

WEST WINDSOR SELECTBOARD

Draft Minutes
September 3, 2010

Present: Glenn Seward, Tom Kenyon, Bruce Boedtke, Jeff Nelson, John Bossen, Dave McNally, Matt Birmingham, Mike Spackman, Mark Isenberg, Ralph Johnson, Jim Kenyon, Tom Carroll, Glenn Howland, Michael Thompson, Ron Juneman, Martha Harrison

- 1) Call to Order – Selectboard Chair Glenn Seward called the meeting to order at 8:00 AM. Those present introduced themselves and indicated the organization with which they are affiliated. Glenn Seward said the purpose of the meeting is to determine a long-term solution for the operation and maintenance of the sewer and water systems at the resort without involving a private entity. Glenn Seward said the West Windsor Selectboard's position is that creating a fire district is the best solution. Matt Birmingham said the WASTE board has stepped in and will send the next round of sewer bills and make sure that expenses are paid, and the Town of Windsor has agreed to service the pipeline and the pumps all the way to the access road at no cost for 90 days. Matt said he thinks we should agree on the big picture and then fill in the details. Matt said he thinks there are four choices: sit back and let whoever takes over the mountain run the water and sewer systems, allow WASTE to continue to run the systems, allow Windsor to run the systems, or create a fire district. Of these four options, Matt said, the West Windsor Selectboard is in favor of forming a fire district. Matt explained that a fire district can be formed if 20 of the freeholders petition the Selectboard, at which point the Selectboard will hold a public hearing on the matter. Matt suggested creating a committee that recognizes all the interests and ensures that everyone is heard. Matt said that committee should start assessing the engineering issues involved and begin to resolve them. Matt said a fire district is a non-profit municipal corporation. Matt said with Glenn Howland involved, we have the expertise needed to create a fire district. Glenn Seward asked each organization to voice their opinion on this proposal. It was determined that, in Vermont, freeholders are property owners and they do not have to be registered voters. John Bossen said the Property Owners Association (POA) supports the fire district concept and has hired Dan Hirshenson for this purpose. John said he hopes the properties on Dairy Lane in Windsor can be spun off. John said the POA would like Dan Hirshenson to work with Matt on this. Matt confirmed that he has spoken with Dan at length. John said Steve Cottrell has advised the POA that the current sewer rates are double what they should be. John said there are a number of families that are exempt from last year's water bill and next year's water bill because they prepaid. Jeff said one of the issues is going to be control; how do the users have control when they're not residents. Jeff said if the control issue can be resolved, he thinks the POA will go ahead with the fire district. Ron said Orange Lake representatives met with Windsor yesterday and they seem to be more receptive to the possibility of managing the whole system, not just the pipe from pump station #1 to the town. Glenn Howland said WASTE would also consider monitoring and overseeing the whole system. Ron said Orange Lake is going to support the fire district concept but he wanted to mention Windsor for informational purposes. Michael agreed that Orange Lake thinks the fire district is the way to go assuming that it can be set up to ensure that it's fair to all users regardless of whether the users are voters or not. Glenn Howland said his firm has extensive experience with fire districts and issues of control can be addressed and don't have to be impediments to moving forward. Glenn Howland said both the fire district model and the inter-municipal agreement model are transparent, which is one of the reasons why moving from a private model to a public non-profit model makes a lot of sense. Glenn Howland said the statutory requirements for fire districts allow for creativity. Glenn Howland said sewer and water can be operated under the same model. Glenn Howland said the municipal model has enforcement and tax advantages. Speaking for Mountain's Edge and the Hanover Building, Tom Carroll said he supports the fire district. Fire Chief Mike Spackman said he is concerned about fire protection in the district. Mike said the Fire Department is very limited without

the snowmaking system. Mike said the ski area needs to make sure those pumps are reliable and certified. Tom Kenyon said he thought Windsor would take care of everything on their side of the town line and the fire district would be entirely in West Windsor, so the fire district would be seen as a single user as far as Windsor is concerned. Tom Kenyon asked if the fire district would only include those who are currently connected to water and sewer or if there would be a provision for expansion. Glenn Seward agreed that the boundaries of the fire district need to be established and he would prefer to have it entirely in West Windsor. Tom Kenyon noted that the Selectboard has appointed a committee to study the expansion of sewer service into the village of Brownsville and he would hope that the fire district could be easily expanded to incorporate the village. Tom Kenyon said there's an allotment on the amount of sewage that can go down that line and he wants to make sure that we keep that allotment. Glenn Seward said one of his main interests is having control over who is involved and the expansion potential. Glenn Seward said he thinks the town may be receptive to expanding the sewer. John asked about the fire department's water availability. Mike said nobody has certified the pumps adjacent to the fire station so the Fire Department is not going to operate them. Glenn Seward said the fire department is not comfortable relying on the snowmaking system which is a big part of the firefighting system. Jim said the fire department did some testing last fall and the snowmaking hydrants for Mountainside and Mountain's Edge are not useable. Jim said all the hydrants that have a white top are used for firefighting and snowmaking. Glenn Seward said we need to distance ourselves from whatever private entity runs the resort. Matt asked how many pumps are at the fire station. Mike and Jim said three. Matt said if those pumps were maintained and tested, they would serve the snowmaking system and also provide fire protection. Mike said yes, under the Act 250 permit. Mike added that there are lines on the system that are non-functioning. Jeff asked if there are valves on the lines. Mike said yes. Jeff asked if the hotel has protection. Mike said no. Jim said it would help to get two of the three pumps working and make sure the lines are good up to the bridge. Right now, Jim said, we have 60,000 gallons in the cisterns and we know that isn't adequate. Jim wondered what the insurance companies would think about the fire department's reduced capacity. Matt asked if everyone would be much better off if the three pumps were brought up to service. Mike said absolutely. Mike said right now the fire department would have to hand lay all their lines from the fire station and use portable pumps and ponds. Mike said the cisterns serve the sprinkler systems so it would be self-defeating to tap into them. Glenn Seward said the fire department sent a letter to April Hensel at Act 250 several weeks ago regarding their concern about the status of the pumps and the system. Matt said he should get Chris Dugan's written consent for an easement, with indemnification, to access the pump station. Jeff said some of the pumps must have worked in January or February since they served the snowmaking system. In addition to solving the pump issue, Jeff said, the holes in the line should be fixed. Glenn Seward said he has made Chris Dugan, Todd Enright and Mark Blundell aware of the fire department's concerns, but Mark did not seem to share those concerns. Glenn Seward said he thinks we need to get the situation rectified. Matt said if we want it done, we'll have to make it happen ourselves. There was discussion about the role of WASTE in all this. Glenn Seward said this is very technical work with high horsepower and a lot of electrical controls. John said he agrees with Matt's suggestion but he would put Snowdance on legal notice that they're supposed to take care of it. Matt said he will call Chris Dugan today and report back to Glenn Seward, Dan Hirshenson and Michael Thompson. Michael said he agrees with Matt about getting it done and keeping track of the expenses. Michael said the long-term ownership of the snowmaking/fire protection system should be with the fire district; a future ski area operator could lease it back. Mike said it costs \$1,500 just to press the button to see if the pumps work. Jim said CVPS will waive that if you notify them 24 hours in advance. Jim said each pump is 300 horsepower. Jeff asked if the fire department is trained in operating the pumps. Mike said no. Jim said if there was a fire today, the fire department wouldn't use the pumps. Mike said the Plausteiners had people who were trained and authorized to operate the pumps. Mike said the fire department has priority use of the system if there's a fire. Matt said he will talk to Win Townsend and see if the WASTE board is willing to spend money on this. Ron said Geoff Commons has been a great help. Ron added that the constituents

should understand that they are looking to manage the expenses within the district and not burden other communities or tax payers. Matt suggested that he, Dan Hirshenson, Glenn Howland and Michael Thompson start framing up a road map for the creation of the fire district and identify the issues that will need to be resolved, e.g. committee members, rates, relationship with Windsor, etc. Glenn Seward asked if it's reasonable to get this done in 90 days. Matt said he doesn't think so but he thinks WASTE will stay on the front line as long as they have to. Tom Kenyon asked if people will be forced to be part of the fire district if they have their own well and/or septic system. Glenn Howland said no. Jeff asked what time frame is reasonable. Glenn Howland said the statute will allow a fire district to be created in sixty days, but that's not realistic. Glenn Howland said a fire district typically includes the service area and an area for foreseeable expansion. Glenn Howland talked about the options for fire district boundaries and the complexity of involving two towns. If the fire district is entirely within West Windsor, Glenn Howland said, there are various options for an inter-municipal agreement regarding the portion of the line that runs from the town line into Windsor. Glenn Howland said a simple way to approach this is with one fire district in one town and one or more standard inter-municipal agreements. Glenn Seward asked if the fire district should purchase or lease the sewer line and how that acquisition should be funded. Glenn Howland said the initial capitalization could come from the current revenue stream since the sewer rates that Plausteiner was charging were way above what he was paying out. Glenn Howland also raised the question of whether the sewer line is an asset to the current resort owners or a liability. Michael said there seems to be consensus about forming a fire district so the question is, "How do we get the asset into the hands of the fire district?" Glenn said if the cost of the asset is prohibitive, that could be a deal breaker for the fire district and we may need to look at something else. Michael said he thinks negotiations could start before the fire district is actually formed. Matt said he plans to keep Chris Dugan and Todd Enright informed. John said Mark Blundell doesn't want the fire district to inhibit future development. John said the sewer line was built to handle the capacity that might flow through. John said he thinks the legal team should start negotiating today. John said Plausteiner claimed the water system as a \$38,000 asset in 2008. Jeff suggested a physical assessment of the sewer and water systems prior to negotiations. Jeff said he thinks the negotiations and the formation of the fire district can proceed simultaneously. John asked about the town's vision for water and sewer service to the village of Brownsville. Glenn Seward said a committee is soliciting public input on whether or not a feasibility study should be done. Glenn Seward added that the state has agreed to fund the feasibility study if there is public support for it. Glenn Seward said he should have a better sense of the level of support in about a month. Glenn Howland said he doesn't think the negotiation could be a deal breaker because ultimately there is a court system and the district will have condemnation power. Tom Kenyon asked if the asset is going to be acquired "as is" or if it is going to be inspected and repaired prior to acquisition. Glenn said it has to be inspected so we know what we're getting into. Michael said we have to inspect it to figure out what it's worth. Michael added that it's not the town that is going to be at risk, it's the users. Glenn Seward asked what happens to the \$90,000, or what's left of it, after the transition. Matt said he believes it would be an asset of the authority. Matt said we're spending it now and expect to reimburse ourselves as the sewer payments come in. Matt said he has an agreement with Chris Dugan on what they may be spending to make sure that the sewer and water continue to function while we're working things out. Mark Isenberg asked how often a fire district is formed with an existing asset. Glenn Howland said he does not know, but usually they are formed because there is a problem that needs to be addressed. Mark asked if there is funding available. Glenn Howland said yes and many of the funding options are through the Agency of Natural Resources Water Supply Division and have in common low interest loans for capitalization and improvements. Glenn Howland said municipal bonds are also an option. Glenn Howland said, almost without exception, revenues for capital improvements to water systems come from the anticipated rate structure and do not involve a general assessment on property. Tom Kenyon said he assumes that the fire district would become a full partner in any Act 250 permit. Glenn Howland said yes. Bruce said the resort is entitled to a certain amount of sewer capacity for future development and the sewer line has a finite capacity. Bruce asked

if the capacity can be reallocated when the fire district is formed. Glenn Howland said he doesn't know but he thinks the reserved allocation is an asset. Bruce asked if that allocation could be part of the negotiation. Glenn Howland said yes but the nature of the entity that owns and controls the line doesn't change the allocations. Jeff said he spoke with someone in Springfield yesterday about the capacity and the connections that have been allocated. Glenn Seward said Snowdance owns the sewer line and there are a number of gallons that are allocated for future development. Glenn asked, "When that asset changes hands, who gets that allocation?" Michael said he believes the allocation goes with the land. Tom Kenyon said Windsor is upset that there is a substantial allocation of reserved capacity for which they get no payment. Matt said that was part of the original permit. Mark said limiting the resort's ability to develop in the future might preclude getting a viable operator and have a negative impact on property values and tax revenues. Everyone agreed that Matt, Dan, Glenn Howland and Michael should come up with a plan. Matt said he would like to get a plan out to everyone within ten days. Jeff said good communication is important. To that end, those present supplied their email addresses. Glenn Seward thanked everyone for their efforts.

- 2) Other Business – Cathy Archibald asked the Selectboard to sign the Marshall and Swift computer cost table contract for the Listers for one year. **Tom made a motion to authorize the Chair to sign on behalf of the Selectboard. Glenn seconded the motion, which passed unanimously. Tom made a motion to authorize Matt to proceed with the creation of a fire district. Bruce seconded the motion, which passed unanimously.**
- 3) Adjourn – **Tom moved to adjourn at 9:56 AM. Bruce seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison