

**TOWN OF WINCHENDON  
BOARD OF SELECTMEN MINUTES  
MONDAY, SEPTEMBER 23, 2013 7:00 P.M.  
Town Hall, 109 Front Street, Winchendon  
2<sup>nd</sup> Floor Auditorium**

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

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

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List of Documents Presented at Meeting:

- Letter of Interest from F. Richard Ladeau to serve on Council on Aging (filed)
- Letter of Interest from Gregory Vine to serve on either Planning Board or Conservation Commission (filed)
- Permit Application: Winchendon’s Lion’s Club for Voluntary Boot Drive on Oct. 12, 2013 (filed)
- Mark’s Auto Repair Class II License: On hold by BOS (filed)
- Council on Aging brochures, Memo to the Selectmen dated 9/18/13, Senior Center Bylaws, History, Comparison, Growth, Budget Breakdown, Summer of Senior Center Activities, Report of COA Planning Sub-Committee, Pictures of Water Damage in Third Floor Stairway (filed)
- Open Meeting Law Complaints dated 9/16/13: Mr. Tony George, Mr. Mike Young (filed)
- Courthouse/Police Station Purchase: (all filed)
  - Suggested motion from Town Counsel
  - Deed Acceptances: 72 Central St.; 78-86 Central St.
  - Escrow Agreement and Fourth Amendment to the Purchase and Sale Agreement
  - Letter to Bond Counsel stating no additional state or federal funding is being utilized to reduce the authorized borrowing
- Town Manager’s Report (none)
- Minutes for approval:
  - Monday, September 9, 2013 Regular Meeting (filed)
  - Monday, June 17, 2013 EXECUTIVE SESSION (filed)

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Chairman O’Keefe called the meeting to order at 7:06 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.

*Disclosure of Audio/Video Recording:* No one announced they would be audio recording the meeting this evening when asked by the Chairman.

**SELECTMEN’S COMMENTS:**

Representative John Zlotnik was in the audience and was recognized by the Board.

Blair announced how wonderful the dedication ceremony for the WWII Monument was on Saturday. People are continually stopping by and viewing it and taking pictures, said Hunt.

**PUBLIC COMMENTS AND ANNOUNCEMENTS:** There were none.

**APPOINTMENTS/RESIGNATIONS:**

Council on Aging Appointment – Mr. David Ladeau – Barrows moved to appoint; Blair seconded. By vote of all aye, the motion carried unanimously.

Planning Board or Conservation Commission – Gregory Vine – O’Keefe announced that they had received a letter from Mr. Vine with interest to serve on either the Planning Board or Conservation Commission. Mr. Vine has already been before the Planning Board and is showing interest with that Board who has given a favorable recommendation. Berndt, who also serves on the Planning Board, said that Mr. Vine has shown interest in both Boards and suggested he sit in on both meetings and see which Board he likes the best. Mr. Vine addressed the Board stating he thought planning seemed like a good position. It was the panel that contacted him first. He was invited by Mr. John White to come to their meeting last week. He feels like it would be a good fit for him and better with his background. Vine said he has always had an interest in public service and has the time and inclination to do it. He has served on the School Committee in the past and is currently on the Cultural Council and would appreciate the chance to serve on the Planning Board. Hunt moved to appoint Mr. Vine to the Planning Board; Barrows seconded. By roll call vote of Barrows aye, Hunt aye, Blair aye, O’Keefe aye, and Berndt nay, the motion carried by majority vote.

**PERMIT/LICENSE APPLICATIONS, HEARINGS:**

Voluntary Boot Drive Permit – October 12, 2013 Winchendon Lions Club – Curt Fitzmaurice and Joni LaPlante came forward on this application. The drive will be held from 9:00 a.m. to 1:00 p.m. on Front Street in front of the Historical Society. There were no issues of concern listed on any Department Head responses. Additional waiver forms were presented. They will have signage, vests and cones for the event. Blair moved to approve; Berndt seconded. By a vote of all aye, the motion carried unanimously.

Class II Status Update – Mark’s Auto Repair - Mark Tansey came before the Board. O’Keefe explained the Board granted a Class II license to him in November of 2012 but he hasn’t received it yet because of requirements he had to fulfill. He said he is ready to start now and will be in this week. Blair mentioned the fifteen car maximum that is on the not-yet issued Class II license and how there are twenty-four cars on the lot plus a couple boats. Mr. Tansey said most of those would be leaving. There was discussion on what has been happening at the location. Mr. Tansey said he has moved a lot of cars in and out. He stated he has not gone before the Planning Board yet and has not set a date to be placed on their schedule. Blair stated there doesn’t seem to be any action required tonight because none of the conditions have been met and moved to table. There was no second heard. O’Keefe told Mr. Tansey license renewals are coming up soon and the Board would like to see him in before then. He suggested he get with the Planning Board very quickly and to watch the number of vehicles. Berndt informed the Chair that there also was a boat that has been there for sale for three weeks now. Hunt said she sees activity and she was disappointed he hasn’t followed through with the steps to receive his license. Mr. Tansey stated he’s running a garage, the boat belongs to a customer who has the sign on it and he’s repairing it. O’Keefe stated the sign should be removed from the boat; it’s not appropriate to be selling any kind of vehicle without the proper license. Berndt asked to put a time frame on the requirements that are to be met. It was agreed to place him back on the agenda for the first meeting in November.

**BOARDS/COMMITTEES/COMMISSIONS**

Council on Aging – Senior Center Update – The Senior Center Director, Sheila Bettro, and the Council on Aging Chairwoman, Judy Mizhir, came before the Board. They presented a packet of information for the Board and spoke about the Senior Center’s activities, growth, challenges and plans for the future. They reported the Center is thriving. They have concerns about the building. A lot of work has been done by the Town through CDBG grants and Robinson-Broadhurst. When work on the roof was done, substandard nails were used and slate is falling off the roof. Repair work was done a few years ago but there are still leaks on the third floor. Gerry White, the Director of Development, has been working with them to help identify the problem. Another need of the

Center is a protective entryway over the handicapped entrance due to concerns of snow and ice falling off the roof in that area. They have funds for this work and Mr. White is working with the Architect on the plans. Those are the two main problems for the Center, Mizhir stated. Mr. White was in attendance if they had any questions and had provided pictures of the roof for them in the informational packets.

The Center is expanding rapidly and they anticipate a need for additional transportation and staffing within the next year. O'Keefe commended them on the report and the number of people they serve lunch to every day. Hunt agreed and asked about Friends of Old Murdock and their assistance to the Senior Center. Ms. Mizhir explained they are a non-profit group for the Senior Center. They are very active and sponsor things like the Winter Fest. She encouraged people to get involved with the Friends and/or volunteers are needed to be part of working with some of the events. Ms. Bettro commented how the Senior Center has over fifty volunteers that help them get through the day and spoke about some of the programs offered and how it's like a big happy family there.

Kreidler pointed out, looking at the comparison sheet and the different hours listed for other towns, that Winchendon's town budget alone does not fund the hours. We pay a portion, a formula State grant is brought to the table, the Robinson-Broadhurst Foundation contributes, senior work-off volunteers participate and also the Friends of Old Murdock. It goes to Sheila and the Council's credit for always looking at ways of funding. Blair thanked them for a complete report. Ms. Mizhir asked if there could be a connection with one of the Selectmen and the Council. O'Keefe and Berndt volunteered to be involved and be that connection. Mr. White was also thanked for his efforts in going above and beyond in helping to put the information together.

#### **NEW BUSINESS:**

##### Open Meeting Law Complaints:

Mr. Anthony George of 134 Hale St. filed a complaint against all five Board of Selectmen members and states at a meeting on June 17<sup>th</sup> the Board violated the Open Meeting Law. O'Keefe didn't read the entire complaint but offered a copy to anyone. He stated this is basically a rehash of the Inspector General's letter we addressed a couple weeks ago and now has been put on the proper form. An official response must be provided. He addressed a couple issues in the letter. First, the complaint lists the members who committed the violation which includes him. He was not present at the meeting but stands with his colleagues. He found it interesting that the complaint is on the June 17<sup>th</sup> Executive Session because the minutes have not yet been released. He was concerned that they may have been acquired improperly. It was agreed that their response to this complaint would be to cut and paste from the response already sent to the Inspector General regarding this issue. Blair commented that he didn't find anything new in this complaint that the Inspector General hadn't already brought to our attention. It is moot to talk about it; we took an issue and provided a constitutional response and cutting and pasting our response would be proper. O'Keefe also wanted the letter to show that he wasn't at that meeting and that this is a complete waste of time. We have sent our response to the Inspector General and we haven't heard anything back. Kreidler offered a comment explaining when these matters have been handled in the past, they have been looked at in two different perspectives; one a procedural response and the other is a substantive response. You will be taking the substantive response. Procedurally the law is specific. In its most recent guidance, a complaint must be filed within thirty days of the date of the violation (in this case thirty days from June 17<sup>th</sup>) or the date the complainant could reasonably have known of the violation. Some of the information talked about publicly was on the website, the bulletin board, and covered by the media. Could someone reasonable have known this was an issue and presumably a flaw in the Open Meeting Law thirty days from the 17<sup>th</sup> or thirty days from the posting or the reporting in the newspaper? You will be commenting on a procedural deficiency but the complaint is deficient on a substantive level as well. O'Keefe said the original complaint from the Inspector General was late and this just adds to that.

Mr. Mike Young of 130 Lincoln Ave.- O'Keefe said Mr. Young's complaint alleges the same violation occurred at the June 17, 2013 meeting but properly lists the four Selectmen in attendance. The thirty days is long gone and it rehashes what has already been discussed. But this one adds a couple interesting items that weren't in the

Inspector General's letter and he believes it gets really to the reason of the complaint. He read from the complaint why Mr. Young believes the Open Meeting Law was violated... "to some of us in the community this purchase is a contentious issue." O'Keefe pointed out the complainant is telling us right there the reason for his complaint. He is against the project. This isn't an issue of the Board violating any procedure, regulation or statute. This is an individual who is against it. He has the right to go out and speak out about it, but do not file a complaint stating a Board violated a law because you are against the project. He recommended in our response that the issues brought up that are identical to the Inspector General's letter be cut and pasted into their response and also to bring up the fact that part of the alleged violation, the complainant talks about his own personal reasons for disliking the project. That is not a valid reason for a complaint.

Kreidler informed them of the procedure required of a public body's response: receive the complaint, send to all members of the public body which you have, within fourteen days offer a response and any remedial action, notify complainant of that action or presumably your decision and forward a copy of the complaint, response, remedial action to the Attorney General. He advised it would be appropriate for the Board to vote its official position of its response to both complaints.

Berndt move to respond to the Open Meeting Law complaint filed by Mr. George and substantively to address his concern by copying and pasting from their response and Town Counsel's response to the Attorney General on the same subject matter and further noting the lack of attendance of the Chairman at that meeting. Barrows seconded. A procedural response was added. Berndt amended his motion to include a procedural response as discussed and for the Chairman to come up with the final language; Barrows seconded the approved amendment. By vote of all aye, the motion carried unanimously.

Berndt moved to issue the same response to Mr. Mike Young's complaint with the deletion of the Chairman's attendance and including additional comments regarding his personal dislike of a project being alleged violations. Barrows seconded. The Board commented how this is a continued waste of time. By vote of all aye, the motion carried unanimously. Barrows moved that the Board authorize the Chair to finalize and summarize said language for both responses and to further execute on behalf of the Board; Berndt seconded. By vote of all aye, the motion carried unanimously.

Blair moved that the Board authorize the Chairman and the office then distribute the responses once finalized and executed to both the complainants and the Attorney General's office; Berndt seconded. By vote of all aye, the motion carried unanimously.

Blair said anytime anyone makes a decision and creates division, there is always those who favor the decision and those that wish it had gone the other way. In his recollection of events, there was a proper presentation, a proper discussion, a proper vote at Town Meeting, a proper distribution for proposals, a proper consideration of those proposals and then we acted on that consideration with advanced notice for anyone that was interested. That doesn't mean someone wishes otherwise. There is a fine line with discouraging dissent. In this instance, the minority, in some point in time, has to walk away from this. He doesn't feel they have erred in this and commended the Chairman for indicating that this isn't the best way to go about presenting your objections, but some people can't find any other way to find attention. Most importantly, as iterated at our last meeting, there are costs associated with dealing with this stuff. At some point, in the interest of the taxpayers, these efforts have to stop. O'Keefe added that at no point was he, the Board, the RFP Evaluation Committee or the Police Study Development Committee discouraging dissent. The complainant, Tony George, appeared at almost every single meeting of our Evaluation Committee and every meeting he was given as much time to speak as he wanted to. Blair pointed out that both complainants were notified of the meeting tonight and decided not to attend. They supplied a letter to the Board stating they are not required to and so will not.

Barrows wanted to point out before they moved on for the benefit of those people reading and listening, that the theme in both complaints was that somehow they were not specific on what the topic was going to be. The agenda

clearly spelled out this was a Police Station Site Purchase and Sales Agreement. You can't be much more forth right than that. This was not just the price; there were conditions that needed to be accepted and nothing was finalized until the end of that Executive Session. They are trying to protect the interest of the Town as a whole which includes every single taxpayer, regardless of what side they are on. O'Keefe pointed out that will be clear when the Executive Session minutes from that meeting are released later on in this meeting.

Courthouse/Police Station Purchase - Vote: To Authorize the Board Chairman to Execute Closing Documents: Barrows moved, pursuant to the vote taken under Article 20 of the May 21, 2012 Annual Town Meeting, to approve of the purchase of three (3) parcels of land known and numbered 72 Central Street, 78-86 Central Street and a portion of 112 Central Street/ 93 Pleasant Street/103 Pleasant Street, Winchendon, Worcester County, Massachusetts in furtherance of that certain Purchase and Sale Agreement dated as of June 17, 2013, as amended (the "Purchase and Sale Agreement"), by and between the Town of Winchendon as "Buyer" and Winchendon Court LLC and Elias I. Hanna, Individually, collectively as "Seller" and to: (1) to do all things necessary to effect the Town's acquisition of said property; and (2) to approve and execute, and further, authorize the Board of Selectmen Chairman to execute, any and all documents related thereto including, without limitation, the Town's Acceptance of Deeds, a Settlement Statement, a Compliance Agreement; an Escrow Agreement, a Bill of Sale for Personal Property, and all such other documents and instruments as the Board of Selectmen Chairman deems necessary and proper to facilitate the Town's acquisition of said property and all in the form substantially similar to those presented to us on this day and/or with such non-substantive changes that may be made to the foregoing documents with the approval of the Board of Selectmen Chairman and Town Counsel. Berndt seconded. Kreidler pointed out to them that the enclosed escrow agreement on Page 2, No. 6, lists a date of one year for remedial work to be completed. He has been informed by Town Counsel that it will be changed to six months. By a vote of all aye, the motion carried unanimously.

Kreidler said there is one additional matter. Bond Counsel requires a notice from the appropriate authority that the project as was voted at Annual Town Meeting at \$2.75 million dollars has been estimated and our understanding to come in within budget and further that well the vote said that the amount will be offset by any state or federal funds that will be brought to the project that there are, in fact, no federal or state funds so stated in that letter from Bond Counsel. A draft of the letter needing to be executed by the Chair has been prepared. Berndt moved the Board authorize the Chair to execute the Bond letter; Hunt seconded. By a vote of all aye, the motion carried unanimously.

Vote: BOS to Execute Acceptance of each Deed from Winchendon Court LLC – Hunt moved the Board of Selectmen accept deeds 72 Central St. and 78-86 Central St. Barrows seconded. By a vote of all aye, the motion carried unanimously.

The Board took a brief recess at 8:17 p.m. to execute and notarize the documents.

The meeting reconvened at 8:18 p.m.

Consideration of Employee Contracts – This item was moved to the next meeting allowing for more time.

**OLD BUSINESS:** N/A.

**TOWN MANAGER'S REPORT:** There was no report this evening. One will be included at the next meeting.

**MINUTES:**

Monday, September 9, 2013, Regular Meeting - Berndt moved to accept as written; Barrows second. By a vote of all aye, the motion carried unanimously.

Monday, June 17, 2013, EXECUTIVE SESSION – Blair moved to approve the release of these minutes; Berndt seconded. By a vote of all aye, the motion carried unanimously. O’Keefe mentioned there were two issues in Executive Session that evening. They were the hiring of our Town Accountant and the second related to the Courthouse. The biggest issue under discussion that evening had to do with hazardous material that had to be cleaned up. The Purchase and Sale Agreement needed to cover how that would be handled.

**COMMUNICATIONS:** N/A

**AGENDA ITEMS:** October meeting schedule – With a holiday next month on a regular scheduled meeting night; Blair moved to meet on October 7, 2013. Berndt seconded By a vote of all aye, the motion carried unanimously.

**ADJOURNMENT:** With no Executive Session being held this evening, Blair moved to adjourn. Berndt seconded. By a vote of all aye, the meeting adjourned at 8:24 p.m.

Respectfully submitted,

Linda Daigle  
Executive Assistant