

**Select Board Members**

Peter Hood, Chair  
 Liz, Scharf, Vice Chair  
 Randy Drury  
 Vic Dwire  
 Phil Hyjek

**MIDDLESEX SELECT BOARD**  
**TUESDAY, OCTOBER 18, 2022**  
**Town Clerk's Office and via Zoom\***  
**Middlesex Town Clerk's Office**  
**5 Church Street**  
**Middlesex, Vermont 05602**  
**(802) 223-5915**

**MINUTES.**

**PRESENT:** Peter O. Hood, Chair, Liz Scharf, Vice Chair. Members Randy Drury and Vic Dwire, who is also Road Commissioner. Treasurer Dorinda Crowell. Town Attorney Rob Halpert \* Lister Shelly Desjardin. Road Foreman Eric Metivier. Planning Commission Chair Sandy Levine\*, PC member Theo Kennedy\*, Mike Hill, Dan Riley, Sarah Lund\* and Former Road Foreman Paul Cerminara\*. The meeting was recorded by ORCA and Select Board Assistant Sarah Merriman took the minutes. (\*signifies attendees via Zoom)

**Call to Order**

Peter called the meeting to order at 5:03 PM. The agenda was amended to include discussion about the architectural study proposals for Town Hall.

**EXECUTIVE SESSION**

Randy moved and Victor seconded entering executive session for the purpose of providing professional legal services to the Select Board as permitted under 1 V.S.A. § 313(a)(1) (F) and to permit the Treasurer and Town Attorney Rob Halpert to attend. The Board entered Executive Session at 5:05 PM and exited at 5:35 PM. No action was taken.

**Correcting Mary Jo Davis's Acreage Via Errors and Omissions**

Shelly said that due to a recent survey, Mary Jo Davis informed the Listers that the acreage of her property at 891 US Route 2 was actually .43 acres not .2. Shelly asked the Board for permission to change the 2022 Grand list to reflect this increase as permitted under 32 V.S.A. §4261.

**MOTION:** Liz moved, and Vic seconded changing the acreage at 891 US Route 2 on the 2022 Grand List from .2 to .43 acres as permitted by the "errors and omissions" statute. The motion passed. Shelly said the property's value increased by \$1,500.

**Listers' Budget for FY24**

Shelly said she's been in discussion with NEMRC to conduct most of the 2023 reappraisals with an understanding that NEMRC's hourly rate would be unchanged from the current contract. Shelly said the Listers hoped to conduct any reappraisals they could and leave unfamiliar areas to NEMRC. She gave the Board a heads up that considering recent real estate transactions, the Town should prepare for a town-wide reappraisal in 2025-2026 and the Listers were preparing requests for proposals in preparation. The key issue for them is that the reappraiser be able to work with NEMRC's CAMA software program since that's what she and the other Lister are familiar with. Vic asked why not get a jump on the season and start a town-wide reappraisal earlier? Shelly said the few certified appraisers qualified to do this work were already booked. That's why they were seeking proposals for a town-wide reappraisal three years down the road. The Board asked if the Listers expected to buy expensive new software; Shelly said not at this time. Randy, who is also a member of the Budget Committee which is overseeing the capital-planning effort, asked her to keep them apprised of any big-ticket items that may be coming down the pike. Shelly agreed.

**Highway Department Updates**

Eric updated the Board about the repaving of Center Road which is underway. The new truck will arrive at the end of this week or the beginning of next week. Vic asked about whether there was a social-media policy for Town employees. The Board agreed it was something to take up at the November 1 meeting and may require another revision of the Town's Personnel Policy. Eric said he's been leveling out a spot behind the town garage for a salt shed. The Board discussed an extended warranty for the truck; Dorinda said it was built into the purchase price. Randy brought up overtime use by the new highway employee who is training for his CDL. He asked the Highway Department be mindful of overtime since this was just the beginning of the winter season. Liz reminded the Highway Department about placing a sign at a corner on Culver Hill Road at a curve where drivers tend to go off the road in the winter.

Peter asked that the Town's speed ordinance be updated and that the Board plan to address this and other road issues.

*\*The Select Board adjourned at 6 PM to hold a Board of Civil Authority Meeting and reconvened at 6:11 PM\**

**Planning Commission Update**

Sandy reminded the Board that if they want to make any changes to the proposed zoning regulations, they should act soon in case another public hearing needs to be held so the regulations can put before the voters on the March 2023 Town Meeting ballot. Peter said the Board would take up the regulations at its November 1<sup>st</sup> meeting.

The Planning Commission is looking at new projects including or whether the Town should have some sort of regulatory authority over retail cannabis, such as a cannabis control commission. The Planning Commission may also look at a combination of wildlife and recreational uses in the Town since they so often go together and will revisit the Walkable Middlesex Scoping Study. Finally, within the next five to ten years, the Village is going to have to grapple with water and sewer issues, Sandy said, if development in the Village increases as predicted.

**Treasurer's Report**

Dorinda asked the Board to review the FY22 financial audit so it can be formally accepted at the November 1<sup>st</sup> meeting. An IT company from South Burlington has expressed interest in talking to the Town about providing IT services. Peter said a meeting with current IT provider – rbTechnologies - was productive, but would it be a good idea to meet with other companies? Randy said he'd be willing to meet with other companies. Peter said the whole Board doesn't have to meet, but perhaps designated members might explore alternatives in the new year. Peter also said rbTech founder and owner Rubin Bennett is interested in attending a Board meeting. The Board agreed this was a good idea, especially considering rbTech's suggestion that the Town budget for a new server which could cost between \$15,000 and \$20,000. Peter asked that Rubin's visit be put on the agenda as soon as possible.

**Update on Proposals for the Town Hall Study**

Liz said the Town has received five proposals from architectural firms to study the feasibility of upgrading the current Town Hall at 5 Church Street. She, Sandy, and Dave Magida reviewed the proposals Monday night, narrowing them down to two

possibilities. She said the subcommittee would like to ask more questions of the two firms, while thanking the other three for sending RFPs, before publicly revealing their identities. Liz said the proposals ranged from \$15,000 to \$35,000 while the Board had ballparked \$25,000 for the study. The Board discussed the value of having a special meeting before November 1 to help with the selection process and agreed the subcommittee should handle this, especially since time is of the essence. Liz said the firms will need at least three months to finish their studies so there's enough information to present to the voters at the March 2023 Town Meeting. Liz will advise the Board members of the two leading contenders so they can thoroughly read their proposals and send any questions to the committee.

#### **Mike Hill's Request to Upgrade a Class 4 Portion of South Bear Swamp Road**

Peter read into the record a statement signed by five residents abutting the Class 4 section of South Bear Swamp Road requesting that the Town "plow and better-grade" .3 miles of the Class 4 portion of South Bear Swamp starting with the terminus of the Class 3 section. The residents at 348, 376, 399, 401 and 406 South Bear Swamp signed the statement saying they would be satisfied with the Town doing this work without a formal upgrade to Class 3.

Mike said the residents in question cannot get fuel oil deliveries in the winter because the road is not plowed, and this affects families with children. He said the Board set a precedent for this type of upgrade in 2015 when it voted to upgrade a portion of McCullough Hill Road without significant expansion. As for the argument that he knew he was moving to a house on a Class 4 section when he purchased the property, Mike said he had no idea the road would be unplowed, there was no disclosure on his real estate documents to the above, and the Town never informed him, either, that the road would not be regularly maintained. He said all the issues raised at his September 6<sup>th</sup> meeting with the Board have been answered, including bringing signed statements from five neighbors who pay taxes.

Peter said the Town can perform limited maintenance on Class 4 roads, but not snowplowing. Only Class 3 and Class 2 roads are plowed. To be upgraded to Class 3 requires going through the statutory upgrade process which is a hurdle and governed by state statutes.

Rob laid out what that process involves: the Select Board - either on its own volition or by the petition of 5% of the Town's voters - warns a public hearing on whether to upgrade (or downgrade) a section of Town roads. The Board must visit the section and has 60 days after a formal public hearing to decide whether to regrade said section. Acting as a quasi-judicial body, the Board makes its decision based on what it deems to be "the public good, necessity, and convenience of the inhabitants" of the Town, according to state statutes. The Board's decision may then be appealed to Vermont Superior Court. If the Board decides on an upgrade, it may ask petitioning abutting landowners to bring the road up to Class 3 standards at their own expense, Rob said. The Board would then reclassify the road and assume maintenance going forward.

Sarah Lund asked about paying to upgrade 406 South Bear Swamp. Peter said two issues were being confused - a permanent upgrade vs. intermittent maintenance to keep the road at Class 4 standards. A resident who wishes for that kind of maintenance, such as putting down gravel or ditching, would make a request to the Road Commissioner who would then inform the Board. However, Peter noted, culverts under Class 4 roads are the Town's responsibility.

Rob stressed only the Select Board can decide on upgrades or downgrades; this is not a question that can be put directly to the Town voters at a Town Meeting.

Without a petition from 5 % of the Town's voters, the Select Board can decide to go through the regrading process on its own motion. Mike said this is what he wanted the Board to do tonight, just as it did in 2015 upon request of a resident of McCullough Hill Road. He said he felt the Board - and other Town officials - have treated him unfairly, for which there may be potential legal repercussions. He simply wants the same treatment the McCullough residents got.

Sarah Merriman referred to town records showing the Board followed the statutory process for a formally upgrading .4 miles in the middle of McCullough Hill Road by holding a warned public hearing and visiting the road in 2015. In addition, residents in favor of the upgrade submitted a petition to the Select Board with 94 signatures of Middlesex voters, though the Board began the process on its own volition.

Paul, then Road Foreman, said McCullough Hill was upgraded for the convenience for the Town because the road crew was having trouble plowing and sanding the top half the road up to the barriers, turning around in private driveways, and then plowing and sanding the bottom half simply because a .4-mile section in the middle was blocked off during the winter. Upgrading that curve of McCullough Hill Road cut a half hour of sanding time and proved useful in mud season when another through-way was needed because Brook or Center roads were closed due to impassability.

Regarding Mike's implications that the upgrade was done to please Vic, whose house abuts that formerly Class 4 section of McCullough Hill Road, Liz stressed that in 2015 Vic was not on the Board and was not Road Commissioner. Vic said he did not request the upgrade.

Peter suggested the Board hold a hearing on Mike's request. Liz commended Mike for bringing the issue to the Select Board and working with his neighbors, but took offense to his implication that the Board was deliberately failing to keep residents safe. She said a lot of people in Middlesex live on private roads or Class 4 roads that they plow and sand themselves. She said the Board, made up of volunteers, was doing its best to meet the needs of the Town knowing not everyone's needs can be met. She said she'd appreciate if Mike approached the Board with a friendlier and less accusatory tone.

Peter suggested that Eric and Vic improve that portion of South Bear Swamp Road to Class 4 standards now since it's in poor condition, and that the Board hold a hearing on upgrading that portion to Class 3. Vic said the Road Crew does grade Class 4 roads, but the road crew has been short staffed for over a year and was down a foreman for months.

Randy said the families along this portion of road need to know how much it would cost to upgrade it to Class 3. Given the Town's strapped resources, he said he does not support upgrading .3 miles of South Bear Swamp to Class 3. It might be a different story if it was a through-road, but it's not.

Paul reminded the Board that Bryan Redmond, who lives on a Class 4 portion at the top of Notch Road, has been asking the Town for an upgrade for years and the Board has declined to go through the process. He said there are a lot of safety and funding issues to consider.

Vic floated the idea of upgrading all South Bear Swamp to Class 3 so it could connect to East Bear Swamp and become a through road. Mike said he was not in favor of that because he likes the "country nature" of the road. He asked again why the Town just can't plow this .3-mile section that abuts the Class 3 section without going through the upgrade.

Randy said the minute the Town does it for him, the Town will have to do it for 50 other families. It's not simply a matter of budget, but of the Highway Department's capacity.

Liz said she was in favor of holding a hearing and going through the statutory process. If the Board votes against the hearing, then Mike and supporters can get a petition with 75 signatures and obligate the Board to hold a hearing. She said the Board can agree tonight to initiate the process.

Sarah Lund asked for immediate assistance to repair the worst spots on the road and asked if rumors were true that it would be downgraded to a legal trail. Peter said there was no discussion about turning it to trail.

Liz moved to begin the process under 19 V.S.A. by holding a hearing to upgrade .3 miles of the Class 4 portion of South Bear Swamp Road starting from the Class 3 terminus. The motion died for lack of a second.

Peter advised those in attendance to seek petitions with signatures from 5% of the voters. In the meantime, the Town would do the Class 4 maintenance it promised.

**OTHER BUSINESS**

**MOTION:** Liz moved, and Vic seconded approving the minutes of the October 4, 2022, Select Board Meeting. The motion passed.

**MOTION:** Randy moved, and Liz seconded authorizing Sarah Merriman to sign an agreement with FEMA to extend the performance period for the Rich Road buyout until October 31, 2023. The motion passed.  
All orders were signed.

The meeting adjourned at 8:24 PM

Respectfully submitted by Sarah Merriman, Town Clerk/Select Board Assistant

THE ABOVE MINUTES WERE APPROVED AS A WARNED AGENDA ITEM AT A REGULARLY SCHEDULED MEETING OF THE MIDDLESEX SELECT BOARD ON NOVEMBER 1, 2022.

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PETER O. HOOD, CHAIR

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ELIZABETH SCHARF, VICE CHAIR

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RANDY DRURY

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VIC DWIRE

\_\_\_\_\_  
N/A  
PHIL HYJEK

DRAFT