

## WEST WINDSOR SELECTBOARD

Draft Minutes  
November 9, 2009

Present: Phil Arvidson, Bruce Boedtger, Tom Kenyon, Mike Spackman, Hal Pyke, Bob Farnsworth, Bob French, Ralph Johnson, Jim Kenyon, Cathy Archibald, Martha Harrison, Barbara Gerstner, Ted Siegler, Sue Greenall, Deb Mithoefer, Phil Hathorn

- 1) Call to Order – Selectboard Chair Phil Arvidson called the meeting to order at 6:30 PM
- 2) Changes or additions – sidewalks, Transportation Advisory Committee (TAC), solid waste, library roof, Sheddsville Cemetery trees
- 3) Public Comment – None
- 4) Sheddsville Cemetery – The Selectboard discussed possible alterations to the layout of Sheddsville Cemetery with Surveyor Bob Farnsworth. The Selectboard agreed that Bob Farnsworth, Bob Matthews, and Tom Kenyon will get together and agree on a proposal to present to the full board.
- 5) Town Constable/Delinquent Tax Collector’s Report – Delinquent Tax Collector Ralph Johnson reported that all 2008 taxes have been collected with the exception of the taxes due on the talc plant property. Ralph said if the town wants to recover both the 2008 and 2009 taxes due on the property, the town can put the property up for sale again 30 days after the due date for the 2009 taxes. Bruce agreed to identify some commercial realtors who might be willing to publicize the sale. Tom noted that West Windsor’s tax policy is dated September 3, 2008. Vandalism: Reporting as Constable, Ralph Johnson informed the Selectboard that there was considerable vandalism to signs, bridges, houses and guardrails just prior to Halloween. Ralph said the vandals used blue paint to deface the property with graffiti.
- 6) Ancient Roads – Ted Siegler said the only roads that need to go on the highway map by February 2010 are those with no physical evidence of their existence, AKA “unidentified corridors.” Ted said the Ancient Roads committee is only asking the Selectboard to place one unidentified corridor on the map at this time. Phil asked if Ted is talking about the pent road that runs from the Birmingham residence to the Fenn residence. Ted said yes. Ted gave the Selectboard a map with the pent road shown in yellow. Ted said they found a description of the road, circa 1860, and no evidence that it has been “thrown up.” Ted said the process of placing the pent road on the map would involve a public hearing with notice to the adjoining property owners. Ted said additional research may show that the pent road was thrown up at some point but in order to protect the town’s interest in the road while it is being researched further, the committee would like the road to be placed on the map. Ted said there are two other types of road that don’t need to go on the town highway map at this point. Ted said the roads shown in green on the map have clear physical evidence of their existence and documentation showing that they were laid out. One road goes from Cowshed Trail, through the Hale property, to the Pakenham property. The other road is a pent road near the Burch property which connects with the state prison property. Ted said the roads shown in red have physical evidence but the committee has not found evidence yet that the roads were laid out. Phil asked if the committee would notify those who own property adjacent to the roads shown in green and red. Ted said the Committee has no problem notifying landowners because they may have helpful information. There was some discussion about whether the pent road shown in yellow would go on the highway map as an unidentified corridor or a Class 4 road. Deb Mithoefer said it would go on as a Class 4 road or a trail because the category of “unidentified corridor” doesn’t exist until July of 2010. Deb briefly explained the ancient roads legislation and the process for adding ancient roads to the town’s official highway map. Deb said if an ancient road is not added to the highway map in February 2010, the town can still claim the road until 2015, but may have to pay damages to the property owner. Tom asked if the purpose of the public hearing is to give property owners a chance to express their opinion about the addition

of the road to the map. Ted said the property owners may have evidence that the road was thrown up. Phil said what if the property owners have no problem with the road being added as a trail, but don't want it added as a Class 4 road. Ted said the Selectboard can designate it as a trail. Phil asked who needs a road from Birmingham's to Fenn's. Ted said the only potential use for the road is as a trail. Ted suggested that the Selectboard consult with the town attorney. Tom asked if the recent Supreme Court decision in the case of *Austin v. Town of Middlesex* has any effect on the Committee's recommendation. Ted said it strengthens the committee's concern that there be good documentation. Ted said there was an earlier Supreme Court case, which implied that towns have a lot of rights with regards to ancient roads, and then this case which gives the opposite impression. Ted said he thinks there are going to be many court cases on this issue over the next five years and the committee is trying to be careful in what they present to the Selectboard. Phil asked about the deadline for placing this future "unidentified corridor" on the map. Ted said the deadline is in February 2010. Phil suggested scheduling a public hearing for December or January. Bruce said that the Selectboard should explore this opportunity and see where it goes. Tom suggested the first part of January for a hearing. Martha said the hearing has to be warned 45 days in advance. Phil said he is in favor of warning a hearing as soon as possible. Tom suggested that the Selectboard ask Town Attorney Matt Birmingham to draw up the warning. Phil agreed. Ted agreed but said that Matt may have a conflict of interest. Ted said it's going to be expensive to go through the process of ultimately putting all six of these roads on the map over the next few years. Ted said if you consider how valuable public rights-of-way are and how difficult it is to obtain easements, it's well worth the cost. Ted said the Committee is not presenting any roads that they don't think have some potential recreational value. Bruce asked which roads the Committee thinks have the most value. Ted said the Committee's top priority is the road from Cowshed Trail to Bryant Road. Phil asked if there are any property owners, other than Fenn and Birmingham, who will be affected if the Selectboard adds the proposed pent road to the map. Ted said yes. Tom asked if there is documentation that the roads in questions were actually used as town roads. Ted said Mary Fenn remembers driving on part of the pent road. Tom said just because a town stops using a road doesn't mean that the road ceases to exist. Ted agreed. Phil said, based on the recent Supreme Court decision, he doesn't think that's clear. Phil said the Selectboard is going to have to consult with an attorney. The Selectboard agreed by consensus that they would like to proceed with the recommendation of the Conservation Commission and consult with an attorney to schedule a proper hearing and draft a proper notice to property owners. Phil said he will talk to Matt about this but he thinks a representative from the Selectboard, a representative from the Conservation Commission, and an attorney should meet and discuss the matter. Ted said the Conservation Commission will need to figure out what to propose for a budget for 2010 at their December meeting, assuming that the Selectboard wants the CC to continue to pursue the roads they have identified. Ted described the locations of three roads for which there is physical evidence of their existence but no documentation. Ted said the Committee has not yet discussed with Reading the roads that cross the town line. Phil said the Selectboard supports the efforts that the CC has made and asked them to propose a budget for next year to further their efforts. Tom and Bruce agreed. Ted suggested that an attorney be consulted as to whether the pent road can be added as a trail or has to be added as a Class 4 road. Ted asked if there are charges for the use of the town hall and what those charges are. Tom said he thinks it's a good idea for the CC, even though it's a town board, to pay the usual fees for copies and time so we can see how much this project is costing. Ted said everyone on the Conservation Commission has been volunteering their time to go through town records. Bruce asked if the CC has an accounting of the time they have spent on this project. Ted said he doesn't. Bruce said he would be interested in knowing how much time this project has taken. Phil agreed but said he has no interest in billing the CC. Bruce agreed. Ted said he will poll everyone at the next CC meeting to get an estimate of how many hours they have spent on this project. Phil said that would be good. Bruce suggested that the CC members break down the time spent on record searches and field work. Tom said an accounting of time spent would help justify the CC's budget request.

- 7) Town Clerk/Treasurer's Report – No report.
- 8) Budget update – Phil said 10/12 of the highway budget is \$417,437 and actual expenditures are \$359,920 so it appears that we're in good shape. Bruce agreed. Tom asked Phil if he had taken into account the \$60,000 that go to the equipment fund. Phil said no. Tom said then we're just about breaking even. Phil said 10/12 of the town budget is \$377,000 and we've spent \$267,000 so it appears that we're in reasonable shape with that budget as well. Tom asked if Phil took into account all the appropriations that haven't been paid yet. Phil said he did not. Tom said he thinks we're okay but we're not going to have any extra money. Bruce said if we break even in this economy, we're doing well. Phil asked Cathy if she thinks the budget needs further discussion. Cathy said no.
- 9) Highway Foreman's Report – Mike said the sand pile is done and all the trees and stumps are done. Intersection of Cemetery Road & Brownsville-Hartland Road: Bruce said he, Mike and Matt looked at the intersection this morning and the McCullough's engineer is bringing up some issues that they don't feel are in keeping with the spirit of the agreement. According to Bruce, Matt is going to draft a letter to that effect. Mike said as far as he is concerned, the town is finished with the project. Graffiti: Mike said the Selectboard should consider having the covered bridge re-stained to cover up the graffiti. Mike said maybe the insurance company should look at it. Phil asked if insurance would cover it. Bruce said it's worth looking into. Phil asked Martha to contact the Vermont League of Cities and Towns (VLCT) to see if vandalism is covered by our insurance. Tom pointed out that there will be a deductible. Phil asked Mike to come up with some estimates for both a temporary and a permanent solution.
- 10) Highway Access amendment: Hathorn – Phil Hathorn said he has presented two access options but his preference is to run an easement along his east wall to avoid bisecting the front lot. Mike said there is no sight distance issue for either access. With Tom abstaining, **the Selectboard agreed to approve either access subject to the approval of the DRB.**
- 11) Town Hall Maintenance – Tom said he would like to order six more light weight tables. Bruce and Phil approved the purchase.
- 12) Tax map update – Martha said she, Hal, Annie, Brett and Tom met with Harry Roush to review the town's mapping needs. Hal said Spencer Potter is willing to provide the digital mapping information that he created while he was working on West Windsor's reappraisal. Hal said Spencer would appreciate \$1,000 to defray his costs, but he is willing to provide the disks for free. Hal said it would cost the town an enormous amount of money to recreate the data that Spencer Potter would provide. Hal said the Listers are compiling the information that Harry Roush would need to update the maps. Tom said he would like to authorize the \$1,000 expenditure to get that information from Spencer Potter. Phil agreed. Bruce asked if the format is going to be compatible with GIS. Martha said she believes that it is. Bruce asked Hal to get a release from Spencer Potter stating that the information now belongs to the town.
- 13) Correspondence: Melanie Sheehan (CHAMPPS grant) – Phil said he doesn't think any comment is necessary. Matthew Birmingham – Phil said Matt's letter is regarding the intersection of Cemetery & Brownsville-Hartland Road, which has already been discussed under the Highway Foreman's report.
- 14) Development Review Board resignation – Phil submitted a letter of resignation from the DRB. **Tom made a motion to accept Phil's resignation with deep regret. Bruce seconded the motion, which passed with Phil abstaining.** Phil said he received a letter from the DRB Chair asking for permission to reduce the size of the DRB from seven members to five members until they can identify other candidates. **Tom made a motion to approve the DRB Chair's request. Bruce seconded the motion, which passed unanimously.**
- 15) Other Business – Brook Road bank stabilization grant: Mike said he forgot to mention that the town has applied for a grant for bank stabilization on Brook Road. Mike said he doesn't think our chances for receiving it are high because we have received many of these Better Backroads grants in the past. TAC: Tom reported that there are no priority bridges in West Windsor but Windsor's Route 5 Bridge has been moved higher up on the priority list. Solid Waste: Tom said the solid waste organization is in good shape financially. Library Roof: Tom said one of these years we're

going to have to replace the library roof, which is slate. Bruce asked if it is leaking. Tom said no. Town Hall Maintenance: Phil asked where we stand on getting the Town Hall roof repaired. Martha said she left a message for the person who fixed it last time, but he hasn't called back. Jim said the cornerstone of the Town Hall also needs work. Tom said he reminds Charlie every time he sees him. Tom said he has the box that is supposed to go in the cornerstone. Phil noted that the cannon wheels still haven't been repaired and, if we can't maintain the cannon, we should get rid of it. Phil said Rick Fallon was going to get a price on repairing the wheels but he never got back to us. Phil said it's not as high a priority as the roof or the cornerstone but he hopes, within the year, that the town will either fix it up or get rid of it. Tree-cutting at Sheddsville Cemetery: Tom said CVPS is almost finished removing the trees. Tom said he has received a complaint that it looks bare now so he would like to plant some flowering crab apple trees there in the spring. Phil suggested including it in next year's budget. Sidewalks: Tom said he asked Dan Lesnick for a quote on the sidewalks and Dan said it's going to take a lot of money to rip them up. Phil said it's getting too late in the year to do concrete work. Tom suggested considering the project for next year. Phil agreed that the Selectboard should consider it when they develop the 2010 budget. Tom said Dan's estimate was considerably less than the estimate from Miller Construction. Town Hall Heating System: There was discussion about the deficiencies in the Town Hall's heating system. Phil said he thinks zone heating would make more sense and the Selectboard should consider replacing the furnace during budget discussions. Phil also mentioned the single-pane windows. Tom questioned the adequacy of the insulation in the Town Hall. Capital budget: Hal said the Planning Commission should develop a capital maintenance budget for the town.

- 16) Approve Minutes: October 19, 2009 – **Bruce made a motion to approve the minutes of October 19, 2009 as amended. Tom seconded the motion, which passed unanimously.**
- 17) Sign Town Clerk's Orders – The Selectboard signed the Town Clerk's orders.
- 18) Anticipated Executive Session: Personnel Matters & Litigation – **By consensus, the Selectboard entered Executive Session to discuss personnel matters and litigation.** Following discussion, the Selectboard came out of Executive Session. No action was taken.
- 19) Adjourn - **Bruce made a motion to adjourn. Tom seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison