

West Windsor Selectboard  
Draft Minutes  
August 20, 2015

Present: Dick Beatty, Tom Kenyon, Ted Siegler, Matthew Birmingham, Nate Stearns (Attorney representing Mountainside Condominiums), John Roe (Upper Valley Land Trust), Bob Farnsworth, Martha Harrison

1. Call to Order – Selectboard Chair Dick Beatty called the meeting to order at 7:40 AM.
2. Changes or additions to the agenda – liaison with MFW Associates, mowing on the mountain, tree warden, insurance claim
3. Announcements/Public Comment – Nate noted his presence on behalf of Mountainside
4. Village sewer easements & subordinations – Martha said two of the six property owners who have not signed sewer easements have portions of the main line on their property. Matt said he has a phone conference scheduled for this morning with the attorney for Mr. Phillips and Ms. Vegh. Matt said the town has condemnation rights if that becomes necessary. Matt asked about MFW's concerns regarding the sewer easement. Martha said she thinks MFW's concerns have been addressed so now we need someone to sign the document. Martha asked Matt about the status of Orange Lake's sewer easement. Matt said he will contact both Chris Dugan and Michael Thompson. Dick said Sherry Barbour has also not signed a sewer easement. A+E came up with a cost estimate of \$14,000 for that connection, which the property owner will have to pay if she wants to connect in the future, as opposed to connecting now at no cost. Dick noted that the sewer ordinance requires all property owners within 200' of the system to connect and pay the annual sewer fee. Martha said she is drafting a letter explaining the requirements and the associated costs. Martha said there are no issues with the Sykes and Landino easements; they just haven't signed yet. Dick asked about the state's easement requirements. Martha said they want Matt to sign a Certificate of Title to Site.
5. Discuss EC Fiber contract – Matt suggested that Dick sign it and hold it until Paul Giuliani issues a letter indicating that the contract is in conformance with the bond vote. **Ted made a motion to authorize the Chair to sign the EC Fiber Interlocal Contract. Tom seconded the motion, which passed unanimously.**
6. Discuss MOU re: Deer Run Road – Nate Stearns was present on behalf of Mountainside Condos. Matt said he had laid out Mountainside's concerns in an August 5<sup>th</sup> email to the Selectboard. Those concerns include snow removal, water system improvements, and Mountainside's desire to maintain existing conditions with regard to the sign, the parking lot and the mowing. Nate said it's his understanding that the right-of-way would encompass Deer Run Road, but not the upper parking lot. Ted said plowing the road will present a problem with regard to the parking area. Tom said without an MOU, the town inherits the existing covenant, which simply requires us to plow up and plow down and do some occasional grading. Nate said Mountainside wants to work something out with the town but there are components of the MOU that don't work from an operational point of view. Tom expressed surprise about Mountainside's priorities. Ted asked if Mountainside can hire someone to push all the snow towards the ski area if they move the dumpster. Nate said if there's a Class 3 road and a turn-around, they can't do anything to interfere with that. There was discussion about various options for plowing. Nate said the Mountainside property owners understand that there will be snow piled up behind their cars after the town plow goes

through; they just want an on-site location where they can push the snow; they don't want to have to remove it off-site. Matt suggested that Mike Spackman and Dan Lesnick have a conversation about the options. Matt said there can't be snow in the right-of-way so pushing it to the uphill side is not going to work. Ted said the property owners need to understand that if the town takes over the road it gets run like a town road and that's problematic up there. Nate agreed to consider whatever suggestions Mike and Dan might have. Regarding the sign, parking spaces and landscaping, Nate said Mountainside is not asking to do anything different from what they have done for the past 35 years. Nate said they don't want to move the sign or give up the two parking spaces in the lower parking lot, even though they are over the property line on what is going to be conservation land. Nate said the leach field also extends over the line. Nate said he thinks it's customary for conservation easements to take existing conditions into account. John Roe said provision could be made for an existing sign but septic systems are more complicated. John asked where the replacement area for the septic system is. Nate said the system is pretty old and he's not sure there is a replacement area. John said an existing system could be delineated and allowances for repairs could be granted. Nate said Mountainside recently had its property surveyed and found that two parking spaces in the lower lot are on the adjacent property. Dick asked Nate if he has a copy of the survey. Nate said by "survey" he means they had the property line staked. Ted said Mountainside may be better off without an MOU; if it's not a town road, Mountainside can push the snow wherever they want. Nate said he thinks the town and Mountainside are in agreement with regard to the water system, and it was his understanding that the town wanted the water system and road issues tied together. Ted said the town is not going to be doing anything with the water system this year. At the time the MOU was written, the assumption was that the town was not going to acquire the Base Lodge so all the water system components were going to be moved out of the Base Lodge, in accordance with A+E's design. Ted said the town is now looking into acquiring the Base Lodge and having it torn down with grant funds, in which case we may be able to replace the pumps in the lodge. Ted said we're not going to know what we're going to do about the water system until this winter, after we get the mountain purchased and the village sewer under construction. At that point, Ted said, we can see what the design options are and how we're doing with negotiating an option agreement. Ted said the town is committed to getting the water system under control but it's not going to happen this year. Nate stated Mountainside's position with regard to the booster pump on their property. Dick said he thinks the town and Mountainside are in agreement with regard to bypassing and decommissioning the booster pump and filling in the well but the town is not going to be able to do any of that work this fall and would not agree to do any of that work until the PSB approves the town's acquisition of the system. Ted and Tom agreed. Ted asked why Mountainside is intervening in a proceeding that is clearly for their benefit. Nate said Mountainside's concerns began with a letter from the town indicating that the booster pumps were not part of the water system. Dick said he thinks an MOU with regard to the water system will resolve that issue, which is relatively minor. In exchange, Dick said, he expects Mountainside to withdraw their intervention with the PSB. Nate said he will confirm his client's support of that approach today. Dick said, until today, he did not know that Mountainside's septic system is encroaching on the land to be acquired by TPL and, subsequently, the town. Dick said he thinks it would be in everyone's interest to resolve the road issue but if we can't do that, the town can go forward with the acquisition and deal with the covenant as it is. Dick said the sign should be moved onto Mountainside's property. Regarding the parking spaces, he would like to see what we're talking about. Tom said Deer

Run could be made a Class 4 road. Dick said the draft MOU absolves both parties from having to bring the road up to Class 3 standards but he is also okay with making the road a Class 4 road. John Roe suggested a boundary line adjustment so Mountainside owns the property on which the septic system and the parking spaces are located. Dick said he would like to see a survey showing where these improvements are located. Martha asked if Mountainside would provide a survey. Nate said he will ask. Martha said a boundary line adjustment can be done administratively, without a hearing. John said it would have to be done before the conservation easement is placed on the land. There was discussion about when the line adjustment would take place. Ted said it should happen at closing. Tom asked if Mountainside would be required to connect to the town sewer system if their system fails. Nate said he thinks Mountainside is more than 200' from the sewer line. Dick said he thinks if the system fails, the property owners have to hook up anyway. Ted said the availability of a public sewer system eliminates the need for a replacement area. Martha said the state won't allow boundary adjustments of more than 2%. Ted said he thinks Mike and Dan should discuss the snow removal issue and then the town can make a decision on how to classify the road and whether or not to sign an MOU. Matt suggested bifurcating the MOU and getting the water issue resolved. The Selectboard agreed. Dick asked Nate to confer with his clients about getting a survey on paper to facilitate either a boundary line adjustment or an allowance for existing conditions in the conservation easement, and to confirm their intentions with Matt. Nate agreed. There was additional discussion about the classification of Deer Run Road. Matt said he will revise the MOU to reflect the town's preference for a Class 4 road. Nate thanked Tom for his efforts to resolve the issues with Mountainside.

7. Nilson property closing documents – Matt said the Nilson document is “out for signature.” Tom suggested that the town forgive the taxes due. Dick was concerned about setting a precedent.
8. Hale property closing documents – Matt said the Hale file is on his desk but he has not bitten into it yet. Martha said she is concerned about this dragging on for another winter.
9. Request Public Service Board (PSB) hearing on water system
10. Reconsider acquisition of maintenance shed parcel due to change in terms – Ted said he thinks someone on the Selectboard should be a liaison with Dan Purjes and he volunteered to take on that role. Ted said if the maintenance shed parcel is completely encumbered with easements, he doesn't think the town should acquire it. Dick and Tom agreed with Ted's position on the maintenance shed parcel and with Ted acting as liaison for the Selectboard.  
**Ted moved to not acquire the maintenance shed parcel given the encumbrances proposed by the owner. Tom seconded the motion, which passed unanimously.**
11. Review Base Lodge Option agreement – Dick said he doesn't want to acquire the Base Lodge if MFW has a right to put an antenna there. Dick suggested that Ted discuss the option agreement with Dan as well. Ted said he thinks the Base Lodge parcel is more important than the maintenance shed parcel given the issues with the water system, among other things. Dick agreed. Ted said he thinks the option agreement should clarify that the town is authorized to make the building safe for the winter. Ted suggested a meeting with AT&T, Patricia Beavers, and Dennis Brown to determine what needs to be done to enable the operator to continue to maintain the water system for the winter. Ted said he will address these issues with Mr. Purjes.
12. Town Forest boundary marking – John Roe said UVLT needs the boundaries marked on the ground. Bob Farnsworth said the boundary line with Weathersfield has been marked and painted recently. Bob noted that there are places where you have to get on your hands and

knees to follow it. Ted said the boundary should be painted anywhere where it is not 100% clear. There was discussion about issues with the ROW access to the town forest from Kimball Farm Road, which may need to be resolved. Bob suggested a boundary line agreement with the adjacent property owner. Bob said Kate Wanner has asked him for a proposal to mark the unmarked boundaries so he needs to know the scope of work. Bob said the map is a composite map because some of the work was done by other surveyors. John said the map should show the pins as pins, not just angle points. Bob agreed. John asked if the east boundary of Mile Long Field has been marked. Bob said no; it's 50 feet off the stone wall, which is not going to move. John and the Selectboard agreed that the line should be marked anyway. Bob said the "assigned areas" associated with the development in the 1980s were not monumented; it was just set aside to meet zoning requirements. John said the parking lot needs to be monumented in order to be transferred to the town. Bob agreed. Bob said he's also going to pin the Base Lodge parcel. Tom suggested a certified letter to abutting property owners letting them know that they have to check with the town before they do anything in the vicinity of the boundary line. Ted asked Bob to provide a proposal to do whatever needs to be done as soon as possible. Bob said the legal descriptions are not going to change. John said the lines need to be marked before closing when the conservation easement is placed on the property. John said it may be acceptable to have a signed contract agreeing that the boundary will be painted and flagged. Bob noted that the dedicated acreage for Mountain's Edge is an assigned area; there's nothing on the ground. Dick had some questions about the maps for tonight's DRB hearing. Bob pointed out various access options for Mile Long Field. Dick said there are questions about the ownership of the Base Lodge parcel. Martha said Dick can ask Dan for clarification at the hearing tonight. Regarding the conservation easement, Ted asked John about using the fourth draft for the public meeting on Monday. John said he will forward the comments from VHCB. John asked if he should continue to show the turnaround area at the end of Deer Run Road. The Selectboard agreed that he should. Bob said he will get a proposal to Kate.

13. Sewer pump station update – Martha said A+E is going back and forth with the state on storage capacity during electrical outages.
14. Consider extending CWSRF loan to 30 years – **Ted moved to extend the term of the loan to 30 years. Tom seconded the motion, which passed unanimously.**
15. Request for final highway access approval: 292 Village Lane – Martha said, according to Mike, it's fine; it's not ideal but it's adequate. **Tom moved to grant final access approval for 292 Village Lane. Ted seconded the motion, which passed unanimously.**
16. Consider Brownsville-Hartland Road paving proposal – Tom said Mike is getting a proposal. The Selectboard agreed to table consideration of a paving proposal until Monday night.
17. Other Business – Mowing incident: There was discussion about the recent incident involving roadside mowing. The Selectboard agreed to proceed with the insurance claim. Mowing on the Mountain: Ted said he is concerned about the mowing proposed for the ski slopes; there are too many ways someone can get hurt. Ted said he doesn't want any volunteers up there mowing who don't have a certificate of insurance. If they're mowing for STAB, not for the town, and STAB can provide a certificate of insurance, that's fine. Tom agreed. Dick said if they're on town property and they get hurt, they're going to sue the town. Ted said he wants whoever is doing the mowing to have an agreement with someone other than the town. Dick asked if it's essential that the mowing be done this year. Ted said the first year that it's done it should be done by someone who has all the right equipment and knows what they're doing it. Ted moved to prohibit mowing on the property until there's an organization in place that

has a contract with someone and they have a certificate of insurance. Tom seconded the motion, which passed unanimously. Tree Warden: Tom said he would like to hire Rice for three days at \$1,000 per day to take down trees in numerous locations. **Ted moved to hire Rice at \$1,000 per day for up to four days. The motion passed unanimously.** Pellet Plant: Tom said they will eventually be able to bring logs into the building to debark them. Dick asked if it's the same company. Tom said yes. Tom said they're going full guns again. Option Agreement: Martha said Kate wants to know if the town is not interested in the maintenance shed parcel under the existing option agreement. The Selectboard confirmed that they are not interested under the existing option agreement, or under the owner's current proposal to encumber most of the parcel. There was discussion about the timing of the closing on the mountain parcel. Martha said permits are not effective until the appeal period has passed and there is a 30-day appeal period on DRB decisions. Ted said he hopes that, after the August 24 meeting, the Selectboard can approve a motion to authorize the Chair to sign the conservation easement. Tom asked about the progress of the non-profit group. Martha said Mount Ascutney Outdoors has hired Chris Callahan as their attorney and he is working on getting them established as a non-profit and drafting an agreement with the town. Dick asked if MAO is aware that parcel 2 and parcel 3 may not be available. Martha pointed out MAO's current proposed location for a rope tow, which is not on either parcel. School sump pump drain: Tom noted that the school repaired their sump pump drain.

18. Sign Town Clerk's orders

19. Adjourn – **Ted moved to adjourn at 10:12 AM. Tom seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison