



TOWN OF MIDDLEBURY

Office of the Selectmen

MINUTES
MEETING OF THE BOARD OF SELECTMEN
January 18, 2022– 4:00 p.m.
HELD CONCURRENTLY WITH ZOOM

Present: Edward B. St. John, First Selectman
Elaine M. Strobel, Selectman*
Ralph J Barra, Selectman

Also Present: Attorney Robert Smith
Barbara J. Whitaker, Recording Clerk
Marj Needham*, Reporter – Bee Intelligencer
Linda Zukauskas*, Reporter – Voices

*viewed via Zoom

Call to Order with Pledge of Allegiance

First Selectman St. John called the meeting to order at 4:00 p.m. with the Pledge of Allegiance.

Approval of January 3, 2022 Meeting Minutes

First Selectman St. John MOTIONED to approve the minutes of the January 3, 2022 meeting; SECONDED by Selectman Strobel. Unanimous approval.

Re-Approve December 20, 2021 Meeting Minutes

First Selectman St. John MOTIONED to approve the minutes of the December 20, 2021 meeting; SECONDED by Selectman Strobel with the following change. Unanimous approval.

Current

First Selectman St. John MOTIONED to approve the proposed ordinance Prohibiting Use of Cannabis on Town-owned Property for approval at a Town Meeting; SECONDED by Selectman Strobel. Unanimous approval.

Amended

First Selectman St. John MOTIONED to approve the proposed ordinance Prohibiting Use of Cannabis on Town-owned Property; SECONDED by Selectman Strobel. Unanimous approval.

Discussion and Consideration

At this time the First Selectman requested that the Board review the attached new ordinances on the Payment of Taxes on Motor Vehicles Registered in Another State and Unlawful Operation of Motorized Recreational Vehicles & Sales and Fueling Regulation submitted by Attorney Smith. The Board will discuss the ordinances at their next meeting.

First Selectman St. John MOTIONED to add the attached letter from Greg Barnes, 64 Spring Road to the minutes; SECONDED by Selectman Barra. Unanimous approval.

First Selectman St. John MOTIONED to deny the requests to make Spring Road a dead end or cul-de-sac, a one way road, or to make any similar alteration of that road's right of way; SECONDED by Selectman Strobel. Unanimous approval.

MINUTES - MEETING OF THE BOARD OF SELECTMEN

January 18, 2022– 4:00 p.m.

Page 2

Selectman Strobel added that the Town did their due diligence concerning this request by consulting with the Town engineer and residents of Spring Road.

Public Comments

None.

Adjournment

First Selectman St. John MOTIONED to ADJOURN the meeting at 4:09 p.m.;
SECONDED by Selectman Barra. Unanimous approval.

Respectfully submitted,

Barbara J. Whitaker

Barbara J. Whitaker
Recording Clerk

Payment of Taxes on Motor Vehicles Registered in Another State

Sec. 1 - Statement of Purpose.

Residents of the Town of Middlebury are required to pay taxes on motor vehicles they own, which are utilized in this state, and most frequently used in, or remaining in, the Town of Middlebury, in accordance with Connecticut Statutes.

Connecticut Statutes Section 12-71, provides, in pertinent part:

...

(f) (1) Property subject to taxation under this chapter shall include each registered and unregistered motor vehicle and snowmobile that, in the normal course of operation, most frequently leaves from and returns to or remains in a town in this state, and any other motor vehicle or snowmobile located in a town in this state, which motor vehicle or snowmobile is not used or is not capable of being used.

(2) Any motor vehicle or snowmobile registered in this state subject to taxation in accordance with the provisions of this subsection shall be set in the list of the town where such vehicle in the normal course of operation most frequently leaves from and returns to or in which it remains. It shall be presumed that any such motor vehicle or snowmobile most frequently leaves from and returns to or remains in the town in which the owner of such vehicle resides, unless a provision of this subsection otherwise expressly provides. As used in this subsection, "the town in which the owner of such vehicle resides" means the town in this state where (A) the owner, if an individual, has established a legal residence consisting of a true, fixed and permanent home to which such individual intends to return after any absence, or (B) the owner, if a company, corporation, limited liability company, partnership, firm or any other type of public or private organization, association or society, has an established site for conducting the purposes for which it was created. In the event such an entity resides in more than one town in this state, it shall be subject to taxation by each such town with respect to any registered or unregistered motor vehicle or snowmobile that most frequently leaves from and returns to or remains in such town.

