

SOUTH ALBURGH FIRE DISTRICT NO. 2  
ALBURGH TOWN SELECT BOARD  
SPECIAL MEETING  
Monday, March 21, 2022 at 6:00 PM  
Municipal Conference Room

Alton Bruso, Donna Boumil, Josie Henry, Elliot Knight, Shawn Creller, John Fitzgerald, Danielle James Choiniere, Richard Ernst, Tony Speranza, George Boutah, Bob Brown, Charles Mackin, John Chesarek, Cheryl Dunn, Charles Kelly, Michele Kelly, Brian Bessette, Michael Poquette, Lance & Lisa Newman, Tom & Kelly Ward, Galen Hagen on Zoom, and others

No motions by either board were made at this meeting.

Select Board Chair Josie Henry opened the meeting at 6:05 held to address concerns about municipal water by some residents living on Route 129.

Charles Kelly and Brian Bessette presented a slide presentation (*hard copy attached to these minutes along with fishbone timeline*). They did not want their leg of the town to be pushed aside to obtain reliably potable water. They felt there were Open Meeting Law and other breaches with operating procedures.

Josie asked if people in the fire district were paying money toward it and the district's board confirmed yes, everyone in the fire district pays \$15.25 toward repayment of an engineering loan resulting from district voter bond vote approval in 2004. The State of Vermont allowed it to be rolled into the Phase I water project costs, rather than billing district residents for the \$575,000 engineering costs over five years. (*Scribe's note: by statute as a municipality, fire districts have the right to levy taxes and monies to operate which their voters vote on each year*).

Cheryl Dunn as Chair of the Village Trustees stated she was helping the fire district before it was even created by the State of Vermont. The fire district buys their water from, and works with, Alburgh Village. Their water plant is capable of handling expansions.

When asked, two members of the fire district's board have water, one does not, and neither does their treasurer. After receiving municipal water from Phase I, said members have continued to serve the board.

Lisa Newman stated after moving to Alburgh in 2005 she was approached to pay \$1,500 for municipal water then. Municipal water for her location has yet to happen and she asked why this isn't a town-wide project, instead of a fire district? Cheryl Dunn explained the town select board did start the process (having to create the fire district).

Brian Bessette explained he had provided information to the fire district, on more than one occasion, for project funding. Galen Hagen of DuBois & King had applied to be on a priority list for funding by the Vermont Drinking Water State Revolving Fund; knowledge of the application provided by Brian Bessette.

Galen did specify applying required a preliminary design and could be a loan versus grants<sup>1</sup>. He also went into detail why Phase II was cheaper to reach a similar number of residents along Route 2 than 129. And that if bidding and construction were started this year, it would be completed in 2023 or 2024 for 8 miles of pipe and infrastructure.

Tom Ward asked engineer Hagen what the probability was Phase II would happen. Galen Hagen responded final design is at 60% and they are currently working with VTrans for working along Route 2 (a state road). Archaeology and wetland studies are done.

Charles Kelly asked Galen Hagen if he had heard of the Corel(sp) methodology? New Hampshire does a lot of this practice with the Army Corps of Engineers. It's a technique of burying pipe above the frostline. Galen expressed he

knew of the procedure, just not the technical term. 5-feet is the typical frost line. The engineer said it could benefit in some instances (like ledge) but not wetlands.

Brian Bessette asked if updated cost estimates were available, and Galen said not yet. John Chesarek asked if wetlands were managed by federal or state? Galen was not a wetlands specialist and did not know, but that permits were required for work in or around wetlands.

Melissa Long on Zoom asked why broadband internet and municipal water wasn't a town-wide issue, and if water plans existed for Summit Road. Chair John Fitzgerald said there has been some for those close to Route 2, but that there are not many homes on Summit Road, but a valve was included to be placed near its entrance and Route 129 for the future.

Shawn Creller asked about wetlands crossing before Wagner Point on Route 2. Galen Hagen said the design called for avoiding some wetlands when possible, to save permitting and construction costs. The area specified by Shawn is also much smaller than Route 129 wetlands.

Bringing water to Route 129 can be done with funding, which may or may not require another bond vote, and preliminary engineering (some of which has already been done).

After interruptions and comments about working together, Tony Speranza exited the meeting. Some members of the public and Elliot Knight reiterated we all must work together because everyone wants clean drinking water. Municipal officials, as largely volunteers, have some thankless jobs and each resident's help can make a difference.

Lisa and Lance Newman asked if work to help a Phase III could be started now, that Route 129 couldn't wait another eight years. John Fitzgerald said money and grants. None on the district board are grant writers. Josie Henry replied that could be a task for the Executive Assistant to the Town Select Board. John Chesarek asked about procedures and moving forward. Cheryl Dunn said water is important to her and Alburgh Village is in support of the South Alburgh Fire District. We need to help each other!

Meeting adjourned at 8:18 PM.

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South Alburgh Fire District #2's usual 6:30 monthly meeting was pushed to 8:25 PM after the prior meeting ended. John Fitzgerald, Alton Bruso, Richard Ernst, Cheryl Dunn, and Danielle James Choiniere attended. John Fitzgerald called the meeting to order at 8:25 PM. Agenda adjustments included eliminating some normal business they had scheduled which another meeting had extended into.

Alton Bruso motioned to pay Endyne \$50 for water testing, Danielle \$360.66 for February admin. pay, \$342.50 to insurer VLCT Property & Casualty for general coverage, and \$23.20 to treasurer Richard Ernst for stamps. John Fitzgerald seconded, all in favor. So approved. They also reviewed Richard Ernst's treasurer's report.

Alton Bruso motioned to accept all minutes, with amendment to January 18<sup>th</sup> minutes with Charles Kelly suggestions and Danielle's clarification. John Fitzgerald seconded, all in favor. So approved.

John Fitzgerald motioned to adjourn at 8:50 PM. Alton Bruso seconded, all in favor. So adjourned.

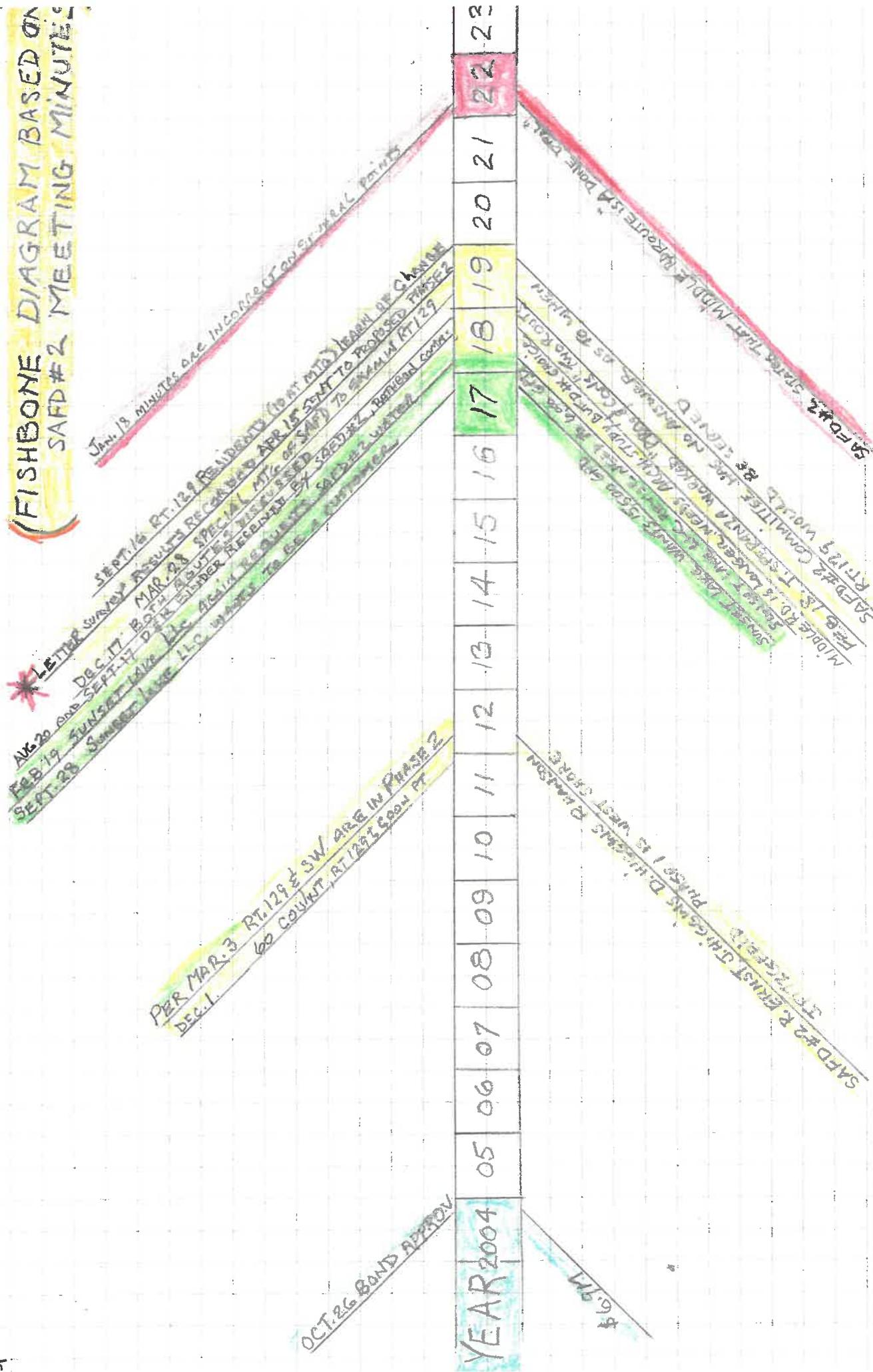
Respectfully submitted,  
Danielle James Choiniere

*These minutes are draft only, not slated for approval until the next board meeting in April.*

<sup>1</sup> (*Scribe's note: Danielle James Choiniere also reached out to USDA Rural Development, who had recently advertised infrastructure monies were available for certain projects. It was to try to gain even more grant money from Rural Development than what the fire district had already received. Rebecca Schrader, Lead Community Programs Specialist, VT/NH of Rural Development, said "At this point, if you received additional grant funds (whether from us or other sources), it would reduce the grant from us that has already been awarded. You need to use all the loan funds, then all the grant funds, before you can receive additional grant funds."*)



## SAFD#2 DECISION TIMELINE, Rt. 129 vs. CHANGE to MIDDLE Rd





# **RESIDENTS OF THE SOUTHWEST CORNER OF SAFD2 HAVE BEEN ELIMINATED FROM PHASE 2**

**ADDENDUM EXPLAINED JAN. 10, 2022 BY SAFD#2 REGARDING TOWN  
WATER EXPANSION PROJECT, PHASE 2 LEAVES RESIDENTS IN THE  
SOUTHWEST CORNER LEFT OUT AND WITH CONCERN FOR THEIR  
FUTURE SAFE DRINKING WATER SOURCE**

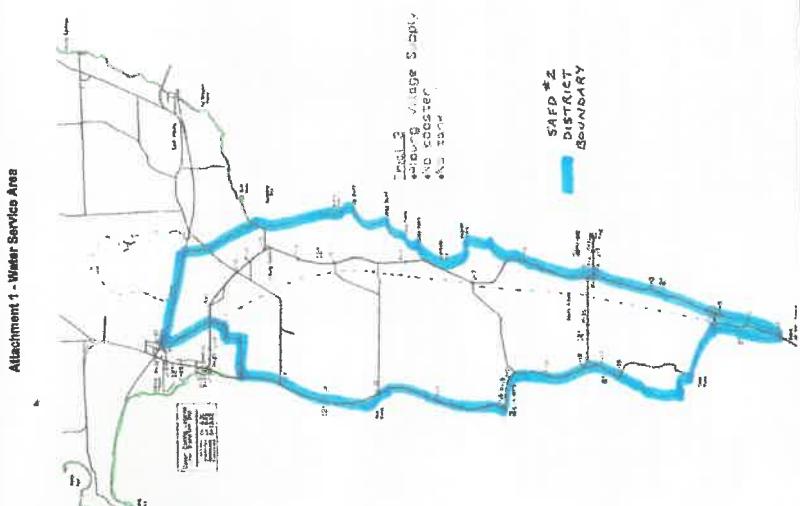


ORIGINALLY SAFD#2 PHASE 2 WATER EXPANSION  
PLAN INCLUDED HOMES ON RT. 129 AND OTHERS  
IN THE DISTRICT'S SOUTHWEST CORNER

- THE ORIGINAL 2004 PLAN FOR SAFD#2 DEFINED MAP BOUNDARIES WHICH INCLUDED A SOUTHWEST CORNER FOLLOWING RT. 129.
- AT THAT TIME 60 RESIDENTS ALONG RT. 129 EXPRESSED INTEREST AND SOME SIGNED ON (REF. J. HIGGIN'S EMAIL 3/3/2012).
- AFTER PHASE 1 WAS COMPLETED IN 2014, SOUTHWEST RESIDENTS STILL BELIEVED THEY WERE NEXT AND A PART OF PHASE 2.
- NOT UNTIL 2018 DID THE SAFD#2 PUBLIC NEWS LETTER INDICATE THAT PHASE 2 HAD BEEN CHANGED AND WAS "A DONE DEAL" WITHOUT DUE PROCESS.



# SAFD#2 DISTRICT BOUNDARY ISSUED IN 2004



C. Kelly and B. Bessette

3/16/2022

3

20



## THE SOUTHWEST AREA OF THE WATER DISTRICT TO BE LEFT OUT OF PHASE 2



C. Kelly and B. Bessett

3/16/2022



## SAFD#2 PLANS TO ELIMINATE ORIGINAL IN FAVOR OF NEW ALTERNATE



More permanent residents served in the Original plan

From the May 2016 survey: 165 potential; 68 yes; 16 maybe.

C. Kelly and B. Bessette



More non-residents served in the New Alternate

From the May 2016 survey: 166 potential; 61 yes; 13 maybe.

5/2022



## RESIDENTS ATTENDED SAFD#2 MEETINGS

- A GROUP OF RT. 129 RESIDENTS ATTENDED AN SAFD#2 MEETING ON OR AFTER OCTOBER 2011 AND WERE TOLD WE WERE IN PHASE 2.
- E-MAIL CORRESPONDENCE WITH COMMITTEE MEMBER JUDY HIGGINS IN MARCH 2012 AGAIN ASSURED US WE WERE IN PHASE 2.
- THE 2018 SAFD#2 NEWS LETTER TALKS OF A D&K ENGINEERING FINAL DESIGN ADDENDUM 8/31/2018 DECLARING AN OPTION CHANGE TO A MIDDLE RD. ROUTE.
- ACTUAL COST BENEFIT ANALYSIS WAS NOT PROVIDED.
- IN MAY 2019 THE SAFD#2'S PUBLIC NEWS LETTER DECLARED THAT THE PHASE 2 ROUTE WAS CHANGED VIA OPTION 1 TO A MIDDLE RD. CROSSING OF THE PENINSULA TO RT. 2 THUS ELIMINATING THE SOUTHWEST CORNER OF THE DISTRICT.



# OPTION 1 OF PHASE 2 VIOLATES THE MISSION STATEMENT OF THE SAFD2

- THE MISSION STATEMENT OF THE SAFD2 SINCE 2004 STATES THE “PURPOSE IS TO BRING SAFE DRINKING WATER TO THE RESIDENTS OF SOUTH ALBURGH”.
- THE 2018 ADDENDUM OPTION 1 CHANGE TO THE PHASE 2 PLAN IS BRINGING WATER TO SOUTHEAST RESIDENTS, AND ALSO, PURPOSELY TO NON-RESIDENT CORPORATIONS HEADQUARTERED IN BURLINGTON, VT AND NON-RESIDENT CAMPERS ON ROUTE 2.
- CORPORATE OFFICERS DO NOT LIVE IN ALBURGH AND THEREFORE FAIL THE SAFD2 CHARTER AND MISSION STATEMENT TEST.
- VOTERS APPROVED THE \$6.9M BOND FOR RESIDENT USE NOT NON-RESIDENT CORPORATION USE.



# VT CONSTITUTION ARTICLES 6 & 7 PROTECT OUR RIGHTS TO BE INFORMED AND NOT BE MARGINALIZED

VERMONT GENERAL ASSEMBLY

## CONSTITUTION OF THE STATE OF VERMONT

AS ESTABLISHED JULY 9, 1793, AND AMENDED THROUGH NOVEMBER 2,

### CHAPTER I.

#### A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE STATE OF VERMONT

##### Article 1. [All persons born free; their natural rights; slavery prohibited]

That all persons are born equally free and independent and have certain natural, inherent, and unalienable rights, among which are the enjoyment of life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety; therefore no person born in this country, or brought from overseas, ought to be helden by law, to serve any person as a servant, slave or apprentices, after arriving to the age of twenty-one years, unless bound by the master's own consent, and aiming to such wage or bound by law for the payment of debts, damages, fines, costs, or the like.

##### Article 2. [Private property subject to public uses; owner to be paid]

That private property ought to be subjected to the use of the public when necessary, nevertheless, whenever any person's property is taken for the use of the public, the owner ought to receive an equivalent in money.

##### Article 3. [Freedom in religion; right and duty of religious worship]

That all persons have a natural and unalienable right, to worship Almighty God, according to the dictates of their own consciences and understandings; as their opinion shall be regulated by the word of God; and that no person ought to, or right can be compelled to attend any religious worship, or erect or support any piece of worship, or maintain any minister, contrary to the dictates of conscience, nor can any person be justly deprived or abridged of any right as a citizen, on account of religious sentiments, or principles; [note of religious worship; and that no authority can, or ought to be vested in, or assumed by, any power, whatever that shall in any case interfere with, or in any manner control the rights of conscience.] In the free exercise of religious worship, nevertheless, every sect or denomination of christians ought to observe the Sabbath, or Lord's Day, and keep up some sort of religious worship, which they shall seem most agreeable to the revealed will of God.

##### Article 4. [Remedy at law secured to all]

Every person within this state ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs, which one may receive in person, property or character; every person ought to obtain right and justice, fairly, and without being obliged to purchase it; completely and without any denial; promptly and without delay; conformably to the laws.

##### Article 5. [Internal police]

That the people of this state by their legal representatives, have the sole, inherent, and exclusive right of governing and regulating the internal police of the same.

##### Article 6. [Officers servants of the people]

That all power being originally inherent in and consequently derived from the people, therefore, all officers of government, whether legislative or executive, are their trustees and servants; and at all times, in a legal way, accountable to them.

##### Article 7. [Government for the people; they may change it!]

That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emoluments or advantages of any single person, family, or set of persons, who are a part only of that community, and that the community hath an indubitable, unalienable, and indefeasible right, to reform or alter government, in such manner as shall be, by that community, judged most conducive to the public weal.

##### Article 8. [Elections to be free and pure; rights of voters therein]

That all elections ought to be free and without corruption, and that all voters, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution.

##### Article 9. [Citizens' rights and duties in the state; bearing arms; taxation]

That every member of society has a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute his share towards the expense of that protection, and yield personal service, when necessary, or an equivalent thereto, but no part of any person's property can be lawfully taken, or applied, to public uses, without that person's own consent, or that of the Representative Body, nor can any person who is lawfully compelled to do so, be justly compelled to bear arms, if such person will pay such equivalent; nor are the people bound by any law but such as they have in like manner assented to, for their common good; and previous to any law being made to raise a tax, the purpose for which it is to be raised ought to appear evident to the Legislature to be of more service to community than the money would be if not collected.

Article 10. [Rights of persons accused of criminal personal liberty; waiver or jury trial]

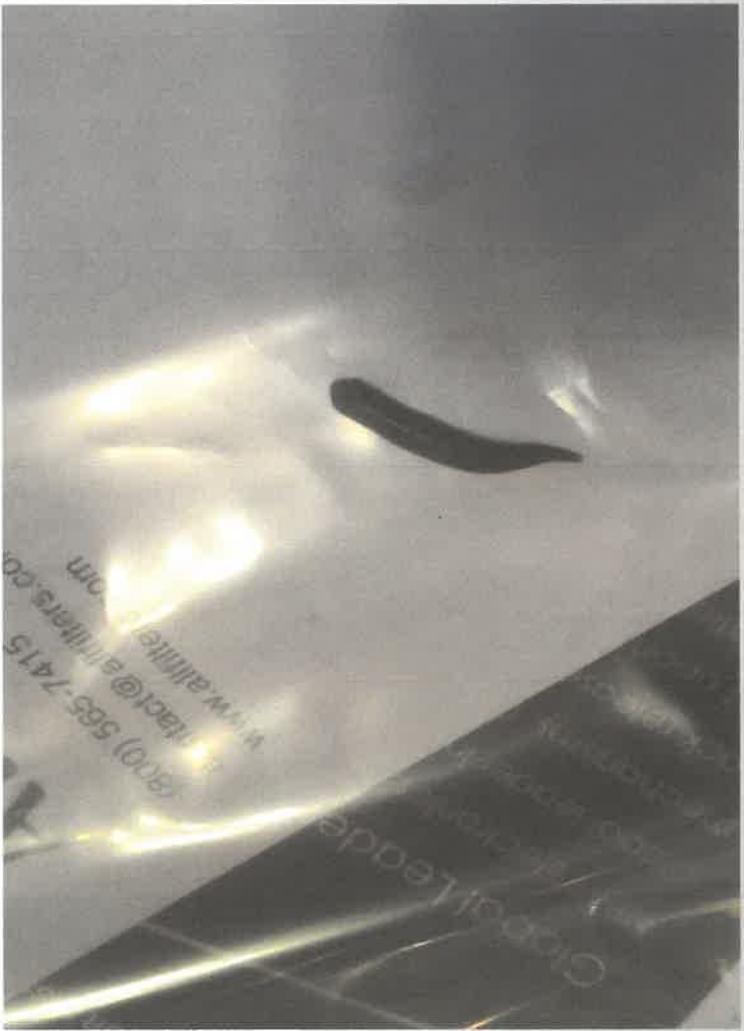
That in all prosecutions for criminal offenses, a person hath a right to be heard by oneself, and by counsel; to demand the cause and nature of the accusation; to be confronted with the witnesses; to call for evidence in the person's favor, and a speedy public trial by an impartial jury of the neighbors, without the unanimous consent of which jury, the person cannot be found guilty; nor can a person be compelled to give evidence against oneself; nor can any person be justly deprived of liberty, except by the laws of the land, or the judgment of the persons peers provided, notwithstanding, in criminal prosecutions for offenses not punishable by death, the accused, with the consent of the prosecuting officer, entered of record, may in open court, or by a writing signed by the accused and filed with the court, waive the right to a jury trial and submit the issue of the accused's guilt to the determination and judgment of the court without a jury.

##### Article 11. [Search and seizure regulated]



# SAFE DRINKING WATER IS IN PERIL

Juvenile Ribbon Leach shown, infants are pinhead size



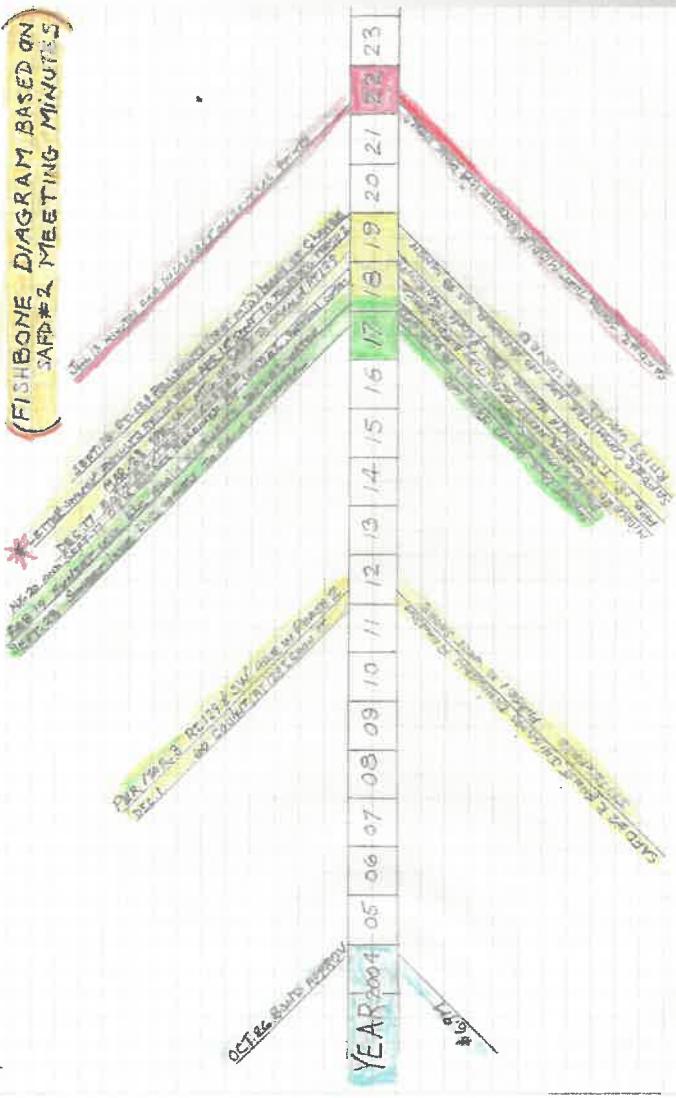
- Discharges of raw sewage from Burlington.
- Toxic Blue Green algae blooms.
- Zebra mussels clog intakes.
- Drought conditions endanger self-supplied water.
- Sulfurized well water. Offensive taste and smell.

- Banks hesitate to finance buyers without Town Water source.
- Value of homes are diminished.
- Insurance is more expensive.
- Many residents are without adequate self-filtration systems.
- Self-filtration systems are expensive to maintain.



## FISHBONE TIMELINE OF SAFD#2 DECISION TO GO MIDDLE RD.

SAFD#2 DECISION TIMELINE, Rt.129 vs CHANGE to MIDDLE Rd.



In no place do we see where the SAFD#2 Committee actually motioned a proposal, seconded it and voted to make this change to a Middle Rd. route within their own committee.

Minutes of Apr. 15, 2019 indicate a Letter of Intent (LOI) was sent to people in the proposed Phase II location. Of 200 +/- letters, the local outreach, results were: 26 no reply, 36 yes with a few maybes depending on rate.

We did not receive the letter, who did?

**NOT FOUND:** MINUTES THAT SHOW CHANGE OF ROUTE WAS PROPOSED, SECONDED, DISCUSSED, VOTED AND PASSED BY SAFD COMMITTEE. ALSO, NO WARRANT PUBLIC MEETING APRIL 15, 2019 Report's survey results of Middle Rd. Route 129



# MAJOR CHANGE TO SAFD#2 PHASE 2 WITHOUT SPECIAL MEETING

- THE SAFD#2 MAY 2019 YEARLY NEWS LETTER GAVE NOTICE OF A MAJOR ROUTE CHANGE FOR PHASE 2. THIS IS OF CONCERN ON SEVERAL FRONTS:

1. SAFD#2 MINUTES OF MEETING INDICATE AN INTEREST IN PROVIDING POTABLE WATER SUPPLY FOR COMMERCIAL NON-RESIDENT USE RATHER THAN SOUTHWEST RESIDENTIAL USE. THE NUMBER OF RESIDENTIAL USERS IN THE SOUTHWEST CORNER OF THE DISTRICT OUTNUMBER MIDDLE ROAD USERS BY FAR.
2. THE ORIGINAL PHELPS ENGINEERING PLAN APPROVED BY REFERENDUM HAD A WARNED PUBLIC MEETING WITH TAX PAYER APPROVAL WHICH THEN PASSED A \$6.9M BOND. THE APPROVED BOND WAS TO SUPPLY SAFD2 WATER TO ALL OF THE DISTRICT. THE AMENDED D&K PLAN DID NOT HAVE A WARNED PUBLIC MEETING. THE SAFD2 SAID ON MAY 2019 THE MIDDLE RD. ROUTE WAS FIRM (REF. NEWS LETTER SAME DATE) .
3. THIS CHANGE WAS NOT MINOR. THE WHOLE SOUTHWEST OF THE DISTRICT WAS ELIMINATED. THE CHANGE WAS SIGNIFICANT AS DESCRIBED IN THE AMENDED ENGINEERING PLAN WHICH REVISES BOTH THE WATERLINE ROUTE, ADDS INCREASED MILES OF PIPE INSTALLATION AND PROVIDED ONLY A ROM COST ESTIMATE.
4. THIS CHANGED PLAN BENEFITS MOSTLY COMMERCIAL CORPORATIONS THAT HAVE NO ALBURGH OWNER RESIDENCY.



# TASK CHECKLIST OF REQUIREMENTS

AS OF MARCH 21, 2022

## ROUTE 129

## MIDDLE ROAD

- PATH APPROVED IN COMMITTEE YES      • PATH APPROVED IN COMMITTEE NO
- PATH PRESENTED TO PUBLIC YES      • PATH PRESENTED TO PUBLIC YES\*
- PRELIM. ENGINEERING PLAN YES      • PRELIM ENGINEERING PLAN YES
- PROBABLE CONSTRUCTION COST YES      • PROBABLE CONSTRUCTION COST NO
- ARCHEOLOGICAL STUDY YES      • ARCHEOLOGICAL STUDY NO

\*FINALLY PRESENTED PUBLICALLY JAN.10, 2022



## CONCLUSIONS

- RESIDENTS IN THE SAFD2 SOUTHWEST CORNER HAVE BEEN BYPASSED AND LEFT BEHIND IN ANY FORESEEABLE WATER EXPANSION PLANS.
- AS RECENTLY AS JAN. 18, 2022 THE SAFD2 STATED THAT THE SOUTHWEST CORNER TERRAIN WAS TOO DIFFICULT, "...*IN ADDITION TO OTHER FACTORS LIKE A WETLAND CROSSING, LARGE HILL, REDUCED SURVEY RESPONSES, LEDGE, ETC. MADE 129 LESS FAVORABLE.*"
- THESE TERRAIN "FACTORS" HAVEN'T CHANGED IN MILLIONS OF YEARS AND WON'T CHANGE IN PHASE 3 OR PHASE 33. TERRAIN IS NOT AN EXCUSE FOR IGNORING THE SOUTHWEST OF THE DISTRICT. THE 2016 SURVEY WAS FLAWED IN THE MAIL OUT PROCESS.
- THE FINANCIAL ANALYSIS COMPARISON BETWEEN THE ORIGINAL PLAN AND THE AMENDED PLAN NEEDS SCRUTINY. THERE IS A REAL LIKELIHOOD THE VILLAGE WATER TREATMENT PLANT WILL NEED COSTLY UPGRADES TO HANDLE ANYTHING BEYOND THE NEW PHASE 2.
- THE SAFD#2'S VT DEPT. OF ENVIR. CONSERVATION, DRINKING WATER & GROUNDWATER PROTECTION DIV. PERMIT #20964-14.0 SHOWS THAT THEIR LONG RANGE PLAN IS OBSOLETE.



## UNANSWERED QUESTIONS

- WAS IT AN OVERSITE TO NOT TO HAVE A WARNED MEETING WITH THE EXPRESSED PURPOSE OF EXPLAINING TO THE VOTERS THE CHANGED DESIGN AND COST IMPACT TO THE SAFD#2 WATER EXPANSION PLAN, PHASE 2?
- WHY IS THE SAFD#2 NOT FOLLOWING ROBERTS RULES OF ORDER AS REQUIRED BY THEIR PERMIT?
- WHY IS A CHANGE IN DIRECTION MADE FOR THE BENEFIT OF NON-RESIDENT CORPORATIONS AT THE EXPENSE OF TAXPAYING RESIDENTS?
- DO CURRENT SAFD#2 COMMISSIONERS HAVE PLANS TO EVEN REMAIN ON THE COMMITTEE BEYOND THE COMPLETION OF PHASE 2 AND SUPPORT A THUS FAR UNPLANNED PHASE 3?
- IF A RT. 129 TRAVERSE IS TOO DIFFICULT NOW, HOW WILL DOING IT LATER CHANGE ANYTHING?
- IS IT NOT UNJUST TO CONTINUE TO COLLECT A SAFD#2 TAX WHEN THERE IS NO PLAN BEYOND THE NEW PHASE 2 PLAN. WHILE WE WAIT ANOTHER ????? YEARS?



## WE REQUEST A STOP WORK ORDER ON PHASE 2

UNTIL THE AMENDED PHASE 2 WATER EXPANSION PLAN CAN BE INVESTIGATED AND JUSTIFIED FOR ELIMINATING THE RESIDENTS OF THE SOUTHWEST OF THE SAFD2 DISTRICT WHEN INITIALLY THE SOUTHWEST HAD BEEN INCLUDED AND PROMISED IN THE 2004 \$6.9M BOND VOTER APPROVED PLAN.

