



# TOWN OF MIDDLEBURY

## Office of the Selectmen

### MINUTES MEETING OF THE BOARD OF SELECTMEN Monday, February 4, 2019 – 4:00 p.m. Town Hall Conference Room

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

**Also Present:** Attorney Robert Smith  
Attorney Dana D'Angelo  
Barbara J. Whitaker, Recording Clerk  
Marj Needham, Reporter – Bee Intelligencer

**Excused** Michael J. McCormack, Selectman  
**Absent:**

#### Call to Order with Pledge of Allegiance

The meeting was called to order by the First Selectman with the Pledge of Allegiance.

#### Approval of January 22, 2019 Meeting Minutes

First Selectman St. John MOTIONED to approve the minutes of the January 22, 2019 meeting, SECONDED by Selectman Strobel. Unanimous approval.

#### Reappointments

<u>Term</u>	<u>Member</u>	<u>Party Affiliation</u>	<u>Board or Commission</u>
February 22, 2019 to February 22, 2021	Barbara DeRiu	D	Commission on Aging
<i>First Selectman St. John MOTIONED to appoint Barbara DeRiu, SECONDED by Selectman Strobel. Unanimous approval.</i>			
February 7, 2019 to February 7, 2023	Linda D. Herrmann	D	Greenway Committee
<i>First Selectman St. John MOTIONED to reappoint Linda D. Herrmann, SECONDED by Selectman Strobel. Unanimous approval.</i>			
February 17, 2019 to February 17, 2020	Malcolm S. Todt	R	Land Preservation & Open Space Acquisition Committee
<i>First Selectman St. John MOTIONED to reappoint Malcolm S. Todt, SECONDED by Selectman Strobel. Unanimous approval.</i>			
February 4, 2019	Brett Kales		Emergency Management Director
<i>First Selectman St. John MOTIONED to appoint Fire Chief Brett Kales as Emergency Management Director for the Town of Middlebury, SECONDED by Selectman Strobel. Unanimous approval.</i>			

#### Discussion and Consideration

##### Nichols Road Agreement

Attorney D'Angelo explained that the ownership of this property goes with the sale of the property. An assessment will be made immediately. The First Selectman said that this was a

MINUTES- MEETING OF THE BOARD OF SELECTMEN

Monday, February 4, 2019 – 4:00 p.m.

Page 2

round-table agreement and everyone from the Land Trust is in agreement. Dr. Peterson, President of the Land Trust said that his intention was always to get an evaluation report.

Bill Stowell, Chairman of the Board of Finance expressed opposition to any liability of the Town. The money will be held by the land trust in their account. Selectman McCormack suggested that the Town match the \$25,000 because it would not be enough to fix the house. Mr. Stowell said that he opposed to this and does not want the Town to be liable for anything with the house or the property. The First Selectman said that there was no way that the Town would give additional funds to this project.

Mr. Stowell said that the Town is constantly funding Fenn’s Farm and the Town is on the hook for the upkeep of the property. The Nichols Farm house is in bad condition and the Town will not be financially obligated in the future. Attorney Smith said that there is a warranty deed; so the Town has no obligation. There is only money coming into the Town not going out.

First Selectman St. John MOTIONED to approve the above-mentioned agreement, SECONDED by Selectman Strobel. Unanimous approval.

The First Selectman suggested that this be handled as a Referendum vote. Mr. Stowell said that he feels that the Historical Society wants to keep this house for a reason which may require funding,

Bonding Resolutions - Middlebury Capital Asset Revitalization Program, Middlebury Road Improvement Program & Upgrade of Sewage Pump Stations

First Selectman St. John took the following roll call:

	<b>PRESENT</b>	<b>NOT PRESENT</b>
Edward B. St. John	<b>X</b>	
Elaine M. R. Strobel	<b>X</b>	
Michael J. McCormack		<b>X</b>

First Selectman St. John MOTIONED to dispense with the reading of each of the entire Resolutions; SECONDED by Selectman Strobel. Unanimous approval.

