

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

7:00

- 1. **Call to Order**
- 2. *Approval of Agenda**
- 3. *Approval of Minutes of December 19, 2017 Regular Selectboard Meeting**
- 4. **Citizen Comments [Opportunity to raise or address issues that are not otherwise included on this agenda]**

7:10

5. **Public Hearing on FY19 Budget Proposal. Tonight's hearing is an opportunity for the Selectboard to take public testimony on the proposed FY19 General Fund budget and prepare any final questions or requests for revisions prior to the Board's January 23rd meeting, when the budget will be finalized for presentation to the voters in March. Kathleen's summary of revisions since the Board's December budget meetings is in your packet.

Suggested opening remarks:

- In accordance with 24 VSA § 127-1302, the Board is conducting a public hearing to take comments and questions from the Middlebury community regarding the proposed FY19 General Fund Budget.
- In a moment, I will turn the floor over to Town Manager Kathleen Ramsay, who will lead off the discussion with an update on revisions to the draft budget that have been made since the Board's last meeting on December 19th. Kathleen is also prepared to provide some background information, as requested by the Board, regarding the Town's investments in local economic development efforts in recent years.
- Because this is an official public hearing, if members of the public have a question or comment, after being recognized by the Chair, please come up to the microphone, state your first and last name for the record and then direct your feedback to the Selectboard so that we accurately capture it for the minutes for this meeting and those watching on MCTV viewers can hear you clearly.
- With that, I declare the public hearing to discuss the draft FY19 General Fund budget now open and will now turn the floor over to Kathleen.

Suggested closing remarks:

- There being no further comment regarding the draft FY19 General Fund budget, I now declare the public hearing closed. The Selectboard will finalize the FY19 budget at its January 23rd meeting. Thank you all for your thoughtful participation.

In your packet: 1) FY19 General Fund Budget public hearing notice; 2) Summary of FY19 General Fund Expense Changes; 3) Follow-up from December Budget Meetings; 4) 2nd Draft FY19 Tax Rate Estimate; 5) 2nd Draft FY19 Revenue Summary; 6) 2nd Draft FY19 Expenditure Summary; 7) 2nd Draft FY19 Line Item Budget; 8) Town of Middlebury Business & Economic Development Expenditures; 9) Initial Town Meeting approval of BMP funding from 2011 Annual Report; 10) BMP 2017-18 Budget; 11) Email from Ramsay re: BMP inquiry about funding for website; 12) Initial Town Meeting approval for MBDF funding from 2012 Annual Report; 13) ACEDC FY19 Funding Request; 14) ACEDC FY18 budget with Q1 actuals

7:30

6. **Public Hearing on Application to the State of Vermont for a Vermont Community Development Program (VCDP) Planning Grant for \$30,000 for planning, design and legal services associated with the potential construction of a community septic system to serve Lindale Mobile Home Park.

Suggested opening remarks for the hearing:

- **From the Notice of Public Hearing submitted to VCDP:** The Town of Middlebury is considering making application to the State of Vermont for a 2017 VCDP Planning Grant 2017 under the Vermont Community Development Program. This public hearing is being held to obtain the views of citizens on community development, to furnish information concerning the amount of funds available and the range of community development activities that may be undertaken under this program, the impact to any historic and archaeological resources that may be affected by the proposed project, and to give affected citizens the opportunity to examine the proposed statement of projected use of these funds.

The proposal is to apply for up to \$30,000 in VCDP funds, which will be used to accomplish the following activities: Pre-development activities, including planning, design and legal services, associated with the potential construction of a community septic system to serve Lindale Mobile Home Park.

- The Board endorsed ACCT's proposed application at its December 12th meeting, following a presentation of the project and grant proposal by ACCT representatives Mary Jackman and Tim Ashe. Tonight, **Elise Shanbacher, Executive Director of the Addison County Community Trust** is with us to review the application for public comment.
- Because this is an official public hearing, if members of the public have a question or comment, after being recognized by the Chair, please come up to the microphone,

state your first and last name for the record and then direct your feedback to the Selectboard so that we accurately capture it for the minutes for this meeting and those watching on MCTV viewers can hear you clearly.

- I will now turn the floor over to **Elise**.

Comments to close the hearing:

- There being no further comment regarding the grant application, I now declare the public hearing closed. Per Vermont Community Development Program guidelines, a list of attendees and a summary of tonight's discussion will be included in the public record of this meeting, which will be included in the application materials submitted to VCDP.

Note to the Board: In accordance with VCDP guidelines, any matching funds that the Town commits to the grant will be drawn from the VCDP Revolving Loan/Grant Fund.

In your packet: 1) Notice of Public Hearing; 2) December 8th ACCT letter to the Selectboard

7:40

7. **Thomas Hanley, Chief of Police, Police Department Budget Request. Middlebury Police Chief Tom Hanley will present the Police Department's FY19 budget request. In response to the Board's questions regarding the draft PD budget at its December 19th, Kathleen reports the following:

Line 448 – Police Department Heating Fuel – Chief Hanley's proposal included a \$1,000 increase in this line item, from \$7,000 to \$8000. In response to the Board's request for additional background on this increase, the Chief provided the following response:

The propane budget, I looked at a number of factors that could influence propane use and cost. The Fed has been anticipating raising the prime rate (which will have an overall effect on inflation which is seen to be rising), the longer term weather forecast indicates a colder winter than 2016- 2017, our heating system will be in its 16th year and won't be as efficient as it was when new, and other indicators that showed a potential rise in the cost of propane. It was just a "fail safe" effort at keeping cost within budget. I use the same forecasting information for cruiser fuel- the one variable with cruiser fuel is that our cars are coming in with increased fuel efficiency unlike our heating system.

Line 512 – School Resource Officer – correct from \$55,391 to \$54,391, a reduction of \$1,000.

In your packet: FY19 Police Department Budget Worksheet

7:50

8. **Review First Draft of Warning for Town Meeting. Town Manager Kathleen Ramsay will review the first draft of the warning for the 2018 Annual Town Meeting. A copy of the warning is included in your packet, for reference.

It should be noted that, in addition to the six articles included in this first draft for the Board's consideration, two additional articles – for voting by Australian ballot – are still being developed and may be presented at your next meeting on January 23rd:

Article 7 Shall the Town of Middlebury appropriate \$XXXXX for Addison County Habitat for Humanity? *PENDING RECEIPT OF CITIZENS PETITION*

Article 8 Shall general obligation bonds of the Town of Middlebury in an amount not to exceed Two Million Dollars (\$2,000,000), subject to reduction from available alternate sources of funding, be issued for the purpose of financing construction of the East Middlebury Village Flood Resiliency Project improvements including: (1) increasing flood storage capacity of the Middlebury River between the Lower Plans Road Bridge and the Gristmill Bridge; (2) rebuilding the existing floodwall/erosion control structure at the Grist Mill Bridge and extending and/or replacing the floodwall/erosion control structure 110' downstream of the Grist Mill Bridge; and (3) hard armoring 1,400' of the flood barrier located along the river to the south of Ossie Road, the total estimated cost of such improvements being Two Million Dollars (\$2,000,000), with the Town's portion of the construction cost estimated at Two Million Dollars (\$500,000)? *PENDING RECEIPT OF UPDATED PLANS FOR THE PROJECT, CONFIRMATION OF FUNDING FROM FEMA AND REVIEW BY THE INFRASTRUCTURE COMMITTEE. IT IS ANTICIPATED THAT THE NUMBERS WILL BE LESS THAN THOSE INCLUDED HERE – THESE NUMBERS ARE BASED ON ESTIMATES FOR THE ORIGINAL PROJECT, WHICH HAS BEEN REVISED SIGNIFICANTLY.*

In your packet: 1st draft Town Meeting Warning

8:00

9. *Ross Conrad, Energy Committee Chair, Request for Sole Source Procurement for Energy Audit Services.

Requested action: *Authorize the Energy Committee to enter into negotiations with Zero by Degrees LLC to perform energy audits at the Public Works and Police Department facilities, as a sole-source procurement.*

Energy Committee Chair Ross Conrad will present the Committee's request for Board authorization to negotiate a contract with Fairlee, VT-based Zero by Degrees LLC for the proposed energy audits under the under the Sole Source Purchases provision of the Town Purchasing Policy. This provision gives the Board discretion to waive the bid process for purchases over the \$3,000 threshold, if it is determined that there exists only one best possible source for the purchase (see pg. 3702 of the policy in your packet). The Committee's rationale for the request is summarized in a memo that Ross has prepared for the Board's consideration, which is included in your packet. In it, Ross notes that, while Zero by Degree's proposal for auditing the two facilities exceeds the Committee's \$10,000 budget for energy efficiency measures approved in the FY18 budget, the Committee would like the opportunity to work with the company toward reducing the price for the audits, should the Board approve this request.

In your packet: 1) January 5, 2018 Memorandum from Ross Conrad; 2) Zero by Degrees LLC proposal for energy audit services; 3) Town of Middlebury Purchasing Policy

Recommendation: If the Board is amenable, a motion would be in order to approve the Energy Committee's request to enter into negotiations with Zero by Degrees LLC for energy audit services for the Public Works and Police Department facilities, as a sole-source procurement.

8:10

10. *Refer Aqua ViTea's Revised Application for Tax Stabilization to the Tax Stabilization Task Force. The Town is in receipt of an application for tax stabilization from Aqua ViTea, LLC, dated December 31, 2017. In it, Aqua ViTea CFO Jordan Benjamin is requesting that the Board consider stabilizing the "Town" tax rate on the company's existing commercial property at 153 Pond Lane for five (5) years, beginning in 2018,. He notes that Aqua ViTea's total bill for the 2017 Tax Year is \$52,737.66, with the "Town" portion being \$18,480.98.

In your packet: Aqua ViTea December 31, 2017 Tax Stabilization Policy Application

Recommendation: If the Board is amenable, a motion would be in order to refer Aqua ViTea's application for tax stabilization to the Tax Stabilization Task Force, for further analysis and the formulation of a recommendation for the Selectboard's consideration on January 23rd.

8:15

11. *Wastewater Usage Agreement with Agri-Mark. Town Counsel has reviewed the proposed Sewer Usage Agreement, which would amend and extend the current agreement with Agri-Mark, which expired on January 1st, to December 31, 2018. Kathleen forwarded the agreement to Agri-Mark for comment, but as of Friday, the company has not responded. The draft agreement is included in your packet, for reference.

In your packet: Draft Sewer Usage Agreement

Recommendation: Assuming that Agri-Mark has completed its review in time for Tuesday's meeting and has indicated that it is prepared to approve it, a motion would be in order to authorize Town Manager Kathleen Ramsay to sign the Sewer Usage Agreement on behalf of the Selectboard.

8:25

12. **Memorandum of Understanding between Middlebury College, the Town of Middlebury & Middlebury Area Land Trust for Installation of RR Crossing on the Trail-Around-Middlebury near the Boathouse Bridge.

Requested action: Authorize Town Manager Kathleen Ramsay to sign a Memorandum of Understanding with the College, MALT and Vermont Association of Snow Travelers (VAST) regarding the purchase and installation of gates at the TAM rail crossing near the Boathouse Bridge, off South Street.

This agenda item is a follow-up to the Board's discussion last summer regarding a VTrans directive that a pedestrian gate be installed at the Boathouse Bridge crossing. The following excerpt from the June 13, 2017 Selectboard meeting minutes provides additional background:

10. Discuss Funding Options for MALT Railroad Crossing Project

Eben Punderson, President of Middlebury Area Land Trust (MALT), joined the Board. Ramsay provided the Board with some background information on the agreement signed last fall between VTrans and Middlebury College and MALT for the Trail Around Middlebury to cross the railroad by the College ballfields over to the high school fields. Part of that agreement was the installation of a gate, and now VTrans is looking to have this gate installed soon. The cost is \$30,250 and MALT is investigating potential funding the installation. The College has already purchased the gate at a cost of \$6,656, so the total cost is a little over \$38,000.

Punderson said VTrans had told MALT that if they wanted to continue using the crossing they had to sign this license agreement, which includes an annual fee and the installation of the gate. He said they signed it, but hoped it would not require any immediate installation and didn't budget the funds for this. He said Ramsay had tried to seek funding as part of the rail bridges project. Ramsay said that VTrans was unable to include it in the scope of the project, but suggested applying for a VTrans Bicycle & Pedestrian Program grant in July, which requires a 50% local match. Punderson said MALT has not really done anything towards seeking funding and that they are in a transition period in the organization.

Ramsay said that she is talking with Dave Donahue at Middlebury College about a possible 4-way split of the costs, between the Town, the College, MALT and the Vermont Association of Snow Travelers (VAST), which also uses this trail. This would need to be over a period of time to apply for various grants, so Ramsay said she'd have to ask VTrans if they would be willing to allow the extra time for the installation. Punderson felt if the VTrans saw there was an effort being made to get the funds and a plan was in place, that they would be willing to wait. Punderson also felt that MALT could do a fund raising effort that also might enlighten the community to how vulnerable some parts of the TAM were to circumstances like this.

As a reminder, the Town's subsequent efforts to achieve partial funding for the installation costs via a State Funded Small-Scale Construction Project Grant under the VTrans Bike-Ped Program, proved unsuccessful. The parties have been working since then toward a cost-sharing agreement that would enable the project to move forward.

Under the proposed agreement, the College would provide initial funding not to exceed \$39,406 toward the cost of the gates and the installation. The Town would then pay the College \$11,968 over the course of three years for its share of the project costs. MALT and VAST would also commit to a share of the costs, as outlined in the agreement included in your packet.

In your packet: Memorandum of Understanding regarding the Boathouse Bridge crossing gates.

Recommendation: If the Board is amenable, a motion would be in order to Authorize Town Manager Kathleen Ramsay to sign a Memorandum of Understanding with the College, MALT and Vermont Association of Snow Travelers (VAST) regarding the purchase and installation of gates at the TAM rail crossing near the Boathouse Bridge

8:30

13. **FY18 Year-to-Date Budget Report. Town Manager Kathleen Ramsay will report on the November 30th and December 31st YTD FY18 budget results for the General Fund and Equipment-Water-Sewer Funds.

In your packet: 1) November and December YTD FY18 budget results for all Funds

8:35

14. * Approval of Check Warrants

A motion would be in order to approve total expenditures in the amount of _____, consisting of _____ for accounts payable, and _____ for payroll, for the period December 20, 2017 through January 9, 2018.

15. *Town Manager's Report.

15a. Update on Green Lantern Net Metering Proposal. As you recall, Energy Committee chair Ross Conrad approached the Board in December with a request to consider the Town's participation in a net metering project opportunity that had been presented to him by a representative from Green Lantern Group at a recent conference on renewable energy. The Board deferred further discussion on the matter until the full Energy Committee had an opportunity to weigh in on the merits of the proposal. The Committee met on December 20th and agreed to recommend the Town proceed with negotiating an agreement with Green Lantern.

Since the December 12th meeting, Kathleen has been in touch with VLCT's Municipal Assistance Center, which provided her with a *Template for Group Net Metering Agreements* that it developed in 2015 and that describes in some detail the multitude of legal and financial considerations that municipalities typically confront when considering whether to join a net metering project. Given the rapidly evolving and complex nature of the renewable energy marketplace in general, and net metering projects in particular, and concerned that Town staff lack the expertise to vet the Green Lantern proposal effectively, Kathleen is recommending that, if the Board wishes to pursue net metering further, it authorize staff to identify an appropriate external resource to assist in the preparation of a Request for Proposals. To that end, she has been in contact with the Town of Hartford, which very recently completed a net metering RFP, for guidance. She is now awaiting a copy of Hartford's RFP from the town's energy coordinator as well as contact information for Vermont Law School, which assisted Hartford with both the preparation of the RFP and the analysis of the responses.

In your packet: 1) VLCT Template for Group Net Metering Agreements; 2) Town of Middlebury Electricity Expenditures, 2013-2017

15b. Upcoming Town Forest Public Visioning Workshop – January 15th. As you may recall, Middlebury was selected as one of ten Vermont communities to receive a grant from the Vermont Urban & Community Forestry Program, which provides expertise to towns wishing to take an active role in planning for the future of their urban forests. On Monday, January 15th, a Public Visioning Workshop and Open House will take place in the Large Conference Room at the Town Offices, from 6:00 – 8:00 p.m. The focus of this session will be gathering input on the future of Battell Woods, Means Woods and Chipman Hill Town Forests. The workshop is being presented in an open house format, so interested individuals may stop by at any time between 6:00 and 8:00 p.m.

In your packet: Press Release and information flyer for January 5th Public Visioning Workshop

15c. A note regarding current and future community engagement projects. The Town is experiencing rapid growth in the number of projects and initiatives being introduced and driven by constituencies outside of the normal Town governance structure – the possible new net metering project, the Climate Economy Initiative and the Vermont Town Forest Recreation Planning Initiative being but recent examples. While focusing initially on grassroots community engagement and visioning, once the engagement phase is complete and community expectations have been heightened, these initiatives have the potential to spin off proposals for multiple, concurrent projects, the management of which could create significant impacts to Town staff resources. As such, it is recommended that due consideration be given to where such projects, when presented to the Selectboard, will fit in with regard to the Board’s established strategic planning priorities and completion timelines.

15d. Upcoming contract negotiations. David Van Deusen, Staff Representative for AFSCME Council 93, has notified the Town of the Union’s intent to negotiate a successor agreement to current labor contract, which expires on June 30th of this year. Work will be getting underway in the next few weeks to prepare a first draft of the Town’s management proposal for discussion with the union.

In your packet: December 7, 2017 letter from Van Deusen regarding union contract

16. **Board Member Concerns

17. *Executive Session – Pending Litigation – Anticipated

In accordance with Vermont’s Open Meeting Law, the following two motions are in order prior to entering into Executive Session:

1. In accordance with Vermont’s Open Meeting Law requirements, I move that the Board find that premature general knowledge of the consideration of **pending litigation** would clearly place the Selectboard at a substantial disadvantage, because the Select Board risks disclosing its litigation strategy if it discusses the **pending litigation** in public.

2. I further move that the Board enter into Executive Session to discuss **pending litigation** under the provisions of Title 1, Section 313(a)(1) of the Vermont Statutes.

18. **Action on Matters Discussed in Executive Session

9:00

19. *Adjourn