

**TOWN OF WINCHENDON  
BOARD OF SELECTMEN MINUTES  
MONDAY, SEPTEMBER 12, 2011 - 7:00 P.M.  
Town Hall Auditorium, 2<sup>ND</sup> Floor**

Present:     Robert M. O’Keefe, Chairman                     James M. Kreidler, Jr., Town Manager  
              Elizabeth R. Hunt, Vice-Chairwoman         Linda A. Daigle, Executive Assistant  
              C. Jackson Blair

Absent:     Keith R. Barrows  
              Robert L. Zbikowski

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List of Documents Presented at Meeting:

- Selectman Zbikowski’s resignation letter (attached)
- Additional documents from Rich Jannine on his Class II application (filed)
  - Letter of Intention, copy of Second Hand Motor Vehicle Dealer Bond, Zoning Board of Appeals Special Permit Application, Planning Board Site Plan Approval Application, Tape Survey
- ABCC Form 43 regarding Santino’s Trattoria, Inc. (filed)
- Dog Complaint documents (filed)
  - Public Hearing Notice to Lisa Basso regarding notification of Dog Hearing
  - BOS Procedure for Conducting Dog Hearings
  - Winchendon’s Animal Control Bylaw
  - Copy of MGL Chp. 140: Section 157
  - Animal Control Officer complaint(s)
- Water Sewer Abatement Policy and Adjustments – DRAFT 1<sup>st</sup> Reading (filed)
- Town Manager’s Report (attached)
  - Application/Resume for Wendy Stevens, DPW Administrative Assistant Position (filed)
  - DPW Superintendent advertisement in The Beacon (filed)
  - Town Manager’s contract Addendum #3 (attached)
  - Talent Bank Form (attached)
  - Water meter replacement update spreadsheet (filed)
  - Letter dated 10/29/1992 from the town to property owners that abut the drainage culvert that protects Rt. 140 (attached)

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Chairman O’Keefe called the meeting to order at 7:04 p.m. with the Pledge of Allegiance to the Flag of the United States of America asking us to remember what happened ten years ago on September 11<sup>th</sup>. He asked when we say the Pledge of Allegiance let’s remember those who have died for our freedom. The meeting aired live on local cable access channel 8. No response came forth from the audience when the Chairman asked if anyone would be audio or video recording the meeting this evening.

### Public Comments and Announcements:

Mr. Robert Diamantopoulos, a member of the Cable Advisory Committee, came before the Board this evening not aware the joint meeting had been rescheduled for September 26<sup>th</sup>. He complained the Committee hadn't met for months and minutes of past meetings were inaccurate. O'Keefe asked if he could join them in two weeks and those things would be sorted out at that point.

### Selectmen's Comments:

Blair said Zbikowski is not here tonight due to a trip to New York but had asked him to read a note from him. The note was a letter of resignation. Zbikowski wrote how he ran for Selectman and hoped to effect some positive changes but was convinced he was making little or no difference and was not enjoying his role on the Board. He concluded by thanking his supporters. Blair handed the letter to the Chair and stated in the future we'll recognize his service.

O'Keefe said a couple weeks ago a group of residents cleaned up a great portion of Central St. They did this on their own and without being asked. He heard it will become a regular event and if anyone is interested in helping the next time to contact the organizers Bob, Paul and Bonnie Betourney. Other volunteers were Guy and Peg Corbosiero, Donnie and Jackie Patria, Johnny, Michelle and Jordan Comeau, our Town Manager, Jim Kreidler, Janet Corbosiero, Bob Guenther, Don O'Neil and Marge Oinonen. The individuals were thanked and applauded.

Blair said an event was held over the weekend hosted by the Chairman and Don O'Neil that raised funds for the Historical Society. He stated it was a successful affair and thanked the Chairman and the folks involved.

O'Keefe said at the last meeting some confusion surrounded around the Nuisance Bylaw and when it took effect. He explained when Town Meeting changes the Charter, it doesn't take effect until after the State Legislature approves it and the Governor signs it. Mistakenly, last month, he stated our Bylaws took effect when we enact them and they did not need Legislature approval. There are two types of bylaws, he explained. The Zoning Bylaws take effect when Town Meeting passes it; they don't need Legislature approval but a regular bylaw does not take effect immediately. The Attorney General has thirty days to review the bylaw and then there is a posting period. He asked, with the Board's concurrence, that the Town Manager insert in front of the Charter and Zoning Bylaws when they take effect.

### PERMIT/LICENSE APPLICATIONS, HEARINGS:

Toy Town Duathlon, October 15, 2011 – Clark Memorial/YMCA: Veronika Patty came forward on behalf of the Clark/YMCA's application for this duathlon. She explained the route had changed a bit so it stays on the road the whole time and added Lieutenant Walsh is okay with the change. Two officers and volunteers will be present. Blair moved to approve; Hunt seconded. Blair asked to amend the motion to include the fee being waived. It was agreed. By roll call vote of all aye, the motion carried unanimously.

Boot Drive – October 22, 2011 – Benefit for Tyler Field: Michelle Peterson was present on this application to help twenty year old local boy who was paralyzed from a diving accident. Ms. Peterson explained the funds will help make the home more habitable and it will be held October 22 from 9:00 a.m. until 1:00 p.m. right outside Town Hall. O'Keefe mentioned another event will be held this Friday at the American Legion. Five different bands are scheduled, a Chinese Auction and a 50/50 Raffle. Tickets are \$10.00 and can be purchased in advance at To Each His Own Design and Second Hand Impressions or at the door. Blair moved to approve waiving the fee, Hunt seconded. By roll call vote of all aye, the motion carried unanimously.

Class II – State Road Collision, 234 Baldwinville State Rd.: Rich Jannine was present on his application for a Class II used vehicles permit. He stated he has completed the application for a hearing required by the Planning Board. Blair moved to approve with successful meeting of all requirements be met. Hunt seconded for discussion. The Board briefly discussed having all conditions met by Department Heads prior to approving these kinds of licenses. It was decided a conditional permit could be granted to help the permitting process get done sooner. By roll call vote of all aye, the motion carried unanimously.

Entertainment Permit, Bazaar/Raffle November 12, 2011 – Immaculate Heart of Mary Church – Anita Burke was present on her application on behalf of the Church to do a Festival inside. A one day liquor license is not needed. Blair moved to accept the request and waive the fee; Hunt seconded. By roll call vote of all aye, the motion carried unanimously.

Santino's Trattoria, Inc. – Liquor License Transfer Application Status: Kreidler stated this is an update for the Board and representatives from Santino's were not asked to be present. There has been an issue that has been going on for a couple months now. This Board, in its capacity as the Local Licensing Authority, has been diligently pursuing this license since the renewal process, specifically the names under the license. In February, you received and approved a transfer application for changes in shares of stock, change of manager, change of officers of the corporation. It then went to the Alcoholic Beverages Control Commission (ABCC) but was returned with an issue with the Department of Revenue. When that issue was resolved, you voted to resubmit the application which was then returned to the ABCC in April. That application that you have now twice acted on and they have now twice sought to transfer the license and all the associated subcomponents from the original owners of Santino's Trattoria Incorporated to the gentleman that is currently the owner of the corporation and Operating Manager of the enterprise. What has been discovered there was an interim step where the original owners transferred to another person and that person transferred to another person. What we have here on the transactional business side, everything is in order. What didn't happen is the middle step where the license should have followed the chain of ownership. What you will have at your next meeting, we believe but cannot guaranty, is an application to transfer from the original owner to the then interim owner and then additionally an application from the interim owner to the new owner. The ABCC has assured us that can be submitted en masse and they will act on it serially. They will first look at the original transfer from the original owners to the interim owner and then the second transfer to the current owner. All things considered, he believed everything was in place. This evening we received the last of the documents and are just waiting for two signatures that were coming, one in the morning and the other shortly thereafter. Blair inquired of the liability of the license. Kreidler responded he's not a lawyer and cannot answer who will be responsible legally but stated we have been advised by counsel that we have been diligently pursuing from our perspective getting the paperwork to match the reality. He couldn't speak at what that would mean if some attorney had this information. He explained there is a distinction between the person and the business. The license has continued to run to Santino's Trattoria, Inc. Even though the bar manager might change from time to time, the license still is vested in the corporation. Legally on the business side of things, all the corporate documents have been in order. We have just been playing catch-up making certain that the ABCC regulatory paperwork matches up. From the town's perspective, Kreidler continued, we have been advised we are proceeding as we should and have no exposure. Whether there is exposure on the individual parties on the private side of that, I can't speak to, but I have an opinion. Blair then asked about another business being present leasing the kitchen to run breakfast. Kreidler replied, if that is true, we need to be concerned with the liquor license if they are serving alcohol while they are serving breakfast. If it is not true, it is a non-issue, with the same business serving breakfast. Part of the question is relevant if they are serving alcohol while they are serving breakfast. This then opens the liquor license that you approve. Blair asked about the hours with other businesses having to come before them to approve changes. If the hours are off, they should be addressed.

Due to the Board's regular first meeting in October falling on the Columbus Day holiday, Blair moved to change the meeting schedule to the 1<sup>st</sup> and 4<sup>th</sup> Mondays in October; Hunt seconded. By roll call vote of all aye, the motion carried unanimously. Kreidler brought to the attention of the Board that they should consider the Halloween schedule at the first meeting in October and decide when Trick or Treating will be held.

#### HEARINGS:

Dog Hearing: Lisa Basso, 18 Mill Circle – Pit Bulls (2): Lisa Basso, the owner of the dogs, was not present for the hearing but did receive the certified letter sent to her home. Animal Control Officer, Sarah Fearing, came up before the Board. She said the hearing is on behalf of the citizens of Winchendon in the Mill Circle Winchendon Springs area. Two dogs continue to leave their property and come out to people in the street. A couple owned the dogs but one of the owners left. Lisa Basso has taken ownership of those dogs. The issue started last May of 2010 and has been ongoing. The dogs get loose and chase after people. She said she has advised the owners in the past that the dogs have been loose and also need their rabies vaccination. They made appointments that were missed and had to reschedule

them. They fail to adhere to the town leash bylaws. More complaints have come in from several people who walk past the property on the roadway. The dogs have run up to them making them feel threatened. Kreidler interjected a "point of order" notifying the Board the protocol for conducting a dog hearing is to first officially read the notice and to swear those in giving testimony. O'Keefe read the notice for the hearing. Mrs. Fearing was sworn in and continued with her testimony that the dogs, notwithstanding they are pit bulls, continue to leave the property and come toward people threateningly. The owners have told her that there is no law that states their dogs have to be leashed on the property, just if they are off their property. She told them they are leaving their property. Fearing said tickets have been issued but not paid. They went to court on September 17, 2010 and were ordered by the Clerk Magistrate to license their dogs which they didn't do until spring of 2011, so they failed to pay for 2010. Fearing stated she's been chasing Ms. Basso to adhere to the town' bylaws. She read her Statement of Facts submitted for the meeting and spoke of the fines they have incurred and not paid yet. She has driven by the home several times and has seen the dogs loose outside. The dogs will come back when called back by the owner. There is a sense among neighbors, Blair said, that the dogs could attack at any time, and a violation of the town ordinance has happened consecutively and continually over a long period of time. Hunt asked if they own the property. Fearing wasn't sure. If they rent, does the owner have liability and could they put up an invisible fence, questioned Hunt. O'Keefe mentioned the home is a duplex and her name was on the water meter list so she must own the property. O'Keefe asked Kreidler what the Board has rights to do; can we banish the dogs, can we destroy them, can we re-home them? Kreidler replied, yes, you have the right to do all three. Fearing said it could be a simple fix with the least expensive requirement for them is to be on tie-outs; they need to be leashed, fenced, restrained in some way. Blair told Fearing that she has been gracious throughout this process. He wondered how long we will continue to allow a citizen to ignore the fines and how long before the dogs bite someone. Fearing said the dogs have not bitten yet but have made contact, jumping and scratching. The dogs think the road is their territory. Hunt asked about the outstanding bills, when not being paid, if a lien could be placed on the home. Kreidler said we have never placed a lien on a home for a non-criminal position fine in his eleven years but doesn't mean it couldn't be done. Hunt said she'd actually like to charge the violator the Animal Control Officer's time. Kreidler replied without a controlling bylaw, it is unlikely we could. Mr. Armand Dube was present and was sworn in to give his testimony. He said he usually walks up to the Post Office a couple times a week. The last time, one of them saw him and made a beeline to him. He said he put the bag with the mail between him and the dog and they were about to go at it and the owner came out and hollered at the dogs and they retreated. Only the aggressive dog came at me not the other one. There was one situation when both dogs were after the person.

Fearing requested of the Board if Ms. Basso doesn't comply, the option to surrender the dogs to her not be a choice. She would prefer the dogs be removed out of town. She explained the shelter is full and pit bulls usually don't move out of a shelter; they are hard to adopt. She recommended a better means would be to re-home them.

Blair moved that the Board of Selectmen having heard from the Animal Control Officer and written various explanations of aggressiveness on part of the dogs and in light of failure to pay fines in a significant period of time and late in licensing their animals, requests the Animal Control Officer and the Town notify the owner that the dogs are to be restrained immediately and to take effect upon notification when they get a letter or visit from the Animal Control Officer and give two weeks to move the dogs out of town if they find restraining them unacceptable or creating an enclosure to be unacceptable. After that, if you come back to us, his recommendation would be that the dogs be taken from them; Hunt seconded this motion for discussion.

Hunt questioned if two weeks would be enough time. Blair stated restraining them is immediate. The assumption is she would restrain them; if not, we would remove the dogs. Kreidler asked to clarify the restraining on the property or off the property only. Blair said if the Animal Control Officer, or possibly a neighbor informing the Animal Control Officer, sees the dogs outside the house and unrestrained that would be a violation. By roll call vote of all aye, the motion carried unanimously.

#### Appointments/Resignations:

Library Trustee Appointment - Chris Caldwell came before the Board on his interest to become a Library Trustee member. Blair moved to appoint Mr. Caldwell to the Library Board of Trustees. Hunt seconded. By roll call vote of

all aye, the motion carried unanimously. Hunt told him he would be on a strong committee and thanked him for his interest.

Planning Board Appointment – Darlene Rossi was present on her interest to serve on the Planning Board. O’Keefe stated the Planning Board had already appointed her and welcomed and thanked Ms. Rossi for her willingness to serve on the Board. Ms. Rossi replied “you’re welcome” and that she loved this town.

Winchendon’s 250<sup>th</sup> Anniversary Committee – Barbara Lafrennie came before the Board with her willingness to serve on this committee. She stated the Committee will need a lot of help to pull everything together for this celebration. She mentioned the Harvest Festival coming up on October 15<sup>th</sup> on Bentley Field. There is a contingency plan if it rains and it will be a nice family day. A scarecrow making event has been added and they will need a lot of old clothes for it. Blair moved to accept Mrs. Lafrennie’s willingness to serve on this Committee. Hunt seconded. By roll call vote of all aye, the motion carried unanimously.

#### NEW BUSINESS:

Flooding Complaint – Mr. James Dickie, Old Gardner Rd. Mr. Dickey came before the Board with his flooding concern with his property on Old Gardner Rd. He said when he bought the property, it was in August the driest part of the year. The next spring he mulched and fertilized and in one day it was all gone. He stated he had a massive amount of water in his yard that came up to his cellar. He said the town drains the swamps on the other side of Rt.140 and the water comes through to his property. Kreidler said Mr. Dickey classifies this as the town draining the swamp across the street. He oriented the Board on where this property is and the culvert that goes under the road and ultimately onto Mr. Dickey’s property. What we have occurring has been exacerbated by the trapping laws that have changed with water being built up on the LaClerc property with the culvert being blocked by beavers. Our obligation is to make certain the travel way is maintained and safe in a passable fashion. Kreidler gave a history of the water course and of the culverts and right of ways of Rt. 140 and said Mr. Dickey’s property is on the downside of this and has always been that way.

Kreidler spoke of the times he went down to Mr. Dickey’s property and said this last time on Friday, with the significant amount of rainfall and with the hurricane and beaver activity and after breaking the dam, he had expected to see a replication of the water in the driveway almost into the garage and it wasn’t nearly that. He stated the new pipe put into the culvert to help with Mr. Dickey’s problem has created less of an impact but there still was an impact. Mr. Dickey agreed the new pipe has helped some. The resolution for Mr. Dickey is a private property resolution, Kreidler continued. He purchased a piece of property for one hundred fifty years has had a water problem. The answer is to dredge the channel on his property and install a berm so when water does peak it runs off to the wetter more wooded section of his land. Mr. Dickey would like the town to do this. Kreidler said the simple fact is that we cannot expend taxpayer’s money on a private property resolution. O’Keefe asked what the solution would cost. Mr. Dickey estimated \$500.00 for piping and another \$500.00 for labor. Kreidler said there would be engineering expenses. O’Keefe understood public money couldn’t be spent but asked if there was a way to use a revolving account where Mr. Dickey could pay back the town. Kreidler said one doesn’t exist today but one could and gave an example of the sewer betterment and Title V. Mr. Dickey was in agreement to accept any help and would consider paying the town back if there was help. Kreidler said to Mr. Dickey that he was advised that he met with the Conservation Commission and filed a Notice of Intent. Mr. Dickey said he went to get the preliminaries and to see what the process would be. O’Keefe said let’s put on our thinking caps and see if the public could come up with a solution. Hunt commented she has been by the home and was excited to see no water prior to the storm and said the new pipe is working. Mr. Dickey showed the Board pictures of the water flooding on his property. Mr. Dickey will continue to contact the Conservation Commission and if he can get funding he will get it done. O’Keefe promised he will look to find funding.

Water Sewer Abatement Policy and Adjustments: O’Keefe drafted a policy on how adjustments and abatements would be handled. He said we only have three members tonight so let’s not rush through it and let me know if you have any recommendations for changes. Next meeting we will pick it up for passage. Hunt said she will not be at the next meeting and suggested an edit in “No. 2 Abatements.” Instead of “shall” abate, she said it should be “may” abate. Kreidler agreed it is a good catch on Hunts part and suggested after the words “Water/Sewer commissioners,” the

words “may abate” be put in. O’Keefe said he will alter it and send it out to members and it will be on the next meeting agenda.

Old Business:

Town Manager’s Goals and Objectives: Seeing that we had a partial Board this evening, Chairman O’Keefe stated this will be moved to our next meeting.

Town Manager’s Report:

1. **Personnel Updates:**

- a. Town Clerk Position: Kreidler read from his report announcing he is appointing Judith Ruschioni to the open Town Clerk’s position. Blair moved to affirm the appointment of Judy Ruschioni to the position of Town Clerk. Hunt seconded. By roll call vote of all aye, the motion carried unanimously.
- b. Administrative Assistant- Public Works: Kreidler read from his report announcing his appointment of Wendy Stevens to the position of Administrative Assistant in the Public Works office. Blair moved to affirm the appointment; Hunt seconded. By roll call vote of all aye, the motion carried unanimously. Kreidler stated to Ms. Stevens credit even though she needs to give her two weeks’ notice requirement she actually took personal time from her current position and was here today training and to Judy’s credit she has been working both sides of the hallway and she took time today to do some training with Wendy.
- c. Director of Public Works: Kreidler read from his report that he has advertised the position of Director of Public Works. As of today, he said, we have received three applications.
- d. The Town Manager enclosed a draft addendum to his contract reflecting the Board’s desire to change the timing of setting goals and objectives and the evaluation of the Town Manger. He stated if the document looks like you expect it, he will place it in their packets for the next meeting. He asked them to let him know if anything needed to be tweaked. They all agreed it looked right.
- e. Talent Bank Form Update – Kreidler informed the Board that the form has been updated and is enclosed in their packets for their review and consideration. He explained the changes and asked if it meets their approval, we would get it up on the web-site. O’Keefe brought up an idea of doing a mailing once or twice a year to residents with information from various boards. Kreidler mentioned we can do this almost without cost via electronically through an email blast from the website. O’Keefe didn’t think that would get to everyone. A newsletter was also mentioned.

2. **Financial Updates:**

- a. FY12 Budget – Kreidler read from his report explaining the “reversions” funds that may be coming back to the town from a provision in the Governor’s final budget. If it pans out, it would increase our local aid by \$100+/- for this fiscal year. These funds are slated to be released to the communities at the end of September. His thoughts on what he would recommend to the Board, the Finance Committee and ultimately the town meeting if approved were three things.
  1. \$43,000 to match the Robinson-Broadhurst Foundation’s grant of \$125,000 to purchase a new ambulance.
  2. Restore the hours of the Building Commissioner providing thirty-two hours of coverage. His hours had been reduced to twenty several years ago. He has been hearing from people regularly that it is an area of concern. Mr. Blanchard has agreed to those extra hours.
  3. The balance of these reversion funds, \$40,000+/- be left unappropriated and available for future town meeting action either as an expenditure, a transfer into stabilization or closed out to free cash at year’s end. Kreidler cautioned this could only happen if these funds come to pass.

O’Keefe liked what he laid out except for No. 3 and recommended changing a bit. He would like some of it, possibly \$10,000 to go into capital expenses. He feels we should always be thinking of placing money in that fund.

3. **Project Updates:**

- a. Water Meter Update – Kreidler informed the Board that there are thirty-nine meters left to be replaced. Of those, approximately ten need parts that are on order or the responsible party is either deceased or a forwarding address is needed. Hunt commented that she has heard good feedback about the people doing the updates reporting that they are professional and on time and that it was nice to hear. Their professionalism is outstanding. Let's pass kudos to everyone, O'Keefe said, the people of town, United Water, the media, and the Board of Health. It's amazing, great work all around.
- b. Solar Farm – Kreidler read from his report informing the Board that Sun Edison has presented the project to the Planning Board last Tuesday. It was a very positive and productive meeting and they will be back at the next Planning Board meeting with more information for the Board. He informed the Board that one of the critical path items in this project that is out of the control of either the contractor or the town, interconnection approval with National Grid, will be delayed. This means we will not meet our December 12, 2011 operations date and due to the winter it is more likely that we will see an early spring construction with a late spring operations date. He pointed out that he intentionally didn't plug in any estimated revenue from this solar project in this year's operating budget wanting to be on the conservative side and not have to course correct. One other point, he offered, the contract you executed and approved with Axio that has been absorbed and taken on by Sun Edison has a statement if the contract is not met by December of this year, the company is responsible to pay us the differential. If by December, we aren't operational, there is language we can fall back on. Kreidler said this is a thirty year marriage potentially and a new company that walked into this contract and thought the Board might want to consider a discussion before pulling the trigger on this clause. O'Keefe asked when we bring this up again, think of options, than rather trigger the one cent or not, let's think what might be in the middle. Kreidler agreed and asked for their thoughts about it if something comes to them.

4. **Miscellaneous Updates:** a. Rt. 140 Old Gardner Road Drainage Issue: This issue has already been addressed earlier on in the meeting.

Minutes:

Monday, August 8<sup>th</sup>, 2011 Regular Meeting – With only two members present who were at the August 8<sup>th</sup> meeting, Hunt moved to pass over until the next meeting. Blair seconded. By roll call vote of all aye, the motion carried unanimously.

Blair also moved the Town Manager's Goals and Objectives be moved to the next meeting; Hunt seconded. By roll call vote of all aye, the motion carried unanimously.

After discussion that Selectwoman Hunt would not be present for the next meeting, Blair withdrew his motion to pass over the above minutes. Hunt then moved to accept the minutes of August 8, 2011; Blair seconded. By roll call vote of all aye, the minutes were approved.

Communications: None discussed.

Agenda Items: None discussed.

Adjournment: Hunt moved to adjourn; Blair seconded. By roll call vote of all aye, the meeting adjourned at 9:08 p.m.

Respectfully submitted, Linda Daigle, Executive Assistant