

West Windsor Selectboard  
Draft Minutes  
July 27, 2015

Present: Dick Beatty, Tom Kenyon, Ted Siegler, Matthew Birmingham, Kate Wanner (by speaker phone), Dave Dugdale, Amy Rusiecki (Race Director, VT 100), Jenny Kimberly (VT 100), Mike Doten (VT Adaptive Ski & Sports), Cathy Archibald, Martha Harrison

1. Call to Order – Selectboard Chair Dick Beatty called the meeting to order at 7:30 AM.
2. Changes or additions – additions to the agenda included: executive session (personnel matter), tree warden, Sheddsville Cemetery, Fourth of July, EC Fiber, DRB subdivision application requests, public assembly application (Lucy MacKenzie). For the convenience of those present, changes were made to the order in which items were discussed.
3. Anticipated Executive Session 1 V.S.A. §313(a)(1) & (2) – not needed
4. Discuss revised MOU re: Deer Run Road – Dick said he would like to modify the MOU and get it back to Mountainside’s attorney. Tom said he was expecting that the MOU would be accepted or rejected; he wasn’t expecting more negotiation. Matt agreed; he expected some modest editing, but not what they sent us. Dick noted that Exhibit 1 was not attached. In the “Agreement” section of the MOU, Dick said the road is where it is. Tom and Ted agreed that the road is not going to be moved or reconstructed and that should be clear in the MOU. Regarding #4, Dick said it should state that neither Mountainside, nor the town of West Windsor, will be obligated to bring the road up to Class 3 standards. Regarding the relocation of the dumpster, as addressed in #5, Dick said it cannot interfere with the maintenance of the roadway. Tom and Ted agreed. Regarding the fire hydrant, the Selectboard agreed that the town will install a fire hydrant after we acquire the water system, as part of the repairs to the system as a whole. Dick objected to the provisions for an easement for Mountainside to maintain their sign and landscaping. Dick noted that the town is acquiring the property with a conservation easement on it so Mountainside’s sign will have to be on their own property. Regarding the first parking lot, Dick said a town wouldn’t normally provide private parking space on public land. Kate said the conservation easement will not allow that; those parking spaces should be open to people who want to use the town forest. Dick said the last sentence in #5 should be eliminated; the town will not allow Mountainside to landscape the sides of Deer Run Road. The Selectboard did not comment on #6. Regarding #7, Dick said it should clarify that Mountainside may maintain their own parking regulations on their own land. Regarding #8, the snow dump issue, the Selectboard agreed that it’s against the law (23 V.S.A. §1126a (a)) to plow snow across the road. Ted said once Deer Run Road becomes a town road, Mountainside can’t do what they’ve been doing with their parking lot. Matt said he noted that the town will plow Deer Run Road the same way they plow any other town road in West Windsor. Dick objected to the inclusion of a date in #10 because we don’t know when we’re going to acquire the water company so we don’t know when we’re going to be able to do any of these things. Ted agreed. Ted said #10(a) should be prefaced by “In the event that West Windsor acquires the water system...” Matt noted that the term “withdrawn with prejudice” in #10 should remain in the document. Martha said we need to add back the language about voter approval. Ted agreed that without voter approval of the bond issue, none of this is going to happen. Matt said he thinks the latest draft referred to “all necessary permitting and voter approval.” The Selectboard agreed. Matt said he will re-draft the MOU for the Selectboard to review. Assuming the Selectboard is happy with it, Matt asked for and received authorization from the Selectboard to present it to Mountainside’s attorney as a final document. Ted asked Kate if TPL is okay proceeding with the acquisition without the MOU in place. Kate said if TPL is responsible for maintenance for a month or two, that’s not a big deal; they’ll hire the town to maintain it. Ted said he has no problem with the town and TPL having a side agreement. Regarding the dumpster, Kate said it cannot be located on the conservation land; the conservation easement will not allow

trash to be stored on the conservation land so that language in #5 should be taken out. Ted said if we can't work out an agreement with Mountainside, we simply inherit the existing road maintenance agreement. The Selectboard agreed to cross that bridge if we get to it.

5. EC Fiber contract – Matt was headed to Montpelier to work on the contract with Paul Giuliani. Matt said last time he spoke with Paul, Paul saw the town as the owner. Matt said he will bring a revised document back to the Selectboard for review.
6. Village sewer project update – Subordination agreements: Dick asked if there's a problem with Mascoma. Martha said she doesn't think so; the problem is with the large banks. Dick said we simply want them to subordinate their mortgage to the sewer easement; we don't want a partial release. Matt said he provided Martha with a model subordination agreement but we should consider what happens if we don't get one with the large banks, because that's the likely outcome. Dick asked if the state will accept an easement subject to a mortgage. Matt said he thinks that's the way to go. Dick and Matt agreed that there's limited risk; even in a foreclosure situation, a sensible lender is not going to foreclose the sewer easement because it adds value to the property. Matt said he will locate someone in Montpelier to talk to about the situation. Ted asked how many properties have mortgages with large banks. Martha said five. Matt noted that the General Store has a mortgage with Lake Sunapee Bank.
7. TPL's option agreement with MFW – Kate said TPL would like to separate the maintenance shed parcel and Hotel Road from the option agreement because the appraiser considers them liabilities until the environmental cleanup is complete. Kate said TPL and MFW plan to amend the original option to change the closing date to December 31, 2015, and sign a separate option agreement for the maintenance shed parcel and Hotel Road. TPL would then assign the maintenance shed/Hotel Road option to the town, immediately after TPL buys the mountain parcel. Ted said the separation is necessary to maximize the appraised value of the mountain parcel. Ted said the town will have the liabilities associated with the maintenance shed parcel but we've been told by the state that the cleanup costs will be covered by the Phase II grant or the BRELLA grant, although cleanup will probably not be complete until next spring. Matt asked Kate if TPL is preparing both option agreements. Kate said yes. Dick asked about the Base Lodge parcel. Kate said the Base Lodge is not part of either option agreement between TPL and MFW. Dick said in order for the town to get grant funds to tear down the Base Lodge, we need to have an option agreement with MFW and Snowdance. Dick said the 99-year lease by Snowdance only includes the Lodge itself and 25' around it but the town wants the option to acquire the entire Base Lodge parcel. Ted agreed. Dick asked Kate if TPL has the title work yet. Kate said she will send what she has so far to the town. Kate said it's her understanding that MFW owns the Base Lodge parcel but has transferred most rights to Snowdance. Kate said if the town secures an option agreement with MFW and Snowdance and has plans to clean up the Base Lodge in the next month or two, that may help with the appraised value of the mountain parcel. Matt asked Kate to share the option agreements that she has prepared and said he would take care of the Base Lodge option. Ted offered to discuss the Base Lodge option with MFW. Ted suggested inviting Tom Kennedy to the next Selectboard meeting so he can walk us through the funding process. Tom Kenyon said the Regional Planning Commission (RPC) is meeting tomorrow and this is one of the items on their agenda. Dick agreed to attend the RPC meeting with Tom tomorrow at noon at Martin Memorial Hall in Ascutney so we can include the correct language in the option agreement. Kate asked if the location for the new cell tower has been determined. Dick said yes; the town met with Frank Kelley last week and agreed on a location, we're just waiting for a revised drawing. Kate said the drawing will be part of TPL's revised option agreement with MFW so she'd like to get a copy as soon as possible. Dick said he will also send Kate a revised telecommunications easement.
8. Consider signing purchase & sales agreement with Trust for Public Land – Dick suggested postponing action on this item until the next meeting. Kate said the timing is important relative to the local subdivision approval. Dick noted that the second Development Review Board (DRB) meeting on the subdivision application is on August 20<sup>th</sup> and the DRB has requested additional

information from the applicant and the owner. Dick said one issue has to do with access to Mile Long Field.

9. Announcements/Public Comment - None

10. Vermont 100: post-event review – Amy Rusiecki, Jenny Kimberly and Mike Doten were present on behalf of the Vermont 100. Abutting property owner Dave Dugdale thanked the race organizers for the changes they have made over the past two years which have reduced the nuisance-level of the event. Dave said he discussed this year's event with former Selectboard member Glenn Seward in January and Glenn asked him to put up with the inconvenience for one more year with the understanding that the event would move to the resort or another location after this year. Dave said he is here to make sure that's still the plan. Ted said he believes that the closing on the resort property will go through no later than December 31<sup>st</sup>. Assuming that happens, Ted said he doesn't see why the race would not move to the resort. Amy said she's not sure there's enough space at the resort for the horses. Tom agreed. Ted asked how many horses participate. Jenny said there were 60 this year; some years there are as many as 80. Jenny said the horse committee has indicated that, if the race is moved to the resort, they're not sure that horses will be part of the race. Ted asked about the feasibility of dividing the race between the Silver Hill location and the Resort location. Ted asked what percentage of the traffic and the people are associated with the runners as opposed to the horses. Amy said 75 to 80% is associated with the runners. Ted asked Dave if dividing the race would help solve the problem. Dave said it would make it better. Amy said the Vermont 100 is the only race in the country that still includes horses and runners together so that's an important aspect of the race. Dave said there's plenty of pasture at the resort. Ted suggested splitting the race in 2016 and then bringing horses and runners back together at the resort in 2017. Dave said he and Tracey are willing to work with the town and the event organizers, provided they continue to move towards the complete relocation of the event. Mike Doten from VT Adaptive Ski & Sports, the beneficiary of the VT 100 event, noted that the size of the event has been capped so it's not growing any larger. Mike also noted the improvements to traffic. Mike expressed concern about splitting the runners and the horses. There was discussion about the suitability of the resort for horses. Ted agreed that some work would have to be done to make the area around the East chair accessible for horse trailers. Jenny said they would also need water. Given that it takes a year to plan the event, Mike was concerned about what happens if the purchase of the mountain property falls through. Ted said the fallback position would have to be holding the event in the Silver Hill location again. Ted said the Selectboard is committed to this event but some things are out of their control. Dick noted that if the town acquires the Base Lodge and has it razed, that parcel will not be encumbered by the conservation easement. Mike asked the Selectboard to consider allowing the event to remain at the Silver Hill location if it becomes clear that the resort location is not going to be available. Ted asked Martha to check with John Roe to see if the conservation easement will allow horse trailers on the lower ski slopes. There was discussion about race route options at the resort location. Mike said they ask every landowner for permission so there's a lot involved in re-routing the race. Amy asked for a map of the property. Martha said she will send one. Ted said the proposed multi-use double track trail running from the resort to Kimball Farm Road could be part of the race route but a bridge suitable for horses needs to be constructed. Jenny asked about routing the horses through Mile Long Field if the bridge has not been constructed yet. Martha said they'd have to get permission from the landowner. Mike asked if the town is expecting the Base Lodge to be razed and cleaned up by next year. Ted said that would be the goal but we have to have an option agreement with the owner, get federal funds, have an environmental assessment done, and then have the building razed. Ted said the town is just starting the process so we don't know how long it's going to take. Mike said it sounds like the event organizers should plan on splitting the race next summer. Ted encouraged the VT 100 to come back with a public assembly application in October or November. Ted said, according to Tom Kennedy, the RPC is setting aside funds to help with the demolition of the Base Lodge.

11. Water system update & request for additional lighting – Martha said everyone seems to agree that we've run out of time to proceed with our current plan for the water system and get it done this year, so we have time to consider what alternatives might be available if we acquire the Base Lodge. Ted asked if, in the interim, there are things the town can do to improve the situation for the water system operator. Martha said the operator definitely wants better lighting. Ted asked about heating. Tom said if AT&T moves out, there's no heat. Ted asked when AT&T plans to construct a new tower. Martha said she thinks it's a year or two down the road but she'll ask Frank Kelley. Ted asked Martha to see if Patricia Beavers needs anything else besides lighting. Tom said Dennis Brown has requested pallets on the floor. Tom said he's concerned about mold. Martha agreed but said there's no way to remediate that under the current conditions. Dick agreed that we should check with Patricia and Dennis to see what they need to continue their work until the situation is resolved. Ted asked Martha to contact the State Electrical Inspector about extending the temporary permit. Tom asked where we stand with the Public Service Board (PSB). Dick said they were supposed to have a hearing but Nate Stearns requested a continuance. Tom said he thinks we should just proceed with the hearing. Dick said that is the recommendation from the Utility Advisory Committee (UAC).
12. Utility Advisory Committee (UAC) recommendations - Dick said the UAC does not want the Selectboard to permit the disconnection of the Cunningham Building. Dick said he thinks we should go ahead and approve it. Ted and Tom agreed. **Ted moved to approve the disconnection of the Cunningham Building as of August 2014. Tom seconded the motion, which passed unanimously.**
13. Consider revisions to Sewer Ordinance proposed by Utility Advisory Committee – Dick said he's not sure we should make modifications at this point. Tom noted that the Mountainside Condo Association is not connected to the sewer system so he doesn't understand why they should be represented on the Sewer Advisory Committee. Martha said she doesn't think Snowdance has any sewer connections either. Dick recommended taking the proposal under advisement. Martha registered her concern about the proposed addition to Section 4.02 relative to the village sewer project. **Tom moved to take the Utility Committee's proposal with regard to the Sewer Ordinance under advisement. Ted seconded the motion, which passed unanimously.**
14. Village sewer project update – Loan: Martha said we're waiting for approval on our CWSRF construction loan.
15. Address requests for modifications to sewer connections - Phillips property: Tom noted the possibility of an additional septic tank on the former Brownsville Garage property. Ted asked about the status of the easement for that property. Martha said we're waiting on a letter from the owner's attorney. Tom described an alternative sewer connection for the property. Landino barn: Tom said the Landino's barn is beyond the 200' mentioned in the ordinance and the only thing they have out there is a washing machine. Martha said, according to A+E, the whole sewer main along Brownsville-Hartland Road would have to be dropped 3 or 4 feet to accommodate a connection to the barn. **Tom moved to deny the request to connect the Landino's barn given that it is more than 200' from the line and the cost to connect it would be extravagant. Ted seconded the motion, which passed unanimously.** Equivalent users: Tom asked how the # of equivalent users was determined for the store. Martha said A+E took into consideration the number of seats in the restaurant and that sort of thing. Tom said the store owner is concerned about the annual sewer fee. Ted said once the store is connected to the sewer system, the limitations on the number of seats should go away. Other easement issues: Regarding the easement for the sewer main over MFW property, Martha said A+E is talking to MFW's solar consultants and she will contact Dan to see if his attorney has reviewed the documents, which the town is paying for as part of the project. Dick asked Martha to let Dan know that the disconnection of the Cunningham Building has been approved. Phillips property: The Selectboard discussed options for connecting the Phillips property and asked Martha to contact A+E and find out why they're reluctant to have the town present the options to the property owner. Sykes: Tom

said we need to send it down to Florida for Leanne's signature and get a copy of the Power of Attorney.

16. Consider water leak repair proposal – A repair proposal was not received.
17. Consider negotiating real estate option agreement for Base Lodge – See item #7 above.
18. HMGP project update – Martha said Paul Donohue will do the title search this week and then the ball is in Matt's court.
19. Highway Foreman's Report - None
20. Drainage issue: Shattuck Hill Road – Tom said storm water is running onto Gretel Schuck's property. Tom suggested a solution. Dick asked about Mike's opinion. Tom said he has not talked to Mike yet. Ted agreed that the town should fix the problem if we're dumping water onto Gretel's property.
21. Highway access application: Cowshed Trail (near intersection with Cemetery Rd.) – Martha said the applicants are meeting with Mike tomorrow morning so the Selectboard could consider tabling this until their next meeting. Tom said the abutting property owner is concerned about any septic system that may be constructed flowing into their wetland. **Tom moved to table consideration of the application. Dick seconded the motion, which passed unanimously.**
22. Reports from Conservation Commission and Town Forest Committee on Draft Conservation Easement for Town Forest – The Selectboard noted receipt of an email from Cathy Boedtger, who is concerned that committee members who were involved in the drafting of the conservation easement should not have voted on recommending its approval to the Selectboard. Dick said both committees and the public have had the opportunity to meet with John Roe to discuss the easement but the Selectboard should have a final public meeting on it. Ted said we have a fourth draft that includes the comments from the committees and, even though it's not final, he feels comfortable enough with it to sign the purchase and sales agreement with TPL. The Selectboard agreed to invite public comment on the conservation easement at their August 24<sup>th</sup> meeting at 6:30 PM.
23. Discuss telecommunications easement and re-location of AT&T cell tower – The town is waiting for a revised sketch from Frank Kelley.
24. Request that abutters be notified when public assembly applications are on the agenda – Martha suggested putting more information - such as the date, location and type of event - on the agenda so people who live in the area can come and express any concerns they may have. Martha said notification could be problematic in situations where there are hundreds of abutters. The Selectboard agreed to include more information on the agenda
25. Town Hall Recycling – Martha said it's after July 1<sup>st</sup> and she doesn't know what she's supposed to be doing with her paper recycling. Ted said waste haulers are supposed to supply a separate container for recycling. Ted suggested talking with the school about sharing their dumpster. Cathy said she has been taking the trash to the transfer station for fifteen years. Ted asked Cathy if she'd like to change that. Cathy said sure. Cathy asked who is going to haul it from the town hall to the school if the school agrees to share services. Tom volunteered to haul it.
26. Fourth of July police services expense – Dick said he thinks the Selectboard voted to pay the expense. Tom said no; we agreed to "cover" it. Tom said he was led to believe that the Fourth of July Committee didn't have any money but they have \$4,000. **Tom moved to pay the \$182 police services bill with funds from the Fourth of July Committee. Ted seconded the motion, which passed unanimously.**
27. Zoning Administrator's office hours – **Ted moved to approve the Zoning Administrator's request to have office hours from 9:00 AM until 4:30 PM on Thursdays. Tom seconded the motion, which passed unanimously.** Martha noted that people can call Preston or email him when he's not here, and leave applications for him to pick up next time he's in.
28. Executive Session – **Tom moved to go into executive session to discuss a personnel matter. Ted seconded the motion, which passed unanimously.** Following discussion, the Selectboard came out of executive session by unanimous consent, with no action taken.

29. Sign Town Clerk's orders – The Selectboard signed the town clerk's orders. Ted noted the \$2,000 increase in the annual cost of police services from Windsor Police Department.
30. Town Clerk/Treasurer's Report – Cathy had sewer easements for Dick Beatty to sign on behalf of the town. **Tom moved to authorize Dick to sign the easements. The motion passed unanimously.**
31. Other Business – DRB memorandum: Dick noted that the DRB has requested additional information from the town and the property owner, including the book and page on the 50' ROW accessing Mile Long Field from Route 44. Ted said if we need to hire someone to provide that information, he has no problem doing that. Tom agreed. The Selectboard suggested that the town hire Paul Donohue to do that search for us. Dick said the DRB would also like an update on the status of the burned out lodge. Martha said when MFW requested disconnection from the sewer, they said they would tear the lodge down within three years. If we have that in writing, Dick suggested giving it to the DRB. Dick said they also want to know if the subdivision was part of the Act 250 application. Martha said that's what the Act 250 application is for – the subdivision. Dick said they also want to know if there is a second access of record off Mts. Edge Road. Martha said they mean Mountainside Drive. There was a ROW going through the property that Glenn purchased, and Glenn and Dan had discussions about changing that ROW, but the change has not been reviewed or approved by the DRB. However, Martha said, if there is an existing legal access, a second access is not required. Dick asked Martha to follow up on that. Dick asked about the width of the ROW off Mountainside Drive. Martha said she will check. Dick said the DRB may also condition their approval on AT&T surrendering their utility easement on Lot #3. Dick said the easement will be in favor of MFW or Snowdance. Martha noted a sub-lease as well. Dick said he thinks the DRB wants to know if the old tower will come down when the new tower goes up. Martha said that could be a difficult question to answer. Dick said the DRB also wants detail maps of Lots 2, 3 and 4. Martha said she will check with Bob Farnsworth and see what he has. Dick said the DRB hearing will reconvene on August 20<sup>th</sup>. Tree Warden: Tom said there were three trees removed on Banister Road to facilitate the EC Fiber project but the work was not completed as agreed so Tom will negotiate the payment accordingly. Tom said there are also 52 trees on Rush Meadow that should be removed. Tom said he has one estimate but he'd like to get one or two more. Dick agreed that he should get more estimates. Sheddsville Cemetery: Tom said the work on the wall at Sheddsville Cemetery has begun, and he has authorized some de-stumping. Permission to Collect Taxes: Cathy asked the Selectboard to sign a document authorizing her to collect taxes, which they did. Public Assembly – Lucy MacKenzie: Martha said Lucy MacKenzie applied for a permit for a BBQ for their volunteers on August 20<sup>th</sup>. Dick noted that the Selectboard just decided to provide more information on public assemblies before approving them. Public Assembly – Landino wedding: The Selectboard agreed to put both public assembly applications on the agenda for August 10<sup>th</sup>.
32. Approve Minutes - July 13: **Tom moved to approve the minutes of July 13 as written. Ted seconded the motion, which passed unanimously.** July 21: **Tom moved to approve the minutes of July 21, as amended. Ted seconded the motion, which passed unanimously.**
33. Adjourn – **Ted moved to adjourn at 10:22 AM. Tom seconded the motion, which passed unanimously.**

Respectfully submitted,

Martha Harrison