

**TOWN OF WINCHENDON
BOARD OF SELECTMEN MINUTES
MONDAY, JANUARY 9, 2012 – 7:00 P.M.
Town Hall, 4th Floor Robinson-Broadhurst Conference Room**

Present: Robert M. O’Keefe, Chairman
Elizabeth R. Hunt, Vice-Chairwoman
Keith R. Barrows
C. Jackson Blair

James M. Kreidler, Jr., Town Manager
Linda A. Daigle, Executive Assistant

List of Documents Presented at Meeting:

- Chick’s Tavern, Inc. All Alcoholic Pouring License Changes Application (filed)
 - Max Performance Triathlon permit application (filed)
 - Water/Sewer Abatement application – Il Italiano’s (filed)
 - Kevin Bliss - Open Meeting Law Violation Complaint dated 12/21/11 (filed)
 - Town Manager’s Report (attached)
 - SunEdison Solar Project Update letter dated 12/21/11 (attached)
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Chairman O’Keefe called the meeting to order at 7:00 p.m. with the Pledge of Allegiance to the Flag of the United States of America. 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.

Selectmen’s Comments: None.

Appointments/Resignations: None.

With the time not quite 7:10 p.m. for the scheduled liquor license public hearing, Chairman O’Keefe moved to approval of minutes.

Minutes:

December 12, 2011 Regular Meeting prior to Special Town Meeting (STM) - Barrows moved to approve; Hunt seconded. By roll call vote of all aye, the motion carried unanimously.

December 12, 2011 EXECUTIVE SESSION held after STM – O’Keefe said these minutes are for approval, not to be released; Barrows so moved, Blair seconded. By roll call vote of all aye, the motion carried unanimously.

December 22, 2011 Special Meeting - Public Dog Hearing - Hunt moved to approve; Blair seconded. By roll call vote of all aye, the motion carried unanimously.

Permit/License Applications:

Max Performance 6th Annual Massachusetts State Triathlon – July 14-15, 2012: Tim Richmond, Race Director for Max Performance, spoke to the Board about the upcoming race in July. He said the number of participants are increasing and he's excited to announce it's a two day festival this year. A coed race will be held on Saturday and a women-only triathlon will be held on Sunday. He's been working with Lt. Walsh and the Police Dept. on the bike course and continues to work with the Clark YMCA and the Alzheimer's Association using the race as a nice vehicle to raise funding. O'Keefe mentioned the application went to different departments and only the Police Dept. responded with a comment wanting them to stay in contact with Lt. Walsh. Hunt asked about the growth of the participants. Mr. Richmond said the first year we had about 250 athletes. Last year, on one day we registered over 700. In splitting the race this year, we actually will be competing with ourselves but thinks it will be a worthwhile decision. They discussed the course and the main congestion area out in front of the Lake Dennison entrance. The course has been changed from 12 miles to a 22 mile course in hopes it will allow traffic to flow through and pass. Barrows moved to approve the application for Max Performance for their 6 Annual Mass. State Triathlon and to waive the fee; Hunt seconded. By roll call vote of all aye, the motion carried unanimously.

With a minute before the Liquor License Public Hearing, Chairman O'Keefe allowed for another opportunity for Public Comments.

Public Comments and Announcements: Mr. Lionel Cloutier asked about utilizing wood that is down on town property. Kreidler said he could consult with the Public Works Director but it was his understanding in the past that whoever's property abuts or is closest to where we take the tree down, he believed there was a provision in the law that gives them first right to the wood. He stands to be corrected though and wouldn't know how to determine who gets it. Cloutier suggested a lottery system for people having a hard time and mentioned the trees down along the Miller's River and Webster Street. O'Keefe said it sounds interesting and something we can look into.

Public Liquor License Hearing: Chick's Tavern, Inc. All Alcoholic Pouring License: Change from type - Tavern to Restaurant - O'Keefe opened the public hearing at 7:10 p.m. by reading the posted notice. The applicant, Cynthia Kendall, was sworn in. O'Keefe thumbed through the various Department Head responses. The Board of Health office commented if her menu was to change, she would need to seek permitting from the Board. Ms. Kendall stated she has talked with Jim Abare in the Board of Health office about putting a kitchen in sometime in the future because currently she has a limited food service license. Blair moved to approve the change; Barrows seconded. By roll call vote of all aye, the motion carried unanimously.

Sunday Morning Alcohol Sales Hour: Ms. Kendall also is looking to be approved to start serving alcohol on Sundays at 10:00 a.m. Blair moved to approve; Hunt seconded. By roll call vote of all aye, the motion carried unanimously.

New Business:

Water/Sewer Abatement – Il Italiano's, 302 Spring Street - Mr. Ashraf Soliman came before the Board on his application for a water/sewer abatement. He introduced himself as the owner and chef of Il Italiano's. He mentioned the first issue that happened last year had to do with a leaking ice machine. His bill did get adjusted at that time. This current issue is related to his hot water heater. When he went to change his soda machine in the basement, he noticed it was leaking and called for service and had it replaced right away before he received his water bill. O'Keefe mentioned there was a lot of material

enclosed in the packets and would like to speak with the DPW Superintendent since this is the first application since our new policy. Hunt agreed wanting more data in a different format and motioned to table this issue until the next meeting; Blair seconded. By roll call vote of all aye, the motion carried unanimously.

Open Meeting Law Violation Complaint – O’Keefe mentioned the Town Clerk received a complaint from Kevin Bliss against himself and the Board of Health Chairman Lionel Cloutier. Mr. Bliss complains that when O’Keefe met with Cloutier and a couple other Chairmen of other Boards and Committees in town that they violated the Open Meeting Law. O’Keefe stated the Open Meeting Law is quite clear that no quorum of any board or committee, any public body, may meet privately and deliberate on any issue that is either before or is likely to come before that public body. He and Lionel and the other gentlemen that got together don’t serve on the same boards; therefore they are not a public body. He said they also can’t deliberate on anything that is before the public body because they are not a public body. O’Keefe finds interesting that Mr. Bliss notes three individuals were at the meeting in his complaint, but the complaint is only to himself and Mr. Cloutier. Mr. Bliss doesn’t complain against the third person and O’Keefe finds this complaint to be personal, frivolous and mean-spirited. O’Keefe said since the complaint is not written to the Board of Selectmen but to him individually, he will send the response himself but asked for any feedback from the Board before he sent his letter. Barrows stated we had heard about this upcoming gathering; Mr. Cloutier came before us at a prior meeting and we all supported it. O’Keefe said there was nothing hidden or secretive about this. We met at a public restaurant in Winchendon, not a private, closed-door session. He was shocked when he saw the complaint and his letter of response will show how shocked he was and how outrageous it is. The Open Meeting Law is very serious and is taken seriously. The public puts their trust in us. A complaint like this is a waste of everyone’s time. Cynthia Cloutier, Lionel’s wife, came up to speak to the Board and mentioned that Mr. Bliss had called her a couple times prior to this get together to encourage her to change her husband’s mind on this get together. He told her it was a violation of the Open Meeting Law. She disagreed with him and told him there is no full Board of any kind, no agenda; it’s just a meet and greet. It is meant for better communication for different departments to help the public to help operate through the local government. After the meeting, she stated she was really bothered by Mr. Bliss calling her. The Town Manager called for a point of order stating Mrs. Cloutier has a concern that she has shared with him but this meeting is about the Open Meeting Law complaint and Mr. Bliss, as a public official, has certain rights. He has the right of notice of the specific subject and the opportunity to be present. Mrs. Cloutier stated she might like to meet with the Town Manager or Chairman O’Keefe to discuss this issue further. Kreidler offered to meet with her.

O’Keefe concluded with thanking Mr. Cloutier for getting them together. He had the opportunity to meet a couple Chairmen he had never met before. Kreidler informed the Chair that this complaint should be a response from “a Board”. The Open Meeting Law, the Attorney General’s office, is going to expect a response from “a Board”. O’Keefe mentioned the complainant filed this with the Town Clerk and not with the public body, the Selectmen. But to make sure we make no violations, he would respond. Kreidler, being protective of the town’s interest, suggested the letter include comments heard from members of the Board that they find no merit in the complaint. Hunt moved that this complaint doesn’t have merit to go any further; Barrows seconded. By roll call vote of all aye, the motion carried unanimously.

Barrows added, before we step away and looking at the Open Meeting Law, one of the premises of a violation, a quorum of a public body, must be present. He asked if there was a quorum of any Board

members that evening. O’Keefe replied, no. Barrows wasn’t quite sure why a vote from the Board was needed when a violation couldn’t have occurred if there wasn’t a quorum of any body.

Old Business: n/a

Town Manager’s Report:

1. Personnel Updates:

a. Fire Chief – Kreidler read from his report announcing that after a thirty-four plus year career as a member of our Fire Department, with the last twelve being Chief, he was saddened to report that Fire Chief Joe Lafrennie is retiring the end of February but he will stay on until his successor is in place. Kreidler spoke highly of the Chief and wished him and his wife, Barbara, who also recently retired, nothing but happiness. O’Keefe stated he would like a proclamation presented before he retires. Advertisements for his position will be run in a local paper and in the Beacon.

2. Financial Updates:

a. FY13 Budgets – Kreidler read from his report informing the Board that although state revenues are predicted to grow slightly in FY13, we should still level fund local aid or even slightly reduce it.

b. Streetlights – Kreidler announced he was going to appoint a committee to address the issue of returning some streetlights in town to service realizing new revenue that will be coming forth from the solar farm being built on our landfill site. The analysis will take into account factors ranging from public safety to aesthetics. Committee members will consist of the Police Chief, the Fire Chief, the Public Works Director, a Planning Board, School Dept. and Toy Town Partnership representative by invitation and lastly a Selectmen representative. Barrows moved to appoint Mr. Blair to this committee; Hunt seconded. By roll call vote of all aye, the motion carried unanimously.

3. Project Updates:

a. Solar Farm – Kreidler announced that SunEdison received the Planning Board approval for our solar project. He reminded the Board that SunEdison acquired Axio Power who the town originally contracted with. He read into the record the letter dated December 21, 2011 from SunEdison updating the solar project. The letter detailed the delays and the progress being made. O’Keefe asked what is the current estimated time when it will start to produce power. Kreidler replied we should see a ribbon cutting summertime; the original plan was this past December.

4. Miscellaneous Updates:

a. Cable Contract – Kreidler informed the Board that we are now within the window within which Comcast has filed their Draft Renewal License Proposal. He has contacted our Comcast Representative, Mr. Kelley, who is willing to meet to negotiate terms. The Town Manager shared with him the types of things from the Advisory Committee and some thoughts of his own. The two biggest were increased capital to do equipment upgrades and additional PEG access to do additional programming through the school. He would also like to see a direct fiber connection to the headend instead of the coaxial cable now being used that runs to the school first and then to the headend. Mr. Kelley has stated he would get a technician out to check on the fiber option but felt he was moving away from a commitment to do the fiber. He hoped for positive results when Mr. White, himself and Mr. Kelley get together in a room to negotiate. Kreidler mentioned we currently get \$6,000 a year for cable related services and would like to get that

increased significantly. Ten years ago we received a capital grant of \$25,000 to get the broadcasting equipment downstairs; we're looking to get that increased as well. Kreidler said he would have more to update the Board within a couple weeks. O'Keefe thanked the Town Manager and the Advisory Committee for doing this work.

Hunt inquired about the landfill recycling contract with Fiore Recyclables. Kreidler informed the Board with the initial contact, they would come in with their staff using their trucks, their fuel and take the recycling away and we would get paid based on tonnage by type of material. Shortly after that and receiving a few months of checks, the recycling market for scrap metal crashed. We had to make a decision, do we void the contract because he wouldn't be able to pay us and absorb the cost by hiring another person, bringing it ourselves and getting insured. At the time, I brought it to the then seated Board and I thought it would be in our best interest to renegotiate with him such that he would continue to absorb the expense and when the market afforded, he would pay. He has been paying now for nine months or so. We are looking at this again in July with other vendors who have shown interest.

Communications: n/a

Agenda Items: Next Regular Meeting of Board of Selectmen – 1/23/12

Adjournment: With no need for Executive Session this evening, Blair moved to adjourn; Barrows seconded. By roll call vote of all aye, the meeting adjourned at 7:57 p.m.

Respectfully submitted,

Linda Daigle
Executive Assistant