

West Windsor Selectboard
Draft Minutes
April 22, 2019

Present at site visit: Brett Myers, Matt Kantola, Win Johnson, Mike Spackman, Martha Harrison, Deb Shearer, Ted Knox, Randy Perry

Present at meeting: Brett Myers, Matt Kantola, Win Johnson, Mike Spackman, Tom Kenyon, Martha Harrison, Cathy Archibald, Deb Shearer, Ted Knox, Gary Burke, Seth Warren, Lauren Stevens, Peter Varkonyi, Gideon Spikes (Windsor on Air)

- 1) Site visit: 3431 Brownsville-Hartland Rd (proposed highway access) – Randy Perry, who was present on behalf of property owner Peter MacEwen, pointed out the proposed driveway location and explained his plans for addressing the culvert issues. Randy said the state Stream Alteration Engineer would require a culvert for the stream crossing, but had no other concerns. Randy measured the existing slope at 30% and said, due to the presence of ledge, most of the work would involve filling rather than cutting.
- 2) Return to Town Hall/Call to Order – Selectboard Chair Win Johnson called the meeting to order at 6:30 PM.
- 3) Changes or additions to the agenda – Win said he'd like to talk about doing a rate study under "Water & Sewer."
- 4) Announcements/Public Comment – Transportation Advisory Committee (TAC): Tom said TAC is meeting on Wednesday to discuss the bridge expansion joint work on Route 44 and 106. Solid Waste District – Tom said there's a Solid Waste District meeting in Springfield on Thursday and noted the passing of District Treasurer Bob Forguites. Town Hall property maintenance: Tom said the wall needs to be repaired. Win asked Tom to contact Perry Edson to see if he can repair it, and report back to the Selectboard. Tom noted that Robin French has been working on the garden and the monument company in Ascutney fixed the monument. Win asked about pruning. Tom said the person who does that for us is already booked.
- 5) Residential highway access application: MacEwen (Brownsville-Hartland Rd) – Win said there are two issues here: one is the access, which is the Selectboard's purview and involves the culverts and sight distances; and the second is the zoning permit for the driveway, which – given the slope – will probably require Development Review Board (DRB) review. Win asked Mike if he is happy with the culvert configuration that Randy proposed. Mike said yes, as long as it is built as described and the town can access it whenever they need to. Mike said it will have to be an 18" culvert. Win added that the access will have to meet B-71 standards, and the applicant will have to get proper approval for the rest of the driveway. **Brett moved to approve the application, subject to the conditions discussed, including the issues raised by Ted Knox about the development of the driveway in the watershed area, which will be dealt with during DRB review. Matt seconded the motion.** Ted said he wants to make sure the driveway has a construction general permit, a brook crossing permit, and a wetland alteration permit. Win said Deb Shearer will have to take that up with the DRB. **Win called for a vote on the motion, which passed unanimously.**
- 6) Sign Town Clerk's orders – **Brett moved to sign orders. Matt seconded the motion, which passed unanimously.** Cathy noted that the beavers are back on Brownsville-Hartland Road.
- 7) Sign Purchase & Sales extension addendum for Burke property – Seth said on April 15th the Selectboard and the seller verbally agreed to extend the contingency and grant permission for a "Phase II Light" study to be performed by LE Environmental. Seth said LE Environmental

prepared a Site Access Agreement, which Gary Burke did not want to sign until after the Purchase & Sales addendum is signed. In addition to extending the dates for the contingency and the closing, Seth said the addendum adds a stipulation that any damage done to the infrastructure on Gary's property in the course of the Phase II study will be repaired by the town at the town's expense. Win said the town has until June 15th to have the assessment done and then has until June 21st to decide whether to proceed with closing or not. Win said Alan Liptak is confident that he can have the study done before June 15th. **Brett moved to authorize Win to sign the Addendum to the Purchase & Sales Contract for the Burke property. Matt seconded the motion.** Matt asked about the start date. Win said as soon as possible; we just have to clarify who is going to do the excavation. **Win called for a vote on the motion, which passed unanimously.**

- 8) Sign Burke property Site Access Agreement – Gary said the two provisions that he objected to have been removed from the access agreement, so he is okay with it. **Brett moved to sign the Site Access Agreement, as amended to address Gary Burke's concerns. Matt seconded the motion, which passed unanimously.**
- 9) Sign LE Environmental Phase II ESA professional services agreement amendment #1 – Win noted that the cost of the study is \$6,550. Matt asked who is hiring the excavator. Seth said the Town is providing the excavator. Win agreed. Matt asked if LE Environmental is going to do a water sample. Win skimmed through the document quickly and didn't notice anything about a water sample. Gary said he doesn't want the leachfield to be damaged in the process of determining where the floor drains empty out. Gary said the language in the agreement indemnifies LE Environmental if the property owner identifies the location of the infrastructure. Gary said he knows where the septic tank is but, beyond that, he doesn't know. Gary said if he delineates the septic area, and they still have room to do their digging, he would like to know that the town understands that. Win asked Gary if he is concerned about the line beyond the septic tank to the drywell. Gary said yes, but he doesn't even know if there is a drywell there. Gary said it's possible that the floor drains go to the septic tank because they were built around the same time. Win suggested that the Selectboard authorize him to sign the Professional Services Agreement Amendment, conditioned on the town finding out more about locating the line coming out of the septic tank. Win read Article II, paragraph 2 of Professional Services Agreement Amendment #1. Gary asked about the section of the amendment that says "LEE will not be responsible for damages caused to underground utilities not marked out in advance of excavating by Dig Safe, the property owner, or others." Gary said he can mark it out but it's going to be general, not specific. Win said he thinks it's worthwhile to ask them to try to locate the line coming out of the septic tank. **Brett moved to authorize Win to sign the agreement amendment once he gets clarification from LE Environmental about probing for the line that comes out of the septic tank. Matt seconded the motion, which passed unanimously.**
- 10) Adopt Local Emergency Management Plan – Win asked if this is an annual event. Martha said yes, although they changed the format this year. **Brett moved to sign the 2019 Local Emergency Management Plan. Matt seconded the motion, which passed unanimously.**
- 11) Sign PACIF grant application – Win said this is an application for partial reimbursement for the new boiler at the Town Garage. **Brett moved to authorize Win to sign the application. Matt seconded the motion, which passed unanimously.**
- 12) Highway Foreman's report – May 8th: Mike requested permission for the highway crew to attend the annual plow and backhoe competition, and new equipment show, in Barre on May 8th. Mike said he is a judge for the competition. The Selectboard had no objection. Grader repair: Mike had an estimate of \$8,000 to repair the moldboard on the grader. Road

condition: Mike said the roads are miserable, especially Cemetery Road. Mud season should have been over two weeks ago, but the frost was really deep this year. Equipment: Mike said the excavator arrived today, and the new truck is almost done. Projects: Win asked when we're going to do the project on Cemetery Road. Mike said after we get the grant. Mike said we also have a grant project planned for Silver Hill, north of Kings Highway. Overweight vehicles: After attending a class on the subject, Mike said he thinks the town should consider adopting an overweight vehicle ordinance. Without an ordinance, Mike said, we can't stop any truck from travelling on any of our roads. Gary asked if the ordinance would also apply to town-owned trucks. Mike said town trucks would be exempt. Ted said a lot of oil delivery trucks are well over 12 tons. Mike said you can ask them to only carry 500 gallons. Right now, Mike said, only a few towns have ordinances. Matt asked if we have a lot of problems with overweight vehicles. Mike said no. Win asked Mike and Martha to discuss it with Jim Barlow. Mike said the DMV representative said he could help us with the ordinance. Win suggested that the Selectboard consider Mike's recommendation. Route 44 bridge: Matt asked if the state removed the log jam by the bridge. Mike said no; it's jammed underneath the bridge right now. Churchill bridge: Mike said the town eliminated the jam underneath the covered bridge on Churchill Road. Mike noted that some of the boards got damaged, but it's just cosmetic. Burke property excavator work: Win asked Mike if he is willing to do the work. Mike said yes. Win said Alan Liptak will be in touch and asked Mike to let Gary know when the work is scheduled so he can be there. Speed cart: Mike said the speed cart is supposed to be here this week, at the school, and then he's planning to move it to Cemetery Road for a few days. Win asked Mike if he's going to decide where it goes and how long it's there. Mike said yes. Brett suggested putting it on the Brownsville-Hartland Road, up where we had the site visit this evening. Mike said, according to the Police Chief, we're going to alternate from week to week.

- 13) Water & Sewer Utilities – Consider Butcher & Pantry's applications for additional sewer and water allocations: Win said the applications are based on the new regulations, which the town needs time to review. Win added that we just got the applications this morning. Win said while the town is reviewing the applications, we'll stay off the store's case. Win said he thinks the town needs to hire a contractor, probably A+E, to do a new rate study based on the new regulations, which may take a little while. Win said if the Selectboard agrees, he'll work with Martha to get something going. Peter said, while the new regulations tried to add more detail, it's still an arbitrary calculation since each business is unique. Peter said there are only four licensed establishments like the Butcher & Pantry in the state of Vermont. Peter said they are a restaurant, market place, butcher shop, bakery, seafood, and ice cream counter. Lauren said if they are classified as all of those things, then they are five full businesses, which isn't equivalent. Peter said according to the calculations by Millbrook, they would be using in excess of 1,300 gallons, which is an immense amount of water. Peter asked if metering is the long-term solution or should they try to find a new umbrella that they fit under. In doing a rate study, Win said, that would be one of the things the town would look at. Win asked if the new regulations are worse for the store than the old ones. Peter said he doesn't know enough about the new regulations to answer that. Peter said their engineer thought they could be categorized as a deli with counter service but the state said "no, it's a restaurant." Peter said they want to pay their fair share, but they're hoping the categorization can be as precise as possible. Win said Section 1-804 of the Wastewater System & Potable Water Supply Rules allows metering if you want to apply for an exemption from the standard categorizations, but it takes a year to get the information you need to apply. Matt said a meter's not that expensive and suggested that the store install one to collect some data to

prove their case. Win said there is a meter in the basement of the Bennington building. Win said the town needs to be careful because Orange Lake has many of the same challenges that the store has. Win said he thinks the town needs to have someone look at the entire system in terms of volumes and classifications under the new regulations. Martha said A+E did our original sewer rate study. Win suggested that the town ask A+E to do a new rate study. Martha said she sent them an email today, but Jason's out of the office. Matt suggested getting a cost estimate. Win agreed. Peter asked how they can proceed with seasonal outdoor seating. Win said the store should start by getting clarification that they don't have any zoning issues. Win said the Selectboard would like to offer the store some flexibility but they would need to get support for that from the other utility users.

14) Other Business - None

15) Approve Minutes – **Brett moved to approve the minutes of April 8th and April 15th. Matt seconded the motion, which passed unanimously.**

16) Adjourn – **Brett moved to adjourn at 7:32 PM. Matt seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison