a high-slope area and see how it holds up after a couple of years before
234 doing the whole road.

235
236 Tenny wanted to know what the Town could do to restore some vegetation along the
237 bank. He said for every one tree lost, we should be replacing with 2 or 3 smaller ones.
238 Seeley said in some areas there isn't enough room to replace the trees. Hubbard said

if they moved the road just a little in that area, there would be room to replace some trees.

The motion was called, but there was confusion over the wording of the motion and the changes made, so Seeley restated the motion with the amendments.

Seeley moved to recommend to the Selectboard to fix the section of Creek Road that needs to be fixed to open it as soon as possible, and as soon as we can afford it, by the method outlined in the Study so we can evaluate how this method holds up while we are in the process of phasing, and exploring grant funding to do the remainder of work recommended in Design #1. Fiske seconded the motion. It was approved unanimously.

Aldrich and Elliot Engineering Proposal – Pump Stations #3 & #9 Force Main

Werner said this is a proposal for design services to look at the force main from Pump Station #9 and #3. He said those two force mains come together at the intersection of Weybridge Street and Jayne Court, and then into the Sag Pipe that goes under Otter Creek. They are looking to see if there is another way to design how those two mains enter the main pipe that goes under the river.

Keeler said it had been this way since they were installed, so why do we have to do this now. Werner said the EPA says we need to do something with the Combined Sewer Overflows that happen at Pump #9, so this is to see if there is a better way to design it to make Pump #9 work better. Werner said part of this is exploratory to see what we have, but Pump #3 affects the efficiencies of #9 and #9 overflows. Tenny asked if these Pumps were able to communicate with each other, and Werner said no, but that was not part of this study. Dean Rheume, who works at the Wastewater Dept, said he thought that had been looked at in the past and it was determined that wasn't a good idea.

Keeler asked where this \$9,800 was coming from, and Werner said the sewer capital fund.

Seeley moved to recommend the Selectboard approve the proposal by Aldrich and Elliot for design improvements for Pump Stations #3 and #9 force mains at a cost of \$9,800. Tenny seconded the motion.

Keeler said this money is just for an engineering study, they don't know what's there and how could they give us a proposal without knowing how to fix the problem. Werner

501 Infrastructure Committee had been notified as soon as this grant was known of and to
502 work with them to see where this money would come from.

503
504 There was additional discussion over the timeline of the project and the potential to
505 phase in the Town's funding portion over several years. Shashok said she was okay
506 applying for it, since the Town didn't have to accept it, and as long as these grants
507 come to the Infrastructure Committee first in the future.

508
509 Shashok moved to authorize the submission of a 2017 Bicycle-Pedestrian Program
510 grant application to seek funding for a project to design and construct 900-ft. of sidewalk
511 on Court Street between Creek Road and Middle Road and commit the Town to the
512 required 20% local match on total cost. The motion was seconded by Seeley. The
513 motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

514
515 Shashok further moved to approve the Selectboard letter of support for the project.
516 Khan seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION**
517 **PASSED.**

518 519 **9. Infrastructure Committee Meeting of June 22, 2017**

520 521 **9.a. Creek Road Erosion Stability Study Report**

522
523 Shashok reported on the June 22nd Infrastructure Committee when they reviewed the
524 Creek Road Erosion Stability Study Report. She said in the spring of 2015, the Board
525 closed Creek Road due to significant road erosion along the banks of Otter Creek.
526 Gates were installed to allow access for farmers, and the Board asked the Committee to
527 look at what to do to reopen the road without relying on the traditional expensive repairs
528 done in the past. The Town hired Pathways Consulting and they put together the Creek
529 Road Erosion Stability Study to look at the nature of flooding and bank erosion along
530 the Otter Creek, explore strategies for stabilizing the banks, investigate lower cost
531 alternatives for reopening the road and provide alternative designs with cost estimates.

532
533 Shashok said they looked at the top 3 options, since #4 was implementing the minimum
534 of maintenance as we've been doing. She said the #1 option was to shift the road
535 8,320 feet to the east within or near the existing right-of-way, and restore the 25'
536 riparian buffer between Creek Road and Otter Creek. This was the option that was
537 sustainable in the future and would solve the problems in a different way and restore the
538 buffer to prevent the need to keep fixing the road with the rocks.

539
540 Shashok said the Committee met with members of the community and there is a lot of
541 interest in reopening the road, while everyone was conscious of the cost. She said
542 unfortunately, there appears to be no inexpensive way to fix this road and keep it open.
543 She said in the end, after much debate, their recommendation is to fix the section of
544 Creek Road that needs to be fixed to open it as soon as possible and as soon as we
545 can afford it, by the method outlined in the Study, so we can evaluate how this method
546 holds up while we are in the process of exploring phasing the work over the course of

possibly many years. Shashok said we do want to reopen the road and she thought it would be interesting to take on one phase to see if it would work.

Seeley said it was really clear from public comments that they want the road back open. Carpenter asked how many people were present at the meeting, and Seeley and Shashok were unsure of the exact number, but there were 2 property owners and maybe 10 people. Shashok said she'd given this road a lot of thought over the last 2 years and has been torn about what to do, since it's a lot of money for a road that doesn't have many residents on it, but it's also a road that's close to town that is used and enjoyed by bikers and runners and she's afraid if it's closed we would lose that. She said initially she had thought they should just keep it as a bike/pedestrian route to East Middlebury, but she doesn't feel she can bring forward that recommendation. She does feel they should spend the money to keep it open for the residents, farmers, fishermen and residents who want to use it as a connection.

There was discussion around the possibility of downgrading the road classification, rights-of-way and the fact the new State Municipal Roads General Permit Program will require us to fix any hydrologically connected roads where there is erosion; however, grant money will be available to help fix these areas.

Seeley said even though this road doesn't have a lot of residents, it does have a lot of agricultural property the farmers need to get to. She felt if we could repair North Branch Road, that doesn't have a lot of residents and is used mostly by people from Ripton, we shouldn't treat this road any differently. She said it's a Town road and it's the Town's responsibility to repair and maintain it and get it open. Carpenter felt the Town had tried in the past and what if we spend \$1.2 million now only to have to do the same thing in 10 years as the river shifts, and do we really need that as a two-lane road. He said it's functioning very well as a farm road the way it is now. Seeley said she disagrees with the engineers, and she would like the Selectboard to take a site visit and see where she believes the Town has made "good money repairs" and where we haven't, and see the difference. She would like to repair a portion of the road to see how the method as designed holds up, before moving ahead with the entire \$1.2 million repair.

Ramsay read the motion approved by the Infrastructure Committee that said "to recommend to the Selectboard to fix the section of Creek Road that needs to be fixed to open it as soon as possible, and as soon as we can afford it, by the method outlined in the Study so we can evaluate how this method holds up while we are in the process of phasing, and exploring grant funding to do the remainder of work recommended in Design #1." Fiske seconded the motion. It was approved unanimously. She said the Infrastructure Committee is now looking for the Board to charge them with exploring grant funding.

Asermily moved to look at what the cost to reopen the road would be by making a relatively small repair, while exploring the option of phasing the project and what grant opportunities were available to help with cost. Shashok seconded the motion. The motion carried with 6 in favor, 1 absent. **MOTION PASSED.**

CREEK ROAD ALTERNATIVE ANALYSIS

Town of Middlebury Vermont

INTRODUCTION

The Town of Middlebury's Creek Road, which parallels Otter Creek, has experienced damage as a result of erosion and subsidence in areas adjacent to the Creek resulting in costly repairs and road closure. The road extends from Court Street to Three Mile Bridge Road, a distance of 2.6 miles. The northern portion is paved and serves numerous single family homes, businesses, the Town Gymnasium, Addison County Transit Resources, and the VTrans Highway Garage. The southern 2.3 miles are gravel and serve two residences and agricultural fields. The southernmost mile of the roadway has been closed to traffic since 2015 and only vehicle accessible to property owners. A large percentage of the property abutting Creek Road is conserved farmland, wetlands, and located in the 100 year flood plain.

The Town has made significant repairs to the roadway/stream bank over the years, most recently in 2008, 2012, and 2015. In cooperation with the Town, Addison County Regional Planning Commission contracted with Pathways Consulting, LLC for an evaluation of the cause and possible solutions to the stream bank instability that continues to impact Creek Road. This study considered varying methods of bank stabilization, road relocations, and closures. Given the high capital costs of the proposed solutions, the Select Board questioned the potential cost benefits of a more phased approach or the possibility of more cost efficient solutions.

The following analysis was commissioned by the Select Board with the goal of clarifying the alternative approaches available and presenting them in a format that considers both short and long term costs.

APPROACH

Based upon review of the various options considered under the former study, discussions with town officials, and consideration of environmental and regulatory factors, it was evident that three fundamental alternatives were available:

- Keep the entire roadway open in its current location and make either comprehensive or phased repairs over time,
- Keep the road open to the Perrin residence and repair only the northern portion,
- Maintain the road to the Bingham residence and provide alternative access to Perrin's.

Relocation of the roadway to create a buffer to the stream bank was considered, however, the feasibility of complying with wetlands and floodplain regulations, and securing the necessary easements/land acquisitions makes this approach impractical.

When evaluating the cost associated with any option, it is critical that consideration be given not only to upfront capital cost but also the annual cost of repairs and maintenance. This is particularly important when an "as-needed" repair approach is under consideration. To equitably compare a phased approach with more comprehensive repairs, the Present Worth of future repair and maintenance costs must be calculated and added to initial capital expenses.

ASSUMPTIONS

1. Cost

- a. **Construction** – The Pathways Study provides detailed analysis of anticipated construction costs of the alternatives considered. This analysis reviewed the estimated unit costs and quantities and found them to be reasonable. The primary area of variance from the Pathways Study is in the estimated cost associated with stream bank stabilization. Pathways estimated a unit costs of \$150 per linear foot. Five bids received

CREEK ROAD ALTERNATIVE ANALYSIS

Town of Middlebury Vermont

from the Town for comparable bank repairs to Shard Villa Road ranged from \$424 to \$883 per linear foot. This analysis utilizes an average unit costs of \$480/lf (excluding the high bid). The Pathways Study also does not include the necessary replacement of a box culvert at the current northern road closure or guardrails in areas where the road is in direct vicinity to the Creek. Both costs have been added to this analysis at the request of the Middlebury Public Works.

- b. **Maintenance** – The Town of Middlebury typically expends an estimated \$12,000 per mile for the annual maintenance of gravel roads. This value was used over the period of analysis in each alternative for the respective portion of gravel road proposed to remain open.
2. **Present Worth Parameters** – A Present Worth Analysis estimates the current value of future expenditures based on estimated rate of return and period of analysis. Municipal capital planning projects often utilize rates which approximate historical inflationary trends. This analysis is based on a 3% rate over a 10 year period.
3. **“As Needed” Repairs** – Based upon the Pathways Study, their subconsultant’s, Headwaters Hydrology PLLC, geomorphic assessment, and continued deterioration of the road, this analysis conservatively assumes that all areas of roadway within 25 feet of Otter Creek will ultimately require repairs at some point over the period of the analysis.

OPTIONS CONSIDERED

The following alternative approaches were analyzed.

1. **Alternative A1 – Road open from Route 7 to 3 Mile Bridge (Comprehensive Improvements)**: This alternative is based on a proactive approach which completes stream bank stabilization measures to all areas within 25 feet of Otter Creek and associated roadway improvements including Pathway’s recommendations, guardrails, and box culvert replacement.
2. **Alternative A2 – Road open from Route 7 to 3 Mile Bridge (Phased Repairs)**: This alternative includes stream bank stabilization for all segments currently failing and associated roadway repairs as recommended by Pathways, guardrails and box culvert replacement. Projected cost include future stream bank stabilization for all remaining road segments within 25 feet of the Creek prorated over the 10 year analysis period and regular road maintenance.
3. **Alternative B – Road open from Route 7 to Perrin’s (Phased Repairs)**: This alternative includes stream bank stabilization for all segments north of the road closing that are currently failing and associated roadway repairs as recommended by Pathways and guardrails. Projected cost include future stream bank stabilization for all open road segments within 25 feet of the Creek prorated over the 10 year analysis period and regular road maintenance. The road would remain closed from Perrin’s to 3 Mile Bridge with no capital improvements and restricted access.
4. **Alternative C – Road open from Route 7 to Bingham’s (Phased Repairs)**: This alternative is based upon the same criterion as Alternative B less improvements from Bingham to Perrin. In order to provide access to the Perrin’s residence, a new drive is constructed through the South Ridge development to the Perrin residence. The road would be closed from Bingham’s to 3 Mile Bridge with no capital improvements and restricted access.

CREEK ROAD ALTERNATIVE ANALYSIS

Town of Middlebury Vermont

SUMMARY TABLE AND ALTERNATIVE COST DETAIL

The following Tables summarizes the capital and present worth analysis of the alternative's considered and provide detailed cost analysis for each alternative which serve as the basis for the information included in the Summary Table. Each table is broken into anticipated upfront Capital Costs and Annual Costs converted to Present Worth. The sum of these two components is the Present Value of each alternative.

CREEK ROAD ALTERNATIVE ANALYSIS

Town of Middlebury, Vermont

4/18/2019

SUMMARY TABLE					
Alternative	Description	Cost Analysis			
		Capital Costs	Annual Costs	Present Worth	Present Value
A1	Complete Road Improvements - Route 7 to 3 Mile Bridge (w/Annual Repairs)	\$ 4,666,049	\$ 28,182	\$ 240,397	\$ 4,906,446
A2	Initial Road Improvements - Route 7 to 3 Mile Bridge (w/Annual Repairs)	\$ 1,506,725	\$ 363,457	\$ 3,100,362	\$ 4,607,087
B	Upgrade Road to Perrin (w/Annual Repairs)	\$ 944,819	\$ 218,678	\$ 1,865,369	\$ 2,810,188
C	Upgrade Road to Bingham and private Drive to Perrin	\$ 494,396	\$ 20,769	\$ 177,168	\$ 671,563

CREEK ROAD ALTERNATIVE ANALYSIS

Town of Middlebury, Vermont

4/18/2019

Alternative "A1"

Description: Road Open for entire length. Stabilize all High and Moderate Risk Streambanks. Repair existing Road, Replace Box Culvert and Present Worth of annual upkeep.

Item Num.	Item Description	Quant.	Unit	Unit Cost	Total Cost
CAPITAL COSTS					
1.0	Bank Stabilization	6,950	LF	\$ 480	\$ 3,336,000
2.0	Resurface Existing Roadway	6,200	LF	\$ 13	\$ 80,600
3.0	Filter Fabric	800	LF	\$ 10	\$ 8,000
4.0	Drainage Culverts	12	EA	\$ 8,000	\$ 96,000
5.0	Roadside Ditching	2,385	LF	\$ 18	\$ 42,930
6.0	Box Culvert	1	LS	\$ 150,000	\$ 150,000
7.0	Guard Rails	1,240	LF	\$ 55	\$ 68,200
8.0	Solar Drive Upgrade	-	LF	\$ 40	\$ -
9.0	Private Gravel Drive (with fabric)	-	LF	\$ 60	\$ -
10.0	Road Closure Gate	-	EA	\$ 5,000	\$ -
11.0	ROW Purchase Costs	-	LS	\$ -	\$ -
12.0	Mobilization/Demobilization (5% of Const Cost)			5%	\$ 189,087
13.0	Misc. Work and Clean-up (2.5% of Const Cost)			2.5%	\$ 94,543
14.0	Design and Permitting (7.5% of Const. Cost)			7.5%	\$ 33,430
15.0	Contingency (15% of Const Cost)			15%	\$ 567,260
	SUBTOTAL				\$ 4,666,049
ANNUAL COSTS					
1.0	Bank Stabilization	-	LF	\$ 480	\$ -
2.0	Mobilization/Demobilization (5% of Const Cost)	1	LS	5%	\$ -
3.0	Misc. Work and Clean-up (2.5% of Const Cost)	1	LS	2.5%	\$ -
4.0	Design and Permitting (7.7% of Const Cost)	1	LS	7.5%	\$ -
5.0	Contingency (15% of Const Cost)	1	LS	15%	\$ -
6.0	Road Maintenance (\$12,000/mile)	12,400	LF	\$ 2.27	\$ 28,182
	SUBTOTAL				\$ 28,182
	PRESENT WORTH of Annual Expenses	10	YR	3%	\$240,397
PRESENT VALUE					\$ 4,906,446

CREEK ROAD ALTERNATIVE ANALYSIS

Town of Middlebury, Vermont

4/18/2019

Alternative "A2"

Description: Road Open for entire length. Repair existing erosion and Road, Replace Box Culvert and Present Worth of annual repairs and upkeep.

Item Num.	Item Description	Quant.	Unit	Unit Cost	Total Cost
CAPITAL COSTS					
1.0	Bank Stabilization	1,577	LF	\$ 480	\$ 756,960
2.0	Resurface Existing Roadway	6,200	LF	\$ 13	\$ 80,600
3.0	Filter Fabric	800	LF	\$ 10	\$ 8,000
4.0	Drainage Culverts	12	EA	\$ 8,000	\$ 96,000
5.0	Roadside Ditching	2,385	LF	\$ 18	\$ 42,930
6.0	Box Culvert	1	LS	\$150,000	\$ 150,000
7.0	Guard Rails	1,240	LF	\$ 55	\$ 68,200
8.0	Solar Drive Upgrade	-	LF	\$ 40	\$ -
9.0	Private Gravel Drive (with fabric)	-	LF	\$ 60	\$ -
10.0	Road Closure Gate	-	EA	\$ 5,000	\$ -
11.0	ROW Purchase Costs	-	LS	\$ -	\$ -
12.0	Mobilization/Demobilization (5% of Const Cost)			5%	\$ 60,135
13.0	Misc. Work and Clean-up (2.5% of Const Cost)			2.5%	\$ 30,067
14.0	Design and Permitting (7.5% of Const. Cost)			7.5%	\$ 33,430
15.0	Contingency (15% of Const Cost)			15%	\$ 180,404
	SUBTOTAL				\$1,506,725
ANNUAL COSTS					
1.0	Bank Stabilization	537	LF	\$ 480	\$ 257,904
2.0	Mobilization/Demobilization (5% of Const Cost)	1	LS	5%	\$ 12,895
3.0	Misc. Work and Clean-up (2.5% of Const Cost)	1	LS	2.5%	\$ 6,448
4.0	Design and Permitting (7.7% of Const Cost)	1	LS	7.5%	\$ 19,343
5.0	Contingency (15% of Const Cost)	1	LS	15%	\$ 38,686
6.0	Road Maintenance (\$12,000/mile)	12,400	LF	\$ 2.27	\$ 28,182
	SUBTOTAL				\$ 363,457
	PRESENT WORTH of Annual Expenses	10	YR	3%	\$3,100,362
	PRESENT VALUE				\$4,607,087

CREEK ROAD ALTERNATIVE ANALYSIS

Town of Middlebury, Vermont

4/18/2019

Alternative "B"

Description: Road Open from North End to Perrin's. Repair existing erosion and Road. Present Worth of annual repairs and upkeep. Roadway Closed South of Perrin's.

Item Num.	Item Description	Quant.	Unit	Unit Cost	Total Cost
CAPITAL COSTS					
1.0	Bank Stabilization	1,325	LF	\$ 480	\$ 636,000
2.0	Resurface Existing Roadway	3,150	LF	\$ 13	\$ 40,950
3.0	Filter Fabric	406	LF	\$ 10	\$ 4,060
4.0	Drainage Culverts	2	EA	\$ 8,000	\$ 16,000
5.0	Roadside Ditching	1,212	LF	\$ 18	\$ 21,816
6.0	Box Culvert	-	LS	\$ -	\$ -
7.0	Guard Rails	630	LF	\$ 55	\$ 34,650
8.0	Solar Drive Upgrade	-	LF	\$ 40	\$ -
9.0	Private Gravel Drive (with fabric)	-	LF	\$ 60	\$ -
10.0	Road Closure Gate	2	EA	\$ 5,000	\$ 10,000
11.0	Land Purchase Costs	-	LS	\$ -	\$ -
12.0	Mobilization/Demobilization (5% of Const Cost)			5%	\$ 38,174
13.0	Misc. Work and Clean-up (2.5% of Const Cost)			2.5%	\$ 19,087
14.0	Design and Permitting (7.5% of Const. Cost)			7.5%	\$ 9,561
15.0	Contingency (15% of Const Cost)			15%	\$ 114,521
	SUBTOTAL				\$ 944,819
ANNUAL COSTS					
1.0	Bank Stabilization	328	LF	\$ 480	\$ 157,200
2.0	Mobilization/Demobilization (5% of Const Cost)	1	LS	5%	\$ 7,860
3.0	Misc. Work and Clean-up (2.5% of Const Cost)	1	LS	2.5%	\$ 3,930
4.0	Design and Permitting (7.7% of Const Cost)	1	LS	7.5%	\$ 11,790
5.0	Contingency (15% of Const Cost)	1	LS	15%	\$ 23,580
6.0	Road Maintenance (\$12,000/mile)	6,300	LF	\$ 2.27	\$ 14,318
	SUBTOTAL				\$ 218,678
	PRESENT WORTH of Annual Expenses	10	YR	3%	\$1,865,369
	PRESENT VALUE				\$ 2,810,188

CREEK ROAD ALTERNATIVE ANALYSIS

Town of Middlebury, Vermont

4/18/2019

Alternative "C"

Description: Road Open from North End to Bingham's. Private Drive to Perrin's. Repair existing erosion and Road. Present Worth of annual repairs and upkeep. Roadway Closed South of Bingham's.

Item Num.	Item Description	Quant.	Unit	Unit Cost	Total Cost
CAPITAL COSTS					
1.0	Bank Stabilization	240	LF	\$ 480	\$ 115,200
2.0	Resurface Existing Roadway	1,500	LF	\$ 13	\$ 19,500
3.0	Filter Fabric	155	LF	\$ 10	\$ 1,550
4.0	Drainage Culverts	6	EA	\$ 8,000	\$ 48,000
5.0	Roadside Ditching	462	LF	\$ 18	\$ 8,316
6.0	Box Culvert	-	LS	\$ -	\$ -
7.0	Guard Rails	300	LF	\$ 55	\$ 16,500
8.0	Solar Drive Upgrade	1,000	LF	\$ 40	\$ 40,000
9.0	Private Gravel Drive (with fabric)	2,000	LF	\$ 60	\$ 120,000
10.0	Road Closure Gate	2	EA	\$ 5,000	\$ 10,000
11.0	ROW Purchase Costs	1	LS	\$ 10,000	\$ 10,000
12.0	Mobilization/Demobilization (5% of Const Cost)			5%	\$ 18,953
13.0	Misc. Work and Clean-up (2.5% of Const Cost)			2.5%	\$ 9,727
14.0	Design and Permitting (7.5% of Const. Cost)			7.5%	\$ 19,790
15.0	Contingency (15% of Const Cost)			15%	\$ 56,860
SUBTOTAL					\$ 494,396
ANNUAL COSTS					
1.0	Bank Stabilization	26	LF	\$ 480	\$ 12,480
2.0	Mobilization/Demobilization (5% of Const Cost)	1	LS	5%	\$ 624
3.0	Misc. Work and Clean-up (2.5% of Const Cost)	1	LS	2.5%	\$ 312
4.0	Design and Permitting (7.7% of Const Cost)	1	LS	7.5%	\$ 936
5.0	Contingency (15% of Const Cost)	1	LS	15%	\$ 1,872
6.0	Drive Maintenance (\$8,000/mile)	3,000	LF	\$ 1.52	\$ 4,545
SUBTOTAL					\$ 20,769
PRESENT WORTH of Annual Expenses		10	YR	3%	\$177,168
PRESENT VALUE					\$ 671,563

137 towards getting more detailed cost estimates for a bond vote, and then move into
138 design and construction. He thought that could be done in a fairly timely manner.

139
140 Seeley recognized that she has a personal interest in this subject, but feels she can set
141 those aside to work with DeGraff and this group to come up with what makes the most
142 sense for community. Artim said he trusted that she could do that, but feels the others
143 should have a high degree of neutrality with no stake in the decision and who could look
144 at it objectively. Artim asked if this group would be authorized to talk to the various
145 landowners, and Seeley said someone needed to and we need to know how they feel
146 about this before proceeding. She said there had been a working group earlier in this
147 project that worked with Pathways, and their recommendation went to the Infrastructure
148 Committee, and then was sent to the Board for approval, but the funding for it was not
149 feasible. She said this is going back and doing some of this again with DeGraff's
150 assistance. Seeley again stated if she got to a point where she felt she couldn't make
151 an objective decision, she would remove herself from the process.

152
153 Carpenter said it appears the Board is in agreement on this is the way to go, and asked
154 that Seeley and DeGraff come back to the Board on the 25th finalize the charge and the
155 composition of the group, and he wanted it no larger than 5 members, including Seeley.

156
157 **6. Authorize Letter of Intent for FY2020 Municipal Roads Grants-In-Aid Program**
158 **for funding to implement Best Management Practices in compliance with the**
159 **Department of Environmental Conservation Municipal Roads General Permit**
160

161 Ramsay said this was a rather straight forward program and we already have the
162 money budgeted for the matching funds, and it helps leverage more funds for
163 improvements we have to do anyway. She said we are eligible for \$17,300 from the
164 Vermont Department of Conservation for stormwater improvements to our gravel roads,
165 and our matching funds are \$4,325.

166
167 Asermily moved to sign the Letter of Intent to participate in the FY20 Municipal Roads
168 Grants-in-Aid Program. Khan seconded the motion. The motion carried with 6 in favor,
169 1 absent. **MOTION PASSED.**

170
171 **7. Review Agenda for June 17, 2019 Selectboard Workshop/Retreat**
172

173 Ramsay said the Board would meet on June 17th, at which time it will continue to
174 discuss Capital Improvement spending and Local Option Taxes. They will also touch on
175 Selectboard committee charges and tasks.

176
177 **8. Approval of Check Warrants**
178

179 Artim moved to approve total expenditures in the amount of \$298,528.52 consisting of
180 \$172,998.67 for accounts payable, and \$125,529 for payroll for the period May 29, 2019
181 through June 11, 2009. Seeley seconded the motion. The motion carried with 7 in
182 favor, 1 absent. **MOTION PASSED.**

Town of Middlebury
Creek Road Task Force
Town Offices Large Conference Room
September 26, 2019
Minutes of Meeting

Members Present: Heather Seeley, Peter DeGraff, Dean Rheaume and Luther Tenny

Absent: Dean George

Also Present: Lindsay Fuentes-George, Moe Rheaume and Peter and Kathy Hubbard.

Call to Order

Heather Seeley called the meeting to order 8:37 a.m.

Approval of Agenda

Rheaume asked to be sure there was enough time to discuss the guardrail and gate at the south end.

Tenny moved to approve the agenda, and Rheaume seconded the motion. The agenda was unanimously approved with no changes.

Approval of Minutes from July 22, 2019 meeting. Tenny moved to approve the minutes and Rheaume seconded the minutes. The minutes were approved as presented.

Citizen Comments

Peter Hubbard wanted to let the Town know that the snowmobile bridge on Three Mile Bridge Road needs attention. He said a tree came down and is lodged in there causing erosion. Seeley said she wasn't sure if that was the Town's responsibility of the Vermont Association of Snow Travelers (VAST). Rheaume said he'd alerted Town Manager Ramsay about this and she was going to reach out to VAST and let them know.

Review of Peter DeGraff's Notes and Findings from the July 22, 2019 Meeting

DeGraff said since the last meeting he'd spent time going through State Statute and the two legal opinions provided to him by Ramsay. Some of the bullet items from his research are:

- The Town has a legal obligation to maintain Class II and Class III town roads.
- The degree of liability regarding signs and barriers is a question for the Town Attorney.
- The Town does have a right to take land and compensate the landowner should they choose to do so.
- The Selectboard has the authority to downgrade a Class III road to a Class IV road, a trail or discontinue it all together. He was unable to find a definition for the difference between a Class IV road and a trail. He said if the Town decides to go that route, then they will need to seek

43 legal counsel on the difference. He said in both instances the Town maintains ownership of the
44 right-of-way (ROW), but if they choose to discontinue the road, the property owners on either
45 side get ownership. Seeley said she thought the landowners own the land under the road and
46 the Town only has the ROW, DeGraff said that's right in the case of older roads, but newer roads
47 are actually deeded to the Town by developers.

48
49 Peter Hubbard asked how the historic nature of the road played into this, since that was the first road in
50 town. DeGraff said that's a good question that he doesn't have an answer for. He said State Statute
51 doesn't specifically address this. Seeley said that is something we could follow-up on it. DeGraff asked
52 if Hubbard thought that meant the Town had heightened the obligation to maintain the road or changes
53 the obligation of what to do with it, and Hubbard thought probably a little of both.

54
55 Rheume said in respect to Class IV roads vs. trails, the Statutes say the Town shall not be responsible
56 for any maintenance of a trail including culverts and bridges. He said some of the Public Works
57 administration has pushed to make the road a trail, yet the Town has adopted the State Road Standards
58 as part of their maintenance program to get funding, and if it's downgraded to a trail does the Town still
59 have an obligation for maintenance. He said according to State Statute they don't, but according to the
60 General Roads Permit they do. DeGraff asked if the General Roads Permit specified trails, and Rheume
61 believed it did and he's seen it on the old town road out by Battell Road, it would make the property
62 owners responsible for maintaining it to get to their land. He said the Town has determined the
63 property owner would have to get a Work in the ROW permit from the Town to do any work on that
64 road they need to maintain to get to their land. If the Town turns this into a trail it's putting quite a
65 burden on the property owners.

66
67 Seeley said she didn't want to get into this too deep. She wants to identify what our options are and the
68 questions remaining on those options, and once those questions are answered we can put some costs
69 on the options, then we can start building the matrix of what direction to go.

70
71 DeGraff said these are only his interpretation of the Statutes, and once we get into this a little deeper
72 the Town needs to consult an attorney. He said from what he's read, however, the Town has an
73 obligation to maintain the road if it remains a Class III, or they need to classify it a Class IV, a trail or
74 discontinue it. He said he doesn't know the level of maintenance if it's a Class IV, and if it's a trail the
75 property owners maintain it, but if it's discontinued the Town washes its hands of it.

76
77 DeGraff said one other classification is a pent road, but he couldn't find a good definition of it and he
78 isn't sure if it means just closing the road and putting a gate up. He said it did say a landowner on a
79 pent road can put up a gate. Rheume said the gate can't be locked, however.

80
81 Rheume wanted to go over the "duties of the Selectboard" on the DeGraff's research notes and
82 wanted it noted that some citizens notified the Board that their duties as a Selectboard have not been
83 followed when that road was closed in 2016 and he said we have not seen any effort to open that
84 section since.

85

86 DeGraff returned to the points in his memo. He said to respond to Rheume's earlier question, he'd
87 reviewed the regulations of the Vermont Municipal Roads General Permit and his interpretation is that
88 it is specific to reduce erosion potential of roads and he didn't see anything in there that would preclude
89 a town's right to discontinue a roadway, so in his opinion it's pretty clear that's not their intent. He said
90 it may require the Town stabilize the road before it's discontinued, but he doesn't believe there is a
91 requirement to keep that road open. He said that's not something in his cost analysis and it wasn't in
92 Pathway's either. Rheume said if that's the route we go, he wants to know exactly what those
93 regulations are. Seeley said if we decided as a group to discontinue the road, but we're still required to
94 do something to prevent erosion, there are some costs associated with that. DeGraff said he didn't
95 think the regulation would require stream bank stabilization, but he thinks they may require a dirt road
96 not be left raw and may require it be seeded and mulched so it's not eroding. Rheume said he finds
97 that hard to believe when we're talking water quality.

98

99 Tenny said he wanted to back way up in the discussion, and said all we're talking about is only circling
100 the bigger problem. He said he understands this is an emotional topic, and an expensive topic, but at
101 the end of the day the Selectboard needs to make a determination which direction they want to head.
102 He said he thinks there's sufficient evidence that we've come through in these studies to know a full
103 movement of the road is very expensive, or you can kick-the-can down the road and spend \$30,000,
104 \$40,000 or \$50,000 every few years, but ultimately it's going to take negotiations with the Selectboard
105 and the landowners to determine what to do and when that conversation has happened and a decision
106 is made, then we can move in that direction, but until then we just keep circling the same problems. He
107 said he gets frustrated with the million scenarios and a million cost estimates, when at the end of the
108 day you have to put the landowners and the Selectboard around a table to talk through what are the
109 options and make a decision, and then we can work towards that decision.

110

111 Rheume said in all due respect, he gets frustrated hearing about the landowners when that road
112 belongs to everyone in this room and everyone in the United States. He said of course we have to take
113 care of Mark and Donna Perrin, but it's my road too. Tenny said that's a very good point and he agrees,
114 but the difficulty is to have what should be a \$50,000 problem with a million dollar solution, and that's
115 very difficult to deal with when trying to prioritize all the infrastructure needs we have. He said there's
116 not enough money and the value and cost benefit makes it very difficult to say this makes sense. He
117 said his concern is the current mode we're traveling is simply kicking-the-can down the road with
118 nothing occurring and we need to change our mode of operation. He said you look at the timeline and
119 its study after study and meantime everyone is getting more frustrated.

120

121 Seeley said one of the problems with going to the landowners at this point is we don't know what we
122 want to do, so we can't sit down with them until we know how some of this information DeGraff has
123 come up with, such as declaring it a Class IV road, trail and discontinuing the road, would impact them.
124 She said if we go to them and say we're discontinuing the road and they have questions, she wants to
125 have answers to those questions, so that's what she's envisioned this information gathering. She agrees

we need to meet with them, but we don't have the information yet. Seeley said do you go to them and ask them what they want us to do, or do we go to them and say "this is what we're going to do".

Tenny said he thinks if the Board meets with the landowners it would be more of a listening session to hear more from them on what they're willing or not willing to do. He said not to go in there telling them this is what we're doing, but more of a brainstorming, information gathering session to help aid a decision of the Selectboard. Seeley said if we have a listening session we'd get another whole set of ideas. Rheume said as taxpayers and part owners of that road, they should have a seat at the table too. Tenny said ultimately it would need to go to a town vote.

Hubbard said that road has been there 200 years and in his lifetime that road hasn't changed much at all. He said it doesn't get a lot of use, and it's already used as a walking and biking path. He said the road floods every year and it always will, but one problem that hasn't been addressed is the damage to the road and that's because we didn't maintain it when the trees are ripping the banks out causing the erosion, we're just letting them rip it out, and if we'd just cut those trees and leave the roots and plant more trees, you wouldn't have the problems you have now. He said you're talking about spending a lot of money on a road that hasn't changed and is essential for the farms, homeowners and the public, so he thinks it's a no brainer and we shouldn't have to spend a lot of money to cure this problem.

Seeley said their task is to bring a recommendation to the Board, and she asked Tenny if he feels they need to speak to the landowners before making a recommendation. Tenny replied that he feels there's sufficient information from a construction option standpoint, and wanted to caution about not nitpicking about such things as what type of gravel to use in a certain location, that's for the final design phase. DeGraff said in his mind and based on his review of Pathway's analysis, he respectfully disagreed with Hubbard. He said this is a multi-million dollar project, and whether it's multi-million up front or spread out over several years, we're going to have to spend at least a million dollars on that road. He said the Town needs to make a decision if it's worth a million dollars to maintain thru access on that road, and if the Town as a whole decides it's not worth that, then the Town has to make a hard decision whether to close the road or not. He said they have to make it right with the property owners and take care of them if that road is no longer available to them, then you talk to them about what access they need to their land or sell their property to the Town.

Seeley said the Board had already decided to maintain access for the road and the Infrastructure Committee recommended keeping the road open. She said the original decision was to go with Pathway's recommendation to move the road over and looked to the State for funds, they said no, and then it came back to square one wondering what do we do now. She said the Board has already decided to keep the road open and now we have to decide how do we do that. She said if this Committee wants it can go back to the Board and ask them if they've changed their mind about keeping this road open. DeGraff said that is not his interpretation of what he was originally tasked with, which was to review all options of keeping it open or closing sections and the cost of those. He said it was his impression that the Board's decision to keep it open was up for reconsideration, and Seeley agreed, but no decision has been made since then that the Board is going a different route. Rheume said the Board decided to

168 keep the road open to the north for the Perrin's when they decided on installing the guardrails. DeGraff
169 said if this committee is looking for a way to open the road back up, then that is completely different
170 than making a recommendation to the Board on what to do with it. Seeley said we could go back to the
171 Board and ask for clarification on what they intend to do. DeGraff said we need to have clear direction
172 from the Board if they're standing by their previous decision that we're going to open the road, and if
173 the Board is standing by that decision that it's going to remain a thru road, then you put out an RFP for
174 engineering to repair the sections sloughing now and go forward, and if the decision's already made he's
175 not clear why we're even here.

176
177 Rheume asked how the guardrail decision tied into this, and Seeley said that was made when we
178 thought we could move the road over. Tenny said the guardrail decision was proposed by Public Works
179 because of a concern for safety around certain areas while the road is still being used, and it was also
180 supported by Chief Hanley, so knowing that it was recommended on a short term basis for safety while a
181 decision was made. DeGraff asked if the guardrails were only on the open section of the road or the
182 entire road, and Rheume said that was discussed and he wants to bring it up again. DeGraff said if the
183 Board decides to move forward with making any repairs on the road they won't happen until next year.
184 Rheume said there's also the south end issue and the road is illegally closed as of right now.

185
186 Rheume said he recommends the Town spend the additional \$12,000 for the south section, get rid of
187 the gate, open the road back up, and get all the legal issues the Town is facing at this time. Seeley asked
188 if that was a motion, Rheume indicated it was, and Seeley seconded the motion and opened it for
189 discussion.

190
191 DeGraff asked if the \$12,000 was for guardrail on the south side, and Rheume said it was for about 80'
192 on the south end. Seeley said the north end guardrail is around \$22,000 and believed it was around
193 \$12,000 to do the south section. DeGraff asked if this would be widening the road the road, and Seeley
194 said no.

195
196 Hubbard asked DeGraff if you're putting posts into that bank aren't you making it weaker? DeGraff said
197 a lot of it has to do with where the posts are located in relation to where the road is sloughing. Hubbard
198 didn't think there was much room between the bank and the river.

199
200 Seeley showed the proposal for the guardrails for the north section, but said it didn't include the
201 southern section. Rheume said \$12,000 is a bargain to get that road open and clear up the legal issues.

202
203 Tenny said he understands that the location of the guardrails limits this section of the road to single-
204 lane, and Rheume said according to Bill Kernan the signage in that area makes it legal under the
205 Municipal Traffic Code. Tenny said if we're continuing the discussion on the motion, he is not willing
206 without an opinion from Chief Hanley on that configuration and would we want to take it up at the
207 Infrastructure Committee. Rheume said Hanley had already approved it, and Tenny replied he
208 believed Chief Hanley had approved it on the context the road was still closed, but actively used, not
209 necessarily opening it up for full public use.

210

211 DeGraff recommended they have Public Works see if there are other repairs that need to happen, and
212 Rheaume said it needs to be graded.

213

214 Seeley asked if there was other discussion on the motion, and hearing none she called for a vote. The
215 vote carried with 2 in favor (Seeley and Rheaume), 1 opposed (Tenny) and 1 absent (George).

216

217 Hubbard asked if they needed a quorum, and Seeley said they had a quorum since it was only a 4
218 member task force.

219

220 Seeley searched online for the Charge that the Task Force was given, but couldn't find it. She asked if
221 they needed more clarification from the Board on what they're looking from this group, since there
222 seems to be some confusion. DeGraff said he thought the charge was to look at all options, whereas
223 Seeley seems to think it's about what are the options to keep it open. Seeley said if in the discussion
224 about keeping the road open we determine the best option is to close the road, then that's what we
225 come up with; or we need to say we can keep the road open and this is the only option and this is what
226 it's going to cost, then Board says we can't afford that option. She said that road has been closed since
227 2015 and in 4 years the Board has not had a vote to declassify or close that road and every attempt the
228 Board made has been about keeping that road open. Tenny said he agreed with that, but the stone wall
229 has been that none of the options provided so far have been affordable and nothing is happening as a
230 result. Seeley said the options all still had a lot of questions.

231

232 DeGraff said his analysis options to open the road would cost between \$2 to 5 million, and that's what it
233 will cost if the Board is going to make a decision on keeping it open or not. He said if they're willing to
234 spend between that on keeping the road open, then this group's charge should be to recommend if it's
235 going to be a phased project or an all-in-one project and what form the repairs are going to take, and
236 then solicit an engineer. Seeley said the result of that has been we don't have the money to do that, so
237 what are our other options. DeGraff said that's what he thought the Charge was.

238

239 Seeley said we've talked about a private drive for Perrin's, we've talked about discontinuing sections,
240 we don't have the money to fix it in one go-around and it probably wouldn't get taxpayers support, so
241 what are our options and what are we recommending the Board do with the road. Rheaume said
242 there's just so much push back. He said he's talked about the lack of maintenance, and so has Hubbard
243 and the farmers, and it seems like everything is pushing towards a road repair that brings it up to a Class
244 I or II status and he doesn't think that's necessary and thinks there are other options. Seeley said we'll
245 never agree on what the best option should be. She said let's just say we recommend to discontinue the
246 road; we have different levels of discontinuation, how does it impact the homeowners and the Town.
247 She said is that what we take to the landowners? She said she thinks we would get town support for
248 that, but doesn't think the landowners and people wanting to use the road will support it, so that brings
249 us back somewhere in the middle. She went over all the options discussed so far and said there are
250 questions about all of them, and she thought they'd come up with scenarios, but even if we decide to
251 throw up the road, there are costs associated with it. She said if the bank continues to fall in, is the

252 State going to care about that and come back later and say we have to repair it, then let's do it now.
253 She said even if it's a trail and it continues to fall into the river so people can't bike and walk on the road,
254 are we going to spend money just so people can bike and walk on it when we could have spent money
255 so everyone could use the road. She said she wants a scenario that we can all agree to recommend to
256 the Board that costs somewhere in the middle and provide access to everyone.
257
258 Rheaume said he wants an opinion from someone from the State to tell us exactly what we can and
259 can't do there. He's not sure if it would be someone from the Agency of Natural Resources (ANR) or
260 what, but he'd like to have someone here that could answer those questions. Seeley said we did meet
261 with someone from ANR when we were looking for a grant to set the road over 25' and the State said
262 that wasn't far enough. Rheaume said he wants to know what can we do and what can't we do, and
263 once we get that out of the way we'll have a good start. He said that earlier meeting with ANR wasn't
264 warned and the public wasn't invited, so he wants some answers to the basic questions. DeGraff said it
265 isn't just ANR, it's the Army Corp of Engineers, the Stream Alteration Program, the Wetlands Program,
266 the State and Town fluvial erosion requirements, which if this were private property they'd not allow
267 people to repair the embankment. He said in his experience he would be surprised if you got a straight
268 answer from ANR and you aren't going to hear them say we need to repair the road, since they'd just
269 like to see it stay natural and they're going to say they want the river to do what it wants to do, that's
270 the intent of the regulations. DeGraff said Statutes make it clear what the Town needs to do to maintain
271 it, but they also say the Town can decide to discontinue it or change it to Class IV, but they need to
272 decide. Seeley said this Task Force is supposed to try and help the Board make that decision.
273
274 Moe Rheaume said he agreed they needed to hear from the State, and the Town had only heard from
275 one grant option, and wondered if there are other grant options out there or are we just saying there
276 aren't other options.
277
278 Seeley said what if we meet with the property owners and say we're going to close the road, and they
279 choose to maintain the access to their property and in a few years the State has the property owners
280 need to stop this from happening and does the Town have some liability in that process, or if we've
281 thrown up the road do we not have any further obligations. She said she'd like to know that and it puts
282 a huge burden on the property owners. Tenny said if it was to go in that direction, there would be
283 negotiations between the Town and the landowners and the Town would need to invest an amount of
284 money acceptable to the landowners to deem it acceptable for them to assume control.
285
286 There was discussion about moving the road over and the property owners having agreed a few years
287 ago to allow it to be moved onto their land. Seeley said we could also take their land for a road, with
288 compensation of course. DeGraff said that Statute doesn't allow the Town to ignore wetlands and
289 Pathways report on moving the road did not include the fact there are Class II wetlands on both sides of
290 that road and you aren't going to get a permit to move the road into a Class II wetlands just because it's
291 cheaper than repairing the stream bank. Rheaume questioned that, and DeGraff said he has 30 years of
292 experience of dealing with ANR and the State Wetlands Office and he knows the requirements and there

293 are sections of that road he would be amazed if ANR or the Army Corp of Engineers would give a permit
294 for. Rheume said in those areas the only option would be repairing the bank, and DeGraff said yes.

295
296 Seeley said back to the topic of what this Task Force's job is and what got us here, and asked if they
297 wanted to recommend the Board keep the road open no matter what it costs, or do we recommend
298 that they close it, or is it something in between. She said if we're somewhere in between we have to
299 know the details and what it's going to cost. She said she's over-simplifying, but is trying to get them
300 headed in some kind of direction. Rheume said we need to keep that road open, but didn't want to
301 put a price tag on it.

302
303 Tenny said if you're going to spend \$2-5 million, you're making a commitment it's a Town road and you
304 will need to maintain it in perpetuity, and is the Town willing to continue to invest in the road or not,
305 and if the answer is yes, we need to take the necessary measures to either incrementally repair those
306 bad sections and then when there are problems in a few years with flooding, we spend the money to fix
307 that area. He said there needs to be a commitment to repairing the road and is it going to be in one
308 swoop or incrementally. Seeley asked if he was recommending we go to the Board with that.

309
310 Tenny said there seems to be some misinterpretation of what our actual task is and he wants clarity on
311 that. Seeley said she thought they'd cleared that up. DeGraff said it sounded like Seeley came around
312 to his perspective, and Tenny agreed. Tenny said if we are agreeing with DeGraff's original perspective,
313 then before we make a good decision we need to re-engage the implications of closing that road are.
314 He said he's not saying that's his preference, and the earlier vote was not based on not wanting to open
315 the road, it was more procedural, but he believes that's what needs to happen. Tenny said there is
316 enough information and estimates about repairing the road, but on the flip side, if you're talking about
317 closing the road we need to understand that on that level there hasn't really been a discussion with
318 landowners to get their perspective for an overall decision.

319
320 DeGraff said in his earlier options to the Board, the option of keeping the road closed on the south end
321 with some repairs to the north, did not include compensation to the landowners and if that happens
322 then there needs to be some type of compensation to them, whether it is an agreement to maintain to a
323 minimum level, or the property is bought out, or a discount in taxes. He said that goes back to Luther's
324 suggestion to have a discussion with them.

325
326 Seeley said she's trying to figure out what to bring back to the Board to help them with the Task Force's
327 mission, and it sounds like Tenny is looking for a commitment to keep the road open. Tenny said yes,
328 considering that over the years we're talking about a lot of money. Seeley said if the Board responds no,
329 they aren't committed to keeping it open, then is that then the task of the Task Force. Tenny said if
330 their response is no and they want to explore closing the road, that's when you begin negotiating with
331 the landowners. DeGraff said he'd like to take today's discussion and come up with a clear list of tasks
332 they should go through to make a recommendation or a decision tree for the Board so they know if they
333 make this decision, then these are the things that need to happen. He said he didn't think they should

334 go to the Board now and asking if they want to keep it open or not. Seeley asked him how long this
335 would take him, and DeGraff said the middle of October.

336
337 Rheaume said he wanted to make two points; first, the State of Vermont is the new property owner on
338 the south end of Creek Road; and secondly he has researched the Town Plan and it talks specifically
339 about Creek Road and having access and connectivity to different neighborhoods and ease traffic on
340 Route 7, so it's important to keep in mind. Seeley said it may say that, but the Town Plan is simply a
341 guidance document.

342
343 The meeting adjourned at 10:00 upon motion by Rheaume, seconded by Tenny.

344
345 Respectfully submitted,
346 Beth Dow
347

