

WEST WINDSOR SELECTBOARD

Draft Minutes

January 11, 2010

Present: Bruce Boedtke, Tom Kenyon, Phil Arvidson, Ted Siegler, John & Sue Greenall, Dennis Lemire, Karl Hanson, Dana Waters, Mark Nowlan, Dennis & Tammy Conley, Cathy Boedtke, Erik Schutz, Merle and Leone Bushkin, Jim Kenyon, Cathy Archibald, Barbara Gerstner, Barbara Ackley, Nancy Gaynor, Bob French, Ralph Johnson, Elvin Kaplan, Seth & Colleen Warren, Lee Alexander, Betty Welles, Heather Hoyns, Bob Cerra, Richard Vacca, Nancy Pedrick, Wyatt & Michelle Kniffin, Ted Emerson, Shirley Ouelette, Betsy Medinger, Mike Spackman, Roger Miller, Nancy Jean, Debbie Klene, Paul Gillies, Deborah Donahue, Kenneth Parrot, James Lyall, Lindsay Robbins, Silas Allen, Polly Smith, Elna Kuhlmann, Doug & Wendy Bejarano, Louis Schmertz, Ashley Pakenham, Mike Dunne, Stephen Ott, Randy Perry, David Jaacks, Gaynor Coassin, Martha Harrison

- 1) Call to Order – Selectboard Chair Phil Arvidson called the meeting to order at 6:30 PM. Phil said there has been a flurry of emails to the town office today on the subject of ancient roads. Phil said the emails seem to be based on the premise that the Selectboard is going to make some final decision tonight on ancient roads. Phil said that is not on the agenda. Phil said what the Selectboard is considering is whether the issue of ancient roads should be on the town meeting warning.
- 2) Changes or Additions – Proposal to alter Silver Hill Road & Brownsville-Hartland Road intersection
- 3) Public comment – Phil asked for comments on any issues that are not already on the agenda.
- 4) Ancient Road Status – Ted Siegler said the Conservation Commission (CC) was taken aback by the suggestion that the ancient roads issue be included on the warning for town meeting and is here to ask “why?” and “in what way?” Ted said, given the effort that the Ancient Roads Committee has put into researching the subject, the CC is concerned that the Selectboard might proceed with a mass discontinuance. Ted said he thinks the Selectboard should consider each road on its merits. Phil said there is no draft language for an article on the warning; this was intended to be a conceptual discussion. Ted said the Committee has not finished gathering evidence to support the addition of the roads to the highway map. Ted said there are many roads that connect Hartland, Brownsville, Reading, and Weathersfield and an article on the warning would not take into account how people from other towns feel about this issue. Ted added that more than 50% of West Windsor property owners are not residents and don’t come to Town Meeting but that doesn’t mean they don’t use the trails. Ted said he thinks the town should preserve any road that we have a legal right to. Tom said he would like some guidance on how long the town should go on looking for ancient roads. Tom noted that most of the emails received today expressed interest in preserving trails, not roads. Heather Hoyns said she thinks there is some confusion on the roads v. trails issue. Dennis Lemire encouraged the Selectboard to let the CC continue to do its job and to consider the roads on a case by case basis. Barbara Gerstner said she was appointed to the Ancient Roads Committee 3½ years ago and she and the other volunteers have spent hundreds of hours researching this issue. Barbara said this is a Vermont law saying that we have a right to claim our trails and the roads should be considered on a road-by-road basis. Elvin Kaplan said the language of Act 178 is confusing but it does say that a mass discontinuance can only occur on roads that don’t show clearly observable physical evidence of their use as a highway or trail, so he doesn’t think a mass discontinuance is within the Selectboard’s purview. Ashley Pakenham said one of the desirable trails is on her property. Ashley spoke about her experience managing and maintaining trails. Ashley said this subject is complicated and spoke about the impact of trails and their usage on surrounding environments. Ashley said trails evolve over time, are very different from one another, and trail conditions can change over night due to storms or misuse. Ashley said Act 178 is unreasonable and insulting to private land owners; the statute will pit town governments and landowners against each other and does not address liability or maintenance issues. Ashley said money spent on this is going to be wasted. Ashley said she has been the subject of inaccurate claims by town officials. Ashley encouraged the Selectboard to do a mass discontinuance

and start over. Ashley said the Selectboard should not look for direction from an inexperienced, uninformed mass group of people. Ashley said proceeding could deprive citizens of their property rights as most affected landowners don't live in town and don't come to town meeting. Ashley said she is a trail advocate and believes in the effort to preserve trails but this effort is "a witch hunt." Ashley suggested that the Selectboard consult with experts who already work with trails and landowners and not make a hasty decision, based on emotions. Sue Greenall said she has worked hard on this project and has a trail easement on her own land. Sue said she doesn't understand why landowners don't want trail easements on their land. Sue said she spoke with Chuck Armstrong and Gaynor Coassin, who also have easements on their land, and they said easements are an asset; they feel good about giving something to the community and the easements do not affect their private lives. Sue said she is an advocate for considering ancient roads one-by-one. Cathy Boedtke said she is confused about why the Selectboard is considering placing this issue on the warning at this time. Cathy Boedtke said placing an article on the warning is a disservice to all the volunteers who serve on boards and committees because it wipes out their efforts. Phil said the fact that there are so many people here tonight with different viewpoints indicates the need for a wider discussion on the subject. Cathy Boedtke said the reason there are so many people here is because they got word that the Selectboard was thinking about putting an article on the warning. Bruce said his personal opinion is that it would be a mistake to put the issue of ancient roads on the warning because the issue is too complex and the Selectboard hasn't given the CC sufficient opportunity to present it. Tom said one of the questions is how people get clear title to their land. Tom said it's clear that the town is very interested in trails and not roads. Tom said the statute is unclear about whether ancient roads can be classified as trails or if they have to go on the map as Class 4 roads. Merle Bushkin asked how many miles of trails there are in West Windsor. Phil said he has no idea. Merle asked if West Windsor has more trails than other towns. Ted said he thinks that Hartland, Woodstock and West Windsor have a proportionally similar number of trails, keeping in mind that West Windsor is half the size of Hartland in terms of land area. Ted said West Windsor has a large number of trails on private land that are not protected and it's not unusual for 20% to 30% of them to be closed. Ted said West Windsor also has a lot of town land and there are many trails being built on that land because it is protected. Ted said the CC's position is that trail users need protected recreational trails. Ted said Tom is correct that the CC is interested in creating and protecting trails, not roads. Seth Warren said he thinks putting this issue on the warning for Town Meeting would render it a dead issue. Seth said ancient roads contribute to the quality of life that brings people to West Windsor. Seth said most people who move to West Windsor are doing so because of the trail network, which increases housing demand, sales price, and the grand list. With a few exceptions, Seth said, he does not agree that a legal trail across one's property would negatively impact the value of the property. Seth said the historic value of the trails is often underappreciated. Seth begged the Selectboard not to put this issue up for a vote. Seth said a Town Meeting discussion does not allow the entire town to weigh in because many large landowners are not local residents and registered voters. Seth asked for a show of hands of those in favor of maintaining access to ancient roads and in favor of the town continuing to assess them on a case-by-case basis. A majority of those present raised their hands. Merle Bushkin said asking for a show of hands is inappropriate. Phil said he doesn't want audience members to get into dialogue with one another. Seth said he just wanted to confirm the opinion of the majority of those attending in case everyone was not able to express his or her opinion. Ashley said 9/10 of the trails in this town are owned by private citizens, many of whom do not give permission for their use or give permission for some uses and not others. Ashley said many landowners get frustrated because people ride all over their land without permission, so they remove their trails from public use. Elvin Kaplan said Act 178 addresses "unidentified corridors," which have specific characteristics, not private trails. Elvin said preserving ancient roads is not the same as making all trails public property. Seth said town ownership of the road is a prerequisite for the town being able to assert claim to it, so this is not an eminent domain situation or a land grab. Phil closed the public discussion. **Bruce made a motion to continue discussion with the Conservation Commission on the ancient roads issue**

and not place it as an article on the warning for Town Meeting. Tom seconded the motion, which passed unanimously.

- 5) Application for fence in right-of-way – Phil said his understanding is that, if the applicant is willing to restructure the intersection, the Selectboard is willing to do that, which would allow the fence to be placed without a variance. Phil added that the Selectboard is not interested in granting variances for construction in the town right-of-way. Tom said Karl Hanson gave him a proposal from the landowner, who owns property on both sides of Silver Hill Road, to straighten the intersection, which would make it conform to the B-71 Standard. Karl said the proposal would place the property line 10’ from the house by swapping a 600 square foot triangle of land on one side of the road for a triangle of the same size on the other side of the road. Karl said this is just a conceptual plan which can be adjusted. Mike questioned whether the proposed adjustment extends far enough up Silver Hill Road. Tom noted that the property owner has given permission for the town to remove all the dead trees. Karl said he can use the stone that needs to be removed elsewhere on the property. Tom said he would leave the large maple because it will slow traffic down. Karl said he was trying to shift the right-of-way as little as possible because the 3.09-acre lot on the north side of Silver Hill is already non-conforming. Bruce said it sounds like we can make it work one way or the other, but there is a legal process and probably some permitting issues to work out. Karl said the property owner does not want the road to get wider; he wants to maintain the same width, within reason, but move the road to the north. Phil asked Martha about the requirements for moving the road. Martha said the process would be similar to the process used for reclassifying the end of Blood Hill Road, which includes warning affected landowners, publishing a hearing notice in the paper, and posting the notice around town. Bruce said there also needs to be a site visit. Tom added that the intersection needs to be surveyed. Tom said he thinks the town should bear the cost of removing the trees and straightening the road. Bruce said he’d like the applicant to pay for the survey, but he’d like the town to do the construction. Karl said he would remove the stone wall. Mike said the town should make sure that it maintains a 50’ right-of-way. Mike said there is already a problem with the width of the road in that location. Tom said he thinks that problem will be resolved when the trees and the stonewall are removed. Mike said some of the trees, particularly the maple tree, could make it difficult to fit everything in. Karl said it would be okay if the maple tree has to be taken down or the adjustment has to extend further up the road. Phil said it appears that the applicant and the Selectboard agree conceptually, but need to work out the details. Everyone agreed that there should be a site visit. Bruce suggested starting the warning process. Karl said it would be nice if the work could be done in the spring or summer. Phil suggested that Mike and Karl make a list of the details they agree on and the details they disagree on and then everyone can go up and look at it and resolve the issue. Bruce said he thinks the Selectboard needs to start with the warning process. Karl said if you warn it, someone might want to see the plan and we don’t have one yet. Martha said she will find out how detailed the warning has to be. Phil asked Martha to put together the warning for a site visit.
- 6) Status of skateboard park – Martha said she talked to Hector Santos who said it would be too difficult to get equipment to the proposed site on Resort property and the Resort is not receptive to the idea.
- 7) Town Constable/Delinquent Tax Collector’s Report – Ralph said he put six more tax liens on properties and the tax sale on the talc plant is scheduled for February 5th. Ralph asked the Selectboard how much money they want to spend on advertising. Phil said he asked Seth Warren and Dana Waters for suggestions about commercial real estate brokers and Seth said he would send Phil some information. Phil said he’s not sure what the best approach is. Bruce thinks it would be a good idea to post the tax sale on some website. David suggested a commercial real estate website called loopnet. Phil asked Martha to look at the website. Cathy Archibald suggested putting it in the Valley News for a week. The Selectboard agreed. Tom asked if the Selectboard should contact the mortgage holder. Phil said he doesn’t think the bank would give the town any guidance on this. Merle suggested advertising in the Wall Street Journal. Phil said his inclination is to try the local media. Bruce asked which bank holds the mortgage. Cathy Archibald said Factory Point in Manchester Center, Vermont.
- 8) Town clerk/Treasurer’s Report – No report

- 9) Highway Foreman's Report – Corrections to highway map: Tom said he talked to someone in Montpelier who confirmed that the town can make notes about corrections to the map. Tom mentioned that a covered bridge is indicated where there isn't one and changes are needed to Duling Road, Seems Road, and the road by Ralph Johnson's house. Tom noted that Highway #20 was turned over to Hartland. Tom noted that the two roads near Wayne Lemire's property, Highway #44 & #45, were discontinued. Tom said the town needs to formally write up and sign off on the corrections before February 10th. Phil asked Tom and Mike to put a draft of the corrections together for the Selectboard to look at on February 8th. Tom asked if the mileage is wrong because of Ralph's situation. Mike said that is the only location where the mileage is wrong. Tom said for Duling Road we should include the paperwork showing that the change was made back in the 1990s. Ted said the CC meets on the first Monday of February and it's possible that they may ask the Selectboard to place the road that runs from Cowshed Trail to Bryant Road on the map. Ted said the CC thinks that they do not have to put this road on the map at this time but they are seeking a legal opinion to confirm that. Phil said he doesn't think there's anything the Selectboard can do about that tonight. Mike noted that the highway budget is done. Mike said the highway department has to go to flagging training on Wednesday. Mike said he is proposing two additional paid holidays: Presidents Day and the day after Thanksgiving, which would bring the number of paid holidays to ten. Phil asked how that compares to surrounding towns. Mike said 90% of them have both of the proposed days. Cathy Archibald said most towns have twelve paid holidays. **Tom made a motion to grant Presidents Day and the Friday after thanksgiving as additional benefits. Bruce seconded the motion, which passed unanimously.** Phil noted, for the public, that the Selectboard gave no raises this year but agreed to consider granting two additional holidays since West Windsor is on the short side compared to other towns.
- 10) 2010 Town Meeting Warning – Tom suggested alternate wording to clarify Article 4. Phil and Bruce agreed. Phil asked Cathy Archibald if we have final numbers. Cathy said no. There was a question about the effective date for article 8. Martha said she spoke with Lister Annie Burke about it and Annie said the Listers value property as of April 1st each year and they don't currently assess alternative energy systems, except in one situation where a windmill is the only source of energy for the property. Phil noted that, in that case, the exemption would just formalize what the Listers are doing already. Martha added that it wouldn't be necessary to set a cutoff date with regard to installation because existing systems are not being assessed now. Phil said he thinks there ought to be a cutoff date. Bruce agreed. Phil suggested April 1, 2010. Erik Schutz asked the Selectboard to explain what they're talking about. Phil said the Energy Committee recommended that people should not be taxed for energy conservation projects that they might undertake. Merle asked if existing systems are grandfathered. Phil said yes. Erik asked what happens if he puts solar hot water panels on his roof. Tom said, according to the Listers, they are not assessed. Tom said he asked Annie if it matters whether the system is operational or not and Annie said no. Ted asked if the exemption would include commercial activities. Tom said no, it would only apply to residential systems. Martha said the statute specifies "private, domestic or agricultural purposes." Regarding Article 9, Phil asked about the proposed increase in the appropriation for the Fire Department. Mike said \$38,000 was approved in 2009 and the Fire Department is requesting \$45,000 for 2010. Tom explained the appropriation requested by the library. Phil suggested a modification to the wording. Bruce agreed.
- 11) Status of Grange Hall lift – Tom said the lift should arrive on Wednesday and be installed next week.
- 12) Conservation Commission appointment – Phil noted that Erik Schutz has resigned from the Conservation Commission. Tom made a motion to accept with regret Erik's resignation from the Commission. Bruce thanked Erik for his service. By unanimous consent, the Selectboard accepted Erik's resignation. Martha said Ted Siegler sent an email nominating, on behalf of the CC, either Klaus Lubbe or Amber Morse to take Erik's place. **Tom made a motion to appoint Klaus Lubbe to the Conservation Commission. Bruce seconded the motion, which passed unanimously.**
- 13) Minutes - November 20, 2009: **Bruce made a motion to approve the minutes of November 20, 2009 as written. Phil seconded the motion, which passed with Tom abstaining because he was**

not present at that meeting. December 14, 2009: Tom made a motion to approve the minutes of December 14, 2009 as written. Bruce seconded the motion, which passed with Phil abstaining because he was not present at that meeting. December 21, 2009: Tom made a motion to approve the minutes of December 21, 2009 as written. Bruce seconded the motion, which passed unanimously.

- 14) Executive Session (if needed) – The Selectboard agreed by unanimous consent that an Executive Session is not needed. Tom noted, for the record, that the McCullough case is done.
- 15) Next meeting: Cathy Archibald said she will let the Selectboard know when she meets with John Mudgett and finalizes the numbers for the 2010 warning. The Selectboard agreed to meet with the highway department employees and sign the warning at their next meeting, date and time to be arranged.
- 16) Sign Town Clerk's Orders: Cathy Archibald had orders for the Selectboard to sign and the Community Development grant paperwork for Phil to sign. Cathy Archibald suggested alternate wording for Article 4, which the Selectboard approved. Cathy Archibald reviewed, with Phil, a few sections of the Town Report including the summary of activities for the Board of Civil Authority.
- 17) Other business – Website: Martha suggested removing the 2007 agendas and minutes from the town website. The Selectboard agreed.
- 18) Adjourn – **Tom made a motion to adjourn at 8:10 PM. Bruce seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison