

## WEST WINDSOR SELECTBOARD

Draft Minutes

March 3, 2012

Present: Glenn Seward, Tom Kenyon, Bruce Boedtke, Joe Duncan, Al Keiller, Hal Pyke, Ron Juneman, Mark Isenberg, Bill & Sylvia Young, Shirley Ouelette, David Jaacks, Dennis Brown, Phil Arvidson, Barbara Gerstner, Jim Kenyon, Bill Ley, John Cocke, Edson Pierce, Arthur & Freddy Steinberg, Tracey Dugdale, Ed & Jennifer Connors, Dave & Audrey Halpert, James & Cynthia Stacey, Gerry & Mary Kay Cronin, Ken Burke, Gary Burke, Ted Siegler, Peter Ferrick, Shannon Harrington, Joy & Jim Axten, Barbara Truex, Deb Shearer, Steve Bodley, Ken Parrot, John & Mary Bossen, John Bartholomew, Robin Shaffer, Mary McNally, William MacEachern, Lee Eastman, Judy Pierce, Shelley Seward, Win Johnson, Elvin Kaplan, Claudia Sacuk, Meg Clough, Ashley Pakenham, Don Robisky, Mike Gannon, Nancy Gaynor, Chris Oliver, Tom Olivero, Johnnie Jones, Barbara Matteson, Bob Gray, Jim Bertrand, Mark Morse, Brian & Pat O'Neill, Si Allen, Lindsay Robbins, Amy Manhardt, Robert Morgan, Ann Burke, Mary Berry, Bob Norris, Elna Kuhlmann, Robert Searle, Martha Harrison

- 1) Call to Order/Introduction – Planning Commission Chair Hal Pyke announced the purpose of the meeting and introduced the members of the Planning Commission, the Wastewater Committee and the Selectboard. Hal also introduced A&E engineer Joe Duncan. Hal noted the Australian ballot vote on March 6<sup>th</sup> and read the two articles related to the sewer acquisition. Voting will take place from 10:00 AM until 7:00 PM. Hal said there are additional investigations and negotiations that need to occur before the town and the owner of the sewer system can agree on a purchase price but that work cannot be done without an affirmative vote. Hal said this is one of the most important issues facing West Windsor; it affects the sale of the Ski Area, as well as property values. Purchasing the sewer line would also allow the town to eventually connect the village of Brownsville to the system, which would allow for development in the village. Falling property values will result in higher tax rates. Hal asked those present to hold their questions until after Joe Duncan's presentation.
- 2) PowerPoint presentation – Joe said Aldrich & Elliott (A&E) was retained by the town to assess the general condition of the system. Joe described the system and said the town is interested in acquiring those portions of the system that are currently owned by Snowdance. Joe said, according to Snowdance, Mts. Edge Condo Association owns their collection system, and the upper loop of the system is also privately owned, but the legal ownership of the system will need further investigation. Joe said the system is in good working order although there are improvements that need to be made. Joe said an additional, higher cost assessment of the system will need to be done but it doesn't make sense to incur those expenses if the will of the people is not to move forward with the acquisition. Joe said A&E looked at the pump stations and the manholes and identified about \$100,000 worth of necessary improvements, but they have not yet investigated the condition of the force main. Joe said legal and engineering fees will be included in the \$500,000 expenditure. Joe said system users are currently paying \$1100 per year. The estimated cost per user if the town acquires the system is about \$900. Joe said if the costs to the users can't be reduced, that would be a deal breaker and the town would not move forward with the acquisition. Joe said it would make sense for Windsor to acquire the portion of the system that is located in Windsor, which would affect the bottom line. Joe described the bond authorization. Joe said the intent of the town is to have a reliable entity running the system. Joe described the loan for which the town is eligible. Joe said, if the article passes, to move forward with negotiations, the town would have to incur approximately \$75,000 in legal and engineering fees. Joe said if negotiations fail and that money has been expended, the town can use a 5-year, 0% clean water SRF planning loan, to cover those expenses, which would have to be paid back by the taxpayers, not just the users of the system. Glenn asked Selectboard members Tom Kenyon and Bruce Boedtke and Wastewater Committee Chair Al Keiller for their comments. Bruce said this is one of the most important issues facing our town. The sewer system impacts our economic stability and growth and it's important that we take control of our destiny. Bruce said, even though the users will be paying for it, this affects everyone in town, and we can't stand by and do nothing. Bruce asked the voters for their support. Tom Kenyon said he is totally in favor of acquiring the sewer line. Al Keiller urged everyone to vote in favor of the acquisition. Al agreed with Bruce that it

is the most important issue to the town and is an important investment with limited risk. Al said having control over the sewer line will be an important factor in moving forward with improving the wastewater situation in the village. Glenn disclosed that he is a member of the Ascutney Property Owners Association (POA) and that he has private water and sewer. Glenn reported on the Selectboard's contacts with various user groups, business owners and a prospective purchaser of the Ski Area. Ron Juneman from Orange Lake thanked the Selectboard for all the work they have put into this issue. Ron said Orange Lake is the largest taxpayer in town and, although they don't have any votes, they support this effort. Ron said Orange Lake has full confidence in the Selectboard. Ron said, as the largest single user of the sewer system, Orange Lake provides 38% of the revenue for the system. Having the system in private hands and seeing them go bankrupt is not healthy for Orange Lake's business or for the town. Ron said he has spoken with Windsor's town manager and knows that Windsor's economy has suffered as a result of issues related to the sewer system, real estate and the ski area. Glenn said the Selectboard met with the POA in late January and they did express some concerns, including a concern that the town would spend too much money on the system. Glenn said the POA was also concerned that the acquisition would hamper the POA's efforts to seek redress for past actions by Snowdance relating to the utility. Glenn said the minutes of the Selectboard's January 28<sup>th</sup> meeting with the POA are available to the public by contacting Martha Harrison. Glenn said the board of the Mts. Edge Condo Association, which represent 72 users, "unanimously endorses" the acquisition. The Windsor House Condo Association (WHCA), which represents 18 users, wrote: "We believe the town taking ownership of the sewer system will help with any proposed purchase of the ski area; therefore the board of WHCA fully supports and endorses the town taking ownership of the mountain sewer system." Glenn read a comment from General Store owner Amy Yates: "I am squarely behind the town's negotiation to acquire the Snowdance sewer system. As a business owner in West Windsor, I believe strongly that separating the sewer system from the ski area makes the ski area a significantly more attractive acquisition." Glenn also had a letter from a prospective buyer of the Ski Area, who would like to remain anonymous. The letter reads as follows: "As you know, I represent a group of top ski area industry executives. We collectively have a strong interest in acquiring the Ascutney Mountain Resort for the revitalization of the ski area and for the welfare of the local community. Over time, our pursuit to acquire the ski area has come across several hurdles and there are a number of concerns, the sewer line being one of them. The Town of West Windsor taking over the management and operation of the sewer line would alleviate one of our concerns and could very likely lead to our end goal: a new Mt. Ascutney Ski Area." Bill Ley asked if there have been any discussions with Snowdance and if the town approached Snowdance or Snowdance approached the town. Glenn said the town approached Snowdance and they are willing to discuss this acquisition. Conservation Commission Chair Ted Siegler said the Conservation Commission voted unanimously to endorse the acquisition. Ted said there are pollution issues in the village of Brownsville and resolving those issues is critical to the future of the town. Ted said right now there is no way anyone can develop a business in the village because there is no wastewater capacity. Ted said the owners of the system have treated it as a profit center rather than a service and there appears to have been quite a bit of deterioration. Given that the Selectboard is responsible for public health and welfare, Ted said, he doesn't think the Selectboard has any choice but to pursue this. Ted said if the Resort sewer system were to fail, the Selectboard would have the responsibility to step in and do something. Ted said he is strongly in favor of the acquisition and would urge everyone in town to vote in favor of it. Previous Selectboard Chair Phil Arvidson agreed with Ted's statements and said he thinks the choice is between doing something and doing nothing, and he supports the Selectboard's decision to try to do something. Jennifer Connors said it seems like there are a number of unknowns. Glenn agreed that additional investigations need to be done but the Selectboard hopes to keep the costs to a minimum. Glenn said there are certain requirements that need to be met in order to be assured of state funding. Jennifer asked about the 0% loan for planning associated with the acquisition. Joe said if the voters are not interested in moving forward with this, then it's not worth investigating a privately owned sewer line. Bruce said the majority of the evaluation costs would be to "pig" the line. Bruce explained what pigging means in this context. Bruce said he would not be in favor of spending that money until the town had a purchase and sales agreement with Snowdance. Bruce said the results of the evaluation would have value so, even if the sale falls through, that information could be sold to whoever buys the system. Ashley Pakenham asked about the

big picture, and about how sewage is handled now and how it will be handled in the future. Glenn said the ski area is dormant and the Selectboard feels that the sewer situation is a factor. In addition, Glenn said, the village wastewater study has identified serious pollution problems and it would be irresponsible to ignore those problems. Glenn said the only practical solution is to hook the village into the sewer line that runs to Windsor. Glenn said if the sewer remains in private hands, that would not preclude the village from connecting but the town would have to negotiate a price and would not have control of the system. Glenn said all the properties in the village have on-site septic systems except the library, which has no septic system. Glenn said if we don't provide a solution, there can be no future development in the village. Glenn said the primary concern right now is to get the ski area sold and to address the concerns of the 270 property owners who are already connected to the system. Glenn said if the sewer line extends into the village at some point, the cost burden could be shared by more people but we're not asking the current users to bear the cost of an expansion into the village. Ashley asked if other ski areas own their own systems. Joe said Killington and Sugarbush have their own systems but Okemo ties into Ludlow's system. Joe said right now the town has no control over the sewer system so they're at the mercy of the private landowner with regard to connections and rates. Joe said the town is also looking to provide stability. Bob Morgan talked about the Erie Canal and the effect of the sewer issue on property values. A member of the POA who lives in Old Lyme, CT spoke about a pollution issue there that the town would not deal with until the residents forced them to address it. She asked why the town is not attempting to acquire both the sewer and water systems, and also asked who is responsible for the collection system above Mountain's Edge. Joe said it is the town's understanding that the property owners are responsible for that collection system, but the ownership issue needs to be investigated. Bruce said if Snowdance doesn't own that section, the town can't buy it from them. Bruce added that the town would not rule out acquiring that section at some point in the future. Regarding the acquisition of the water system, Glenn said the Selectboard has their hands full dealing with the acquisition of the sewer right now. Glenn said the water system is under the auspices of the Public Service Board (PSB) so there are some protections in place for the users. Ted Siegler compared the sewer situation with the bridge situation on Yale Heights Road ten years ago. Tracey Dugdale said it's absurd to ask the people on the upper loop to help pay for the acquisition of the system if their portion of it is not being acquired. Tracey suggested that the town find out who owns the upper loop and then buy the whole thing. Bruce said the Selectboard is going to try to get to the bottom of the ownership issue, but all the property owners are using the main sewer line to Windsor, regardless of which collection system serves their property. Tracey said she is not opposed to acquiring the sewer system but she is opposed to doing it partially and leaving a group of people out there with no recourse. Gary Burke said Article #2 is illegal because you can't vote on selling something that you don't own. Gary said a number of years ago, the town passed an article requiring anyone with a sewer problem, past, present, or future, to fix it themselves. Gary said we need to spend a lot of money on the roads because they don't have enough material. Gary said last year someone called him about buying the ski area and, at the last minute, the current owner backed out. Glenn said the town's legal counsel reviewed and approved the two articles related to the acquisition and sale of the sewer line. John Bossen said nobody should believe that West Windsor is going to get any money for the sewer line from Windsor. John said the upper loop property owners have a legal opinion indicating that they do not own that portion of the sewer collection system but, if it is proven that they do own it, they will not charge the town to take it over. Gary Burke said if each of the 270 users contributes \$2,400, they can buy the sewer line and pay for the upgrades. Glenn said the Selectboard is not opposed to taking over the upper loop but there are ownership questions that need to be answered. Glenn said the Selectboard would like to own the system in its entirety to simplify things but they need to establish the ownership and condition of the upper loop. Someone asked about the membership of the POA. Glenn said there are multiple factions within the POA. The questioner asked if there is consensus among the factions. Glenn said he doesn't think anyone has polled the entire POA but the Selectboard has spoken with each of the member groups within the POA and the general consensus is that they would like the town to continue with their efforts to acquire the system. John Bossen said the Selectboard met with the POA after the articles were warned and it was too late for the POA to do anything. John added that the voters should know that the POA did not ask the town to acquire the system. John said the POA had a plan to address this issue a year ago and, at that time, the town supported their plan. John said if the vote

goes through, he will work with the Selectboard to address the POA's issues and, if the vote doesn't go through, the POA is prepared to move forward with their original plan. John said the POA would like the town to acquire both the sewer and the water and to meter the usage. John said it's true that Orange Lake supports the town's acquisition of the sewer, but they also want the town to acquire the water system. John said the Mountain's Edge owners support the town's acquisition of the sewer but almost half of the them have also contributed to the POA's legal fund. John said the POA was concerned that the Selectboard did not ask for their input until after it was too late to make changes. John said West Windsor voters outside of the Resort who are not served by the sewer line are determining the price that the users have to pay for the system. John said Snowdance has debts, including escrow money paid by the users, \$80,000 in sewage treatment fees owed to Windsor and \$60,000 in electricity charges owed to CVPS. John said WASTE gave \$40,000 to Snowdance for water bills and that money has to be repaid to the escrow account. John said the POA is concerned about the \$500,000 price tag for the sewer system which was established without input from the POA. John said the permits specifically state what the value is and it's not \$500,000. John said the POA is concerned about the maintenance needed; how much is due to neglect and how much is normal wear and tear. John said the POA members are concerned about the expansion of the sewer line into the village, which could cost as much as \$2 million. John added that the POA members have been hit the hardest by falling property values. Glenn said the Selectboard welcomes the POA's input. Glenn acknowledged that it is unfair that everyone in town is voting on something that will only affect the POA members financially but that's something that happens at every town meeting with the town, highway and school budgets. Glenn said the price of the system has yet to be determined although Joe Duncan has estimated the value to be between \$300,000 and \$400,000. In 1986, in an Act 250 permit, Glenn said, the system's replacement value was \$1,095,000. With regard to the POA's issues with Snowdance, Glenn said he is concerned that the POA has not chosen legal means to address those issues. Glenn said the expansion of the system into the village would not happen without voter approval. Dave Halpert said he thinks the voters need to trust the Selectboard to work out the details. Tom said he is responsible for Article 2. Tom said he envisioned Windsor maintaining the line in return for buying their section of it over time. Tom said Windsor is very interested in owning their section of the line. Glenn said the Selectboard would ask the POA to be involved with operations & maintenance, rate structure, and treatment cost negotiations. Ron Juneman said he, Glenn, John Bossen, and others have been trying to address this issue for over a year and a half. Ron said Orange Lake applauds the Selectboard for taking control of this issue. Ron explained that some of the Resort property owners are sewer users only, some are water users only, some are both, and some are neither. Ron said Orange Lake and Mountain's Edge combined total 66% of all the users. Ron said he has spoken with Windsor's Town Manager and Windsor's economy is suffering because of the conditions at the Resort so they are as anxious for this to move forward as we are. Ron said the objective is to get Snowdance out of the utility business because they keep raising rates without a fair basis. Ron said Orange Lake would like the town to acquire both the water and the sewer but it's not a deal breaker if the town doesn't acquire the water. Ron said it's his understanding that Snowdance would fully fund the escrow account as a part of this deal. Ron said the alternative plan to form a fire district would require the Selectboard's involvement as well so, either way, it comes back to the Selectboard. Ron said it's time to move forward and work through the issues. There was a question about whether the Windsor sewage treatment plant can handle the expansion of the sewer line into the village. Glenn said yes; the system was initially designed to accept waste from the village at some point in the future. Glenn said the Selectboard has had continuing conversations with Windsor town officials. Glenn said the treatment cost contract is in limbo but, right now, the amount charged by Windsor for treatment is \$483 per user per year. If West Windsor acquires the line, Glenn said, the Selectboard will have to negotiate the best possible rate for the users. Meg Clough had a question about the Town Report. Glenn said none of the \$500,000 would be used for anything that has to do with expanding the line into the village. Glenn said the town received funding from the state to study the wastewater issues in the village but that is a separate issue and that money only needs to be paid back if the town moves forward with an expansion of the sewer line into the village. Tom said West Windsor's eligibility for a low interest \$500,000 loan from the state resulted from the town contacting a number of state officials, including the Governor, about the situation. Al Keiller and Joe Duncan confirmed that the village wastewater study and the sewer line acquisition are two

separate issues. Mike Gannon said, before the acquisition goes through, he would like a determination on the ownership of the upper loop and a commitment by the Selectboard to acquire the upper loop from whoever owns it. Glenn said the Selectboard is not saying that the town will not take over the upper loop but the Selectboard is looking to the interested parties to provide ownership documentation. Glenn said the Selectboard already has a commitment from the POA President that any deficiencies within the upper loop would be addressed. Arthur Steinberg noted that none of the restaurants that used to exist in town can be reestablished because there isn't enough wastewater capacity. Likewise, Arthur said, the school can't have a cafeteria, the resort is having problems and property values are falling. Arthur said he is strongly in favor of the acquisition of the sewer line assuming that the Selectboard can negotiate a reasonable deal with Snowdance. A sewer system user pointed out that the article on the warning references the sewer line and associated collection system and does not specifically exclude any portion of the collection system. The system user noted that he lives on the upper loop and questioned the fairness of having to pay for a repair at the upper end of the line himself if all the users would have to pay for a repair at the lower end of the line. Glenn said the ownership of the upper loop needs to be established. Glenn said if Snowdance owns the upper loop, it will be included in the purchase, subject to certain upgrades if it is found to be deficient. Glenn said the POA will be involved in the negotiations and the users will have ample opportunity to voice their opinions. The system user asked if the upper loop owners would have to pay for a major repair to the upper loop if such a repair were necessary before the town would take it over. Glenn said yes. David Jaacks asked if the town would require people who are not currently connected to the line to connect. Glenn said no but, in the event that someone in close proximity to the line has a failed septic system, it's possible that the state government would strongly suggest a connection to the line as opposed to another on-site system. Representative John Bartholomew said he is impressed with the leadership of West Windsor. John said the implications of this issue extend far beyond the town; it affects both the surrounding communities and the state. John spoke about the need to resolve this issue.

3) Adjourn – The meeting adjourned by unanimous consent at 12:07 PM.

Respectfully submitted,

Martha Harrison