(3) Any motor vehicle owned by a nonresident of this state shall be set in the list of the town where such vehicle in the normal course of operation most frequently leaves from and returns to or in which it remains. If such vehicle in the normal course of operation most frequently leaves from and returns to or remains in more than one town, it shall be set in the list of the town in which such vehicle is located for the three or more months preceding the assessment day in any year, except that, if such vehicle is located in more than one town for three or more months preceding the assessment day in any year, it shall be set in the list of the town where it is located for the three months or more in such year nearest to such assessment day. In the event a motor vehicle owned by a nonresident is not located in any town for three or more of the months preceding the assessment day in any year, such vehicle shall be set in the list of the town where such vehicle is located on such assessment day.

...

Connecticut Statutes Section 12-71b, provides, in pertinent part:

...

(g) Any motor vehicle which is not registered in this state shall be subject to property tax in this state if such motor vehicle in the normal course of operation most frequently leaves from and returns to or remains in one or more points within this state, and such motor vehicle shall be subject to such property tax in the town within which such motor vehicle in the normal course of operation most frequently leaves from and returns to or remains, provided when the owner of such motor vehicle is a resident in any town in the state, it shall be presumed that such motor vehicle most frequently leaves from and returns to or remains in such town unless evidence, satisfactory to the assessor in such town, is submitted to the contrary.

...

It is a violation of Connecticut Statutes Section 14-12, and an infraction, such that:

...

(2) a resident of this state who operates or parks a motor vehicle such resident owns with number plates issued by another state on any highway shall be fined two hundred fifty dollars, except that the fine shall be suspended for a first time violator who presents proof of registration for the motor vehicle subsequent to the violation but prior to the imposition of a fine.

Sec. 2 - Violation.

It shall be a violation of this ordinance for any Middlebury resident to fail to register his/her motor vehicle in Connecticut, and/or set such vehicle in the tax list in the Town of Middlebury, when required by, and in accordance with, Connecticut Statutes.

Sec. 3 - Penalty

In addition to the penalties provided by Connecticut Statutes, any person who violates the provisions of this ordinance shall pay a fine of two hundred fifty dollars (\$250.00), to the Town of Middlebury. Said fine will be in addition to, and not a substitute for, any required payment of back taxes, plus interest and penalties, that may be owed on the motor vehicle(s) in question.

Sec. 3 – Citations and Appeal Authorized

Pursuant to Connecticut General Statutes § 7-148(c)(10), the Town of Middlebury may enforce this ordinance by the issuance of a citation. Each citation shall be issued by a police officer or designated municipal employee who shall issue a written warning providing notice of the specific violation before issuing the citation. Such citation may be appealed through the citation appeal procedure established herein.

Sec. 4. – Citation Appeal Procedure

(a) *Applicability.* Unless otherwise expressly provided within this Code, this section shall apply upon the issuance of a citation for violation of any provision of this Ordinance.

(b) *Appointment of citation hearing officers.* The First Selectman, subject to approval of the Board of Selectmen, shall appoint one or more citation hearing officers, other than police officers or employees or other persons who issue citations, to conduct hearings authorized by this section.

(c) *Notice of violation.* Within twelve months from the expiration of the period for the uncontested payment of fines, penalties, costs or fees for citations issued under any provision of this Ordinance, the Town shall send notice to the person cited. The notice shall inform the person cited: (1) Of the allegations against him/her, and the amount of the fines, penalties, costs or fees due; (2) that he may contest his liability before a citation hearing officer by delivering in person or by mail written notice within ten days of the date thereof; (3) that if he does not demand such a hearing, an assessment and judgment shall be entered against him; and (4) that the judgment may issue without further notice.

(d) *Admission of liability.* If the person or entity who is sent notice pursuant to subsection (c) of this section wishes to admit liability for any alleged violation, he may, without requesting a hearing, pay the full amount of the fine, penalties, costs or fees admitted to in person or by mail to an official designated by the town. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of the person making the payment. Any person who does not deliver or mail written demand for a hearing within ten days of the date of the first notice provided for in subsection (c) above shall be deemed to have admitted liability, and the designated municipal official shall certify the person or entity's failure to respond to the citation hearing officer. The citation hearing officer shall thereupon enter and assess the fines, penalties, costs or fees as set forth herein, and shall follow the procedures set forth in subsection (g) of this section.

(e) *Right to hearing; notice; timing of hearing.* Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen days nor more than thirty days from the date of the mailing of notice, provided the citation hearing officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance.

(f) *Hearing procedure.* An original or certified copy of the initial notice of violation issued by the issuing official or police officer shall be filed and retained by the municipality, and shall be deemed to be a business record and evidence of the facts contained therein. The presence of the issuing official or police officer shall be required at the hearing if such person so requests. A person wishing to contest his liability shall appear at the hearing and may present evidence in his behalf. A designated municipal official, other than the hearing officer, may present evidence on behalf of the municipality. If such person fails to appear, the hearing officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes or ordinances. The citation hearing officer may accept from such person copies of police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The citation hearing officer shall conduct the

hearing in the order and form and with such methods of proof as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The citation hearing officer shall announce his decision at the end of the hearing. If the citation hearing officer determines that the person is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If the citation hearing officer determines that the person is liable for the violation, he shall forthwith enter and assess the fines, penalties, costs or fees against such person as set forth in the statutes and/or ordinance.

(g) *Notice of assessment; filing in Superior Court; effect.* If such assessment is not paid on the date of its entry, the citation hearing officer shall send by first class mail a notice of the assessment to the person found liable and shall file, not less than thirty days or more than twelve months after such mailing, a certified copy of the notice of assessment with the clerk of the Superior Court for the Judicial District of Waterbury together with an entry fee of eight dollars. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person may be accrued and filed as one record of assessment. The clerk shall enter judgment, in the amount of such record of assessment and court costs of eight dollars, against such person in favor of the municipality. Notwithstanding any provisions of the Connecticut General Statutes, the hearing officer's assessment, when entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such person.

(h) *Right to judicial review.* A person against whom an assessment has been entered pursuant to this section is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty days of the mailing of notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for a small claims case, at the Superior Court for the Judicial District of Waterbury, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

Effective Date: January 18, 2022

Adopted by Board of Selectmen on: January 18, 2022

Unlawful Operation of Motorized Recreational Vehicles & Sales and Fueling Regulation

Sec. 1. - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section:

All-terrain vehicle means a self-propelled vehicle designed to travel over unimproved terrain as defined in Conn. Gen. Stat. § 14-379 and which has been determined by the commissioner of motor vehicles to be unsuitable for operation on the public highways.

Dirt bike means a two-wheeled motorized recreational vehicle designed to travel over unimproved terrain and not designed for travel on a highway, as defined in Conn. Gen. Stat. § 14-1. "Dirt bike" does not include an all-terrain vehicle, as defined in Conn. Gen. Stat. § 14-379, or a motor-driven cycle, as defined in Conn. Gen. Stat. § 14-1.

EPAMD shall mean any electric personal assistive mobility device (hereinafter "EPAMD") that is self-balancing, has two (2) non-tandem wheels, is designed to transport one (1) person, and has an electric propulsion system that produces an average power output of no more than 750 watts.

Mini cycle means pocket bikes, miniature (hereafter "mini") bikes, mini cycles, mini sport bikes, mini motorcycles, chopper scooters, and any other similar wheeled vehicle designed to transport one (1) or more persons that is powered by any type of motor.

Motor-driven cycle means any motorcycle, motor scooter, or bicycle with an attached motor, with a seat height of not less than twenty-six (26) inches, and a motor having a capacity of less than fifty (50) cubic centimeters of piston displacement.

Motorized recreational vehicle shall mean a wheeled vehicle, with a motor, intended to be rode by one (1) or more persons and shall include "all-terrain vehicle," "minibike," "dirt bike," "motor-driven cycle," "snow mobile," and "mini-cycle," all as defined herein.

Motorized recreational vehicle shall not be deemed to include any of the following:

- (1) Any registered "motorcycle" as defined in the Conn. Gen. Stat. § 14-1(59);
- (2) Any registered "motor vehicle" as defined in Conn. Gen. Stat. § 14-1(58);
- (3) Any moped that meets Federal Department of Transportation guidelines for use on streets and is approved by the State of Connecticut Department of Motor Vehicles for use on streets, provided, however, the moped is operated pursuant to all applicable state laws, rules, and regulations and all Town of Middlebury ordinances;

- (4) Any wheelchair or similar mobility assisting device utilized by a person with a physical disability or whose ambulatory mobility has been impaired due to age or physical ailment;
- (5) Any self-propelled snowplow, snow blower, or lawn mower when used for the purpose for which it was designed and operated at a speed not to exceed four (4) miles per hour;
- (6) Any vehicle owned or leased by the Town of Middlebury;
- (7) Any EPAMD as defined herein;
- (8) Any "Electric bicycle" as defined in Conn. Gen. Stat. Sec. 14-1
- (9) Any bicycle or trail bike without a motor;
- (10) Any golf cart;
- (11) Any agricultural equipment-such as tractors and farm implements;
- (12) Any construction machinery; and
- (13) Any vehicle that is used solely for amusement, or as a novelty display item, and is operated during a parade or any other special event that is properly permitted and approved by the Town of Middlebury.

Motorized recreational vehicle dealer means any person engaged in the business of manufacturing or selling any motorized recreational vehicles, having an established place of business for the manufacture, sale, trade, and display of such vehicles.

Snowmobile means a vehicle with a motor, with runners in the front and caterpillar tracks in the rear, intended to be used by one (1) or more persons for travelling over ice and snow.

Sec. 2. - Operations prohibited.

- (a) It shall be unlawful for any person to operate a motorized recreational vehicle or for any owner of a motorized recreational vehicle to knowingly permit the operation of such vehicle on any street or sidewalk in the Town of Middlebury or on any public property, including but not limited to school property, playgrounds, and parks within the Town of Middlebury.
- (b) It shall be unlawful for any person to ride as a passenger on a motorized recreational vehicle or for any owner of a motorized recreational vehicle to knowingly permit any person to ride as a passenger on such vehicle operated in violation of subsection (a) above.

- (c) It shall be unlawful for any person to operate a motorized recreational vehicle, ride as a passenger on a motorized recreational vehicle, or for any owner of a motorized recreational vehicle to knowingly permit its operation on any private property within the Town of Middlebury without first obtaining the written permission of the property owner, if the property is not owned by the operator, passenger, or owner of such vehicle.
- (d) It shall be unlawful for any person to operate an EPAMD or for any owner of an EPAMD to knowingly permit the operation of an EPAMD on any street in the Town of Middlebury, except as provided herein. An EPAMD may be operated on any designated bike line or sidewalk and/or crosswalk. Such operator must adhere to the regulations of such travel lane as defined by the Traffic Commission and in no instance shall the speed of operations exceed five (5) miles per hour on any sidewalk. Where no such bike lane or sidewalk exists, an EPAMD may be legally operated on the far-right side of the street. An operator of an EPAMD shall yield to pedestrians and any wheelchair or similar mobility assisting device as defined in subsection 2 above and shall comply with any applicable State of Connecticut laws or regulations.

Sec. 3. - Penalty.

- (a) Any person who operates any motorized recreational vehicle in violation of subsection 2(a) or 2(c) above, or any owner of any motorized recreational vehicle who knowingly permits its operation in violation 1 subsection 2(a) or 2(c) above, shall be fined one thousand dollars (\$1,000.00) for a first violation, fined one thousand five hundred dollars (\$1,500.00) for a second violation, and shall be fined two thousand (\$2,000.00) for a third or subsequent violation.
- (b) Any person age sixteen (16) or older who rides as a passenger on any motorized recreational vehicle in violation of subsection 2(c) above, or any owner of a motorized recreational vehicle who knowingly permits a passenger to ride on his/her motorized recreational vehicle in violation of Subsection 2(b), shall be fined two hundred fifty dollars (\$250.00) .
- (c) Any person in violation of this ordinance may be detained by a police officer for purposes of enforcing the provisions of this ordinance. Any motorized recreational vehicle used in violation of this ordinance, seized by any police officer, shall be forfeited to the Town of Middlebury, subject to any bona fide lien, lease, or security interest in the motorized recreational vehicle, including, but not limited to, a lien under Conn. Gen. Stat. § 14-66c.

- (d) Any person who operates an EPAMD in violation of subsection 2(d) above or is the owner of an EPAMD who knowingly permits its operation in violation of subsection 2(d) above that has been previously issued one (1) warning as the result of a previous violation of subsection 2(e) above, shall be fined two hundred fifty dollars (\$250.00).

Sec. 4. - Seizure of motorized recreational vehicles; disposal.

- (a) Any person who operates a motorized recreational vehicle in violation of subsection 2(a) above or is the owner of any such vehicle who knowingly permits its operation in violation of subsection 2(a) above will be subject to seizure of said vehicle(s) pursuant to Conn. Gen. Stat. Sec. 54-33g which allows for seizure of property. A police officer who observes any motorized recreational vehicle being operated in violation of subsection 2(a), (b), (c), or (d) above may detain such person for purposes of enforcing the provisions of this article and may remove or tow such motorized recreational vehicle to a secure location for impoundment. Before the owner of any such impounded property may remove the vehicle from a vehicle pound, he/she shall furnish to the operator of such pound or such other person as the chief of police shall designate evidence of registration and ownership, shall sign a receipt for such property, and shall pay the cost of towing, plus the cost of storage for each day or portion of a day that such property is stored in excess of the first twenty-four (24) hours after seizure. The operator of such pound shall refuse the release of any such property lawfully seized that the chief of police has authorized to hold as evidence in a criminal investigation or proceeding. Such operator shall obtain written permission from the chief of police on any form or document prescribed by the chief of police prior to the release of such property held for evidence.
- (b) Any such motorized recreational vehicle that is not claimed by its owner under the terms of this section for a period of forty-five (45) days after seizure or in the case of a vehicle being held as evidence not claimed by its owner within forty-five (45) days of the cessation of such investigation or disposition of such criminal proceeding, whichever is later, may be disposed of at the direction of the chief of police after serving notice in the same manner as that required for the disposal of abandoned vehicles under Conn. Gen. Stat. § 14-150(e), except in the case that

a vehicle that is not registered, such notice shall not require mailing to persons whose names are registered with the state department of motor vehicles.

Sec. 5. - Hearing prior to forfeiture of motorized recreational vehicle.

- (a) A hearing officer shall be appointed by the First Selectmen, subject to the approval of the Board of Selectmen, to conduct hearings authorized by this section. Such hearing officer shall work with the chief of police in the scheduling of hearings held pursuant to this chapter. The chief of police or his or her designee shall represent the police department at such hearing. A sworn police incident report shall be considered prima fade proof of the violation. The owner or lienholder may cross examine any witness and present evidence and argument in opposition to the Town's claim. After the hearing as provided by this section, the hearing officer may order the forfeiture of any motorized recreational vehicle that has been seized upon proof of conduct amounting to probable cause for a violation of section 2 or any other Town ordinance or state law pursuant to the process provided herein. Written notice advising the recipient of the right of the owner or lienholder of the motorized recreational vehicle to a hearing prior to the disposal of the motorized recreational vehicle will be delivered on a form approved by corporation counsel and board of alders to any lienholder and to the owner of the motorized recreational vehicle, or if no owner can be identified, to the rider, within thirty (30) days of the seizure. A written request for a hearing before a hearing officer, must be received, by hand delivery or certified mail, return receipt requested, to Hearing Officer, in care of the Chief of Police, Middlebury Police Department, 200 Southford Road, Middlebury, Connecticut 06762 within thirty (30) days of receipt of the notice. Said request for a hearing by an owner must be submitted with proof of ownership or by a lienholder with proof of lien or other security interest in the motorized recreational vehicle.
- (b) Said hearing shall be conducted by the hearing officer and shall be held not more than thirty (30) days after the receipt of the written request, except that written requests for an extension of time may be granted for good cause shown. Notice of the date and time of said hearing shall be provided to the owner or lienholder no later than ten (10) days before the date of the hearing by electronic delivery and/or by certified mail, return receipt requested, at the email or residential address provided by the owner or lienholder in the written request for a hearing.
- (c) Any party to the hearing may, at his/her expense, record the hearing. Any party to the hearing may be represented by counsel.
- (d) A motorized recreational vehicle may be ordered forfeited upon a finding of any, but

not limited to, of the following:

- (1) There is probable cause to believe that the motorized recreational vehicle was possessed, controlled, or designed for use, or is or has been or is intended to be used, to violate, or in violation of any Town ordinance or the motor vehicle or criminal laws of this state; or
 - (2) There is probable cause to believe that the motorized recreational vehicle was operated with reckless and wanton disregard for the welfare or property of others.
- (e) Following the hearing, the hearing officer who conducted the hearing, shall issue a written decision ordering the forfeiture of the motorized recreational vehicle or ordering the return of the motorized recreational vehicle to its owner, except that the hearing officer who conducted the hearing, shall not order the release of any motorized motor vehicle that is required to be kept as evidence in any investigation or legal proceeding related to any criminal or motor vehicle offense.
 - (f) Any motorized recreational vehicle that is subject to a bona fide mortgage, assignment of lease or rent, lien, or security interest shall not be ordered forfeited in violation of the rights of the holder of such mortgage, assignment of lease or rent, lien, or security interest.
 - (g) Any motorized recreational vehicle ordered forfeited shall be disposed of consistent with applicable law.
 - (h) If within thirty (30) days of the delivery of the notice of the right to a hearing under this section, no owner or lienholder of the motorized recreational vehicle has requested a hearing, the vehicle will be considered abandoned and disposed of under applicable law.

Sec. 6. - Posting by motorized recreational vehicle dealer.

Each motorized recreational vehicle dealer offering for sale, lease, or rental any motorized recreational vehicle shall post this article in a prominent location at the motorized recreational vehicle dealer's place of business.

Any such motorized recreational vehicle dealer who violates any provision of this section shall have committed an infraction. For a first violation, the chief of police or his/her authorized agent shall issue a written warning providing notice of the specific violation and the time period within which it shall be corrected. If the dealer receiving the written warning fails to correct the violation within the time period specified in the warning, the

chief of police or his or her authorized agent shall issue a fine of one hundred dollars (\$100.00). Any continuing violation that is discovered during any subsequent reinspection shall result in a fine of one hundred dollars (\$100.00). Each reinspection at which a violation is discovered shall constitute a separate violation.

Sec. 7. – Sale of Gasoline for Illegal Purposes

- (a) No owner or employee of any retail dealer of gasoline shall sell, offer for sale, or attempt to sell any article or product represented as gasoline for use in any motorized recreational vehicle as defined in this article, unless that vehicle is conveyed to and from the retailer's premises by a registered motor vehicle, as defined in Conn. Gen. Stat. § 14-1 as may be amended, and no individual shall purchase or attempt to purchase gasoline for use in any motorized recreational vehicle as defined in this article.
- (b) Signs with the words " FUELING OF ALL-TERRAIN VEHICLES, MINI-CYCLES, DIRT BIKES, OR OTHER UNAUTHORIZED VEHICLES PROHIBITED" in English and "PROHIBIDO DESPACHAR GASOLINA A ALL- TERRAIN VEHICLES, MINI-CYCLES O DIRT BIKES O A OTROS VEHICULOS NO AUTORIZADOS" in Spanish at least one (1) inch in height with a contrasting margin shall be posted at all dispensing locations. The location of warning signs shall be based on local conditions but shall be visible and legible from all gas pumps.
- (c) Any owner or employee of any retail dealer of gasoline who violates any provision of subsections (a) or (b) of this section who owns or is employed by a retail dealer that has been previously issued one (1) warning as the result of a previous violation of subsections (a) or (b) of this section shall be fined one hundred dollars (\$100.00) per occurrence. Each motorized recreational vehicle as to which an owner or employee of any retail dealer of gasoline sells, offers for sale, or attempts to sell gasoline shall be considered a separate violation of subsection (a) above.

Effective Date: January 18, 2022

Adopted by Board of Selectmen on: January 18, 2022

To: Board of Selectmen, Middlebury, CT

From: Greg Barnes

Subject: Correspondence re: Spring Road

Date: January 18, 2022

After reading the Letter sent by my neighbors I understand their concerns regarding emergency response time and have taken it to heart.

To that end, I measured the distances from their residences to the Police Department and Fire Department and hope that my findings might alleviate any worries they might have. (I welcome anyone to check these findings):

From: Police Dept to 141/163 Spring Rd:

- a. Rt 188 / Upper Whittemore route = .9 mile
- b. Rt 64/188 / Spring Rd route = 1.0 mile

From: Fire Dept to 141/163 Spring Rd:

- a. Rt 64 / Upper Whittemore route = 2.2 mile
- b. Tucker Hill/Rt 188 / Upper Whittemore route = 2.1 mile
- c. Going around to the Tranquility Rd end of Spring Rd to their residents adds 1.1 miles to both routes.

It would appear that making Spring Rd a dead end at the Tranquility Rd end would have little to no affect upon any emergency response issue.

With regards to their solution to the speeding and other illegal activities occurring on Spring Rd, that is, having the Police Department handle them: Given the size of Spring Rd it is unrealistic and impractical to think that the Police Department resources, limited as they are, could dedicate the time, equipment, and manpower, sufficient enough to make any appreciable difference.

The answer is: cut off the source. If Spring Road was converted to a dead end, we would not have the safety issues we presently have.

I also noticed, in the correspondence sent to me, an email from Terry Smith, stating that, because it is a scenic road it "should not be messed with".

Safety issues aside, I believe that because it is a designated scenic road that it should be (using his words) messed with.

The primary purpose of the Scenic Road Ordinance is the preservation of the scenic and rural roads of the Town of Middlebury. As stated in the ordinance, "the scenic values of some rural roads in Middlebury have been reduced or are in danger of destruction because of past or potential alterations to their rights-of-way. Such alterations have had, and continue to have, a significant adverse impact on the...". Such is the case with Spring Rd. In the past, the reconfiguration of the intersection of Rts 188 and 64; the reconfiguration of the corner of Spring Rd., Tranquility Rd and Rt. 64; and the advent of GPS have all had a negative impact on Spring Rd and will continue to unless the Board of Selectmen exercise the power bestowed upon them through Section 7-149a of the CT General Statutes and the Town's Scenic Road Ordinance.

With preservation being its primary purpose, what better way is there of achieving this than by making Spring Rd a dead end.

It would limit the traffic and illegal activity on the road without disrupting its scenic features yet still allow those individuals that cherish and appreciate the rural and scenic aspects of the road to traverse and admire the surroundings without being concerned about speeders, unauthorized large trucks, or other safety issues.

One final comment: George Moreira sent an email asking if Spring Rd was "the cutover road near Tranquility?"

It is upsetting to think that Spring Rd, with both NO THRU TRUCK and Scenic Road designations would be referred to as a "cutover road" by a member of the Middlebury Police Commission, when that is one of the contributing factors to the safety issues on Spring Rd. Prior to the changes surrounding Spring Rd, it was never considered a cutover road.