The First Selectman introduced the proposed Resolution:

**RESOLUTION APPROPRIATING \$1,600,000 FOR THE MIDDLEBURY CAPITAL ASSET REVITALIZATION PROGRAM (2019) AND AUTHORIZING THE ISSUE OF \$1,600,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE**

Section 1. The sum of \$1,600,000 is appropriated for the Middlebury Capital Asset Revitalization Program consisting of improvements to various Town of Middlebury buildings and facilities including the police department, town hall, library, shepardson community center, fire department headquarters, public works, Fenn Farm, historical society, and park and recreation

MINUTES- MEETING OF THE BOARD OF SELECTMEN

Monday, February 4, 2019 – 4:00 p.m.

Page 3

buildings and facilities, all as set forth in the Town of Middlebury Capital Plan Update dated 12/10/2018, the "Project". The improvements shall consist of the general revitalization, repair and improvement of town buildings and facilities and include roof, siding, paving, sidewalks, HVAC, electrical, radio and transfer station equipment upgrades, services and equipment related thereto, testing, design, training, consultant services, administrative, printing, legal, and financing costs or so much thereof or such additional improvements as may be accomplished within said appropriation (hereinafter the "Project"). The First Selectman is authorized to enter into agreements on behalf of the Town with state and federal government for grant funding with respect to said Project. Said appropriation shall be in addition to state and federal grants-in-aid thereof and all prior or additional appropriations therefore.

Section 2. The First Selectmen may prioritize projects and allocate resources among purposes so as to accomplish as many purposes as possible.

Section 3. To meet said appropriation \$1,600,000 bonds of the Town, or so much thereof as shall be necessary for such purpose, shall be issued maturing not later than the twentieth year after their date, or such later time as may be allowed by law. Said bonds may be issued in one or more series as shall be determined by the First Selectman and Treasurer (hereafter the "Town Officials"), and the amount of bonds of each series to be issued shall be fixed by the Town Officials in the amount necessary to meet the Town's share of the cost of the project determined after considering the estimated amount of the State and Federal grants-in-aid of the project, or the actual amount thereof if this be ascertainable, and the anticipated times of the receipt of the proceeds thereof, provided that the total amount of bonds to be issued shall not be less than an amount which will provide funds sufficient with other funds available for such purpose to pay the principal of and the interest on all temporary borrowings in anticipation of the receipt of the proceeds of said bonds outstanding at the time of the issuance thereof, and to pay for the administrative, printing and legal costs of issuing the bonds.

Section 4. Said bonds shall be sold by the Town Officials in a competitive offering. The bonds shall be sold upon sealed or electronic proposals, or by auction, at not less than par and accrued interest on the basis of the lowest net or true interest cost to the Town. A notice of sale or a summary thereof describing the bonds and setting forth the terms and conditions of the sale shall be published at least five days in advance of the sale in a recognized publication carrying municipal bond notices and devoted primarily to financial news and the subject of state and municipal bonds.

Section 5. The Town Officials are authorized to make temporary borrowings in anticipation of the receipt of the proceeds of any series of said bonds. Notes evidencing such borrowings shall be signed by the manual or facsimile signatures of the Town Officials, have the seal of the Town or a facsimile thereof affixed, be payable at a bank or trust company designated by the Town Officials, be certified by a bank or trust company designated by the Town Officials pursuant to Section 7-373 of the General Statutes of Connecticut, as amended, and the bonds and notes shall be approved as to their legality by Joseph Fasi LLC, Bond Counsel. They shall be issued with maturity dates which comply with the provisions of the General Statutes governing the issuance of such notes, as the same may be amended from time to time. The bonds and notes shall be general obligations of the Town and each of the bonds and notes shall recite that every requirement of law relating to its issue has been duly complied with, that such bond and note is within every debt and other limit prescribed by law, that the full faith and credit of the Town are pledged to the payment of the principal thereof and the interest thereon, and shall be paid from property taxation to the extent not paid from other sources. The net

interest cost on such notes, including renewals thereof, and the expense of preparing, issuing and marketing them, to the extent paid from the proceeds of such renewals or said bonds, shall be included as a cost of the project. Upon the sale of said bonds the proceeds thereof, to the extent required, shall be applied forthwith to the payment of the principal of and the interest on any such temporary

borrowings then outstanding or shall be deposited with a bank or trust company in trust for such purpose.

Section 6. Resolution of Official Intent to Reimburse Expenditures with Borrowings. The Town of Middlebury (the "Issuer") hereby expresses its official intent pursuant to §1.150-2 of the Federal Income Tax Regulations, Title 26 (the "Regulations"), to reimburse expenditures paid sixty days prior to and after the date of passage of this resolution in the maximum amount and for the capital project defined in Section 1 with the proceeds of bonds, notes, or other obligations ("Bonds") authorized to be issued by the Issuer. The Bonds shall be issued to reimburse such expenditures not later than 18 months after the later of the date of the expenditure or the substantial completion of the project, or such later date the Regulations may authorize. The Issuer hereby certifies that the intention to reimburse as expressed herein is based upon its reasonable expectations as of this date. The Chief Financial Officer or his designee is authorized to pay project expenses in accordance herewith pending the issuance of reimbursement bonds, and to amend this declaration.

Section 7. The Town Officials are hereby authorized to exercise all powers conferred by section 3-20e of the general statutes with respect to secondary market disclosure and to provide annual information and notices of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this resolution.

Section 8. It is hereby found and determined that the issue of all, or a portion of, the bonds, notes or other obligations of the Town authorized to be issued herein with interest that is includable in gross income of the holders thereof for purposes of federal income taxation, is in the public interest. The Town Officials are hereby authorized to issue and utilize without further approval any financing alternative currently or hereafter available to municipal governments pursuant to law, including but not limited to any "tax credit bond," or "Build America Bonds" or similar bond, including Direct Payment and Tax Credit Versions.

**MOVED by First Selectman St. John that the first Resolution be adopted, SECONDED by Selectman Strobel. Unanimous approval. First Selectman St. John declared the Resolution adopted.**

**The First Selectman introduced the proposed Resolution:**

**RESOLUTION APPROPRIATING \$4,200,000 FOR THE MIDDLEBURY ROAD IMPROVEMENT PROGRAM (2019) AND AUTHORIZING THE ISSUE OF \$4,200,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE**

Section 1. The sum of \$4,200,000 is appropriated for the planning, acquisition and construction of the Town of Middlebury Road Improvement Program (2019) (the "Program"). The Program shall consist of the improvement of roads throughout the Town. The specific roads and improvements shall be determined from time to time by the First Selectman and as set forth in the Town of Middlebury Capital Plan Update dated 12/10/2018. Program improvements may consist of, but

not be limited to, horizontal and vertical realignment, drainage installation, reclamation, paving, tree removal, turf establishment, street signs, related easement/Right of Way acquisitions, curbing, milling, capping, and for improvements to structures (including sidewalks) or utilities, incidental, appurtenant or encountered in the course of such road improvements and for engineering, design, safety equipment/traffic control, purchase of equipment specifically for roadway improvements, rental of equipment as necessary, administrative, advertising, printing, legal and financing costs related thereto.

Section 2. The total estimated cost of the Project is \$4,200,000 and is expected to be paid from the proceeds of bonds authorized herein.

Section 3. To meet said appropriation \$4,200,000 bonds of the Town, or so much thereof as shall be necessary for such purpose, shall be issued maturing not later than the twentieth year after their date, or such later date as may be allowed by law. Said bonds may be issued in one or more series as shall be determined by the First Selectman and Treasurer (hereafter the "Town Officials"), and the amount of bonds of each series to be issued shall be fixed by the Town Officials in the amount necessary to meet the Town's share of the cost of the project determined after considering the estimated amount of the State and Federal grants-in-aid of the project, or the actual amount thereof if this be ascertainable, and the anticipated times of the receipt of the proceeds thereof, provided that the total amount of bonds to be issued shall not be less than an amount which will provide funds sufficient with other funds available for such purpose to pay the principal of and the interest on all temporary borrowings in anticipation of the receipt of the proceeds of said bonds outstanding at the time of the issuance thereof, and to pay for the administrative, printing and legal costs of issuing the bonds.

Section 4. Said bonds shall be sold by the Town Officials in a competitive offering. The bonds shall be sold upon sealed or electronic proposals, or by auction, at not less than par and accrued interest on the basis of the lowest net or true interest cost to the Town. A notice of sale or a summary thereof describing the bonds and setting forth the terms and conditions of the sale shall be published at least five days in advance of the sale in a recognized publication carrying municipal bond notices and devoted primarily to financial news and the subject of state and municipal bonds.

Section 5. The Town Officials are authorized to make temporary borrowings in anticipation of the receipt of the proceeds of any series of said bonds. Notes evidencing such borrowings shall be signed by the manual or facsimile signatures of the Town Officials, have the seal of the Town or a facsimile thereof affixed, be payable at a bank or trust company designated by the Town Officials, be certified by a bank or trust company designated by the Town Officials pursuant to Section 7-373 of the General Statutes of Connecticut, as amended, and the bonds and notes shall be approved as to their legality by Joseph Fasi LLC, Bond Counsel. They shall be issued with maturity dates which comply with the provisions of the General Statutes governing the issuance of such notes, as the same may be amended from time to time. The bonds and notes shall be general obligations of the Town and each of the bonds and notes shall recite that every requirement of law relating to its issue has been duly complied with, that such bond and note is within every debt and other limit prescribed by law, that the full faith and credit of the Town are pledged to the payment of the principal thereof and the interest thereon, and shall be paid from property taxation to the extent not paid from other sources. The net interest cost on such notes, including renewals thereof, and the expense of preparing, issuing and marketing them, to the extent paid from the proceeds of such renewals or said bonds, shall be included as a cost of the project. Upon the sale of said bonds the proceeds thereof, to the extent required, shall be applied forthwith to the payment of the principal of and the interest on any such temporary borrowings then outstanding or shall be deposited with a bank or trust company in trust for such purpose.

Section 6. Resolution of Official Intent to Reimburse Expenditures with Borrowings. The Town of Middlebury (the "Issuer") hereby expresses its official intent pursuant to §1.150-2 of the

MINUTES- MEETING OF THE BOARD OF SELECTMEN

Monday, February 4, 2019 – 4:00 p.m.

Page 6

Federal Income Tax Regulations, Title 26 (the "Regulations"), to reimburse expenditures paid sixty days prior to and after the date of passage of this resolution in the maximum amount and for the capital project defined in Section 1 with the proceeds of bonds, notes, or other obligations ("Bonds") authorized to be issued by the Issuer. The Bonds shall be issued to reimburse such expenditures not later than 18 months after the later of the date of the expenditure or the substantial completion of the project, or such later date the Regulations may authorize. The Issuer hereby certifies that the intention to reimburse as expressed herein is based upon its reasonable expectations as of this date. The Chief Financial Officer or his designee is authorized to pay project expenses in accordance herewith pending the issuance of reimbursement bonds, and to amend this declaration

Section 7. The Town Officials are hereby authorized to exercise all powers conferred by section 3-20e of the general statutes with respect to secondary market disclosure and to provide annual information and notices of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this resolution.

Section 8. It is hereby found and determined that the issue of all, or a portion of, the bonds, notes or other obligations of the Town authorized to be issued herein with interest that is includable in gross income of the holders thereof for purposes of federal income taxation, is in the public interest. The Town Officials are hereby authorized to issue and utilize without further approval any financing alternative currently or hereafter available to municipal governments pursuant to law, including but not limited to any "tax credit bond," or "Build America Bonds" or similar bond, including Direct Payment and Tax Credit Versions.

**MOVED by First Selectman St. John that the second Resolution be adopted, SECONDED by Selectman Strobel. Unanimous approval. First Selectman St. John declared the Resolution adopted.**

**The First Selectman introduced the proposed Resolution:**

**RESOLUTION APPROPRIATING \$3,500,000 FOR THE UPGRADE OF SEWAGE PUMP STATIONS (2019) AND AUTHORIZING THE ISSUE OF \$3,500,000 BONDS OF THE TOWN TO MEET SAID APPROPRIATION AND PENDING THE ISSUANCE THEREOF THE MAKING OF TEMPORARY BORROWINGS FOR SUCH PURPOSE**

Section 1. The sum of \$3,500,000 is appropriated for the planning, acquisition and construction of the upgrade to various sewage pump stations including rehabilitation and replacement approximately in accordance with plans entitled "Rehabilitation of Wastewater Pump Stations 4, 6 and 7", dated October 5, 2018, and associated improvements as appropriate to facilitate the pump station upgrade including sewer lines, force mains, pump stations, manholes, and other facilities, and acquisition of easements and other interests in property, associated utility, street and drainage improvements, repair and relocation, or so much thereof or such additional improvements as may be accomplished within said appropriation, licenses and permits, testing, surveying, paving, engineering, administration, advertising, printing, legal, and financing costs (hereafter the "Project") as shall be determined by the Middlebury Water Pollution Control Authority (the "WPCA"). Said appropriation shall be inclusive of all state and federal grants in aid, and in addition to all other appropriations therefore.

Section 2. The total estimated cost of the project is \$3,500,000, no portion of which is expected to be paid from grants or sources other than the proposed bond issue.

Section 3. To meet said appropriation:

MINUTES- MEETING OF THE BOARD OF SELECTMEN

Monday, February 4, 2019 – 4:00 p.m.

Page 7

- (i) \$3,500,000 bonds of the Town, or so much thereof as shall be necessary for such purpose, shall be issued maturing not later than the thirtieth year after their date. Said bonds may be issued in one or more series as shall be determined by the First Selectman and Treasurer (the "Town Officials"), and the amount of bonds of each series to be issued shall be fixed by the Town Officials in the amount necessary to meet the Town's share of the cost of the project determined after considering the estimated amount of the State and Federal grants-in-aid of the project, or the actual amount thereof if this be ascertainable, and the anticipated times of the receipt of the proceeds thereof, provided that the total amount of bonds to be issued shall not be less than an amount which will provide funds sufficient with other funds available for such purpose to pay the principal of and the interest on all temporary borrowings in anticipation of the receipt of the proceeds of said bonds outstanding at the time of the issuance thereof, and to pay for the administrative, printing and legal costs of issuing the bonds; or
- (ii) bond anticipation notes issued pursuant to and with maturity dates which comply with the provisions of the General Statutes governing the issuance of such notes, as the same may be amended from time to time, and as determined in all respects by the Town Officials. The notes shall be general obligations of the Town and each of the notes shall recite that every requirement of law relating to its issue has been duly complied with, that such note is within every debt and other limit prescribed by law, and that the full faith and credit of the Town are pledged to the payment of the principal thereof and the interest thereon. The net interest cost on such notes, including renewals thereof, and the expense of preparing, issuing and marketing them, to the extent paid from the proceeds of such renewals or said bonds, shall be included as a cost of the project. Upon the sale of said bonds the proceeds thereof, to the extent required, shall be applied forthwith to the payment of the principal of and the interest on any such temporary borrowings then outstanding or shall be deposited with a bank or trust company in trust for such purpose; or
- (iii) temporary notes of the Town may be issued pursuant to Sections 7-264 or 7-264a of the General Statutes of Connecticut, as amended. The amount of such notes to be issued, if any, shall be determined by the Town Officials and they are hereby authorized to determine the date, maturity, interest rate, form and other details and particulars of such notes, and to sell, execute and deliver the same. Said notes shall be secured by the full faith and credit of the Town and may be further secured in any other manner set forth in Sections 7-264 or 7-264a, aforesaid, as determined by the Town Officials; or
- (iv) any combination of bonds, bond anticipation notes or temporary notes, provided that the total, aggregate principal amount thereof outstanding at any time shall not exceed \$3,500,000.

Section 4. Said bonds shall be sold by the Town Officials in a competitive offering. The bonds shall be sold upon sealed proposals, or by auction, at not less than par and accrued interest on the basis of the lowest net or true interest cost to the Town, and be approved as to their legality by Joseph Fasi LLC, Bond Counsel. A notice of sale or a summary thereof describing the bonds and setting forth the terms and conditions of the sale shall be published at least five days in advance of the sale in a recognized publication carrying municipal bond notices and devoted primarily to financial news and the subject of state and municipal bonds.

Section 5. Resolution of Official Intent to Reimburse Expenditures with Borrowings. The Town of Middlebury (the "Issuer") hereby expresses its official intent pursuant to §1.150-2 of the Federal Income Tax Regulations, Title 26 (the "Regulations"), to reimburse expenditures paid sixty days prior to

MINUTES- MEETING OF THE BOARD OF SELECTMEN

Monday, February 4, 2019 – 4:00 p.m.

Page 8

and after the date of passage of this resolution in the maximum amount and for the capital project defined in Section 1 with the proceeds of bonds, notes, or other obligations ("Bonds") authorized to be issued by the Issuer. The Bonds shall be issued to reimburse such expenditures not later than 18 months after the later of the date of the expenditure or the substantial completion of the project, or such later date the Regulations may authorize. The Issuer hereby certifies that the intention to reimburse as expressed herein is based upon its reasonable expectations as of this date. The Chief Financial Officer or his designee is authorized to pay project expenses in accordance herewith pending the issuance of reimbursement bonds, and to amend this declaration.

Section 6. The Town Officials are hereby authorized to exercise all powers conferred by section 3-20e of the General Statutes with respect to secondary market disclosure and to provide annual information and notices of material events as enumerated in Securities and Exchange Commission Exchange Act Rule 15c2-12, as amended, as may be necessary, appropriate or desirable to effect the sale of the bonds and notes authorized by this resolution.

Section 7. It is hereby found and determined that it is in public interest to issue all, or a portion of, the Bonds, Notes or other obligations of the Town as qualified private activity bonds, or with interest that is includable in gross income of the holders thereof for purposes of federal income taxation. The Town Officials are hereby authorized to issue and utilize without further approval any financing alternative currently or hereafter available to municipal governments pursuant to law including but not limited to any "tax credit bonds" or "Build America Bonds" or similar bonds, including Direct Payment and Tax Credit versions, as the same may be enacted or amended from time to time.

**MOVED by First Selectman St. John that the third Resolution be adopted, SECONDED by Selectman Strobel. Unanimous approval. First Selectman St. John declared the Resolution adopted.**

First Selectman St. John MOTIONED for the Resolutions to go to a Town Meeting on Tuesday, March 19, 2019 at 11:00 a.m. in the Town Hall conference room and ADJOURNED to a Referendum vote to be held on Wednesday, March 27, 2019 at the Shepardson Community Center; SECONDED by Selectman Strobel. Unanimous approval.

**Public Comments**

None.

**Adjournment**

First Selectman St. John MOTIONED to ADJOURN the meeting at 4:24 p.m., SECONDED by Selectman Strobel. Unanimous approval.

These minutes are submitted subject to approval this 5<sup>th</sup> day of February 2019.

Respectfully submitted,

*Barbara J. Whitaker*

Barbara J. Whitaker  
Recording Clerk