

## WEST WINDSOR SELECTBOARD

Draft Minutes

January 29, 2009

Present: Phil Arvidson, Tom Kenyon, Nancy Gaynor, Ted Siegler

- 1) Call to Order – Selectboard Chair Phil Arvidson called the meeting to order at 7:00 PM.
- 2) Changes/Additions – None
- 3) Ancient Roads – Ted Siegler said a Vermont equine organization (VERTA) has donated \$100 to the Conservation Commission. Ted said Deb Daniels briefed the Conservation Commission on the amendments to the statutes that occurred during the 2007-08 legislative session. Ted said the first change is that the statute on ancient roads applies only to highways that are not otherwise clearly observable by physical evidence of their use, i.e. unidentified corridors. Ted said that unidentified corridors will become town highways if they appear on the town highway map by July 1, 2010. The date was changed from July 1, 2009. Ted said the Conservation Commission has been told that, even though the Selectboard has to certify the highway map in February, the changes will be legal if they are made after February but before July 1, 2010. Ted said another change is that towns that have lost records in a fire are going to be held to a lighter standard in terms of documentation. Ted said, although the Conservation Commission has found lots of physical evidence in the woods, they have been concerned about not being able to find documentation in the land records. Ted said it now appears that the ancient road law does not apply to any roads for which there is physical evidence. Tom asked how we know that the roads, for which there is physical evidence, were not thrown up. Ted said if we can't show that it has been thrown up, it remains a town right-of-way. Ted said if it's an ancient road, and we put it on the town highway map, we have until 2015 to prove that it's an ancient road. Ted said S. 107 says that 19 VSA is intended to apply only to those highways that are not otherwise clearly observable by physical evidence of their use as a highway or a trail. Ted said the Conservation Commission has two jobs: document all the areas with physical evidence of ancient roads – those don't go away – what goes away are the ancient roads where there is no physical evidence and no legal documentation. Ted said the Conservation Commission has been very successful in finding physical evidence and less successful in finding documents in the town records. Ted said they have all the Kittredge stuff that was written and are translating that into an excel spreadsheet. Ted said the Conservation Commission has directed Deb to look through the records for information on particularly important corridors so they can bring those to the Selectboard in the spring of 2010. Ted said it's encouraging that, even if they can't find records, there are many old roads that will not go away under this statute. Phil asked how you know that a road with a stone wall on each side is a town road and not just a farm road, unless it crosses a property line. Ted said most of the roads they have identified cross more than one property. Ted said the Conservation Commission is going to put the roads on one of the town maps and take photos of the physical evidence for each one. Tom said below Ralph Johnson's there was a road that the town moved. Tom asked if the town still has a claim to the land where the road used to be or do we recognize that there was a land swap there? Ted asked Tom if he is talking about the Brownsville-Hartland Road. Tom said yes and he thinks it was just a land swap; he doesn't know if there was a deed or not. Ted said that's one of the problems – is there any documentation? Phil asked when the fire was that destroyed some of the town records. Tom said he doesn't know; the fire was in Windsor. Ted said he thinks the fire was in the late 1800s. Ted said he has heard that there's going to be an amendment making it less onerous to document in the case where records have been destroyed by fire. Tom asked if the Conservation Commission will make a recommendation that the town file a quit claim deed if the situation warrants such action. Ted said the statute clearly states that "on or before July 1, 2010, a municipality's legislative body may vote to discontinue all town highways

that are not otherwise clearly observable by physical evidence of their use as a highway or trail and that are not included on the sworn certificate..." Ted said the Selectboard can always do a mass discontinuance of any highways that the Conservation Commission does not identify as having physical evidence of their existence. Ted said the Conservation Commission will document the physical evidence and that will become part of the public record. Tom said the mass discontinuance could be done at the next Town Meeting following the July 1, 2010 deadline. Phil asked if it has to go before a Town Meeting. Ted said no, but there has to be a public hearing. Phil said he thinks there will be three categories – roads that are clearly town roads, roads that are clearly not town roads, and roads where there is a question mark. Ted said the Conservation Commission is trying to identify all the roads and then narrow it down to the ones they think are really critical. Phil said it might make sense to suggest to property owners that if they are willing to dedicate the ancient road as a town trail, the town will not exert its claim to it as a town road. Ted said there may also be situations where an old road runs right next to the house and the Conservation Commission may negotiate with the landowner to move it away from the house as long as the landowner is willing to give a trail easement. Phil said there are some tax advantages to the landowner to do that. Tom asked what happens with Farm Road because it dead ends and, supposedly, Windsor threw up their end of it. Ted said the Conservation Commission is working on that area and will be spending more time there this spring because it would be a shame to lose access to the state property around the prison farm. Tom asked about the old road running from Blood Hill to Moeller's. Ted said there is some physical evidence of that road and the Conservation Commission has asked Deb to see if she can find any documentation. Tom said some people claim that as the only access to their property. Phil said he walked that road as part of a tax appeal investigation and there is both physical evidence and a deed that shows the road. Tom said in a situation like that, it would make sense to try to get the adjacent owners to agree on the centerline of the trail. Phil said he thinks a soft approach is a good idea. Nancy asked approximately how many properties the Conservation Commission is talking about. Ted said there are probably between 10 and 15 that have physical evidence. There was discussion about the difficulty of this type of investigation. Tom said if this keeps us out of one future lawsuit, it will be well worth it. Ted said the Conservation Commission is going to apply for a grant to have the VLCT come and do their Ancient Roads workshop. Ted asked about the Conservation Commission's funding this year. Phil said the Selectboard level funded the Conservation Commission in the 2009 budget. Nancy suggested meeting with Ted early in December to talk about the Conservation Commission's budgetary needs. All agreed. Phil said it sounds like we won't have any definitive answers until next year. Ted agreed. Nancy asked how many people are working on this. Ted said about half the Commission is very involved. Phil asked if any of the photogrametric stuff is useful. Ted said it might be useful and he will talk to Deb about it. The Selectboard thanked Ted for his and the Commission's work and for the update. There was general discussion about the value of maintaining trails in West Windsor.

- 4) Other Business – None
- 5) Adjourn – **Nancy made a motion to adjourn at 7:40 PM. Tom seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison