

these conditions. O'Keefe replied that Town Hall staff would monitor if an application was submitted and that whether or not they are acting outside their class falls under current staff that we already have to monitor it. Barrows seconded. By a vote of Barrows aye, Hunt aye, Blair aye, Berndt nay and O'Keefe aye, the motion carried by majority vote.

Hungry for Pizza – Mr. Jim Caton came in to the office today seeking to renew his Common Victualler license for 2014. He stated he missed the original letters. It was noted that Mr. Caton owes back taxes on property he owns which means that the license can't be renewed immediately. Mr. Caton stated he visited the Town Collector's office today and she had asked for a large down payment and he wasn't able to do that. Kreidler offered the Board could also make the approval of this license conditionally that it's available if the matters that are outstanding are addressed before Dec. 31st. He committed to work with Mr. Caton and the Treasurer/Collector to work out something to keep him in business. If he's out of business, we are more likely not to get our money. Hunt moved approving the 2014 renewal contingent upon between now and December 31st Mr. Caton comes in satisfying the Tax Collector's requirement of at least a payment plan being in place; Fedor seconded. By a vote of all aye, the motion carried.

SPECIAL TOWN MEETING DECEMBER 30, 2013:

Vote and Posting of Special Town Meeting (STM) Warrant – O'Keefe stated they were here tonight to review the articles and officially send it to Town Meeting. He announced the Finance Committee would be having their Public Hearing on Thursday, Dec. 19th here at Town Hall.

Kreidler stated Town Counsel has reviewed the STM warrant and wrote back with limited comments. They commented that the Zoning Articles had been previously reviewed and revisions had been recommended but they didn't see those revisions being addressed and they will be subject to challenge at the Attorney General's office. Town Counsel also noted some Scribner errors that could be taken care of by an amendment at Town Meeting and will go back to the Planning Board to address.

The enforcement part of the Pooper Scooper Bylaw was recommended to avoid any confusion to not empower individual members of an elected body, the Board of Health, but to empower an officer or for the Board proper to take votes.

In looking at the balance of the articles being financial, Town Counsel was concerned about school articles being deficient in language, specifically there are efforts being made to transfer funds from undefined sources.

Kreidler passed out a copy of the warrant that was highlighted for areas he wanted to bring to the Board's attention:

First on page 1 the time is being changed to 7:15 p.m. due to their vote last week taking place at 7:15 p.m.

He explained why we are having a Special Town Meeting to close the FY13 books and show it ended in balance and that our FY14 budget is in balance so the Dept. of Revenue (DOR) can set our tax rate. We can't send out tax bills without setting the tax rate, we won't receive money in and will run out of money as an operational perspective. DOR likes us to have our tax rate set by the end of the year. He explained why we were late in this process being due to our long time Accountant becoming ill with her seat being vacant for some time before the new Accountant came forward without the benefit of any training.

Article 2A – Kreidler explained the reduction in the FY14 budget with the amount coming from the Community Development office with grant money received replacing these funds. This amount is now on the table to be applied somewhere else.

Article 2B – Kreidler explained that the Town Accountant was able to determine and certify with DOR that the Town took in an additional \$120,000 more in excise tax revenue. \$116,000 of this amount combined with some of the funds in the previous article will cover the \$142,000 FY13 deficit. He added, though, that the DOR said we shouldn't do it this way and explained the recapitalization sheet. If we do it the way this article is presented, a lot of work will have to be done that night. He is planning on removing this part of Article 2 stating that all that is needed is to create the fund source to put in the Recap sheet to fill the deficit. DOR will see an amount of money from this Town Meeting that can be put where it needs to be plugged in to balance out. He noted that Town staff would be back at Town Hall after the Special Town Meeting presuming votes go as laid out and they would be submitting the work needed to get into the DOR. The DOR has offered to work on it the next morning, December 31st.

Articles 3A and 3B – Kreidler first apologized to Dr. Khelfaoui, Supt. of Schools, the School Dept. and the Finance Committee for having addressing this article as a FY13 deficit. It is a FY14 deficit.

Kreidler explained that we are required by statute to spend an amount of money for special education in the Town of Winchendon. The net school spending is the phrased used. It is a figure comprised of state aid and local contribution. Local contribution is then offset by cost that are school education costs that are allowable pursuant to a code of Massachusetts regulations that we pay for in the general government budget or that we get assessed. Any cost in our budget attributable to the school, we bill for this pursuant to our indirect agreement. The reason why we have to hold back more is entirely driven by School Choice and School Charter. These two expenses are allowable under net school spending. The indirect cost number is set in January doing our best effort of what it is going to be 18 months later. It is based on the Cherry Sheet figures at that time. When the Cherry Sheet was finalized and closed for FY14, that assessment was increased by \$109,898. This happened after Town Meeting voted the article in May 2013. This article isn't taking money from the School Department's budget. It's taking some of their existing money and making sure this responsibility is done. The School Dept. likely had plans for this money and it will impact them. Alternatively, the Town Manager continued, it could stay on this side of the books that won't be legal, and we would have to eat the impact. It is not ours and it would be far harder for us to pay. O'Keefe suggested we find a better way to handle this item and get more accurate numbers for Town Meeting. Kreidler stated it is unfair to the School Dept. that we are doing this now, with half a year gone by; normally, we would have discovered this when the Cherry sheet finalized and addressed it at Fall Town Meeting. We would have gotten it three months ago.

Article 3B will be taken off the table with it not being needed. It will be talked about though just to give the full picture.

Present this evening from the School Dept. was Supt. Dr. Khelfaoui, Business Administrator, Mellissa Dunnet, Chairman Mike Niles, members Mike Barbaro and Susan Burdsall. Chairman O'Keefe allowed the School Dept. to come forward to comment. Dr. Khelfaoui stated he didn't believe they have taken all the assessments into question stating there is a \$62,000 reimbursement to charter that he could not track back into the Town's budget. The state considers this a reduction to the assessment. He encouraged that the \$109,000 be readjusted with this \$62,000 as this is a real number on the Cherry Sheet. Kreidler replied he has spoken to the Town Accountant. This is net of reimbursement which is what the cost agreement is. We can find out where those numbers exist on the books but that was how it was explained to him. Dr. Khelfaoui passed out FY13, FY14 Cherry Sheets to the Board. In 2013, we do have according to the state that we are also under net school spending. He realized this isn't a topic for this evening but for future discussion.

Kreidler responded that it appears that a letter from the State came last December that the Town was \$186,000 shy of meeting their net school spending so they added it to our minimum requirement for FY13 and net today projected in 2014 to be even higher. The initial \$186,000 they say is because we are out of compliance, for the very reason they say today, school choice and school charter requirements. Kreidler explained the action taken back in 2011. We had a Special Town Meeting

where there was \$150,000 that was acted on to address, among other things, School Choice and Charter assessment increase and unemployment overage in the Indirect Cost Agreement. The issue, unlike the article before you tonight that adjust the indirect cost number to capture that deficit, the way the article was worked two years ago this week, was to actually reduce the school budget. It clearly said for what purpose, to cover the deficit in Choice/Charter and to cover the deficit for unemployment, but the actual language was to reduce the school's budget. When the Schedule 19 end of year report was filed, there is a Town Meeting article that initially appropriates the \$15 million and then there is a subsequent Town Meeting article that takes a \$150,000. It wasn't taking money away, he explained, it was reallocating revenue from the School budget that should have been included in the indirect costs. It looks like we shorted them by \$150,000 and there is another \$40,000 that the Superintendent is chasing and he thinks he'll get to the initial \$186,000 that initially kicked this off. Dr. Khelfaoui has done good work and this warrants more thoughtful face to face communication. While this is important to get to the bottom of, it is less critical than the acute hemorrhage of getting the tax rate set. O'Keefe asked that they continue good communication and any article be written that is needed for Spring Town Meeting to have balance. Dr. Khelfaoui said it is a discussion for another time, trying to balance revenue with liability but to make sure the tax rate is set, you want to make sure this is finalized too; this is a serious amount for 2013 alone. He also stressed this evening to please look carefully at that \$109,898 figure and make sure it is net of reimbursement. We couldn't see where it was and would need it to be amended properly before Town Meeting. He urged the Accountant to look at it carefully and hoped by the Finance Committee's Public Hearing on Thursday it could be determined if it was taken into the assessment. Kreidler committed that he and the Town Accountant would look at that first thing tomorrow. He believed that it had been taken into the agreement but if we discover last year was netted against the assessment, it is not fatal and would be reconciled.

Kreidler explained the rest of the articles are not numbered anticipating changes in the numbering.

Medicaid Reimbursement Article – Kreidler gave some background information on this account. Some thirteen years ago when he first started in this position he came to understand revenues that were available to the Town from the Federal Government as reimbursement for services that the school supplies for income eligible students that receive certain special services, was not being sought. There was money available to the community that was not being asked for. The Superintendent at the time said we don't go after it because it takes staff time and we don't get the reimbursement, it goes to you. Fast forward six months an agreement was made with the new Superintendent that the school would receive 20% of whatever reimbursement was received, knowing that it would take some considerable effort to first set this up not having done it before and then each year after that the school would receive 10% thereafter for the school effort to submit the report. After some discussion back and forth with the school at that time, he decided to continue with the 20%. Once the books are closed, the next available Town meeting, we would then appropriate that 20% and the article is written for the effort that is put in from the school. There are two articles voted for FY10, FY11 to give roughly \$65,000 in total for each of those two years. It was appropriated at Town Meeting but was never spent by the school in the appropriate fiscal year. The School Dept. reached out to the Town Accountant seeking to utilize these funds to do a reclassification to use these funds without a Town Meeting vote to cover deficits in two revolving funds, athletics and food services. The Town Accountant advised that they could not use these outside funds to cover those deficits in those revolving funds and the funds in those articles are no longer school dollars but are now general fund because they weren't used. A lot of discussion has taken place to get our hands on this issue. It was been realized the School Dept. wasn't processing and managing this Medicaid reimbursement but having a private concern doing it charging a 4 ¾% fee right off the top. He finds this unfortunate, while we look at the respective budgets over course of the last decade, the School is doing better on a curve than the General Government budget with the annual increases for the School and the General Government budget having a hard time maintaining services. He pointed out that for the past two fiscal years, \$65,000 has been sitting on the books within the same year that he has had a deficit, has had to lay off staff, reduce functions, and consolidate services with government staff not seeing even a COLA, cost of living increase, in the last few years.

Addressing the article, Kreidler stated the School Dept. takes the position that those are their dollars. Even though he wants to disagree, technically, they didn't spend them and it would come back. If you look at that four year period, 20% is roughly \$120,000. If he goes back to the 10% that it should have been of that four year window, the amount would be \$62,000. It is close to the \$64,000 that they got but didn't use. He thought it fair that they have access to that but wanted to be clear that Medicaid reimbursement is municipal revenue and will stay 100% municipal revenue unless there is a better understanding of how this is being done.

School Committee Chairman Mike Niles stated the characterization that the School is doing nothing to earn this money is unequivocally false. Mrs. Landano, who runs the program, could not be here this evening, but she provided a statement for him to read. The statement addresses the Medicaid program at the School listing the work that is done and gave information on the contract with the University of Mass. Medical School in their assistance with the reimbursement. Niles explained the split of responsibilities saying when it was looked at it was cost prohibited to do as required. Dr. Khelifaoui added that they do something that we don't have the expertise to do but it is a misunderstanding that we don't put in the effort and assured us that the time put in by the professionals and secretaries will be more than the \$37,000. Twenty percent doesn't cover all of that. He concluded that if the Town Manager felt the Town can do the reimbursements, they can keep the full amount.

Blair commented about the paperwork being submitted and the discussions being had and suggested we not argue about this until the final data is received. The Chair asked the Town Manager to move forward and give a brief description of each article and mentioned that there is a Finance Committee Public Hearing that anyone that is interested can join in that meeting. Also the Board of Selectmen would be meeting prior to the Special Town Meeting on Dec. 30 and at that time would be making their recommendations.

The next article under the heading FY13 School Transportation Deficit Reconciliation, Kreidler explained this article takes those amounts that were previously authorized to the School Dept. for Medicaid Reimbursement but not expended would be used to cover School transportation deficits. There is no obligation these funds go to the School Dept. legally, but this article is the compromise. There is a deficit in transportation and funds available to marry the two. More detail would be provided at the Finance Committee's meeting.

The next article the Town Manager stated he was going to remove as he was the submitter. He didn't have 100% certainty that the correct thing would happen and didn't want to take the risk that the tax rate wouldn't be set.

GENERAL GOVERNMENT FINANCIAL ARTICLES:

Kreidler explained in the Spring it was likely we would have funds realized by receiving the CDBG grant and so is taking \$18,000 from the Community Development budget reduction in 2A above and putting it on the table for the Community Action Committee in consideration for the numerous services provided to the Town.

Next Article is to fund contractually required sick leave buyback for retired former Assessor, Linda Bevan. He reminded the Board when Ms. Bevan gave notice of her retirement, the window didn't allow us to bring it to the Annual Town Meeting. He stated due to the hard work and creativity of our Town Accountant, we do not need to go to stabilization to fund this. This is a 30 plus year employee that has accrued this benefit.

SCHOOL FINANCIAL ARTICLES:

The Town Manager explained these are companion Medicaid Reimbursement articles submitted by the School Dept. but informed the Board that according to Town Counsel this is an unlawful article because it does not define a funding source and cannot be acted on. The Finance Committee has a standing policy that if an article doesn't identify a source, the standing policy of the Finance Committee would

be to vote it down. Town Meeting could act on this but it will have no effect. Dr. Khelifaoui said he contacted the Chair of the Finance Committee who advised them to submit the article without a source and it could be amended accordingly. Kreidler stated this article cannot be amended as it didn't leave open for a possibility of a source. Chairman Niles and Supt. Khelifaoui voiced their objections to having only a seventy-two hour notice of Special Town Meeting, not giving them the appropriate time to seek legal advice. Blair commented that the Board couldn't choose between the two; Town Counsel legal advice states the articles are not going anywhere. Supt. Khelifaoui stated he'd like to contact their legal counsel to get it figured out and thinks, personally, how we are doing it, is wrong. He feels the money should be encumbered. Discussion was had on why the reimbursements for four years have not been expended. The belief of the School Dept. that the funds were in a revolving account and could be used and wondered why aren't they being used to pay the costs of the Medicaid Reimbursement program. This is just a miss Barrows concluded.

The next article, Kreidler stated, is seeking to do the same thing for FY13 Medicaid Reimbursement. It also does not identify a source.

The next four School Dept. articles have no life as Town Meeting vote does not have the authority to certify free cash.

The last two articles are written properly but the first one is not necessary and he recommended it not be acted on. They can accomplish what they seek to do in the last article. The School Dept. can choose to passover the first article. The Town Manager recommended that the article be amended to include the date of the Town Meeting vote it references.

O'Keefe requested that anyone wishing to submit articles in the future to visit the Town Manager's office to ensure the article is written properly so it can be acted on at Town Meeting.

GENERAL ARTICLES:

Kreidler stated the first general article relating to the Community Preservation Act is not lawfully submitted according to Town Counsel and shouldn't be included in the final warrant noting that John White is not an agent of the Town, nor is the CPA Volunteer Committee an agency of the Town.

The next article relates to adding a General Bylaw with regulations for the removal and disposal of canine waste. Kreidler state Town Counsel has offered significant changes to the language which he will forward to them and the Board of Health and Finance Committee. He will suggest to the Board of Health Chairman that their Board meet prior to STM to amend the article and have a revision for Town Meeting.

Chairman O'Keefe recused himself from the discussion on the next article relating to Zoning as he has property in the area it references and asked Vice-Chairwoman Hunt to Chair this section.

Kreidler stated these are Zoning Articles that he is not conversed enough to speak to. He asked if the seated Selectboard member who is also concurrently on the Planning Board wished to speak on these articles. Selectman Berndt commented that he believed the recommendations from Town Counsel had been made and that a couple articles were going to be removed referencing the use of old buildings. Kreidler stated that one has been removed but what you see tonight is what has been reviewed just recently with the Planning Board Chairman, Mr. White. The recommendations from Town Counsel have not been reflected here in these articles. Hunt asked about the first article and the reduced frontage on Spring St. Berndt stated that Mr. White wanted to make all the C2 compliance the same with changing the frontage from 100' to 75'. He spoke of a split off and he stated the Planning Board was going to meet to amend this prior to STM. Barrows wondered why we are we taking this area and changing the zoning? Kreidler read the email from Town Counsel who previously reviewed the article and submitted their recommendations. They said this article had not changed. Berndt mentioned there is a Planning Board public hearing on Dec. 26.

Barrows moved to accept the draft warrant for publication and notice with the following amendments to the draft; changing the time to 7:15 p.m. on Page 2, striking Article 2B, correcting the header on Page 4 to say FY14 instead of FY13, striking Article 3b, striking article on Page 4 submitted by the Town Manager that carries over to the top of Page 5, remove the Community Preservation Article on Page 7 as it was not lawfully submitted and to include numbering the articles; Hunt seconded. By a vote of all aye, the motion carried unanimously.

The Constable and Town Clerk were on hand to post the Special Town Meeting Warrant.

Blair moved to adjourn; Hunt seconded. By vote of all aye, the meeting adjourned at 9:08 p.m. Executive Session was not held.

Respectfully submitted,

Linda Daigle
Executive Assistant