

CERTIFICATE OF HIGHWAY MILEAGE
YEAR ENDING FEBRUARY 10, 2015

Fill out form, make and file copy with the Town Clerk, and mail ORIGINAL, before February 20, 2015 to:
Vermont Agency of Transportation, Division of Policy, Planning and Intermodal Development,
One National Life Drive, Montpelier, VT 05633.

We, the members of the legislative body of RIPTON in ADDISON County
on an oath state that the mileage of highways, according to Vermont Statutes Annotated, Title 19, Section 305,
added 1985, is as follows:

PART I - CHANGES TOTALS - Please fill in and calculate totals.

Table with 6 columns: Town Highways, Previous Mileage, Added Mileage, Subtracted Mileage, Total, Scenic Highways. Rows include Class 1, Class 2, Class 3, State Highway, Total, Class 1 Lane, Class 4, Legal Trail, Unidentified Corridor.

PART II - INFORMATION AND DESCRIPTION OF CHANGES SHOWN ABOVE.

- 1. NEW HIGHWAYS: Please attach Selectmen's "Certificate of Completion and Opening".
2. DISCONTINUED: Please attach SIGNED copy of proceedings (minutes of meeting).
3. RECLASSIFIED/REMEASURED: Please attach SIGNED copy of proceedings (minutes of meeting).
4. SCENIC HIGHWAYS: Please attach a copy of order designating/discontinuing Scenic Highways.

TH-25

+0.10 mi CL4 Old Town Rd
+1.61 mi Legal Trail Old Town Rd LT-4

IF THERE ARE NO CHANGES IN MILEAGE: Check box and sign below. [ ]

PART III - SIGNATURES - PLEASE SIGN.

Selectmen/ Aldermen/ Trustees Signatures:

Handwritten signatures for Chair, Selectboard, and other members.

T/C/V Clerk Signature: Addison Joseph Dickinson

Date Filed: FEB. 9, 2016

Please sign ORIGINAL and return it for Transportation signature.

AGENCY OF TRANSPORTATION APPROVAL: Signed copy will be returned to T/C/V Clerk.

APPROVED:

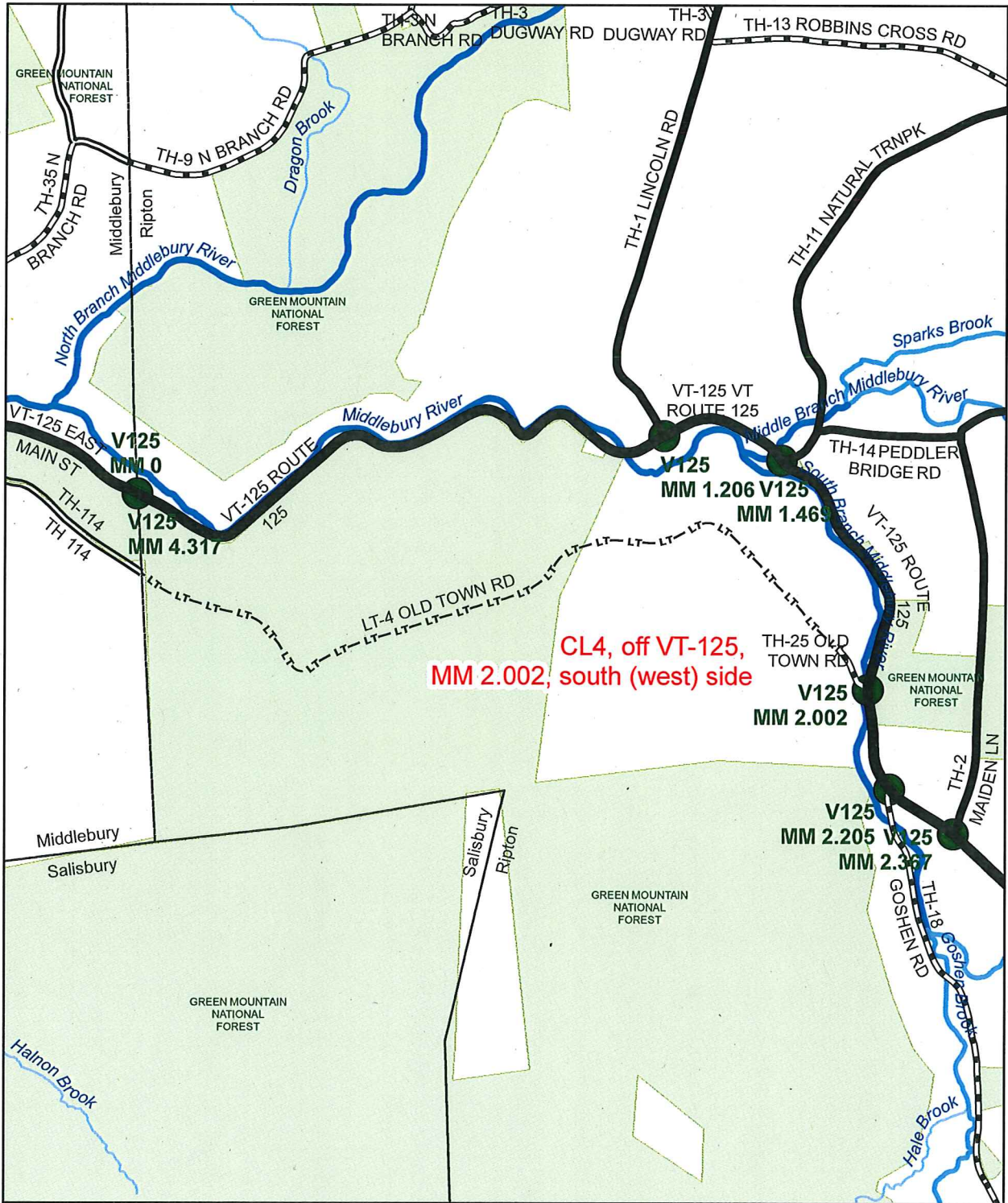
Representative, Agency of Transportation
Johnathan Croft

DATE:

2/25/2015

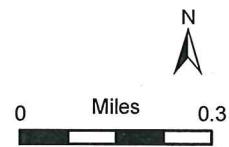






## Mileage Certificate Change 2015 RIPTON

Mapping Section  
 Division of Policy, Planning and Intermodal Development  
 Vermont Agency of Transportation - February 2015



## Town of Ripton Selectboard Meeting Minutes

Date	Meeting No.	Call to order	Call to adjourn	Next Meeting
11-10-2014	2014-24	7:33 p.m.	10:10 p.m.	11-24-14, 7:30, town office
<b>Members present</b>	Chair Lauren Cox, Richard Collitt, Ronald Wimett.			
<b>Visitors/participants</b>	From Addison County Solid Waste Management District (ACSWMD) Teresa Kuczynski, District Manager and Donald Maglienti, Program Manager; residents, recycling committee - Steve Zwicky, ACSWMD delegate for Ripton, Mac Cox, Barry King, Warren King. Selectboard administrator, Alison Joseph.			
<b>Motions/votes</b>	<p>Motions/seconds are by Richard Collitt/Ronald Wimett (RC/RW), approval by all unless otherwise noted. Unanimously approved:</p> <ul style="list-style-type: none"> <li>• Minutes of 10-27-14 and 11-02-14.</li> <li>• Adding Old Town Road/Old Center Turnpike to the 2015 Certificate of Highway Mileage and General Highway Map, classified as follows: class 4 road from the centerline of Rte 125 five-hundred feet (500') to a turn-around point, legal trail from that point to the Ripton/Middlebury town line.</li> <li>• Lafayette Highway Specialties proposal for guardrail work, \$4,292.50.</li> <li>• Short Surveying proposals for land surveying services at Cook Cemetery with payment split as follows: a perimeter survey, \$3,375.00 paid by the Town, and a plot survey, \$2,475.00 paid by the Cemetery Commission.</li> <li>• A Town account at Aubuchon Hardware for purchase of approved facilities related items.</li> <li>• Brook Field Service 2015 generator maintenance contract for two inspections, \$1,203.</li> <li>• Orders: General Fund \$121,270.65 and Roads \$7,196.83.</li> </ul>			
<b>Agenda &amp; Discussion</b>				
<b>1. Agenda</b>	Added discussion of the 2014-15 audit.			
<b>2. Visitors</b>	See agenda item 3.			
<b>3. Act 148 – Recycling</b>	Ms. Kuczynski and Mr. Maglienti provided handouts and explained Act 148, the Universal Recycling Law. Discussion included: goals, requirements, timelines, pricing, past practices, hauler exemptions, hazardous waste, grants, and what Ripton needs to do to comply with the 2017 deadline to separate food and yard waste from trash. All visitors left at the close of this discussion, 9:00 p.m.			
<b>4. Minutes</b>	Reviewed and approved minutes of 10-27-14. Corrected and approved minutes of 11-02-14.			
<b>5. Old Business</b>				
a. Roads	A quote for guardrail work in 5 locations was approved (see motions/votes) after discussion of the road budget. Raising the height of some guardrail was approved as an additional item. The sandpile is done. Road grading will continue when possible.			
b. Old Town Rd./Old Center Tpike right-of-way	The board moved and approved to add Old Town Rd./Old Center Turnpike to the 2015 General Highway Map as a class 4 road from the centerline of Rte 125 five-hundred feet to a turn-around point and as a town trail from there to the Middlebury town line (see motions/votes).			
c. Grants	Better Backroads grant: the culvert project on the Goshen Rd. is done, though not all invoices are received. Structures grant: culvert extension near Baker Bridge (B2, TH1), the			



## Ripton Selectboard Meeting Minutes

Date	Meeting #	Call to Order	Adjourn	Next Regular Meeting
<b>11-02-2014</b>	2014-23	12:10 p.m.	1:55 p.m.	11-10-14, 7:30 p.m., town office
<b>Attendees</b>	Selectboard: Laureen Cox (LC), Ronald Wimett (RW), Richard Collitt (RC). Clerk/administrator: Alison Joseph. Participants: Lynn Coeby, Gail Lewis.			
<b>Agenda</b>	Site visit to Old Town Road to look at public right-of-way.			
<b>Motions/votes</b>	None.			
<b>Discussion</b>				
Old Town Road/Old Center Turnpike right-of-way	The board and property owners walked a portion of the right-of-way from 498 Old Town Road west along the existing utility line easement to pole #156 on US Forest Service (USFS) property. All agreed on a proposed public right-of-way path location down slope (north) of the utility line between poles #160 and #156. The proposed path would move off of the existing road surface at approximately pole #160 near 498 Old Town Road and rejoin the utility easement path at pole #156 on USFS land. The proposed path crosses parcels 10-01-46.3 (Coeby), 10-01-47 (Lewis) and USFS 500 Bn. A pull-off east of 498 Old Town Road was discussed. Discussion closed and the meeting adjourned at 1:55 p.m.			



Laureen Cox



Ronald Wimett



Richard Collitt

## Ripton Selectboard Meeting Minutes

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<b>Ripton Selectboard Meeting Minutes</b>				
<b>Date</b>	<b>Meeting #</b>	<b>Call to Order</b>	<b>Adjourn</b>	<b>Next Regular Meeting</b>
<b>10-27-2014</b>	2014-22	7:30 p.m.	10:05 p.m.	11-10-14, 7:30 p.m., town office
<b>Attendees</b>	Selectboard: Laureen Cox (LC), Ronald Wimett (RW), Richard Collitt (RC). Clerk/administrator: Alison Joseph. Visitors present 7:30 -8:30: Charles Billings, Gail Lewis, Elizabeth Walker.			
<b>Motions/votes</b>	<p>Moved/seconded/approved: Motions RC/2nds RW/approval all unless noted.</p> <ul style="list-style-type: none"> <li>• Minutes of 10-13-14 (RW/LC).</li> <li>• Orders: Roads: \$11,595.99; General Fund: \$35,730.20.</li> <li>• <b>Special Meeting</b>, 11-02-14, noon, starting at the town office, traveling to/from Old Town Rd. for the purpose of looking at/discussing the <b>Old Center Turnpike/Old Town Rd.</b> right-of-way.</li> <li>• Application to the Addison County Regional Planning Commission Transportation Advisory Committee (TAC) for a grant to plan the route of the Old Center Turnpike/Old Town Road in Ripton.</li> <li>• Letter to town clerk/treasurer regarding the website and open meetings.</li> <li>• An advance of education taxes paid to the Ripton Town School District in the amount of \$70,000, to be received by Nov. 3, 2014 and to show on the orders of the 11-10-14 meeting.</li> </ul>			
<b>Discussion</b>				
1. Agenda	No changes.			
2. Visitors - <b>Old Town Road/Old Center Turnpike right-of-way</b>	<p>The board and visitors discussed the public right-of-way, road classification, maintenance history of this and other roads, concerns, existing and past bridges, and the need for a site visit and further discussion.</p> <p>The board approved a special meeting for a site visit/inspection. See motions/votes.</p>			
3. Minutes	Approved 10-13-14 minutes.			
4. Old Business				
a. Roads	The winter sand pile is ready. Grading was done on the following roads: Lincoln Rd., Robbins Crossroad, Dugway, North Branch Rd. Missing or damaged signs at Dragon Brook Rd, Dugway, and North Branch Rd. were noted.			
b. Road grants Structures:	The structures grant (#BC1569) for extension of culvert #1C36 near Baker Bridge (B2, TH1) will be complete after guardrail installation.			
ACRPC TAC grants	Addison County Regional Planning Commission Transportation Advisory Committee study grants:			
Old Center Turnpike	The Old Center Turnpike right-of-way study concluded with a legal determination that the route is a public right-of way. See discussion with visitors. Application for a follow-up grant was approved.			
Peddlers Bridge Rd. culverts	The Peddlers Bridge Rd. culvert study continues.			
c. Cemeteries	Preliminary survey work for Galvin Cemetery (Rte 125) is done. Cook Cemetery survey work is anticipated for November.			
d. Buildings	Discussion included: ditching behind town buildings, furnishings, painting.			
e. Open Meeting Law	Website responsibilities and correspondence were discussed.			
f. Dogs	A complaint about a dog from 1568 North Branch Rd. was received at the last meeting. The owner is taking steps to licensing. The list of owners of dogs previously but not currently licensed remains: DiPaolo, Jackson, Randall, Rudinsky.			

<b>Ripton Selectboard Meeting Minutes</b>				
<b>Date</b>	<b>Meeting #</b>	<b>Call to Order</b>	<b>Adjourn</b>	<b>Next Meeting</b>
<b>09-22-2014</b>	2014-20	7:30 p.m.	10:10 p.m.	10-13-14, 7:30 p.m., town office
<b>Attendees</b>	Selectboard: Laureen Cox, chair; Ronald Wimett, Richard Collitt. Clerk/administrator: Alison Joseph. Chris Mattrick, US Forest Service, to discuss mutual concerns; Paul Gillies and Kevin Russell to present and discuss the Old Centre Turnpike Preservation Study; Tim Bouton, Addison County Regional Planning Commission (ACRPC); Gail Lewis, Tim Billings, Eleanor Coeby, Lynn Coeby, Liz Walker, Charles Billings, Robert Murphy, Old Town Rd. residents and/or property owners; Bryan Alexander, Jonathan Blake, Aaron and Bjorn Coburn, Warren King.			
<b>Motions/votes</b>	Unless noted, motions/2nds are by R. Collitt (RC), R. Wimett (RW), approval by all (RC/RW/LC). Moved/seconded/approved: <ul style="list-style-type: none"> <li>• Minutes of 09-08-14.</li> <li>• USFS acquisition of portion of land from parcel #02-01-0024, along the Lincoln Rd. and Pearl Lee Rd.</li> <li>• Workshop and mileage for staff/officers: audit workshop.</li> <li>• Orders: Roads: \$7,862.75; General Fund: \$10,138.24.</li> </ul>			
<b>Discussion</b>				
<b>1. Agenda</b>	The order of the agenda was changed to accommodate visitors.			
<b>2. US Forest Service</b>	USFS District Ranger Chris Mattrick spoke of Forest Service concerns in Ripton and answered questions. Discussion included: <ul style="list-style-type: none"> <li>• Natural Turnpike Project timber sales are complete;</li> <li>• the Steam Mill gravel pit project is on hold;</li> <li>• Sparks Pit issues including dumping, a gate to remain unlocked, and noise from shooter use of tannerite exploding targets;</li> <li>• the unknown future for the USFS Ripton barracks buildings off of the Goshen Rd. (next to Silver Towers Camp);</li> <li>• radio repeaters and communication;</li> <li>• planning for upgrades at the Robert Frost wayside and interpretive trails; Green Mountain Power utility relocation; winter plowing for parking at the Frost trails;</li> <li>• car break-ins at trailheads;</li> <li>• Steam Mill Road culverts and communication about detours;</li> <li>• the Sept. 28<sup>th</sup> celebration of the 50<sup>th</sup> anniversary of the Wilderness Act; forest road planning;</li> <li>• that the comment period for a comprehensive trail strategy proposal is open;</li> <li>• a forthcoming USFS document about hazard trees;</li> <li>• Ripton Historical Society interest in the former CCC camp off Natural Turnpike, archaeological resources, appreciation of retired archaeologist David Lacey, and trails and signs at the CCC site;</li> <li>• potential sale of 150 acres from Poritz to USFS.</li> </ul> <p>Though town approval is not required, Mr. Mattrick asked the selectboard if they approve USFS acquisition of 150 +/- acres, from parcel id 02-01-24 on the Lincoln and Pearl Lee Rds. Ranger Mattrick provided a tax analysis that showed the loss of tax revenue offset by federal payment in lieu of taxes and a rural schools grant. Comments were made about the minimal impact to the town and the importance of this acquisition for the USFS. Discussion with Ranger Mattrick closed at 8:10 p.m. The board moved and approved its support of the proposed land transfer (see motions/votes).</p>			



f. Dogs	Four dog owners licensed their dogs after the most recent reminder to do so. The list of owners of dogs previously but not currently licensed is: DiPaolo, Jackson, Rudinsky.
<b>6. New Business</b>	
a. Correspondence	VLCT municipal workshops; USDA/USFS notice of completion of grant/agreement number 09RO1109200034.



Laureen Cox



Ronald Wimett

Richard Collitt

## Town Highway/Legal Trails Addition/Reclassification/Discontinuance Checklist

Submission of this checklist is not required, but is supplied to help municipalities organize the documentation required to process additions / reclassifications / discontinuances of highways and trails. The documentation is subject to verification by VTrans.

Check the box  if the information is included as part of the documentation submitted.

- A description of the affected highway or trail  
Vt. Stat. Ann. tit. 19, § 305(e)
- Minutes of meetings at which the legislative body took action with respect to the changes (include copies of the meeting minutes) Vt. Stat. Ann. tit. 19, § 305(e)
- A current town highway map with the requested deletions and additions sketched on it  
Vt. Stat. Ann. tit. 19, § 305(e)
- Evidence of written notice to adjoining landowners  
(include a copy of the newspaper notice and a copy of the letter sent to adjoining landowners)  
Vt. Stat. Ann. tit. 19, § 709
- A copy of any surveys of the affected highway or trail\* 1793  
Vt. Stat. Ann. tit. 19, § 305(e) Vt. Stat. Ann. tit. 19, § 704

\*Note: A survey shall not be required for class 4 town highways that are legally established prior to February 10, 2006 // and a survey is not needed for Discontinuances.

Dedication and acceptance Culvert & Bridge work

For Class 3 or Class 4 town highway additions

- A Certificate of Completion and Opening  
While not required by statute, a Certificate of Completion and Opening form is a helpful document for the record.
- If the highway or trail to be added is “not clearly observable by physical evidence of its use as a highway or trail”, then supply the additional documentation pursuant to the following statute:

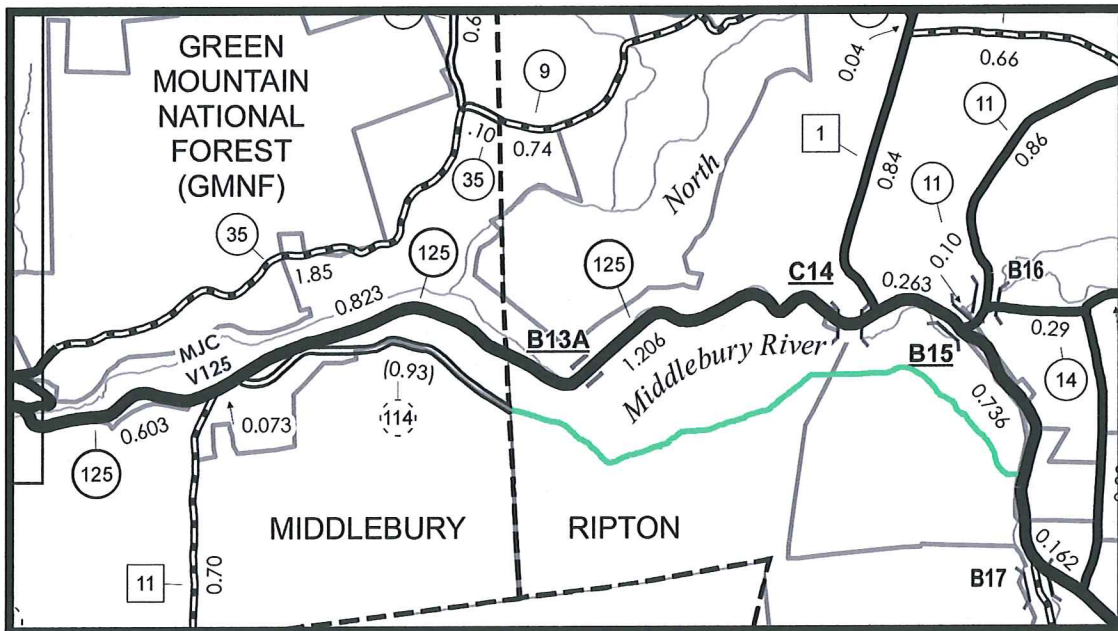
19 V.S.A. § 305(d) - At least 45 days prior to first including a town highway or trail that is not clearly observable by physical evidence of its use as a highway or trail and that is legally established prior to February 10, 2006 in the sworn statement required under subsection (b) of this section, the legislative body of the municipality shall provide written notice and an opportunity to be heard at a duly warned meeting of the legislative body to persons owning lands through which a highway or trail passes or abuts.

All records filed with the agency are subject to verification in accordance with 19 V.S.A. § 305 (a) and 19 V.S.A. § 305 (e).



## Introduction

The Town of Ripton received support from the Addison County Regional Planning Commission (ACRPC) to conduct a study of an historic transportation corridor commonly known as Old Center Turnpike and Old Town Road and to preserve the corridor for public use. The goal of the preservation study was to determine the current legal status of the corridor and make recommendations on measures necessary to preserve the permanent control of the public right-of-way of the Town of Ripton. On behalf of the Town, the ACRPC issued a request for proposals for professional consultants to conduct the study, provide a legal opinion and produce a report with recommendations to provide certainty and direction on the issue. The ACRPC and Town selected the consulting team of Paul Gillies of Tarrant, Gillies, Merriman and Richardson of Montpelier, and Kevin Russell of Community Development Services of Waitsfield to conduct the study, research the topic and prepare this report. LandWorks of Middlebury provided valuable mapping resources, accurately compiling the relevant information on a comprehensive Base Map (Appendix B). Through research of the legal record the project team has found that the Town has legal control of the corridor for current and future use by the public. A formal legal opinion that asserts that **the road was legally established and never legally discontinued** can be found on page 6.

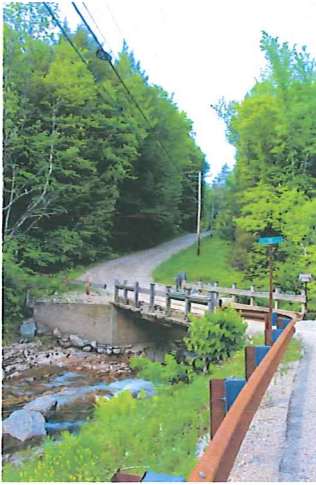


## Purpose and Need Statement

The purpose of the study is to confirm, or provide a strategy to obtain, the legal public right-of-way of the former Center Turnpike as laid out, constructed and in use since 1808 within the Town of Ripton. The *Old Center Turnpike Preservation Study Report* will provide a legal opinion and an outline of the steps necessary for the Town to add the road to its Town's Certificate of Highway Mileage and General Highway Map, preserving the corridor for public use.

The need for legal control of the right-of-way is for the Town to utilize the corridor for future needs that benefit the public, including primarily for emergency access in the event of a closure of State Route 125. Recent and historic floods of the Middlebury River have caused road closures in the past

and additional events are predicted to increase in frequency and impact in the future.



Particularly vulnerable are the residents of Old Town Road who would otherwise be stranded if the Potash Bridge were to be lost. A benefit-cost analysis that was conducted in 2010 concluded that it may be cost effective to employ the corridor of the Old Center Turnpike/Old Town Road as an alternative route to the existing vulnerable roadway. Formally acknowledging the road as a legal public right-of-way will enable the Town to take action as necessary.

Furthermore, the Town has until July 1, 2015 to add the road to its Certificate of Mileage and General Highway Map or risk losing the public right-of-way as a consequence of ACT-178, a law that requires all town roads and trails to be added to the official Town Highway Map by July 1, 2015. The study report outlines the steps necessary to comply with this Act.

### Project History

A detailed chronology of the history of the corridor is found in the “History of Center Turnpike/Old Town Road in Ripton, VT from 1793 to 2008” by Charles Billings and provided valuable background information for the preservation study (Attachment A). In 1793, John Foot surveyed a road from the Middlebury Court House easterly through what is now Ripton. In 1794, the Middlebury Selectboard recorded this layout in the land records on May 8 (Book 2, pages 221 and 222). On November 4, 1800, the Center Turnpike Company was chartered by the Vermont Legislature to provide a toll road from Middlebury to Woodstock. Among the incorporators were Gamaliel Painter and Daniel Chipman. The road was built in 1808 along the corridor of a above-mentioned road survey recorded by the Town of Middlebury.

The original road survey and the route of the early turnpike within the Towns of Middlebury and Ripton followed a different alignment than the current Robert Frost Memorial Drive, State Route 125. As with all early Vermont turnpikes, there were changes made to its alignment due to challenging topography and developing land use patterns. Around 1825, approximately 2½ miles of the road became little used when the main turnpike was relocated downslope, adjacent to the Middlebury River to provide a connection to the commerce along the river and the growing village of Ripton. The piece of the former 1793-surveyed road that became bypassed is the topic of this study two hundred years later, and now known as Old Center Turnpike in Middlebury and Old Town Road in Ripton.

Today the entire length of the Old Center Turnpike corridor is also a right-of-way for an overhead utility line that was originally established by Joseph Battell, a notable landowner during the late 19<sup>th</sup> and early 20<sup>th</sup> century. This easement is recorded in the Middlebury Land Records. Due to this continued use, the corridor is open and passable in both towns. For the purpose of this study, we will refer to the entire corridor as the presumed Old Center Turnpike. Much of the land surrounding the corridor is land that was donated to Middlebury College by Joseph Battell and later became the Green Mountain National Forest.





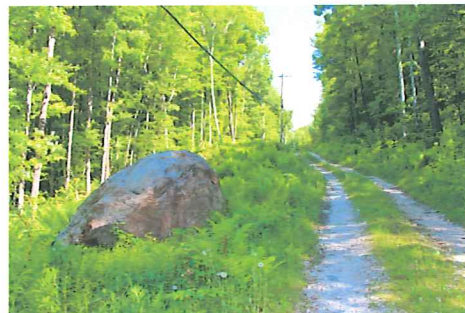
The legal status of the Ripton portion has been in question and was the primary focus of the preservation study. In 1981, the US Forest Services (USFS) investigated the status of the road and determined that it was still a public highway. At the time, the Town of Ripton took no formal action to acknowledge the road due to uncertainty of the legal status. However, the Town of Middlebury acknowledged its section of the corridor and added it to its General Highway Map. Thus, the USFS was provided access for forest management from that end of the corridor, the Middlebury road was upgraded to its current condition and the section that serves the residents, Old Town Road, became a presumed private road.

Recent events and other planning efforts including a 2010 study - *Middlebury River/Route 125 Benefit-Cost Study* - have identified the need to preserve this former road for current and future uses. The study identified the need to preserve the old corridor for emergency purposes and to reestablish the route for transportation in the event of another catastrophic flood of the Middlebury River and washout of the current route. If this were to happen, the Towns would need to demonstrate the legal right-of-way of the route for public uses as a highway. In Middlebury, Old Center Turnpike is shown on its General Highway Map as TH114. The US Forest Services maintains this road (FS#296) for forest access and recreation usage including a trail known as the Oak Ridge Trail and the Catamount Trail. In Ripton however, Old Town Road is not shown on the highway mileage map.

Through a collaborative effort working with representatives from the Town of Ripton, Addison County Regional Planning Commission, National Forest Service and other stakeholders, the project team researched the current status and provided a legal opinion that asserts that Old Town Road is, and always has been, a Ripton public highway. This report recommends strategies to preserve the legal right-of-way and utility of Old Town Road including the steps necessary to satisfy Act 178 "Ancient Roads" legislation.

### Existing Conditions

The Old Center Turnpike and its attending power line deviate to the right from Route 125 just uphill of Upper Pines Road in Middlebury. There is a US Forest Service parking area and trailhead for the Oak Ridge Trail that provides recreation within the Green Mountain National Forest. The road/trail ascends at a moderate to steep incline as it wends its way above and away from the current highway. The corridor is uncharacteristically open for an old road in the woods due to the generous clearing required by the power line. It is quite visible by satellite. This road has a locked gate just uphill from the trailhead. Large hardwood forests guard the entire length including many oak, maple, ash and yellow birch. Wild turkey can be heard and sign of deer and moose can be seen. The clearing provides an edge habitat for diverse wildlife including lots of berries for black bears. The road is well maintained in Middlebury with a crushed marble and gravel surface. The wheel tracks are bright in the green grass of June. The ditches and few culverts are well maintained making for a dry and stable road suitable for heavy vehicles required for logging operations. Boulders are strewn along the way. Some not moved far from where the glacier left them, other avoided by the early



road builders. The road is a recreation corridor and used by hikers, bicyclists and skiers. It is an important link to the Catamount Trail.



The Middlebury Class 4 Road ends at just under one mile at the Ripton border. At 1.25 miles the road bends sharply to the left and summits, crossing the one main stream by way of a metal culvert. This in culvert in Ripton has been maintained in recent years. Here the Oak Ridge Trail turns off from the road in an easterly direction toward Mount Moosalamoo on a single track. Just beyond, there is a level clearing and the well-maintained road ends. Now the road takes a straight line along level ground for some distance. The gravel is replaced by soft boggy soil providing good wildlife tracks to observe. Wheel tracks from ATVs are present, too. Verdant are the plants that envelope the road/trail within the wetland. The power line is noticeably lower. The public land ends within view of a residence that is at the top of Old Town Road.

The section of the Old Center Turnpike, now named Old Town Road, is accessed from the east over a bridge across the Middlebury River. There are a number of private lots and residences that are served by this bridge and road. Old Town Road and its bridge have been maintained by the neighbors in recent years, with some assistance from the Town. There are no public lands on either side of the road from its junction with Rt. 125 to where the road terminates at the Green Mountain National Forest boundary. This is where the road transitions to the previously described section leading back toward Middlebury. The power line continues its transmissions along this road. The characteristic boulders punctuate. At the Lewis boundary line, there is a no trespassing sign. Previous legal investigations and efforts to confirm the public right-of-way of this piece of Old Center Turnpike have been inconclusive to date. This study rectifies that.



**Natural and Cultural Resources**

In addition to the observations above, the project team conducted a desktop review of the natural and cultural resources. The known resources are shown on the base map (see Attachment B). Any construction project to improve the corridor funded by Federal Highway Administration (FHWA) would trigger a National Environmental Policy Act (NEPA) assessment. This would require a comprehensive review of several natural and cultural resources to rule out any adverse impacts from the future construction and development of the corridor.

**Study Approach**

The approach to the study included collaborating with a project advisory committee consisting of the ACRPC staff, members of the Ripton Selectboard and staff, and the project’s consulting team. Additionally, the USFS provided valuable information from the research that was performed in the 1980’s. The project team conducted important research of the public record, developed a



comprehensive base map, documented important supporting exhibits (here within) and produced this written report with a legal opinion and recommendations.

### ***Kick off Meeting – July 26***

The project team and advisory committee met to initiate the project in July. At this meeting, the team reviewed a draft purpose and need statement, a draft outline of the steps necessary to comply with Act 178 and a draft base map. The team confirmed the scope of work and the direction of the study. Complete notes from the meeting are in Appendix C.

### ***Legal Research***

Following the Kick off Meeting, the team began to research the historic and legal record on the road. Paul Gillies, Esq. did a comprehensive review of:

- Center Turnpike Corporate Records – Sheldon Museum
- Middlebury Land Records
- Ripton Land Records, and
- USFS File on research conducted in the 1980's

The Town of Ripton Land Records are not complete with missing records earlier than 1830. The record of the Town of Ripton voting in favor of spending funds to purchase and maintain the turnpike at a Town Meeting in 1853 (see Exhibits 4 and 5) was critical, along with the early laying out of the highway by the Town of Middlebury, before the boundary adjustment leaving the land covered by the 1793 road in Ripton. The USFS did similar research in 1981 and maintains an extensive file on the road in their offices in Rutland. The USFS also did a complete resurvey of the road at that time. This survey was recorded in the Middlebury Land Records on Slides 373 and 374 (shown on base map).

### ***Second Advisory Committee Meeting - August 12***

The project team and advisory committee met again in August to review a draft legal opinion provided by Paul Gillies and confirm the next steps to meet the goal of the project. The committee reviewed an outline of the necessary steps to add the road to the Town's General Highway and Certificate of Mileage. The base map was reviewed with suggestions from the committee on additional features to be added. The project team will plot and match the 1793 survey, add the historic Town boundaries and label the parcels and other features. Complete notes from the meeting are in Appendix C.

### ***Legal Opinion***

To follow is the legal opinion of Paul Gillies, Esq. confirms that the corridor in question is a legal Ripton Town Highway.

TARRANT, GILLIES, MERRIMAN & RICHARDSON

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OF COUNSEL  
STEPHEN A. REYNES

September 8, 2014

Laureen Cox, Chair  
Ripton Selectboard  
1311 Vermont 125  
Ripton, Vermont 05766

Re: Old Centre Turnpike/Town Highway

Dear Laureen:

The issue is whether the road that runs off of Route 125 easterly along the height of land in Ripton—the track of the former Centre Turnpike—is a town highway. This has been a subject of considerable research, surveying, and struggle over the years, but the evidence is clear enough for me to conclude that the track is a Class 4 town highway of Ripton. Here's how I get to that conclusion:

The highway was laid out by Middlebury Selectmen in 1793. Exhibit 1. This road was never discontinued, and as the land over which it travels is, since 1814 and 1829, located in Ripton, it is a town road in that town. Exhibits 2 and 3.

Discussion of the creation of the Centre Turnpike Company and its doings over its history are, for purposes of this conclusion, irrelevant. The Company had control over the route for 53 years, but in 1853 sold its interests to Ripton. Exhibits 4 and 5.

The records of the Town of Ripton prior to 1830 are lost, and no survey of that portion of the route that runs from the old town line of Middlebury to the road to Goshen has been located. But that problem is solved by evidence that Ripton spent funds to improve the road in 1853. Exhibit 6. In highway law, that is evidence of dedication and acceptance, which would be an alternative basis to conclude it is a town highway in lieu of a survey and on top of the 1853 purchase of the route from the Turnpike Company.

There is a lot of information on this issue in the U.S. Forest Service Office in Rutland, including surveys tracking the 1793 route with ground evidence. The Sheldon Museum has the corporation records of the Center Turnpike Company, and the Ripton and Middlebury town land records have even more information, but nothing in any of it suggests that the road is not a Ripton

(Exhibit 7)

town road. Middlebury recognized it as a town road as it runs through that municipality, in 1982. It's time for Ripton to do the same.

Ripton has had opportunities in the 1980s to take this step, but its Selectboard was cautious and resistant, largely because of a concern that landowners along the route would be upset. Apparently there are successor landowners who have a similar idea, including one who has erected signs insisting that the road is not a public highway. This resistance does not change the underlying fact that the road is a highway, however. Road easements can't be extinguished the way private easements can. 19 V.S.A. § 1102.

Some have complained that they spent money improving the road, and hinted that this changes things, but that is a mistaken theory. That they went ahead and made improvements without the approval of the Selectboard has no impact on the underlying facts either.

The running of utility lines along the route, beginning in 1881, is of some value in confirming that it is a town highway, but that is not determinative either.

What matters is the 1793 survey and the 1853 purchase of the route and payment of funds to improve it by the Town of Ripton, plus a lack of any evidence of discontinuance. The lesson of the ancient roads law and the various cases that have come from fights between landowners and towns on old roads is that a highway never ceases to exist without some affirmative act of the Selectboard, discontinuing the public interest in the road. There is no evidence that that has occurred. There is neglect and a failure to acknowledge, but no discontinuance.

The Town should, however, ensure that the highway is placed on the official town highway map, by providing the evidence of its creation to the Agency of Transportation Mapping Division.

Thank you

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul", written in dark ink.

Paul Gillies



***Exhibit 1*** – 1793 Survey of John Foot – recorded on May 8, 1794 in the Middlebury Land Records - Book 2, Pages 221 and 222, and a transcript excerpt from the Middlebury Road Book.

***Exhibit 2*** – 1814 Laws Passed by the Vermont Legislature, page 141 - Middlebury to Ripton boundary change documentation.

***Exhibit 3*** – 1829 Acts Passed by the Vermont Legislature, page 20 - Middlebury to Ripton boundary change documentation.

***Exhibit 4*** – 1800 to 1808 Acts Passed by the Vermont Legislature– excerpts related to the Charter of the Center Turnpike.

***Exhibit 5*** – March 30, 1853 Ripton Town Meeting Proceedings, page 126 – voters acted not to rescind a vote taken on March 8 to purchase and maintain the Center Turnpike.

***Exhibit 6*** – April 15, 1853 Ripton Town Meeting Proceedings, page 126 and 127 – voters acted again not to rescind a vote take on March 8 to purchase and maintain the Center Turnpike.



tabbies

2/12/27

Midbury May 9<sup>th</sup> 1994 then see the above two on record

Alfred Abbott Register Town Clerk

Midbury in Midbury ~~1994~~ by transfer of the location a sign on the  
 road as follows: the sign beginning at a point on the east side of Midbury  
 that is owned by Jerry's, Route 36 Sept 1993 to a little way on called there  
 Route 36 Sept 22 road to a dead end tree, Route Sept 21 1993 on the bank  
 Route 36 Sept 22 road to a dead tree, Route Sept 25 Sept 14 road  
 Route, Route 36 Sept 20 road to a dead tree, Route Sept 25 Sept 14 road

2/12/27



222

Hence south 50 Sept 13 rods to the corner of Wgt's house, thence south 50 Sept  
 14 rods to a white oak tree, thence south 45 Sept 66 rods to a holly wood tree, thence  
 south 45 Sept 28 rods to a holly tree, thence south 45 Sept 29 rods to a brick  
 wall, thence south 40 Sept 14 rods to a stone tree, thence south 45 Sept 28 rods  
 to a brick tree, thence south 45 Sept 16 rods to a brick tree, thence south 50  
 Sept 14 rods to a stone tree, thence Sept 10 rods to a holly tree, thence south  
 45 Sept 16 rods to a brick tree, thence Sept 67 rods to a stone tree, thence south  
 45 Sept 44 rods to a brick tree, thence Sept 70 Sept 68 rods to a brick tree,  
 thence south 50 Sept 18 rods to a brick wall standing on the Sept line of the  
 town, of highway being, via rods wide. Surveyed by me John Groot surveyor  
 Middlebury May 8<sup>th</sup> 1794 then read this foregoing survey on the  
 Sept 10<sup>th</sup> 1794 on same land —

I am well over by these parcels to that of Elizabeth Wheaton's widow  
 in the County of Windsor



Middlebury 27th Sept. 1794. Surveyed a six rod road bounded as follows, wit: beginning at a stake and stones standing at the S. E. corner of the court house square thence running S. 5° 27' E. 145 chains to a stake standing on the bank of Otter Creek near the half mile bridge Said line on the east side of said road.

Middlebury, April 16, 1794.  
Rec'd this survey on record  
Attest. Robert Huston, Town Clerk

G. Painter, Surveyor

Stephen Goodrich  
Nathaniel Munger      Selectmen  
Joshua Hide

We, the subscribing authority, by virtue of the Statute law of this state in such cases made and provided, do hereby set over to G. Painter, land Miller their heirs and assign forever the land contained within old road that is west of the road contained in the above survey, I do hereby annex the same to the said G. Samuels land severally, such grant as was taken from each one; for said old road. To have and to hold the same, in here of damages done to the said G. and Samuel by laying the new road contained within above survey the same being laid through the said G. and Samuels land.

Middlebury, April 16th, 1794.

Stephen Goodrich  
Nathaneil Munger      Selectmen  
Joshua Hide

Rec'd the foregoing on record. Attest. Robert Huston, Town Clerk.

FROM SEELEY'S EAST TO THE TOWN LINE.

Surveyed October 28th 1793 a highway bounded as follows, to wit: Beginning at a stake standing on the east side of the highway that leads by Seeley's thence N. 36° E. 57 rods to a papple tree, thence S. 83° E. 22 rods to a black oak tree, thence E. 21 rods to a black oak tree, thence N. 85° E. 20 rods to a beach tree, thence N. 80° E. 14 rods to a stake, thence S. 85° E. 13 rods to the corner of West's house, thence S. 50° E. 24 rods to a white oak tree, thence S. 45° E. 66 rods to a pap wood tree, thence S. 43 E. 28 rods to a maple tree, thence S. 74° E. 29 rods to a beach tree, thence S. 40° E. 12 rods to spruce tree, thence S. 45° E. 22 rods to a birch tree, thence S. 53° E. 16 rods to a beach tree, thence S. 70° E. 14 rods to a spruce tree, thence E. 10 rods to a hemlock tree, thence N. 78° E. 76 rods to a beach tree, thence E. 67 rods to a spruce tree thence N. 55° E. 24 rods to a birch tree, thence N. 70° E. 68 rods to a tree, thence S. 80° E. 18 rods to a beach staddle standing on the E. line of the town. Said highway being six rods wide.

John Foot, Surveyor

By donation of the selectmen.

Middlebury May 8th 1794. Rec'd the foregoing survey on record.

Road Book



LAWS PASSED BY THE LEGISLATURE OF THE STATE  
OF VERMONT AT THEIR OCTOBER SESSION, 1814.

Chapter CXV.

An act annexing a part of the town of Middlebury  
to the Town of Ripton.

It is hereby enacted by the General Assembly of  
the State of Vermont, that a tract of land on the east  
side of the mountain, in Middlebury, in the County of  
Addison, described as follows, to wit: Beginning at  
the southeast corner of said Middlebury; thence west  
in the south line of said town, 1 mile; thence northerly  
to a stake in the north line of said Middlebury, one  
mile and one half from the northeast corner of said  
Middlebury; thence on said north line of said Middle-  
bury to the northeast corner thereof; thence to the  
first bounds; being and the same is, hereby annexed  
to the town of Ripton in said County.

Reference: Laws of 1814, page 141.

ACTS PASSED BY THE LEGISLATURE OF THE STATE  
OF VERMONT AT THEIR OCTOBER SESSION 1829.

Sec. 31. An Act Annexing Part of the Town of  
Middlebury to the Town of Ripton.

It is hereby enacted by the General Assembly of  
the State of Vermont that so much of the town of  
Middlebury as lies within the bounds following, to  
wit: Beginning at the line between said Middlebury  
and Ripton, in said County, on the south line of  
Zebina Gushman's farm; thence west on the south line  
of said farm, 18 rods, to the southwest corner of  
said farm; thence north on the west line of said farm  
to the northwest corner; thence east on the north line  
of said farm to the line between said Middlebury and  
Ripton; thence to the first mentioned bounds, be, and  
same is hereby annexed to, and in all respects made  
a part of said town of Ripton.

Provided that this act shall not be in force until  
the towns of Middlebury and Ripton shall each, by vote  
in the town meeting, have given their assent to the  
same.

Reference: Acts of 1829, page 20.



ulation and management of the said aqueduct, and for carrying into effect, its beneficial purposes.

*Modera-*  
tor's duty. *Sec. 2. And it is hereby further enacted,* That it shall be the duty of the moderator, when chosen, to preside in all meetings of said proprietors and owners, and direct the mode of proceedings therein. And it shall be the duty of the clerk to register the names of all the proprietors and owners of the said aqueduct; to record all transfers of shares in the same, and also from time to time, all votes, proceedings and bye laws, of said proprietors. And when the proprietors shall assent any tax for repairing the said aqueduct, making any addition thereto, or other purpose: and if any such proprietor shall neglect or refuse to pay any tax duly assessed by said corporation, to the clerk aforesaid, within thirty days after the time appointed for the payment thereof, the said clerk is hereby authorized to sell at public vendue, the share or shares of such delinquent proprietor or proprietors, under such regulations as the said corporation may, by their bye-laws direct. And such clerk shall enter in the books of said corporation such sale, and the purchaser may thereupon be considered, to all intents and purposes, the proprietor thereof; and the overplus, if any there be, upon such sale, shall be paid on demand by the clerk, to the person whose share or shares shall have been so sold as aforesaid.

*Clerk's duty.* *Sec. 3. And it is hereby further enacted,* That if any person who is not a proprietor

*Clerk empowered to sell shares for payment of taxes.*

in said aqueduct, shall impede, hinder obstruct or injure said aqueduct, commit any trespass thereon, or do any damage to the same, or any part thereof, he shall, pay all damages sustained by said proprietors thereby; to be recovered, in the name of the clerk, to and for the benefit of said proprietors, before any court proper to try the same.

*Sec. 4. And it is hereby further enacted,* That the administrators to the estate of Samuel Williams, esquire, late of Rutland, deceased, be, and they are hereby authorized, to execute a lease to aid proprietors, of the privilege of making said aqueduct, through the lands belonging to said estate, and of assigning to said proprietors, all leases which were executed to the said Samuel Williams in his life time, for the purposes of said aqueduct.

*Passed November 6th, 1800,*

*A true copy, attest,*

ROSSELL HOPKINS, Secretary.

An act incorporating certain persons therein mentioned, by the name of the centre turn pike company.

*Preamble.*  
Whereas the public road leading from the courthouse in Middlebury, in the county of Addison, to the courthouse in Woodstock, in the county of Windsor, and also to Roy- alton, in said county of Windsor, is circuitous, mountainous and rocky, and the expense of shortening, making and repairing a road, over said ground, would be much greater than ought to be borne by the towns through which the same may pass.



Therefore,

Section 1. **I**t is hereby enacted by the general assembly of the state of Vermont, That Daniel Chipman, Samuel Miller, Camaliel Painter, Seth Storrs, Samuel Foot, Samuel Mattocks, jun. Efaias Butts, Enock Emmerfau, Thomas Hodgkins, Elias Keys, Benjamin Emmons, Benjamin Swan, Zenas Robbins, and such persons as shall be associated with them and their successors, and their heirs and assigns, shall be a body corporate, by the name of the *centre turn pike company*, and by that name may sue and be sued; may purchase and hold property; may have a common seal; and shall have and enjoy all the privileges which are incident to corporations, for the purpose of laying out, making, keeping in repair, and improving a turnpike road, from the court house in Middlebury, in the county of Addison, to Woodstock, in the county of Windsor; and also a road, to leave the aforesaid road at the most convenient place, and to extend to the mouth of the second branch of the White River in the town of Royalton, in said county of Windsor.

Incorporation of centre turnpike company.

Name of the company.

Their powers.

Sect. 2. And it is hereby further enacted,

That the said corporation, or a committee by them appointed for that purpose, be, and they are hereby authorised and empowered, to lay out and make said road, through any lands where it shall be found convenient, and the same to alter as will in their judgment best accommodate the public, and promote the general object and design of the said corporation; which road

May lay out and make roads.

shall be four rods wide, and the path for travel shall be made at least eighteen feet wide. And said corporation may purchase and hold the lands for said road, of the owners thereof, and if they cannot agree upon the price of the same, the judges of the county court, for the county in which such lands may be, shall, on application of said corporation, appoint three judicious and disinterested persons, who shall, at the expence of said corporation, view the same, and appraise the damages done to any such individual, by laying or making such road through his or their lands, which sum being paid by said corporation, on demand, to the person owning or being in possession of said lands, shall forever discharge said corporation from any action, on account of said roads being laid out and made as aforesaid. *Provided*, That no allowance shall be made to the owners of lands taken up by said road, if the same shall not be improved and enclosed; nor, in cases where the said road shall be laid on any road which shall have been previously laid out; nor in any cases where the said committee shall think proper to fetter over any old road, to such person or persons, which they are hereby authorised to do.

Width of road.

May purchase and hold lands.

No allowance to be made for lands in certain cases.

Sect. 3. And it is hereby further enacted, That when the said road from Middlebury to Woodstock shall be completed, and approved by a committee, consisting of three judicious men, to be appointed by the judges of the supreme court, it shall be lawful for said company to erect on said

Road when completed to be approved by a committee.



Corpora-  
tion may e-  
rect Turn-  
pike gates.

road, five turnpike gates. And when the said road to Royalton shall in like manner be completed and approved, it shall be lawful for said corporation to erect one other gate, on said last mentioned road, and shall be entitled to receive from each passenger, at each of said gates, the following rates of toll; for each coach, phaeton, chariot, or other four wheel pleasure carriage, drawn by two horses, fifty six cents, and if drawn by more than two horses, ten cents for each additional horse; for each chaise, chair, sulkey, or other two wheeled pleasure carriage, drawn by one horse, thirty cents; and for each additional horse, nine cents. For each cart or waggon, drawn by two oxen or horses, twenty five cents, and if drawn by more than two oxen or horses, for each additional ox or horse four cents. For each sled or sleigh drawn by two oxen or horses, twelve cents, and for each additional ox or horse three cents; and if drawn by one horse, eight cents: for every man and horse eight cents; for all horses led or driven, exclusive of those in teams or carriages, if under ten, two and an half cents each, and if over ten one cent each: For all neat cattle in droves, of the number of ten or under, two cents each, if over ten, one cent for each additional creature; and for all sheep and swine, of the number of twelve, or under, half a cent each, if over twelve, at the rate of three cents per dozen.

*Provided always,* That no person shall be obliged to pay any toll at either of said gates, who shall be going to or from pub-

Exempts  
from toll.

lic worship, or to or from any grist mill or saw mill, or on militia duty, or on the ordinary domestic business of family concerns.

Sec. 4. *Provided also, and it is hereby further enacted,* That when the said corporation shall have completed one fifth part of said road, leading from Middlebury to Woodstock, and such part as the judges of the supreme court shall direct, and the same shall have been approved as aforesaid, they shall have right to erect one gate thereon, and receive toll as prescribed in this act; and so on in like manner for the remaining four fifth parts of said road.

Sect. 5. *And it is hereby further enacted,* That the said corporation, at any legal meeting, shall have power to divide said grant into as many shares as they shall judge proper, and said corporation shall have power to establish the mode of transferring said shares. And said corporation shall have power at any such meeting to make bye laws, not inconsistent with the constitution and laws of this state, for the due regulation of their common concerns and interests.

Sect. 6. *And it is hereby further enacted,* That the first meeting of said corporation shall be holden at the house of Elias Keys, in Stockbridge, in the county of Windsor, on the first day of January, A. D. one thousand, eight hundred and one, for the purpose of choosing such officers as may be necessary, and for transacting any other

May erect  
igate when  
one fifth of  
the road is  
made and is  
in progress  
tion.

May dis-  
vide into  
shares.

Power to  
make bye-  
laws.

First meet-  
ing when &  
where hold-  
en.



exposed to view, a sign, or board, with the rates of toll, with all tollable articles fairly written thereon, in large letters.

business which the said corporation, by this act are empowered to transact, for regulating the concerns thereof: And said corporation may then and there agree on the mode of calling any future meeting of said corporation, and the same mode from time to time alter, as the said corporation may judge expedient.

Power to call future meetings.

Sec. 10. And it is hereby further enacted, That if the said corporation shall neglect to complete the said road for the space of six years, from and after the passing of this act, then this grant shall become null and void.

Sec. 7. And it is hereby further enacted, That it shall be the duty of said corporation, within one year after the completion of said road, to deliver to the secretary of this state, an account of the expences of making the same.

To deliver to the Secretary of state an account of expences.

Sec. 11. Provided nevertheless, and it is hereby further enacted, That the supreme court, on complaint thereof made by any inhabitant of this state, shall have power, at any time within the said term of six years, to dissolve said corporation, if the said supreme court shall judge that said corporation shall not have made such reasonable progress towards the completion of said road, as the public shall have a right to expect.

Sec. 8. And it is hereby further enacted, That at the expiration of the term of fifteen years, from and after the completion of said road, and thereafter, at each successive period of fifteen years, as the case shall require, it shall be the duty of said corporation to lay all their accounts before the judges of the supreme court, for the time being, who shall have power to examine the accounts and books of said corporation; and if they shall find that the toll received, shall have paid all the expences of making, repairing, improving, and taking care of said road, together with an annual interest on the same, at the rate of twelve per centum, then, and in that case, the said supreme court may dissolve said corporation, and thereafter the property of said road shall vest in this state, and be at the disposal of the legislature.

Corporation once in 15 years to lay their accounts before the supreme court.

And the said supreme court are farther empowered, on application of said corporation, at the term of said court, which shall be holden within and for the county of Addison, next preceding the expiration of the aforesaid term of six years, to give said corporation a further time, not exceeding the term of two years for the completion of said road. Provided. The said corporation shall have complained two thirds of said road, and shall produce to said court satisfactory evidence, that they have made all reasonable exertions towards the completion of the same; in which case the said grant shall not become void, if said corporation shall com-

Sec. 9. And it is hereby further enacted, That at the several gates, where toll shall be taken, there shall be erected and kept

Supreme courts power to dissolve the corporation when the expences and interest are paid.

Sign with the rates of toll to be erected at each gate.

If the road is not completed in 6 years this grant to be void.

Supreme courts power to dissolve the corporation if they do not make progress within 6 years.

Supreme courts power to give a further time to complete the road in certain cases.



days after such sheriff shall be restored the exercise of his office.

Passed November 7th, 1806.

A true copy,

Attest, THOMAS LEVERETT, Secretary.

### Chapter 96.

An act in addition to an act, intitled, "An act incorporating certain persons therein mentioned, by the name of the Centre Turnpike company.

Sec. 1. **I**t is hereby enacted by the General Assembly of the State of Vermont, That the shares in the turnpike road, of the said Centre Turnpike-Company, shall be taken, deemed and considered personal estate, to all intents and purposes.

Shares in said road, personal estate.

And when any share or shares shall be attached on mesne process, an attested copy of such process, with the officer's return thereon, shall be, by such officer, immediately left with the clerk of such corporation, otherwise the attachment shall be void.

May be attached on mesne process.

And such shares may be sold on execution, in the same manner as is or may be by law provided, for the sale of other personal estate.

May be sold on execution.

And such share or shares so sold as aforesaid, shall, to all intents and purposes

res vest in such purchaser. Provided the officer levying such execution, shall leave an attested copy of the advertisement for the sale of the share or shares to be sold, with the clerk of said company, at least fourteen days before such sale; and shall also leave an attested copy of the execution with his return thereon, with the said clerk, within fourteen days after such sale, and shall pay for recording the same.

Sec. 2. *And it is hereby further enacted,* That the said corporation may, if they see proper, commute the rate of toll with any person, by taking of such person a certain sum, by the month or annually; to be mutually agreed on, in lieu of the tolls established in the act to which this act is an addition.

Sec. 3. *And it is hereby further enacted,* That if said Centre Turnpike Company, or their toll-gatherers, or any other person in their employment, shall unreasonably delay or hinder any traveler, or passenger, at either of the gates on said turnpike road, or shall demand and receive more toll than is established by the act to which this is an addition, the company shall forfeit and pay a sum not exceeding ten dollars, nor less than one dollar, to be recovered by the person so injured, before any court proper to try the same. And when there shall be no attendance at such gate, the same shall be left open.

For taking illegal toll.

Sec. 4. *And it is hereby further enacted,* That if any person shall cut, break down, or otherwise destroy any of said turnpike road.



gates, or shall dig up or carry away earth from said road, to the damage of the same or shall willingly do damage to any bridge thereon; or shall forcibly pass, or attempt by force to pass either of said gates, without having first paid the legal toll, at said gate, such person shall pay all damage which the said company shall thereby sustain, and shall forfeit and pay a sum, not exceeding thirty dollars, nor less than one dollar, to be recovered by the treasurer of said company, to their use, in an action of trespass on the case. And if any person shall with his carriage, cattle or horses turn out of said road to pass any of said gates, and again enter the said road, with an intent to evade the legal toll due at said gate, or shall otherwise without force pass such gate, without paying such toll, and with an intent to defraud said company of said toll, such person shall forfeit and pay three times the amount of the legal toll at said gate, to be recovered in manner aforesaid, to the use of said company.

For evading toll.

Passed November 7th, 1806.

*A true copy,*

*Attest,* THOMAS LEVERETT, Secretary.

### Chapter 97.

An act providing for a new trial, in a certain cause therein mentioned.

**Sec. 1.** *It is hereby enacted by the General Assembly of the State of Vermont,* Supreme court authorized to grant a new trial to Abel Morrill, jun. Aaron Ward and Daniel Smith. That the supreme court be, and they hereby are authorized under such regulations and restrictions, as they shall judge proper, to grant a new trial in a certain cause, which was heard and tried before said court, at the term of said court holden at Danville, within and for said county, on the third Tuesday next following the fourth Tuesday of August, which was in the year one thousand seven hundred and ninety nine, wherein Samuel Mattocks, treasurer of the state of Vermont, was plaintiff, and Abel Morrill, jun. Aaron Ward, and Daniel Smith, were defendants. Provided, that the name of Benjamin Swan, shall be inserted as plaintiff in said cause; instead of Samuel Mattocks, should a new trial be granted.

Passed November 7th, 1806.

*A true copy,*

*Attest,* THOMAS LEVERETT, Secretary.

### Chapter 98.

An act in amendment of an act, intitled "An act constituting the supreme court of judicature, & county courts, defining their powers, and regulating judicial proceedings."



Penalty for selling without licence.

foreign country (salt excepted) not having a licence thereto, granted and recorded as aforesaid; or shall refuse to shew such licence when thereto required, by any justice of the peace within his county, he shall forfeit and pay the sum of thirty dollars, to be recovered by action of debt, before any court proper to try the same; the one moiety thereof to the use of the county treasury in the county where such offence shall be committed, and the other moiety to any person who shall prosecute for the same, with costs.

*Provided,* That nothing in this act shall be construed to affect any citizen of this state, or other person, who shall offer any of the said goods, wares or merchandize, in payment of any actual expences when travelling.

Passed November 11th, 1806.

*A true copy;*

Attest, THOMAS LEVERETT, Secretary.

## Chapter 117.

An act in addition to an act, entitled "an act incorporating certain persons therein mentioned, by the name of *The Center Turnpike Company*," passed on the 4th day of November, 1800.

**Sec. 1.** It is hereby enacted by the General Assembly of the State of Vermont, Com'ce appointed by the Hon'ble Senate, That *Abijah Perry of Leicester, Caleb Hennessey, jun. of Pittsford, and Sathiel Bump, of Salisbury*, be, and they hereby are appointed and fully empowered, a committee, to assess the damages done by the *Center Turnpike Company*, in laying and extending said center turnpike road, thro' the lands of *Norman Webber of Stockbridge*, and the said committee, after being sworn to the faithful discharge of their duty, shall proceed to examine said road, and allow to the said *Webber* such damages as he is equitably entitled to, and shall make two certificates describing the sum so assessed in damages, and deliver the one to the said *Webber*, and the other to one of the directors of said corporation, and which being paid to the said *Webber*, on demand, the said corporation shall be forever exonerated and discharged from any action, on account of such road being laid out and made as aforesaid, and if the said corporation shall neglect for the space of two months, to pay the said *Webber* the sums so assessed, the said *Webber* may sue for and recover the same, before any court having competent jurisdiction.

**Sec. 2.** And it is hereby further enacted, That the said committee shall assess the cost of appraisal, to be paid by either party in such manner as they shall think just and equitable, and the said committee, in assessing said damages, shall in said assessment, conform themselves to the regula-



tions of the act to which this is an addition.

Passed November 11th, 1806.

*A true copy,*

*Attest,* THOMAS LEVERETT, *Secretary.*

### Chapter 118.

An act annexing the company of artillery attached to the second brigade, in the second division of the militia of this state, to the third regiment of the aforesaid brigade.

*It is hereby enacted by the General Assembly of the State of Vermont,* That the aforesaid company which was raised agreeably to law, by the order of *Amos Kellogg*, late brigadier general of said brigade, within the beat of said regiment be, and the same is hereby annexed to the aforesaid regiment.

And the said company is invested with all and singular the powers, privileges, honors, and immunities, and subject to all the military services and duties, which by law are, or hereafter from time to time shall be attached to, or demandable

from other companies of artillery in this State.

Passed November 11th, 1806.

*A true copy,*

*Attest,* THOMAS LEVERETT, *Secretary.*

### Chapter 119.

An act in addition to an act, entitled "an act regulating marriage and divorce," Passed February the 28th, one thousand seven hundred and ninety seven.

*Sec. 1. It is hereby enacted by the General Assembly of the State of Vermont,* That every regular ordained minister of the Gospel, who is an inhabitant of this state, and is in regular standing with the denomination to which he belongs, shall be, and hereby is authorized and empowered to solemnize marriage, between persons who may lawfully enter into that relation, in any county where such minister is an inhabitant, after having caused the credentials of his ordination to be recorded, in the town clerk's office, in the town to be recorded, in which he shall solemnize any marriage as aforesaid; any law, usage, or custom to the contrary notwithstanding.

*Sec. 2. And it is hereby further enacted,* That it shall be the duty of the several town clerks within this state, on application,



pay Daniel Staniford, for services rendered by himself, Elias Buel, and John C. Youngman, in providing for the troops at Burlington, including mounes paid for blacksmithing, one thousand and forty two dollars and sixty eight cents. To captain Justus Warner, for the pay of himself and his men, called out as agent at Burlington, fixty two dollars and thirty six cents; to captain Eli Baker, for the like services; one hundred and fifty five dollars and eleven cents. To lieutenant William Russell, for the like services, ninety five dollars and fifty two cents. To captain Simon Binn, for the like services, seventy seven dollars and ten cents. To captain Orange Baldwin, for the like services, two hundred seven dollars and six cents. To lieutenant Samuel P. Currie, sixty seven dollars and eighty four cents: and to capt. William Williams, four hundred fifty nine dollars and forty seven cents: making in the whole two thousand one hundred and sixty seven dollars and fourteen cents.

Passed November 8th, 1808.

*A true Copy,*

*Attest,* THOMAS LEVERETT, Secretary.

C H A P T E R 65.

An act to extend the time for the completion and approbation of the centre turnpike road.

Whereas the said road is so far completed as to accommodate the traveller, and whereas two of the persons appointed to inspect and approve said road, are members of this legislature, and may not be able to inspect the same the present session: Therefore,

*It is hereby enacted by the general assembly of the state of Vermont, That if the center turnpike company shall complete the said road, and cause the same to be approved by the inspectors, by the first day of October next, the grant made to said company shall remain in full force; any thing in said grant contained to the contrary notwithstanding.*

Passed November 8th, 1808.

*A true Copy,*

*Attest,* THOMAS LEVERETT, Secretary.

C H A P T E R 66.

An act appointing a committee to lay out a post road from Hubbell's Falls, on Onion River, to the north line of Huntburgh.

*Section 1. It is hereby enacted by the Committee General assembly of the state of Vermont, appointed That John Johnson of Essex, Joseph Bee-man, jun. of Fairfax, and Samuel Hubbard, of Huntburgh, be and they are here-*



## Town Meeting

Legal voters of the Town of Ripton are hereby  
 called and warned to meet at the Meeting house  
 in Ripton on Wednesday the 30<sup>th</sup> inst at 1 o'clock  
 to act on the following business to wit:  
 choose moderator to govern said meeting.

\* Also if the town will rescind the vote taken at the  
 annual town meeting March 9<sup>th</sup> 1853 in relation to laying  
 out to pay for the Swamp Lake

And see if the town will appropriate the surplus  
 money to pay for the Swamp Lake in whole or in part.

March 19<sup>th</sup> 1853

C. W. Linsley } selectman  
 Clark Varon }  
 Wm. A. Cobb }

March 30. 1853

The voters of the town of Ripton met according to the  
 above warning and first chose Edwin Cushman  
 moderator

\* It was voted to rescind the vote taken at the last annual  
 meeting in relation to paying for the Swamp Lake  
 and to disavow the 3<sup>d</sup> article in the warning.  
 The foregoing is true record of the original warning  
 together with the doings of a meeting holden on said  
 day and meeting made this 30<sup>th</sup> day of March 1853

Attest B. H. Bacon Town Clerk

RIPTON TOWN PROCEEDINGS VOL I P 124

MARCH 19, 1853 WARNING FOR

MARCH 30, 1853 MEETING



### Town Meeting

The inhabitants free-holders of Kipton are hereby  
 called to meet at the Meeting house in Kipton on  
 the 15th day of April 1858 at one o'clock in the  
 afternoon there & there to act on the following articles  
 To choose a Moderator to preside at said Meeting  
 If the Town will vote to rescind the vote taken  
 at the annual Church Meeting to raise a tax  
 for the Turnpike  
 If the town will vote to hire that portion of  
 surplus Money that is to be paid into the  
 Treasury by J. C. Kipponna Estate as William Nash  
 If the town will vote raise an appropriation  
 the sum of one hundred dollars to be washed out on

KIPTON TOWN PROCEEDINGS VOL 7 P 126 (cont)

APRIL 1, 1858 WARRANT for

APRIL 15, 1858 MEETING

the Lincoln road between Putnam Falls and  
Lincolnville.

6. To see if town will vote to raise the sum of one  
hundred Dollars to be worked on the road from  
Abram Johnsons house to Willard Adams

April 1, 1858.

Charles W. Linsley } select  
Wm N Cobb } men

April 15<sup>th</sup> 1858 The voters of Putnam met according  
to the above warning and chose Labian Cashman  
Moderator

- \* Voted not to rescind the vote taken at the last  
March Meeting in relation to paying for the town  
Voted to discontinue the 3<sup>rd</sup>, 4<sup>th</sup>, & 5<sup>th</sup> article in the  
warning

\* The foregoing is a true record of the original  
warning & the contents of a meeting holden in  
said warning made this 15<sup>th</sup> day of April  
Attest B H Bacon Town Clerk

PUTNAM TOWN RECORDS VOL I P 127

APRIL 15, 1858 MEETING



**Annual Town Meeting Warning for March 8th 1853 - transcribed**  
February 24th 1853

"Article 5: To ? (by, ley?) a tax in addition to the leagal highway tax for the repairing the highways and bridges in said town, including so much of the Center Turnpike as lies within said town."

"Article 9: To see if the town will repair the Turnpike for the privilege of having the gate last year"

**March 8th 1853**

"Voted to raise a tax sufficient to pay for the Turnpike to be collected by the first December Next"

"Voted to dismiss the ninth artical in the warning"

**Warning for Town Meeting March 30, 1853**

"Article 2: To see if the town will rescind the vote taken at the annual town meeting March 8, 1853 in relation to buying (?) a tax to pay for the Turnpike"

Article 3: To see if the town will appropriate the surplus money to pay for the turnpike in whole or in part"

**March 30, 1853**

"Voted not to rescind the vote taken at the last annual town meeting in relation to paying ? buying) for the turnpike"

"Voted to dismiss the 3rd article in the warning"

**Warning to meet on the 15th day of April 1853**

"To see if the town will vote to rescind the vote taken at our annual March meeting to raise a tax to pay for the Turnpike"

April 15, 1853

"Voted not to rescind the vote taken at the last annual March meeting in relation to paying for the turnpike"

## Corridor Preservation Recommendations

### Complying with Act 178:

In 2006, the Vermont Legislature enacted a law that required all town-owned roads to be shown and listed on the General Highway Map and Certificate of Mileage. Old Town Road is not currently acknowledged as a town-owned road and is not on the Ripton map or certificate. The above legal opinion concludes that the road is a Town Highway. In order for the road to remain a legal Town right-of-way and comply with Act 178, the Town will need to take the necessary steps to add it to the Town's Certificate of Highway Mileage and General Highway Map. This is detailed in 19 V.S.A. § 305(c). The Vermont Agency of Transportation (VTans) has published a practicum on compliance with Act 178 and describes the process on adding existing roads that are not on the General Highway Map (See appendix D). Here is a summary of these steps and important date:

- **February 10, 2015** (on or before) - The Town Selectboard files with the Clerk the annual Certificate of Highway Mileage to include the Center Turnpike mileage and forwards a copy to the VTans Mapping Unit by February 20.
- In addition to the Certificate of Highway Mileage, the Town will need to provide documentation that includes a description of the affected highway, minutes of meetings at which the Selectboard took action to acknowledge the highway, and a copy of the General Highway Map with the road sketched on it.
- A copy of the historic and USFS surveys can provide additional evidence but are not required for roads that were established prior to February 10, 2006.
- VTans will review the submission and request any additional information. If the documentation is timely and complete, the Agency will add the road to the General Highway Map prior to the deadline of July 1, 2015.

According to the VTans practicum, if the Town wishes to reclassify the highway to a Town Trail, then the presumption is the Town will reclassify the highway to a trail before adding it to the Mileage Certificate and General Highway Map.

## Future Considerations

### Maintenance:

The Town's responsibility for maintaining Class 4 highways is described in 19 V.S.A. § 310. "Highways, bridges and trails - (b) Class 4 highways may be maintained to the extent required by the necessity of the town, the public good and the convenience of the inhabitants of the town, or may be reclassified using the same procedures as for laying out highways and meeting the standards set forth in section 302 of this title." However, codes and standards apply to the drainage structures on Class 4 Highways, in the same manner as Class 3, so culverts and bridges should be maintained. Damaged structures from flooding on Class 4 highways and bridges are eligible for FEMA providing the Town has a policy to maintain the structures on Class 4 highways. Towns are not bound to maintain town trails – "Trails shall not be considered highways and the town shall not be responsible for any maintenance including culverts and bridges." 19 V.S.A. § 302(c)(5).

The bridge over the Middlebury River, known as the Potash Bridge, is a major structure along the highway and represents a significant responsibility and potential future cost to the Town and/or



residents along the road. The study did not investigate the condition of the bridge nor does this report provide any engineering opinion or estimates of repairs or replacement. This report makes no recommendations on maintenance of the highway and the attending structures beyond suggesting that the Town work with the affected landowners on all matters related to the highway, its future uses and ongoing maintenance. The project team recommends developing a written management plan in collaboration with residents and other stakeholders to guide future actions regarding the road/trail.

### **Town Trail:**

The advisory committee and project team discussed the possibility of reclassifying the road as a legal Town Trail in order to control the uses and work with the property owners to minimize any adverse impacts. Before the corridor is formally added to the Highway Mileage Certificate, the Town can take action to reclassify the highway to a Town Trail. The Town may choose to reclassify only a portion of the road to a trail. If so, then adding the highway to the map may be the first step. The reclassification process is defined in 19 V.S.A. §§ 708 – 712 and 771 – 775. Here is a summary of the steps:

- The Selectboard initiates the proceedings. Or, by request of an abutting property owner, or by petition of 5% of the voters.
- The Selectboard holds a public hearing to examine the premises and hear concerns by properly posting with the Clerk, advertising in a local newspaper of record and notifying affected landowners with 30 days notices.
- The Selectboard votes to reclassify and prepares a survey of the highway to be reclassified.
- Within 60 days of the hearing, the Selectboard reports the action to the interested parties and the Clerk. The order to reclassify the highway and the survey are recorded in the Town land records.
- The Town notifies VTTrans Mapping Unit at the next annual cycle for updating the Certificate of Mileage and General Highway Map.

In consideration of the Town Trail, the Selectboard could work collaboratively with the residents and others to establish a management plan for the highway/trail. The plan can include specific management and maintenance responsibilities, establish the legal uses, reroute portions of the trail to avoid impacts to property owners and other important considerations.

### **Conclusion**

The local communities and other important stakeholders are interested in preserving the corridor of the Old Center Turnpike and Old Town Road in the towns of Middlebury and Ripton. Emergency access to the corridor in the event of another catastrophic flood of Route 125 is a real need, particularly to the residents of Old Town Road should the Potash Bridge be lost. This study provides important clarity and certainty to the legal status of the route and recommendations on preserving control of the corridor for the public's use. The project team thoroughly investigated the public record and researched the legal status of the road in question. The legal opinion concludes that Old Town Road was legally established and never legally discontinued. The status and future uses of the corridor are under the control of the governing body of the Town of



Ripton. This study recommends that the Town take the steps outlined to preserve the public road by adding it to the Towns Certificate of Mileage and General Highway Map and work closely with residents, the USFS and others as necessary and maintain the utility of the corridor.

Paul S. Gillies  
Kevin Russell

### Appendices

- A. *History of Center Turnpike/Old Town Road in Ripton, VT from 1793 to 2008* by Billings
- B. Base Map
- C. Advisory Committee Meeting Notes
- D. VTrans – *An Ancient Roads Practicum*