

WEST WINDSOR SELECTBOARD

Draft Minutes

January 28, 2011

Present: Glenn Seward, Tom Kenyon, Bruce Boedtger, Rudy Gross, Jeff Nelson, John Bossen, Tony Garrow, Bob Searle, Mike Gannon, Lucy Rosen, Judy Pierce, Martha Harrison

- 1) Call to Order – Selectboard Chair Glenn Seward called the meeting to order at 5:00 PM.
- 2) Discuss sewer line acquisition with Property Owners Association (POA) – John Bossen introduced the POA members. Glenn said the Selectboard is holding a special town meeting on town meeting day to vote, by Australian ballot, on whether or not to borrow a maximum of \$500,000 for a maximum of 25 years to facilitate the purchase of the sewer line. Glenn said the town has been in contact with the Vermont Bond Bank and the Agency of Natural Resources (ANR), and it looks like the town is eligible for a low interest loan through the Clean Water State Revolving Fund (CWSRF). Glenn said there is a hearing in February to talk about the priority list for the CWSRF. Glenn said the town has contacted the Governor and various other officials with a letter asking for help. Glenn gave John a copy of the letter. Glenn noted that the resort is closed, property values are falling, there is a reappraisal starting this year, Windsor is not being paid for treatment charges, and there are pollution issues in the village of Brownsville that need to be addressed. Glenn said the idea is for the town to purchase the sewer line and make it a municipal utility. Glenn said the Selectboard envisions a third party (e.g. the Town of Windsor or Pathways Consulting) managing the system, somebody else doing billing and collections, and a Sewer Committee made up users overseeing things. Glenn said the Selectboard has had preliminary discussions with Snowdance. The issues are the escrow account, future hookups, and payables/receivables; all of which will factor in to the ultimate sales price. Glenn said the town has retained Aldrich & Elliott to evaluate the system. Glenn said because there is state and federal money involved, ANR would like to get a camera in the line. Glenn said he envisions the debt service being funded by the users, along with treatment costs and the cost of operations and maintenance (O&M). Glenn said \$500,000 for 20 years at 4% is \$132 per user per year. Glenn said if O&M costs are \$90,000 per year, then that would add an additional \$330, and treatment costs are currently \$483 per user per year. Altogether, Glenn said, that adds up to about \$900 per user per year. Glenn said Windsor's initial estimate for O&M is between \$30,000 and \$50,000. Glenn said the town has support from Orange Lake and Mountains' Edge and is hoping to gain support from the remaining property owners. Glenn said he thinks the Selectboard can further reduce sewer rates by selling a portion of the line to Windsor, and discussions about that are ongoing. According to Glenn, any money from Windsor would be used to pay down the note. Glenn said another possibility is to trade services for equity, with users getting reduced treatment charges from Windsor in exchange for some equity in the line. Glenn said Windsor is frustrated with Snowdance regarding contract negotiations. Glenn said one option for containing costs would be to meter the flow to Windsor. John Bossen said the users want the water to be included in the deal because they want meters. John said if the Property Owners Association (POA) were to go ahead with a Fire District, they would have meters. John said it is going to be hard to get the support of the POA without including the water. John said he just got a bill for \$2,200, which he is not paying. With meters, John said, everyone would only pay for what they use. John said the Selectboard is proposing to spend his money and he has no input because (as a second homeowner and part-time resident) he's not a voter in West Windsor. Glenn agreed that it's a difficult situation in that regard, which is why the Selectboard needs the POA's input and active involvement. Glenn said he understands the POA's feelings about the water system, but the Selectboard members are already sticking their necks out trying to get voter support to purchase the sewer line. John said the POA is not asking the town for help; they are willing to do this themselves with a Fire District and he doesn't think the timeline would be any different for the POA. John said the POA would support accommodating the village's wastewater needs. John said the major differences between what the town proposes and what the POA proposes are the water and the meters. John said Snowdance has failed to pay the electric bill a couple of times and the water was contaminated twice in 2010. Glenn said in a perfect world, it would make sense for the town to buy the water system as well, but the

Selectboard has its hands full. Glenn noted that the Public Service Board (PSB) reviews the rates for the water system and holds water quality to state standards, but none of that happens with the sewer. Jeff Nelson said the sewer system was never intended to have any value. Jeff said the users should not be paying for the two pumps by the fitness center and the hotel. Jeff said the rates are unreasonable. Jeff said WASTE (Windsor-Ascutney Sewage Treatment Enterprise) spent between \$50,000 and \$80,000 last year and we're never going to see that money again. Jeff said everybody has been paying money for the sewer system for years only to find out that the system may be in a state of disrepair. By purchasing the sewer system, the town is cutting the POA out from any redress for any of the prior wrongs to the tune of about \$300,000. Jeff disagreed with the premise that no one is going to buy the resort until the sewer issues are resolved. Jeff said we have no idea what the true condition of the sewer system and it would be unfair for the town to buy the system and expect the users to pay for repairs. Jeff said it's atrocious that the WASTE board has ignored this. Jeff said the POA's attorneys disagree about the agreement with Windsor for 100% of what they're charging and think there's a basis for going back to 75%. Jeff asked who is going to pay the money that is due to the users. Glenn said all those details have to be addressed. Jeff said regarding the theory that somebody will never sell the sewer system to a Fire District, the POA figured that out a long time ago, so you end up in court and let an unbiased third party determine the value. Glenn said the town would potentially be watching property values continue to fall and the resort continue to be closed, and relying on the POA to straighten this out so we can deal with the issues in the village. Glenn noted the representation issues in the Fire District. John asked what representation the POA has now. Glenn said the POA would have basically the same representation that they would have with a Fire District. John said if the Selectboard had allowed the POA to go ahead with a Fire District in October of 2010, the deal would be done with the Prudential Committee structured as discussed, the property owners would have their water and sewer and their meters and would be well on their way to negotiating a price. John said if the POA forms a Fire District, the town is going to be involved and represented on the Prudential Committee. Glenn asked what influence the town would have. John said it wouldn't be the town's money, it would be the property owners' money. Jeff said when the system was originally built, one of the intentions was to pick up the flow from Brownsville, if needed, so the village has a right to connect. Jeff said if the Selectboard is unhappy with the Prudential Committee formula, they can leave it up to the 30 or 40 registered voters in the Fire District. Glenn asked if those 30 people would steer the ship for the 273 users in the district. John said he would rather have it in the hands of those 30 people, with the water included, than in the hands of the town, without the water included. Tom asked if a price has been established for the water system. Glenn said no. Jeff said he thinks they could find out the trading price of a water utility. Lucy asked about the town's objection to taking over the water system. Glenn said the town would like to address the issues one at a time, given that the issues with the water system have been addressed and the rates are relatively secure. John said there are still commingled electric lines. Glenn said the town has its hands full dealing with the prospect of the sewer, which needs maintenance. Glenn said to try to unravel how the power lines for the water system get routed and who pays what would cost another \$50,000 to \$60,000. Glenn agreed that the water issues should be addressed at some point. John said the POA has \$20,000 in legal fees and asked if the town is going to make sure they get covered. Glenn said the town is not responsible for the POA's legal fees. Glenn said he understands that it was the intent that the Fire district would take care of past and future legal fees, and believes that priority one for forming the fire district is to pay those legal fees. Jeff said the \$20,000 was spent based on the Selectboard agreeing that the POA should go ahead and form a fire district and now the POA is left holding that bag. Jeff said the only recourse we have for overcharges and mismanagement is that pipeline. Jeff said the budget for electricity is \$24,000 when the electric bill from CVPS is \$6,000 and yet Glenn and the others (on the WASTE board) approved the budget. Jeff asked what recourse the property owners have. John asked about the cost of A&E's evaluation. Glenn said the town has committed about \$6,000 for the evaluation. John asked if they are just going to review the paperwork. Bruce said no; they're going to physically examine it. John asked why the health club is closed. Glenn said he was with A&E watching them evaluate the system, standing on top of the pump station, at which point it overflowed. Glenn said the pumps failed and he notified the Health Officer and Orange Lake. John said the sign on the door implies that the closure is due to bankruptcy. Jeff asked if

the town would be buying those two pump stations. Glenn said the town is looking to buy the system from manhole #1 down. Lucy asked about the portion of the system serving Ski Tow Road. Glenn said there are a number of things that have to be worked out including the poor condition of the pump stations and the substandard grease trap coming out of the hotel. Glenn said the Windsor building and Cunningham's are not owned by Orange Lake so there are other people involved with that interior collection system. Glenn said we're trying to simplify this thing and have it run properly by a stable entity. Jeff said he thinks the pump stations by the fitness center and the hotel are in worse shape than the others. Glenn agreed that it's probably going to cost between \$50,000 and \$60,000 to fix those two pump stations, excluding the installation of a proper grease trap, and the town doesn't want to pay for that. Glenn said he doesn't want to see the town spend \$500,000 and then get stuck down the road. Jeff said the permits say that the owner of the system can only charge for direct and actual costs and Snowdance is just steamrolling everybody. Jeff said if we spend \$500,000 for the system and then we have to take care of repairing the pump stations and paying arrearages to the Town of Windsor, we're getting hit two or three times. Glenn said he hopes that the property owners will give the town more credit than that. Glenn said the town wants a stable system that operates properly with reduced rates, and we want Windsor to have a piece of it. How we get there, Glenn said, is going to be involved but we will keep you apprised. Glenn said he does not envision Snowdance keeping the escrow account and all the hookups, while the town fixes all the deficiencies. John said everyone on Ski Tow Road is back in the same boat we were in before. John said the POA paid for two reports. One report said that, according to Steve Plausteiner, Ski Tow Road owns its own system. John said the POA's attorney says that there is nothing in the permits that says that. Bob said Summit Ventures got the permits needed to build the system because the property owners on Ski Tow Road agreed to tie into the system. Bob said the original agreement was that Summit Ventures would own the pipe system and the property owners would pay for each unit. Bob said WASTE was established to oversee the system but, whatever happened with WASTE, none of it was legitimate and the town should have been overseeing it. Tom asked why the town would stick its nose into a private business. Bob said because of the sewer system, the town has an obligation to look at what goes on. Jeff said it would have been easier if the easements had been described and mapped. Glenn agreed that it's a mess. Tony said he doesn't understand the upside of purchasing the sewer line for West Windsor, and he doesn't understand where the \$500,000 figure came from when the entire resort could probably be purchased for \$1.5 million. Tony said he comes to West Windsor 25 days per year and he's going to be charged \$942 a year. Tony said in New Britain he pays \$750 for water and sewer combined. Glenn asked how many users there are on that system. Tony said 80,000. Tony asked what the objection is to a sewer district. Glenn said the Selectboard feels that the utility issue is having an impact on the sale of the resort, which is having a negative impact on property values. Glenn said the town has a reappraisal coming up and we need to get the resort up and running to stabilize property values. Glenn said he thinks constant legal battles are a big part of why the resort is not selling. Glenn said the idea of seizing the utility is why the fire district concept came apart. Glenn said an eminent domain proceeding would cost a lot of money and last for a very long time, during which property values would continue to fall. Glenn said the town has had a simple zoning issue in Environmental Court for almost 2 years. Tony said if the Selectboard thinks that the sewer system is impeding the sale of the resort, then the sewer system must be a liability that's worth nothing. Tony said the economy is in really bad shape; what businessman wants to take a chance on something like the resort? Tony said he doesn't think West Windsor buying the sewer system is going to help property owners at the resort or in town. Glenn said he didn't want to discuss the village but there are pollution issues and no development potential without a sewer system. Glenn said it would be irresponsible to proceed with a \$2 million sewer expansion in the village to connect to a pipeline that the town does not control. Lucy said if the town is dumping raw sewage into the brook, how is that going to affect snowmaking? Glenn said the sewage from the village needs to go into a pipe to Windsor; snowmaking is a separate issue. Tony said he and his wife love West Windsor but they have their property up for sale. Tony said property values at the resort are 50% of what they should be. Tony said you can't charge water and sewer fees based on the size of the house; what if the house is empty? Glenn asked the POA members if they are making the assumption that the town would not review and adjust the rate structure. John said he doesn't know how you can adjust without meters. John said the document

that he and Jeff and Glenn wrote for the fire district included a base fee for the right to flush. John said some users have water but not sewer and some have sewer but not water. John said if you have water, you're going to have a meter and if you have sewer, you're going to pay a fair flat fee. Bruce said the POA's tack is going to take years where the town can get this done in a relatively short period of time. Bruce said metering is a good idea that should be considered down the road. Bruce said people who don't have kids don't like paying school taxes but there are some inequities in the world; that's reality. John said the POA has been told that they can get this done in three to six months. Glenn asked John to elaborate. John said the POA's plan is to form a fire district and begin negotiating with values based on the permits. There is a nuisance value to the system, John said, but it is not \$500,000. John said if it gets taken out of the POA's hands and goes to a commission for a decision, and the commission says the value is \$600,000, the POA is prepared to live with that. Jeff said \$1.3 million might be a valid replacement cost, but it has nothing to do with the value of the system. Jeff suggested that the town buy the whole mountain and turn it over to someone to operate. Glenn said he is not clear on the POA's path. John said the POA would form a fire district, get an engineering report, and begin negotiations. John said it's not the money that the POA is concerned about, it's the fact that they have no control. Tom said the Selectboard is asking for authorization to borrow up to \$500,000 but that doesn't mean they're going to sign on the dotted line the next day; there are a lot of details that need to be worked out. John said if the POA submitted a petition for a fire district right now, the Selectboard would turn it down. John said if you agree to take over the water, Orange Lake is going to say, "This is a done deal." Glenn said they have already said that. John agreed that Orange Lake is supportive but they also want the town to take over the water. Tom said he doesn't know what the water system is worth but the article has been warned. Jeff said West Windsor's attorney, who also represents WASTE, has contradicted himself about the role of WASTE. Jeff asked if the town can guarantee that the POA members will see the same proportional increase for the \$2 million village sewer expansion as the rest of the residents. Jeff said the town is asking for support but there aren't many details. Rudy asked if the town would purchase both the water and sewer if both could be acquired for \$500,000 or less. Glenn said it would depend on what the deal included. Tom asked if Windsor would maintain the water system. Glenn said a third party would maintain it. Glenn said he would not rule out acquiring the water system. Lucy asked if the article can be rewritten. Tom said no. Bruce said personally, as an engineer, he thinks the systems should be combined but, politically, the Selectboard is already over the edge with the sewer system. Bruce asked how the POA would pull this off in 3 to 6 months without getting the courts involved and without getting a countersuit from somebody. Rudy said the resort has never prospered and fixing the sewer problem isn't going to make somebody buy it. Glenn asked if the town should say we don't care what happens across the brook. According to Glenn, declining property values at the resort would increase taxes to a property owner on Rush Meadow Road by 2 ½ or 3 cents per hundred so they're wondering why we're getting involved. Glenn said we have to look at the big picture: Do we want a town with an operating ski area? Do we want to be able to convert village properties to other uses? Glenn said the Selectboard is trying to steer this thing in a way that makes sense for the entire town. Rudy said he doesn't think the Selectboard should use the ski area in their argument for support; they should show how it's going to improve the town. John said the POA members feel unsafe; they have to bear the entire burden and they have no control. John said they would feel safer if the Selectboard listened to their input or allowed them to solve their own problem. Judy said Weathersfield has a fire district and it seems to be working well for them. Tom said we have not ruled out a fire district. Mike said he is not in favor of the town taking over the sewer without going past Mountain's Edge because he lives on Ski Tow Road. Mike added that he is also opposed to the sewer being purchased without the water. Mike said when he purchased his property, it was marketed as having Mt. Ascutney water and sewer; if the town is taking it over, then it should go up to his house. Glenn asked if the users would bear the cost of doing the necessary upgrades to the line and the interior collection system. John said that's what the POA planned on doing. Jeff said Orange Lake should pay for a grease trap if they need that. Jeff asked when the town will get the engineering report. Glenn said it will be weeks. Jeff said one concept that the POA's ad hoc committee came up with is that if each segment of users could bring their system up to snuff then going forward, it would be picked up by everybody. Glenn asked if that would apply to the upper loop on Ski Tow Road. John said their

permits specifically state that they are part of the entire system. Jeff said if you connect the village, you get economies of scale. Jeff said even if you sell the pipeline to Windsor, the users are still going to be responsible for the majority of costs. Tom said it makes sense for Windsor to own it up to the town line. There was discussion about the intentions of the current owner. Bruce said the Selectboard needs to find out if the town is willing to give them the support to at least start talking with the owner. Without the assurance that we have the resources to negotiate details, Bruce said, it doesn't make sense to continue. Glenn agreed. Mike asked what the town envisions happening with the water if everything goes well with the sewer. Glenn suggested that the POA buy the water system. Jeff asked about the wastewater issues in the village. Glenn said the separation distance between wells and septic systems is not adequate. Jeff said the resort water system could serve the village as well. Glenn said the engineers hired by the town said that community water would not help the situation. Tony asked how the town is going to charge village users if the system is not metered and the water is not connected. Glenn said the Selectboard doesn't have those details; the study was just finished. Lucy said the engineer's evaluation of the system should be made public. Lucy asked the Selectboard to consider including the water system and the collection system for the upper loop. Everyone agreed that the value of the water system has not been established. Jeff said \$38,000 is the unamortized portion of capital improvements but, unlike the sewer, a rate of return is allowed to the operator of the water system and that has value. John said he has a good idea about the maintenance budget but the capital budget will depend on buying and fixing the system at the right time and at the right price. John said the users know they have to share those costs but they need to recover the money that has already been taken out of their pockets. John said if both systems are under one umbrella then there are no more surprises. Bruce said the Selectboard has to consider the likelihood of success with the voters and he doesn't think the voters would approve the acquisition of both systems. Tom said he is concerned about one of the POA members standing up at town meeting and saying, "We are against this." Tom said the Selectboard has not ruled out the acquisition of the water system. Bruce agreed but said they are not going to add that to the burden right now. There was general agreement that the two systems could be owned by separate entities. Lucy asked if the town would buy the water system without a vote. Bruce said that would be political suicide. Jeff said if the article is turned down by the voters, couldn't the POA still do the fire district. Glenn said we would have to talk about that. Tony said the sewer and water systems are a liability. Bruce said anyone buying the resort is going to want to know that they have capacity in those systems so they can develop the property. Bruce said no one is going to buy property up there if they don't know whether or not they can hook onto the system and how much it's going to cost. Glenn said if there were a fire district, the fire district would control the development up there and the town is uneasy about that. Jeff said the POA would only be looking for reimbursement of actual costs for future connections. Glenn said the 30 registered voters in the fire district would be able to change that. John said if there is more development, there are more people buying lift tickets and the resort's financial condition is safer. John added that hook up fees can be pre-negotiated. Jeff said he hopes the town is not going to pay the current owner for future connections. Jeff asked about the town's timeframe. Glenn said the town has talked with the owner once, conceptually, and is waiting for a memorandum of understanding but if we don't get approval for the \$500,000, it's over. Rudy said if it's voted down at town meeting, would the Selectboard be willing to meet with the POA again. Glenn said yes. Jeff said there are a lot of people at Mountain's Edge who don't agree with Tom Carroll. Jeff said there may be some things that hit the press between now and March 6th because we need to go after somebody and WASTE is the entity that approved the rate. Glenn said we all want the same thing and he'd like to try to work this out.

- 3) Adjourn – **Bruce moved to adjourn at 7:00 PM. Tom seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison