

West Windsor Selectboard
Draft Minutes
April 8, 2019

Present: Brett Myers, Matt Kantola, Win Johnson (by phone), Ted Siegler (by phone), Mike Spackman, Tom Kenyon, Martha Harrison, Cathy Archibald, Jeff Hermanson, Tom Kennedy, Shawn Donovan, Gary Burke, Seth Warren, Lauren Stevens, Peter Varkonyi, Gideon Spikes (Windsor on Air)

- 1) Call to Order – Selectboard Vice Chair Brett Myers called the meeting to order at 6:30 PM.
- 2) Changes or additions to the agenda – sewer fee waiver request, sewer & water allocations for the Butcher & Pantry
- 3) Announcements/Public Comment – None
- 4) Review Phase I environmental site assessment (Burke property) – Win said he thinks we need to do the Phase II work recommended by LE Environmental, which means we either need to modify the Purchase & Sales agreement to allow additional time, or we need to withdraw from the agreement. Matt agreed. Matt said he was cold on the idea of a Phase II initially but the cost estimate, in the \$6,000 range, isn't too bad. Ted said he can't imagine that the town would move forward without a Phase II given that there are two recognized environmental conditions in the Phase I; the risk would be significant. It may turn out that there's no problem, but it would be foolish to move forward without doing additional work. Ted said you will probably still want to buy the property, but you don't want to do it without protection, which comes from doing a Phase II and deciding, before you buy it, whether or not to enter the BRELLA program. Win proposed a motion to accept the bid to do the Phase II work with the understanding that we expect it to be completed within the 60-day timeframe. Gary noted Section 9.1 of the Phase I report which says no additional investigations are necessary. Gary said the report also refers to the property inaccurately as a "repair facility." Gary said he ran a gravel pit and when equipment broke down, it broke down at the gravel pit. Gary added that the floor drain is a moot point; there's never been anything going down those drains. And there's no crack by the oil barrel; there's a crack at the front that opened up this year because he shut the heat off. Matt asked Gary how long he operated out of that building. Gary said he took over in 1981 but he started running the backhoe when he was 18. Tom Kennedy said a Phase II for \$6,000 is very inexpensive. Tom also suggested that the town not limit itself to 60 days for the Phase II. Martha noted that the Phase II proposal included a number of conditions. Shawn Donovan said what the BRELLA program can do for a prospective purchaser looking to buy a property with two RECs is to provide liability protection in the event that any subsurface contamination is discovered. If the town buys the property without entering the BRELLA program, then the town is in the chain of liability. In exchange for liability protection, Shawn said, the state wants to ensure that proper testing is done. As a BRELLA enrollee, the town would be eligible for funding through the Regional Planning Commission (RPC) or the State of Vermont. Gary said the drains are in a storage area; they're not in a repair area. Win asked Tom Kennedy if the town can get funding for the Phase II work. Tom said yes; if it's \$6,000, the RPC can fully fund it. Martha said Alan noted in his proposal that he's doing the work for the town, outside the BRELLA program, so if he does it in accordance with state or EPA requirements, it might be more expensive. Shawn said the Phase II work plan would have to be reviewed and approved by DEC. Win asked if the town is going to pay the \$6,000. Matt said the RPC said they would fund it 100%. Ted asked if LE Environmental is a certified contractor under BRELLA.

Tom Kennedy said Alan Liptak (LE Environmental) is on the RPC's list of consultants. Tom added that, given the condition of the site, he would recommend waiting until the Phase II is done to decide whether or not to enter the BRELLA program. Tom said the town can run the work plan by Shawn, which may take an extra week or two. Shawn said it's common for applicants to have Phase II-type data when they approach the state about enrolling in the BRELLA program. Even if there's not significant contamination on the site, Shawn said, enrolling in the BRELLA program will provide the purchaser with a Certificate of Completion after they complete corrective action measures. A Certificate of Completion excludes the town from the chain of liability and it also runs with the land. Matt asked if completing the Phase II study would qualify the town to enroll in the BRELLA program. Matt said we're hoping, if we do this, that's the end of the studies and we can start using the property. Shawn said it would be helpful for DEC to review the work plan to make sure it meets their requirements. Seth noted that the two RECs are not actually conditions in that no contamination has been identified; the RECs are just observations of historic use. Shawn agreed that Phase I studies are just meant to identify potential contamination. Shawn added that there's no requirement to proceed with a Phase II. Based on the Phase I report, the state does not see an undue risk to the environment or human health. Seth asked if the BRELLA protections are available without a Phase II. Shawn said no; in exchange for liability protection, the town would need to meet the state's objectives. Win asked Martha to stay in touch with Seth and make sure we have a resolution before April 15th. Ted said he still thinks the town should buy the property after doing additional work to make sure there are no issues, or after entering the BRELLA program if there are issues. Ted said he hopes that Seth and Gary will extend the deadline in the Purchase & Sales agreement long enough for the town to do the additional work. Matt asked Gary if he'll give the town permission to do the study. Gary said he'll give permission if he and Seth agree to extend the deadline beyond April 15th. **Matt moved to approve the money for the Phase II study subject to Gary's permission to do the work. Win amended the motion to include applying to the Regional Planning Commission for funding. Matt accepted the amendment. Brett seconded the motion, which passed unanimously.** Brett asked about making a decision on the BRELLA program. Win said if it takes sixty days to do the Phase II, we'll need a little additional time to make a decision about BRELLA. Matt said it will probably be the end of June before we're ready to close on the property. Win asked Seth if the Town Attorney needs to assist in the revision of the Sales Agreement, if Gary agrees. Seth said if Gary instructs him to, he can prepare an addendum that extends the contingency and the closing date; it's up to the town if they want to have Matt Birmingham review it. Win said he thinks the town should run it by Matt. Brett asked Shawn if he needs anything from the town. Shawn said no, although it would be helpful to see the work plan. Matt said there are about six soil borings in the plan. Shawn asked if the plan includes monitoring wells. Matt said no, but the town is planning to get the well tested. Martha said she is wondering if the work plan meets state requirements but, if we send the plan to Shawn, he can comment on that. Ted said he thinks the proposal from LE Environmental is a good interim step; if they don't find anything, you're probably in good shape and, if they do, then it's not too late to apply to the BRELLA program. The key is to enter BRELLA before you purchase the property to reduce your exposure. Win thanked everyone for coming and Ted for calling in.

- 5) Discuss BRELLA (Brownfields Re-use & Environmental Liability Limitation Act) program with Shawn Donovan (VT Dept. of Environmental Conservation) – see #4 above
- 6) Sign Town Clerk's Orders – **Matt moved to sign orders. Brett seconded the motion, which passed unanimously.**

- 7) Highway Foreman's report – Request for one-year extension of highway access approval for Parcel #7-2 on Queen Victoria Rd (Webster property): **Win moved to approve a one-year extension. Brett seconded the motion, which passed unanimously.** Traffic count/speed study: Martha said the RPC asked if we want them to repeat the study they did last year on Rush Meadow Road, since it failed. Mike said if it failed, they should do it in the same location, near Duling Road. Brett said she's heard complaints from people all along Rush Meadow, including near the intersection with Bryant Road. Win said if we want to change the speed limit, we need to do a speed study; if we just want to control speed, we can put the speed cart out there. Mike said the current speed limit is 35 MPH. Matt said 35 MPH is fine for most of Rush Meadow; the speed only needs to be lowered in the narrow, winding section. The Selectboard agreed to request a speed study in the vicinity of Duling Road and to use the speed cart to control speed on the rest of Rush Meadow. Win said we can also ask the police to patrol out there. Win said he'd like to see the speed cart on the Brownsville-Hartland Road as soon as possible and then, in May, we can move it to the gravel roads. Sand & gravel bids: Mike had bids from Pike Industries, Twin State, Cersosimo, St. Pierre, and D&D. Mike said Twin State has the lowest price for hard pack so he would recommend getting it from them as long as they have it available. Mike added that we've spent almost \$30,000 at Pike Industries in the last month because Twin State didn't have any product. Mike recommended D&D for sand. **Win moved to accept the gravel bid from Twin State and the sand bid from D&D. Brett seconded the motion, which passed unanimously.** Contractor bids: Mike had two bids from DLX and Miller Construction. Mike recommended using DLX as the town's primary contractor for large excavator work, and said he'd like to contact Murphy about being our secondary contractor. **Win moved to accept the bid from DLX. Brett seconded the motion, which passed unanimously.** Structure grant applications: Martha said the Selectboard doesn't have to sign anything; they should just be aware that we're requesting funding. Win said he thought we wouldn't be eligible for five or six years, since we got a grant last year. Mike said it's a good idea to submit applications anyway, so the state knows we need funding if additional money becomes available. Mike said we're submitting applications to replace three culverts. Equipment: Mike said the new truck is being built and should be here within four weeks. The excavator will probably be here the week after next. Town Garage: Mike said the boiler, water heater, and water system at the Town Garage have all been updated for \$12,500. Mike said this is the second time he's been told by the inspector that it needs to be fixed; the first time, he couldn't find a contractor to do the work. Cathy said she has asked John Mudgett if we can capitalize the expense. Route 44 bridge by Kimball Farm Rd: Matt said he sent Martha a video of the scouring and she sent it to District 4. Martha said Chris Bump replied and said they'll look at it.
- 8) Water & Sewer Utilities – Bond vote results & next steps: Martha said she drafted a timeline for the sewer and water projects; what needs to be done between now and then if we're going to start construction in September. Win said his only concern is that we keep Ascutney Outdoors and Michael Bell informed so we can avoid conflicts with their events. Sewer asset management plan meeting: Martha said there's a meeting with A+E on April 23rd. Martha asked Matt to let her know if he wants to attend so she can warn it. Win said the plan will include a financial pro forma for the next few years, with potential rate implications, so it's an important meeting. Matt said he will try to attend. Sewer fee waiver request: Cathy asked the Selectboard about waiving the sewer fee for the property owner whose house burned down. Win said we made allowances for situations like this in our ordinances and it sounds like it would qualify. Cathy said the fee for the current quarter hasn't been paid, so she'll waive that and not send a bill next quarter. Cathy said the water bill has been paid for the

year and the owner didn't request a waiver for that. **Matt moved to accept Cathy's recommendation to waive the sewer fee for the property at 905 Ski Tow Road. Brett seconded the motion, which passed unanimously.** Sewer & water allocations for the Butcher & Pantry: Win said he would like to resolve, tonight, the issue of the increased allocations triggered by the increase from two to three meals per day, which will bring the B&P into compliance with the ordinances. Jeff said the new state regulations are out and the store would like to understand them and the cost implications, so they can only do this once. Jeff said the engineer has done the calculations and the store is ready to submit applications for additional allocations, the one unknown is the cost of the additional allocation, which Martha has to calculate for us. Depending on the cost, Jeff said, the store will make a decision to continue with three meals, or to cut back to two meals. Martha said for the annual fee, you take the design flow, divide by 200, round up to the nearest whole number, and multiply that by \$865. For additional allocation, Martha said, it's \$2 per gallon. Peter said the design flow increase from two meals to three is 118 gallons, which brings the total design flow to 910 gpd. Peter added that they asked their engineer to do the calculations for an additional 15 seats outside at two meals a day, and at three meals a day. The total comes to almost 1,300 gpd, which is a 523 gpd increase, which could almost double their sewer costs so it's a major business decision. Win said he's sympathetic but from the time the store increased the number of meals until today, there has been an increase in the amount of allocation and we need to get that resolved. After that, the store can consider what they want to do going forward. Jeff said it's the difference between paying \$1,200 once or paying \$1,200 twice. Peter said the additional 15 seats would only be available for one quarter of the year. Peter said their understanding was that their original allocation was a preliminary permit that could be modified, but they didn't understand how quickly the amendments would have to be made; they thought they had a year to comply. Peter said they also hadn't intended to increase the number of meals from two to three so quickly but there was a demand for it from the townspeople. Win said the town is dealing with allocations of a commodity and we need to be equitable. Win said it's his understanding that the new state regulations are modestly improved with regard to seasonal capacity. Jeff said the new regulations are only helpful if a meter is installed. Win said the town would have to take that up with the Utility Advisory Committee and our engineers. Jeff said they're not requesting a meter, he's just pointing out that the new regulations are only helpful with a metered service. Jeff said if the store decides to go back to two meals a day, is the town still looking for compensation for the period during which they offered three meals. Win said that's his opinion; he feels an obligation to be even across the board. Peter said, if they determine they can't sustain the additional costs associated with offering three meals a day, how long are they committed to that level of design flow. Martha said they can change it whenever they want; what she meant when she said a final allocation is binding is that it's a commitment to the user on the part of the town; the town can't take it away. Win said if the store goes back to its old service level, the charges would go back to what they were at that level. Lauren said then we'd have to go through this whole process again. Peter added that they would have to re-permit with the state. Martha said she doesn't think the store would have to change anything with the state if they were using less than the amount specified in their state permit; they would just have to change their allocation with the town. Peter asked if the amount the store owes, for the period they have been offering three meals a day, can be spread out over two quarters. Win said that's between the store and the Treasurer. Peter said they will pay the difference and they will submit the applications for 22 seats at three meals a day. Jeff asked if they can submit an application that includes the outdoor seating for the summer and then,

when the summer's over, reduce their allocation request. Jeff said the store could submit the highest design flow to the state and then cut back with the town seasonally – that would give them the ideal flexibility. Win said he thinks what the town charges is up to the town, and we can adjust it based on the number of meals or the number of seats. Jeff said it would make sense to submit the maximum usage and then specify if we want to go up or down each quarter. Matt said it would be like a meter basically. Peter said if they can't rent additional parking, they may not be able to have outdoor seating. Peter said he likes Matt's suggestion about fluctuating incrementally based on seasonal usage but the DRB may not approve the additional parking and seating. Peter said they'll work out a payment structure with Cathy to cover the third meal that was being served. Peter added that he and Lauren and Jeff need to talk with the bond group about what form they're going to submit. Peter asked Martha to help with determining the differential costs associated with the number of meals and the number of seats. Martha agreed. Regarding the idea of ramping up and down seasonally, Martha said she needs to think about that. Win said if the state fees are an obstacle, Peter and Lauren should talk to our state representatives. Peter said the state categories don't reflect their type of business very well; they need to talk with the state about the regulations and classifications. Lauren asked if they can get the amount due for the past few months so they can budget for it, and by the end of next week we'll have applications submitted. Peter said they will provide the design flows for the different seat/meal combinations and asked the town to provide the cost differentials so they can make a determination quickly. Win asked Martha to give Peter, Lauren and Jeff the date of the next Utility Advisory Committee meeting because we're going to have to talk about all this. Martha said the committee has not set a date for their next meeting yet.

- 9) Town Hall property improvements – Matt said he and Tom walked around the building and he came up with a list of proposed improvements including: the six large double-hung windows, the windows in Cathy's office and Martha's office, the two exterior doors in the basement, fixing cracks in the granite curbs, installing an exterior electrical outlet, cleaning the sidewalks, cleaning up the flower beds, and planting hedges to hide the electrical panels for the sewer pump. Win said he would address employee comfort issues first and beyond that, just stay within budget. Matt said we should decide if we're going to repair the cannon or store it off-site somewhere. Matt said the informational sign is in an awkward place; he and Tom talked about getting rid of it and just posting information at the store. Win said he thinks the sign is useful as long as it's limited to large-lettered notices. Brett objected to moving the sign. Matt said he thinks we should discuss whether we need a sign and, if so, where it should be located. Matt said we can discuss these things but he'd like to get quotes on the windows for the next Selectboard meeting. Win agreed that the office windows should be replaced first and then, if there's money left, we can take a look at the exterior doors. Tom said, since it's an historic building, we have to get permission from the state to replace the windows. Matt asked if there are subsidies for replacing windows. Martha suggested checking with Efficiency Vermont. Tom said he checked with Robin French and she will clean the flower beds four times a year at a reasonable price. Tom said another item is the West Windsor/Brownsville monument; the monument company in Ascutney will come and remove the rust and chisel it so water doesn't run down the front of the stone. Tom said he thinks we should get new wheels for the cannon. Matt said it also needs to be painted.
- 10) Police Report: March – Win said they seem to be in town a lot. Brett agreed.
- 11) Other Business - None
- 12) Approve Minutes – **Brett moved to approve the minutes of March 25th. Matt seconded the motion, which passed with Win abstaining.**

13) Adjourn – **Brett moved to adjourn at 8:16 PM. The motion passed without objection.**

Respectfully submitted,

Martha Harrison