

**TOWN OF WINCHENDON  
BOARD OF SELECTMEN MINUTES  
MONDAY, JANUARY 10, 2011  
2<sup>nd</sup> Floor Auditorium – TOWN HALL**

Present : Jackson Blair, Chairman James Kreidler, Jr. Town Manager  
Elizabeth Hunt, Vice Chairman  
Robert Zbikowski  
Keith Barrows  
Robert O'Keefe

Absent: Linda Daigle, Executive Assistant

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List of Documents presented at Meeting:

- Application for Solicitation Permit for Christina Apgar, Edward Jones
- Application for Common Victualler License for Gourmet Donuts
- Letter of resignation for Robert O'Keefe from Planning Board
- Letter from Capital Planning Advisory Committee –advising of vacancy
- Town Manager's Report (attached)
  - Letter from Todd Fyrer – appreciation of Sarah Fearing
  - Boards and Commissions Director Draft tool
  - Water or waste system grant agreement-USDA
  - Draft letter to Eric Hamel regarding foreclosed properties

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Chairman Blair called the meeting to order at 7:02 PM on the 2<sup>nd</sup> floor of Town Hall with the Pledge of Allegiance. This meeting was aired live on local cable access television channel 8.

Announcements – None

Selectmen's Comments - None

Appointments/Resignations - Mr. Blair announced a vacancy notice for the Planning Board with the resignation of Bob O'Keefe as well as a reminder that there is a citizen vacancy on the Capital Planning Advisory Committee. Mr. Blair also mentioned that there is a vacancy on the Board of Health. This vacancy is an elected position but can be filled midyear with a joint appointment by the Board of Selectmen and the Board of Health. The Board of Selectmen and Board of Health are welcoming expression of interests in those appointments.

Permit License Applications:

Gourmet Donuts – 110 Spring St. – Mohamed Elardir was present for his application for a Common Victualler License. Mr. O'Keefe had a potential conflict with Gourmet Donuts as well as the next permit application for Christina Apgar for Edward Jones. He asked to leave the table. Mr. Elardir permit is for a donut coffee shop with a drive through. Selectmen Hunt had several concerns about this license, one of which was safety. Mr. Elardir said they had already discussed these concerns with the Planning Board and had received their permission. He said that they will have an entrance and a exit for the drive through and the gas line will be entering and exiting from the pump side only. The only people exiting on the

other side are from the drive through. There was some discussion. Motion was made by Barrows and seconded by Hunt to grant a Common Victualler's License to Gourmet Donuts. Barrows, Hunt, Zbikowski & Blair were in favor of the motion.

Christina Apgar - Financial Advisor for Edward Jones. - Mr. Blair asked to leave the table as he felt he had a potential conflict with Edward Jones. Ms. Hunt took over as Chairman. Christina said she is looking to build her business in Winchendon and she would like to go door to door introducing herself. She handed some information out to the board. Mr. Zbikowski asked the Town Manager if we had done this kind of license in the past. The Town Manager said that licenses had previously been given out to sell magazines and a license for meat sales but they have always been conditioned through day light hours and away from dinner hour. Beth had several concerns. Mr. Barrows asked Christina about the script that she is going to use and if it pressures people to let her get inside the homes. Christina said that she has been doing this for awhile and that this is one way that Edward Jones promotes themselves. She said that she will introduce herself and ask questions to see if they are familiar with Edward Jones. If people seem interested, she asks permission to give a follow up call. She did say that if they invite her in, she will go inside. Christina said that she does wear a name tag and she doesn't enter a home unless she is invited. Ms. Hunt asked if they used the approach of calling vs. going door to door. Christina said she found it more effective to meet someone face to face first. Beth asked the Town Manager where the Town stands as far as our liability. Christina said that she has a solicitor's license in Keene, N.H. and they have done a background check on her. Christina said that she knows that Edward Jones can get her bonded if they need to. The Town Manager hearing an offer and if it meets the Board's pleasure that a bond be sought through Edward Jones protecting anything that would happen in the home and that a background check be provided from the city of Keene where she is currently soliciting. Perhaps having a copy of those documents would provide additional comfort. Margaret mentioned that she believes a CORI check has been run by Linda but we have not received the results of it yet.

Barrows offered up a motion as there are only three members available to vote on this and he will not be present for the next meeting. He would move to approve the solicitation permit conditioned on the following: a) we are provided with a copy of her solicitors license from the City of Keene, b) Christina present evidence of being a bonded agent of Edward Jones, c) a successful CORI check and, d) limit the hours until no later than 4:30 pm. Zbikowski seconded the motion. All three selectmen voted aye.

Mr. Blair and Mr. O'Keefe came back to the table. Mr. Blair returned as Chairman.

New Business – None

Old Business – None

Questions for the Town Manager - Mr. Radar came before the BOS. He said that he felt there was a recall election discrepancy as he witnessed a person trying to put their ballot in the machine and it wouldn't take it. He said that the lady tried it again after a few other people had gone. Mr. Radar said that he noticed that she didn't fill the ballot out properly and there were too many things marked off. He said that the person in charge came over and unlocked the machine and put it in there. Mr. Blair interpreted the question to be if it was appropriate for a worker to take a ballot in hand and put it in the machine and that the question would be brought before the appropriate person in town and we would find that out for him. Mr. Radar stated that he didn't witness any falsification.

Mr. Radar's next question was in relation to the EMT scandal. Mr. Radar felt that the appropriate action was taken but wanted to know how much is this going to cost the town to prevail. Mr. Blair stated that

the scandal wasn't a Winchendon scandal but a state wide scandal and as soon as it came to the attention of the Town Manager, that person was terminated. The Town Manager said that he won't address the personal action but he would say hypothetically if someone was terminated for falsifying training documents and they chose to sue the town as an employment action, he felt comfortable the Town would prevail because the documents are what the documents are. Mr. Radar said his objection is the leadership involved and then started to speak about a report about how much Kopelman & Paige has cost us the last ten years. Mr. O'Keefe asked if there is a point here. He said that we were talking about fraud on training documents and now we are talking about legal bills. Mr. O'Keefe stated that a gentleman lied about training documents and he would expect the town to do everything it can to defend itself and said we do not want people employed by the Town without proper training. Mr. Blair said that if the question was what action we took with the falsification of records, the employee was terminated and if the question is do we intend to take any further action against the employee for his illegal presentation of credentials, that is for the Town Manager to respond to. The Town Manager said hypothetically speaking again, there would be no additional action needed because our involvement with this hypothetical person has been severed. Mr. Blair said that we are not anticipating any legal action.

Mr. Radar asked another question about Kopelman & Paige saying that this firm represents a lot of towns around. He asked what if there was a conflict with two towns that are represented by Kopelman & Paige. Who would they represent? Mr. Barrows answered Mr. Radar's question by saying that he recalled one situation where the Town of Winchendon and the Town of Ashburnham were represented by the same council and they both agreed on independent council. He said that there is past practice to use independent council and that it was not Kopelman & Paige at that time. The Town Manager said that Kopelman & Paige has a discloser that states expressly if there is a conflict where they represent both towns, they step back from both cases. Independent council is hired by both towns. Mr. Kreidler mentioned that that hasn't happened in the ten years that Kopelman & Paige have been representing us.

#### Town Managers Report -

##### 1) Personnel Updates Section –

a) Animal Control Officer – The Town Manager wanted to bring to the boards attention the recent efforts of the Animal Control Officer regarding a local family. A letter was received from Mr. Todd E. Feyrer in deepest appreciation of one of our employees. The Town Manager read the letter out loud. Besides giving praise to Sarah Fearing, they also donated \$50 to the Animal Shelter. Action Requested is a note of appreciation to the Animal Control Officer.

b) Town Boards and Commissions – The Town Manager mentioned that Selectwoman Hunt has been leading the charge on the matter of establishing a clear and written accounting of all Town Boards and Commissions listing: the Board or Commission name, number of seats, if it is appointed or elected, if appointed, by whom, the term, where the group's charge or mission comes from and a description of the charge or mission. Selectwoman Hunt and the Town Manager have devised a template for the rest of the board to look at. It is expected, when finished, it will be put on the town's website. The Board liked the idea. Mr. Barrows asked for a table of contents and Mr. O'Keefe asked it to list all members per board. Mr. Kreidler said that the idea would be to combine this with the spreadsheet that we do every year.

c) Ethics Commission Complaint – The Town Manager felt that it was worthy of note that there was a recent investigation of our DPW Superintendent Mike Murphy by the State Ethics Commission. It is worthy of greater note that after their investigation that they concluded that the "anonymous" allegations made against him were unfounded. The Town Manager brought this to the Board of Selectmen's

attention with Mr. Murphy's approval, to make a point. He said it takes a lifetime to build a positive reputation and but a fleeting moment to have it tarnished. The Town Manager went on to say that if the person making the claim had been interested in the information it was available. He said that the questions that were asked were easy to be answered. Mr. Kreidler wanted to offer his thanks and kudos to Mr. Murphy as he does a good job. Mr. Kreidler said that it is a hard job and he does it well especially under conditions like these.

## 2) Financial Updates

- a) FY 12 Budgets – Department budgets are due in the office on January 27, 2011.
- b) FY 12 Budget and Draft Town Meeting Calendar – Mr. Kreidler said that tonight is the night scheduled to approve the Town Meeting Calendar and to open the warrants for the Annual and Special Town Meetings of Monday, May 23, 2011. The warrant is to be opened Tuesday, January 11, 2011 at 8:00 a.m. and to closed on March 28, 2011 at 5:00 p.m. After some discussion, the motion was made by Mr. Barrows to adopt the calendar and to open and close the warrants as amended: open on Tuesday, January 11, 2011 and close on March 14, 2011. Hunt seconded the motion. By roll call vote of all aye, the motion passed unanimously.

## 3) Project Updates

- a) USDA Water Loan Resolution and signatures – The Town Manager mentioned that there are documents requiring a vote of the Board's approval of this project for payment of the 45% grant agreement and the 55% loan resolution. He said that the Board has already voted their support of this project at Town meeting and that this vote is merely a formality to meet the requirement of the USDA for their internal paperwork. Action request is a vote to approve the grant agreement and the loan resolution. Motion was made by Mr. O'Keefe to approve the grant agreement and the loan resolution; seconded by Hunt. By roll call vote of all aye, the motion passed unanimously.

## 4) Miscellaneous Updates

- a) Eric Hamel Letter- The Town Manager enclosed the requested draft letter to Mr. Hamel regarding vacant/foreclosed properties in town. Mr. Kreidler read the letter out loud and asked that the board vote to adopt the letter for the Chairman's execution. Ms. Hunt made a motion to adopt this letter for the Chairman's execution. Mr. O'Keefe seconded the motion. Mr. Zbikowski asked if there would be an article on the floor for funds for this. Mr. Kreidler said the expectation for this would be to establish a line item in the Building Commissioners' budget or stand alone. He stated that further research needs to be done to see if a revolving fund could be employed which would be the best use. Additionally, he said, some discussion has been made about a grant through the Robinson-Broadhurst Foundation in a future year perhaps seeking some seed money to start the funding or to supplement it if we receive money through the Town's annual meeting. All selectmen voted in favor of the motion to adopt the letter to Mr. Hamel for the Chairman's execution. Mr. Kreidler said he would have the letter available for the Chairman to sign.

Mr. Blair stated to the Town Manager that there was an agreement made that the Town Manager would have an update to the Court House each time we meet. The Town Manager stated that there is nothing to report and that the matter sits as it did two weeks ago when we last met. Mr. Kreidler stated that there has been no definitive ruling from either the Attorney Generals office or the Inspector Generals office

regarding how communities that have been doing projects this way in the past should proceed in the future. He said what we have now is a court case that focuses on a contract and what we know to be an invalid procurement would be to contract with a private property owner to have them do specific things under that contract that might otherwise be the responsibility of the municipality and then to purchase it on the other end. That is all we know for now. There was more discussion. Mr. Zbikowski asked about the Brassi case and if it was settled. Mr. Kreidler said that it has been settled for some time since last year. Mr. Zbikowski asked how that affects us because we were hinged on them. Mr. Kreidler said that the Brassi case stands for is you cannot, as a municipality, contract with a private property owner to purchase a piece of property or to lease long term a piece of property at the time of contract with it being in one condition and upon delivery in another condition that was retrofitted based on your specifications. What it doesn't say is if there is another way to end up at the same place and that is what is being discussed right now on a plane far higher than this town or this project. Mr. Kreidler said this is as much as he can say because that is as much as he knows.

Minutes:

December 6, 2010 - Selectmen Zbikowski had asked for corrections of the minutes of December 6, 2010 which were provided in the packet. Mr. Zbikowski said the corrections were satisfactory. Beth moved to approve the minutes of December 6, 2010. Mr. O'Keefe and Mr. Barrows stated that they were not members at that time. Mr. Zbikowski seconded the motion. Selectmen Blair, Hunt, and Zbikowski voted to approve the minutes of December 6, 2010 with Mr. Barrows and Mr. O'Keefe voting present.

December 20, 2010 Executive Session Minutes. - Mr. Blair asked that the minutes be approved but not released still as a matter of privilege. Selectmen Barrows moved to approve but not release the executive session minutes of December 20, 2010. Mr. O'Keefe seconded the motion. By roll call vote of all aye, the motion passed unanimously.

December 20, 2010 Regular Minutes – Ms. Hunt moved to approve. Mr. Barrows seconded the motion. By roll call vote of all aye, the motion passed unanimously.

Executive Session - Mr. Kreidler said that there is no need to go into executive session this evening.

Adjournment: Mr. Barrows moved to adjourn. Beth seconded the motion. By roll call vote of all aye, the motion passed unanimously to adjourn. The meeting adjourned at 8:00 p.m.

Respectfully submitted,

Margaret Giacobone, Administrative Assistant