

West Windsor Selectboard
Draft Minutes
July 17, 2017

Present: Dick Beatty, Win Johnson, Brett Myers, Martha Harrison, Jim Barlow

- 1) Call to Order – Selectboard Chair Dick Beatty called the meeting to order at 4:30 PM.
- 2) Changes or additions to the agenda – Martha said items 6, 7 & 8 can be tabled until the next meeting and suggested a brief discussion of the leak near the parking lot. Dick said the Town Clerk has asked the Selectboard to sign a cemetery deed. Dick noted a dog complaint from Leonard Clough. Dick also noted that Jason provided an updated list of work to be done to finalize the village sewer project.
- 3) Announcements/Public Comment – None
- 4) Review draft Water Ordinance – Jim Barlow was present to discuss the ordinance with the Selectboard. Dick suggested mentioning fire protection in the “Purpose” section. Win agreed. Regarding Section 1.02, Jim said it’s not completely clear what the town actually owns. Martha said it may also be a question of what we want to own and take responsibility for. For example, with some of the condos, the curb stop is right outside the door so the town may not want to be responsible for all the piping between the distribution main and the curb stop. Jim said the water system came to the town through an asset transfer agreement that did not clearly describe what the town received. Win asked if the town has easements at Mountain’s Edge. Martha said that would take some research. Jim recommended taking an inventory. Martha said the town is getting a grant to do mapping and an inventory. Win asked Martha to create a list of areas where ownership is unclear. In Section 1.02(A), Dick suggested that the language specify that the water system does not include service connections. There was discussion about curb stops off private distribution mains and how the town can shut off service to a delinquent water user if the town doesn’t own the curb stop. Dick noted that the ordinance authorizes the town to enter onto properties that are served by the system. Jim said ideally the town would have an easement as well. Win asked if the town can reserve access to curb stops on private distribution mains as a condition of service. Alternatively, Martha asked if the town can own the curb stop without owning the private distribution main or the service connection. Jim said the town currently owns what was conveyed to it. Jim said he will look into the town’s authority to retain access to, and use of, a curb stop that it does not own and, if necessary, will build that into the ordinance. Dick asked if the town will be able to repair a leak on a service connection if the owner refuses to do so. Martha said the town could just shut the water off. Jim agreed. Dick said that’s easy for a single-family home but not for a condo association. Win asked if the town can levy a penalty for lack of compliance with an order to repair. Jim said allowing waste is a violation of the ordinance and the town can levy a fine for that. Win said a leak is also a point of potential infiltration so requiring repair is in the public interest. Jim said he is going to change the term “Water System” to “Public Water System” and “Private Water System” will refer to everything in the distribution system that is not owned by the town. Regarding Section 1.03, Jim said statute provides that the Selectboard is also the Board of Water Commissioners and has general authority and supervision of the water system. Jim noted that West Windsor currently has a Sewer Advisory Committee, which he has not come across elsewhere in Vermont and which apparently was an Act 250 requirement. Jim said if there is also going to be a Water

Advisory Committee, it makes sense to combine them in one Utility Advisory Committee. Jim said his suggestion is to put the details regarding the committee in a resolution rather than in the ordinance. Dick suggested noting in Jim's draft resolution that one of the condo associations is not connected to the sewer system. There was discussion about the process of allocating uncommitted reserve capacity. Jim said as long as the process is not arbitrary and capricious, the state will probably be okay with it. Regarding "design flow," Win said it's his understanding that there is some flexibility for uses that don't strictly fit within the table in the Water Supply Rule. Jim agreed and noted how that situation is addressed in the ordinance in Section 4.02(B). At Win's request, Jim agreed to revisit the language. In discussing the application process, Win said we need to establish a table of fees. In considering the amount of the fees, Jim suggested that the fees provide a disincentive to hang on to an unused allocation for a long time. Dick questioned the sentence in Section 4.02(D) that reads "A Preliminary Capacity Allocation is not transferable." Jim said his intention was that the permit could not be transferred to another project or to another owner of the same project. Dick suggested making an exception for a developer that takes on a partner or changes its name. Jim agreed. There was discussion about the fact that a preliminary capacity allocation is not binding on the town and a suggestion that the preliminary allocation fee be set accordingly. Martha was concerned about allowing a Final Capacity Allocation to be renewed twice. Win noted that the ordinance says the Board may grant up to two extensions but they don't have to. Dick noted the requirement in Section 4.04 that permit holders keep a copy on the project premises. In Section 4.05(A), Win suggested noting that, in spite of the fact that the permit holder is covering the cost of the new connection, part of that connection (e.g. from the main to the curb stop) may become town property. Jim suggested that determining what portion of a new connection will belong to the town should be done at the time the application is reviewed. Win said he has inferred from our Water Operator that she would like everything from the curb stop back to the main to belong to the town. Martha said our engineer has cautioned that sometimes there is a significant amount of piping between the main and the curb stop. Win noted that curb stops are generally at the edge of the public right-of-way and we could require that for new connections going forward. Regarding the Hardware Specifications referenced in Section 4.06, Martha said she will send those to our engineer for review. Regarding Article 6, Dick again expressed concern about the town's ability to fix a problem when there's an absentee property owner. Win said as long as we can turn the water off that situation is a lot easier to resolve. Jim said the town can turn the water off; the question is whether the town can enter the property to fix the problem. Martha said she thinks the town should avoid taking responsibility for repairing the private portion of the system. Win agreed. There was discussion about whether Section 8.01 commits the town to having an audit every year. Win said he's in favor of having an outside audit every year but he doesn't think this Section commits the town to doing that; we could just have an audit done by the town's elected Auditors. Jim agreed and said the state does not require utilities to have professional audits except when federal funds for a project exceed a certain amount. The Selectboard agreed to leave the language as is. There was discussion about establishing 200 gpd as one Equivalent User Unit (EUU). Martha said there's a range that the state considers reasonable and 200 is within that range. There was discussion about the difference between disconnection and abandonment and when a water user should be granted approval to abandon service. Jim said abandonment is a voluntary discontinuance of service subject to Board approval. Martha noted that to reconnect someone who has abandoned service would

have to go through the entire application process and may not be approved for an allocation. Win said if someone abandons service, the town would have more capacity to reallocate. There was discussion about the pros and cons of allowing abandonment. Martha said she would be in favor of allowing it in cases where there is a catastrophic event, such as a fire or natural disaster, that makes the property unusable, but not for financial hardship. Jim said the abandonment could be temporary or permanent but if it goes on for more than six months, it would become permanent and the Customer would have to re-apply for an allocation. Regarding Article 10, Win noted that he thinks capital planning is very important and, since a capital reserve fund is not required, there's no need to establish one as financing for capital projects can come from debt, accumulated depreciation or unrestricted reserves. Martha noted that statute allows for a 15% surcharge over and above O&M and debt service charges but, if we need more than 15%, we would need voter approval. Since we haven't done a capital plan yet, Martha said we don't know whether we're going to need more than 15% or not. Jim agreed that a capital reserve fund is not required but, if the Board wants to establish such a fund, they would need voter approval. Win said he doesn't see the advantage in having a capital reserve fund if we do good capital planning. Win said accumulated depreciation is the first place we should look for capital improvement funds. Win said we could also fund our depreciation. Win suggested discussing this with our accountant. Jim said there's a special exception for water systems; voter approval is not needed to set up a capital reserve fund for a water system to finance major rehabilitation, major maintenance, and the costs of upgrading the water system, and for the accumulation of funds to match federal funds. Jim suggested adding a sentence to the ordinance stating that the Board may establish a capital reserve fund under 24 VSA 3313(b), and leave it at that. Martha said she doesn't know if it's clear that accumulated surcharges cannot be used for expansion of the system unless a separate reserve fund is established for that purpose. Jim said he can get the changes discussed to the Selectboard by noon on Wednesday, if not sooner. Win said once the Selectboard has reviewed the changes, we can send the document to the advisory committee.

- 5) Consider allocating additional funds for review of Sewer Ordinance – Win said the Selectboard allocated \$1,000 for Jim's review of the sewer ordinance and he has run through that. **Win moved to authorize another \$1,000 for Jim to complete the review of the sewer ordinance. Dick seconded the motion, which passed unanimously.** Jim said it may be easier, administratively, to repeal and replace the sewer ordinance rather than amend it.
- 6) Other Business – Vacation pay for retiring employee: Cathy Archibald asked the Selectboard if she can pay Phil Hathorn for his unused vacation time this coming Monday. The Selectboard agreed.
- 7) Consider signing asset management grant agreement (if available) – Tabled
- 8) Consider signing DWSRF planning loan application (if available) – Tabled
- 9) Consider signing engineering services agreement with Aldrich + Elliott – Tabled
- 10) Sustainable Management of Rural and Small Systems workshop – **Win moved to authorize Martha to attend the workshop. Brett seconded the motion, which passed unanimously.**
- 11) Sign Town Clerk's orders – **Win moved to sign the Clerk's orders, along with a cemetery deed. Brett seconded the motion, which passed unanimously.**
- 12) Other Business – Final village sewer work: Dick asked Martha to put the revised list on the Selectboard's agenda for next Monday. Win asked Martha to email a copy of the July 10th minutes to the Landinos in response to their inquiry about their driveway. Parking lot leak: Martha said, according to Jason, Manosh may agree to excavate but, if they determine that

it's Daniels' problem or the town's problem, they're going to want to be compensated. Win and Dick agreed that they'll have to dig it up to figure it out and A+E can be the arbiter.
13) Adjourn – **The Selectboard adjourned by consensus at 6:25 PM.**

Respectfully submitted,

Martha Harrison