

TOWN OF WINCHENDON
BOARD OF SELECTMEN MINUTES
MONDAY, FEBRUARY 10, 2014 7:00 P.M.
4th Floor Robinson-Broadhurst Conference Room
Town Hall, 109 Front Street

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

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

List of Documents Presented at Meeting:

- MSBA Statement of Interest memo to BOS from School Business Administrator Melissa Dunnet (filed)
 - o TTE Emergency Generator Form of Vote
 - o Memorial School Replace of Stone Walls and Railings Form of Vote
 - o MMHS Replacement Boiler Form of Vote
- Road Race Permit Application - Boston Strong 2.62 Mile Benefit Run April, 12, 2014, Veronika Patty (filed)
- Road Race Permit Application - Annual Shamrock Shuffle March 15, 2014, Harbour Restaurant/Clark Memorial/YMCA (filed)
- ABCC Population Estimates for Seasonal Licenses in 2014 (filed)
- Open Meeting Law Violation Complaint of Michael Young (attached)
 - o Town Manager's Bullet responses regarding complaint (attached)
- Deed Conveyance: Town Hall Garage to Winchendon Redevelopment Authority (filed)
- Winchendon Solar, LLC PILOT Agreement Notice and Amendment (filed)
- Town Manager's Report (Verbal report this evening)
 - o Letter dated January 31, 2014 from Commissioner Mitchell Chester, DESE, regarding Net School Spending requirement (attached)
- Minutes for approval: Monday, January 27, 2014 Regular Meeting (filed)

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.

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:

Hunt extended the Board's thoughts and prayers to everyone at New Hampshire Ball Bearing in Peterborough, New Hampshire who experienced an incident today. She wished everyone the best.

PUBLIC COMMENTS AND ANNOUNCEMENTS: There were none.

BOARDS/COMMITTEES:

Monty Tech Representative – Mr. Burton Gould, the Town's representative to Monty Tech, was welcomed back to see the Board. Mr. Gould mentioned that even with sixteen towns and two cities, Winchendon is still the largest sending town in the district with one hundred and thirty-five students. Monty Tech, located on the Fitchburg/Westminster line, has a student body of over fourteen-hundred and a support staff of two-hundred and fifty. With the building being built in the late 1960s, heating has become an issue. Monty Tech entered into an agreement called

Performance Construction, with the Trane people, a heating and air conditioning company owned by Ingersoll-Rand. They came in with a decent plan using their own equipment and would save Monty Tech 40% of their heating costs and fuel. The project was supported; it is in the process of completion. A new roof with forty-five new heating units was installed along with new light fixtures. They were fortunate enough to do this without coming to the towns/cities with a bond issue. Eleven million dollars was spent. A bond was issued from Bank of America for under 3%. At this point our savings are around 36%. Monty Tech will be at the 250th Anniversary Parade, not only helping out, but also in it supporting the two-hundred members in the ROTC Program at the school. The Marine Core ROTC unit will be helping out with traffic and crowd control. The students currently enrolled in the Masonry and Carpentry programs are working on one of the houses owned by the Winchendon Housing Authority. Students in the Electrician program are currently working on systems at Toy Town Elementary and Murdock Middle High School. He announced some future plans. An application was filled out for the Robinson-Broadhurst Foundation to help with funds to restructure GAR Park, if it is approved. The four Civil War cannons weigh six thousand pounds apiece; masonry people have devised a way to straighten them. Work will continue in the spring on the concrete walkways in front of the Clark/YMCA.

Monty Tech is now accepting applications. Mr. Gould wanted people to know that there is nothing he can do to help get anyone's son or daughter into the school. There are twenty-four open freshmen spots but over seventy applications have been submitted. Mr. Gould talked about the budget and how the local School Committee doesn't really have a lot to say about it in their budget. The Commonwealth sticks the minimum contribution figure into the local school department's budget after the budget has already been set. It happens to all towns. You will see an adjustment in our budget after getting a letter by the state upping the minimum contribution having to make it up next year. Mr. Gould feels quite certain that Monty Tech will go up a few thousand dollars. Even though the state says you have to do this, if enough people rise to the occasion, it will stop. We are here for the Town, the Town has always graciously supported Monty Tech and they will come back and do whatever they can for Winchendon. Hunt asked about the million dollars needed for the building asking if there was a capital line item in their budget. Mr. Gould replied, yes it is figured in on a percentage basis. There is a capital fund that they are paying down from a prior project. When the budget comes out, you will see an operating cost and a capital cost that are added together. There is some capital expenses that come up in the actual budget itself, but not much. Under a normal capital expenditure, it would be a bond issue and have to be voted by each town and city. The Performance Contracting is new and so far the savings have been good. If this doesn't work out, the company would pay us. Mr. Gould was thanked for coming.

Statements of Interest (SOI) to Massachusetts School Building Authority (MSBA) – School Dept. – Topic delayed to later in the evening waiting for a representative from the School to arrive to the meeting.

APPOINTMENTS/RESIGNATIONS: None this evening.

PERMIT/LICENSES APPLICATIONS, HEARINGS:

Road Race Permit – 2nd Annual Boston Strong 2.62 Mile Benefit Run, April 12, 2014 – Ms. Veronika Patty came before the Board and explained how after the bombing incident last year at the Boston Marathon they decided to have a race to raise money for donations towards the One Fund Boston. Last year close to seven hundred runners participated and it was a great success. A committee got together and decided that this year's race would benefit a single victim from the Boston bombing. Brittany Loring was injured last year and was selected. All the monies raised will go to the fund she has established to help other victims of the Boston bombing with medical expenses and psychological help. The Murdock Boosters are also involved, including Jenna Whitaker, the Athletic Director from Murdock High School and we are getting students involved. Lieutenant Walsh approved the route. The route will start and end on the Murdock football field. Blair moved to approve; Berndt seconded. With a vote of all aye, the motion carried unanimously.

Road Race Permit – 3rd Annual Shamrock Shuffle March 15, 2014 – Harbour Restaurant/Clark Memorial/YMCA – Mr. Mark Hagemeyer came forth on this application stating this is the 3rd annual run to be held Saturday, March 15, 2014. It is a five mile run which has been very successful and enjoyed by many over the past couple years. Tracey Pelkey, from the Clark Memorial/YMCA, said she has been in contact with the Police Department and it will be the same route as last year's race. All proceeds go directly to the Clark Memorial/YMCA making it a nonprofit event with no fee. Blair moved to approve; Berndt seconded. By a vote of all aye, the motion carried unanimously.

ABCC Population Estimates for Seasonal Licenses in 2014 – O’Keefe mentioned again that there was the annual request from the ABCC seeking an estimated population increase for the summer months. The Town Clerk recommends 1,000 again for this year. Barrows moved to approve, Hunt seconded. By a vote of all aye, the motion carried unanimously.

NEW BUSINESS:

Open Meeting Law Violation Complaint of Michael Young – O’Keefe read the complaint from Michael Young that the Board of Selectmen on January 13, 2014 violated the Open Meeting Law. He alleges some form of deliberation on matters the Board has direct control over took place before a meeting and legal counsel wrote a response letter before the meeting. O’Keefe stated Mr. Young is correct that legal counsel did write it before the meeting, yet there is no violation of legal counsel writing a draft letter before our meeting. It was not listed on the agenda because it was not received before the agenda was put together. Neither of those appears to him to be a violation. The Town Manager drafted twelve items detailing dates and times that add up to what he just briefly stated that there wasn’t a violation. Town Counsel will draft letters from them in response to the complaint. The response is required within fourteen business days. Blair noted the cost, and wanted to know how many of these complaints have been successful. We continue to spend time and money and very few, if any, are successful. O’Keefe called it frivolous and the Attorney General has to filter through all of these frivolous complaints to find ones that have merit. Blair pointed out the amount of time it took the Town Manager, staff and then the Attorney General and Inspector General’s staff, which all has activity with a price tag. If you’re successful, your batting average is good when filing complaints then it is more acceptable; but if you are never successful, it becomes disappointing. Hunt asked when the Inspector General would look and notice that there’s a chronic individual complaining and if they did notice, when or would they even stop it. Blair didn’t think they could do anything about that. He thought next time we look at legal costs, we should break it down on legal opinions for this type of stuff. A large percentage of expense on lawyers is answering complaints. Kreidler said the Attorney General has to answer to all of them. O’Keefe said if they receive numerous complaints that never go anywhere, they should be able to wrap it up quickly. Blair asked what is needed from them tonight. Kreidler wanted them to review the documents and if it accurately reflects what occurred, then they should be accepted and approved to forward to Town Counsel for a response. Blair moved the Town Manager forward this information to Town Counsel for a response; Berndt seconded. Barrows commented what bears mentioning here is that allegations of deliberation on matters have taken place prior to a meeting. He wanted it on record that he did not speak to any Board member prior to a meeting about this. He said he received the information in his packet like they typically do and why they can come together all being knowledgeable about a subject and make decisions that need to be made. He supports the motion and suggest another form of recourse by bringing the matter to the Board. If the complaint really feels that strong about something, they can certainly take time on the agenda and the information can be presented. It was noted that Mr. Young was sent a letter and a phone call was placed to his home giving notice of this topic this evening. By a vote of all aye, the motion carried unanimously.

Deed Conveyance: Town Hall Garage to Winchendon Redevelopment Authority - Kreidler mentioned the article that was before Town meeting last May and approved to transfer land to the Winchendon Redevelopment Authority (WRA). It relates to the garage behind Town Hall. It is a landlocked parcel with interest being expressed from a private concern for economic development plans. The town voted to support it; a Request For Proposal went out on the street, a response was made and accepted for economic purposes. The one administrative step required pursuant to Town Meeting vote would be for you to transfer custody of the property to the WRA. Blair moved the transfer; Barrows seconded. O’Keefe asked about certain conditions at Town Meeting. Kreidler said to honor the discussions at Town Meeting, the WRA made certain that the proposal met the spirit of that discussion. Specifically, he said, the land would be exceded for an amount sufficient to replicate the space on another piece of Town property somewhere. We have three useful bays out now and have determined what it would cost to replicate the building on a piece of land that we own. That figure became what the sale was, \$125,000. It has been accepted contingent on this act. By a vote of all aye, the motion carried unanimously.

Winchendon Solar, LLC PILOT Agreement Notice and Amendment - O’Keefe informed those that this is a PILOT agreement already approved and asked the Town Manager to note the modifications. Kreidler said modifications are specific to the bottom of the first page under C.I.c.i “Amount and Timing of Payment in Lieu of Taxes.” He explained the original PILOT agreement approved by the Board and Town Meeting stated that once the facility is

built and the actual size of the system is known, they would come back and amend the agreement for the actual number of kilowatts that will be generated. They have listed the capacity of the project to be 1,900 kW. It will be multiplied by the same factor of \$23.33 per kW (the payment rate.) O’Keefe noted the intention and desire of the company was to be able to produce 3 megawatts but between the land and the grid, it could accept 1.9 kilowatts. Berndt moved to execute the PILOT Agreement Notice and Amendment dated February 10, 2014 as presented; Blair seconded. Barrows noted a correction and asked to strike the duplicate words “is hereby” in paragraph C on page one. The amendment was added to the motion and seconded. By a vote of all aye, the motion carried unanimously.

BOARDS/COMMITTEES: *(Continued)*

Statements of Interest (SOI) to Massachusetts School Building Authority (MSBA) – School Dept. – Selectwoman Hunt, on behalf of the School Business Administrator and being on the Subcommittee, explained the Massachusetts School Building Authority’s form needing the Selectmen’s approval. Hunt spoke about the items being submitted. First there is a request for an Emergency Generator at Toy Town Elementary. They lost power not long ago and there was no back-up. There is a concern over things freezing and would like to put a generator in that school. The second project was to replace the stone walls and railings at the Memorial School due to disrepair and fragmenting. The third project discussed was at Murdock Middle/High School to replace a leaking boiler. O’Keefe said the School would like to potentially submit a request to the Massachusetts School Building Authority but before that the Board of Selectmen need to approve it and authorize the Superintendent in order to allow him to submit that request.

Hunt moved the attached vote to authorize the Superintendent to submit to the MSBA the Statement of Interest Form in regards to the Toy Town Elementary School to install a generator, switch panel and wiring; Barrows seconded. By roll call vote of Barrows aye, Hunt aye, Blair present, Berndt aye, and O’Keefe aye, the motion carried.

Hunt moved the attached vote to authorize the Superintendent to submit to the MSBA the Statement of Interest Form in regards to the Memorial School for replacement of stone walls and railings; Barrows seconded. By roll call vote of Barrows aye, Hunt aye, Blair present, Berndt aye, and O’Keefe aye, the motion carried.

Hunt moved the attached vote to authorize the Superintendent to submit to the MSBA the Statement of Interest Form in regards to Murdock Middle/High School for a replacement boiler; Barrows seconded. By roll call vote of Barrows aye, Hunt aye, Blair present, Berndt aye, and O’Keefe aye, the motion carried.

OLD BUSINESS: N/A

TOWN MANAGER’S REPORT: The Town Manager’s report was verbal this evening.

1. Personnel Updates: None
2. Financial Updates – DESE/Net School Spending Meeting Feb. 13, 2014 with Roger Hatch (DESE), the Town Manager and Supt. of Schools: Kreidler announced he has a meeting Friday morning at Town Hall with Supt. Khelfaoui and Mr. Hatch, the contact person at the Dept. of Elementary and Secondary Education (DESE) regarding Net School Spending compliance. Kreidler spoke with Mr. Hatch at length within the past week regarding what his research has shown and it is his belief that the projected shortfall of \$186,068 for Net School Spending listed in the letter from the Commission in December 2012 was inaccurate but doesn’t fault the state as they are responding to data that was submitted to them. He has tracked back and created a twelve to fourteen page document that will describe what Indirect Costs are in Net School Spending context and what the Indirect Cost Agreement is between the parties from its inception in 1993 until today and what the implications of that agreement are on our annual compliance with Net School Spending. It will explain what Net School Spending is and how that is calculated and monitored. If a shortfall is projected, how is that realized and what happens. It explains how a letter like the December 12th letter gets issued. He received a letter just last week from the Commissioner of Education indicating Winchendon’s end of year financial report shows Winchendon did not meet its end of year spending requirement for FY13. Its required Net School Spending amount was \$16,108,454, reported Net School Spending was \$15,784,054 which is \$324,400 below the required amount. A year later, they are reporting we are \$324,000 short. He doesn’t fault the state for writing this letter; they are responding to data submitted to them. They state in the next paragraph “Winchendon’s FY14 Net School spending requirement - including this \$324,400 carryover - is \$16,398,818. Schedule 19 budget data shows that the district plans to spend \$16,399,396. I am pleased to

see that the district appears to be in compliance this year.” Kreidler said what they are saying is that we are all good now. They have data from our Schedule 19 from the School Department that we are going to not only cover our baseline Net School Spending obligation but also the \$324,000 projected shortfall. None of that can be further from the truth. He has no idea where the \$16,399,396 comes from. We didn’t appropriate anything near that. He was confused by the letter and the numbers that are out there. These letters are meaningless, he said respectfully. They are only as good as the numbers we provide them with. He said he spoke to Dr. Khelifaoui who had seen the letter and he was confused as well. Dr. Khelifaoui said he spoke to the Business Manager and she indicated that she didn’t have the actual numbers so she filled it in the best she could. The number does not reflect what reality is. He points this out because even though we have this latest letter, we are not done. The analysis will be available for them electronically. He stated he believed at the end of Fiscal 2013, the projected deficit will be about a \$30,000 shortfall for Net School Spending which is heeded entirely to a FY12 Charter School tuition reimbursement not deducted from the Indirect Cost tally that we were keeping when the funds were submitted. He hoped the analyses would not leave any questions.

O’Keefe commented on a statement Dr. Khelifaoui and the School Committee have made publicly that he received a letter in December 2012 and did not forward to the Board. He said that is further from the truth and explained that all mail addressed to any Board member is opened by office staff and placed in a document called the “Read Me” file. This is forwarded via email to each member of the Board with all correspondence received. On December 21st, every member of the Board and the Town Manager received that letter. He did not hold any information from the Board. That comment should not have been stated.

Kreidler stated there are Wednesday meetings being planned by the School Dept. with one being scheduled this Wednesday. Given the fact that there will be a meeting on Friday with Mr. Hatch, the School Committee Chairman and the Town Manager thought it premature to meet this Wednesday; the meeting has been cancelled and will be held next Wednesday instead. O’Keefe mentioned that this Board took a vote to not get together and the School Committee took another direction. O’Keefe asked who planned on attending the meeting to see if a meeting notice needed to be posted. Hunt announced she is attending as being a member of the Sub-committee. Barrows noted he had a business commitment and Blair and Berndt stated they would not be attending. Kreidler explained the context of the meeting and said it is a lot simpler than we have made it. He spoke about the line items that are involved, the Tier 3 report, how the Indirect Cost Agreement came about, how it was executed and how it is reviewed every three years with no changes being made. This review is the only thing we need to be concerned about. Never before has it been discussed that seventeen people be involved. It’s always been the Superintendent, the Business Manager, the Town Manager and the Town Accountant. That’s how it should continue to be. The School Dept. wants to be involved in total in this discussion. He is going to their meeting to answer questions and explain but he is not going to the meeting to negotiate. The guidelines by DESE are that staff works this agreement out and that has been the standard practice here. It’s inappropriate any other way. O’Keefe asked what items Supt. Blaisdell referenced when he said the Town isn’t charging the School district what it could be. Kreidler answered, he didn’t state but there are three DESE guidelines. Recalling from his memory, first things automatically are charged like health insurance, liability insurance, etc. Also contained in this first group is an administrative service charge. There are three ways to charge administrative services indirectly back to the School Dept. One is you take the entire Town budget, the entire School appropriation, take the difference in percentage and multiply by the cost of the Accountant, Treasurer Collector, Audit and Data processing budgets. Those finance functions manage all of the data and the cost is shared equally on a percentage basis. Second is on a per pupil basis set by a dollar figure set by DESE every year and lastly is anything that can be agreed upon. We have always utilized the first, the percentage. He thought this was where Dr. Blaisdall thought it could be more expansive. O’Keefe asked if DESE has advice or assistance in preparing these indirect agreements. Kreidler stated we have lost sight with this with so much clamor of how we are going to talk about this; it is not a very complicated thing. Roger Hatch will be here for assistance but the Commissioner had blessed this agreement.

Hunt commented she is on the Sub-committee and doesn’t have the supporting documents that go along with the Indirect Cost Agreement. She feels there are some members of the Committee that don’t know it exists and is frustrated the Town Manager has to do what he has to because the school hasn’t. Kreidler stated he was frustrated as well because what he hears repeatedly is that these documents don’t exist, data doesn’t

exist, where do the numbers come from. When he was invited to one of the Sub-committee meetings, it was the first time he heard it chirped in years. He spoke up and said that data/backup is given every year. Behind the agreement is a spreadsheet, data exists, it's emailed. The Business Manager said at that meeting that she had received that information. O'Keefe asked to ask the Town Accountant when that report is sent each year to include the Board of Selectmen and the Finance Committee.

3. Project Updates:

Proposed Gas Pipeline - This topic has been seen in the newspaper and people have been coming into Town Hall to get more information. Kreidler said we have been contacted by Tennessee Valley Gas Company about their preliminary plans to install an underground 36" high pressure gas transmission line. This will be all underground and just passing through. It will run from Pennsylvania, NY through New York then cross over the northern tier including through Winchendon and terminating in Dracut, Lowell. We have been told nothing in any greater detail than generally it's going to run across the Town and that they will be going door to door leaving flyers and having people sign forms to survey their property. We have been informed to let those people know. The route looks like it's coming from Baldwinville, up over Mill Glen Road, crossing over Town Farm Road, then down the back side of land coming out on 140 on Raymond Road and then on or across Cornerstone Church and off behind there towards Ashburnham. He's not sure that's the route but through calls he's pieced together the route that's been considered. He said a private property owner can say yes or no about them coming on to their property and they can say no they don't want the pipe. However, in his experience dealing with utilities and railroads, it's generally not if but most often when. Regulatory Commissions on the Federal level, unless something is entirely unreasonable about the proposal, they are not going to listen to, "I like my back yard." Candidly he said, it might take time, but generally they get to yes. O'Keefe noted the route mentioned appears like they are not going through the most populated areas in Town. Hunt was concerned on manageability, wetlands issues and safety. Is it all federally regulated? Kreidler replied cautiously that all local and state regulations apply but only to the Federal Regulatory Commission to supersede for some other greater good. Kreidler said we are not alone, just one of the communities along the northern tier. Barrows asked when we expect to receive information regarding hearings, informational sessions, the timeline, etc. Kreidler said the only timeline they provided was that this wouldn't be likely in construction until 2016 at the earliest and won't announce a route until they believe they have an agreement on the route. Road crossing would come before this Board. There is a piece of Town forest in that general vicinity and it may come before the Town proper. It then begs the issue of Town Forest being Chapter 97 protected land; 19th Hill could be impacted. One of the luxuries of being those guys, Kreidler said, is they can come to the meetings and be pleasant knowing that at the end of the day they already have it in their pocket. That doesn't make them bad people, it is what it is. O'Keefe said knowing this it allows you to request and look at smart concessions in stipulations and negotiations. Kreidler didn't want to dissuade anyone that might have a good cause to say no.

Kreidler added the bigger picture, with gas deposits that exist in the continental United States, energy prices are positively affected and the cost will go down; everywhere except New England. There is a stronghold on the ability in pipe to get the stuff here. This is attempting to break that market. That is the positive side. The negative side he is hearing is to get it to the coast to get it on a ship to go somewhere else.

Police Station Project - Designer Selection RFQ Update – Kreidler reported the Request For Quotations will be in the Central Register tomorrow. There is a thirty day window it will sit for responses. Proposals can then be opened and bids can be put out for the construction.

4. Miscellaneous Updates - Municipal Electrical Aggregation – It was approved that the Town Manager have the folks from Colonial Power present at their next meeting on February 24th.

O'Keefe asked the Town Manager if he could work on a draft underground storage tank bylaw for their next meeting. Kreidler stated he would work with Selectman Barrows on this and bring something to the next meeting on the 24th.

MINUTES: Monday, January 27, 2014, Regular Meeting – O'Keefe thanked Linda for her detailed minutes which helped him to understand a caller's recent concern addressed at the last meeting. Blair moved to approve; Barrows

seconded. By a roll call vote of Barrows aye, Hunt aye, Berndt aye, Blair aye and O'Keefe abstain; the minutes were approved.

COMMUNICATIONS: N/A

AGENDA ITEMS: N/A

ADJOURNMENT: With no Executive Session being held, Blair moved to adjourn; Barrows seconded. By a vote of all aye, the meeting adjourned at 8:31 p.m.

Respectfully submitted,

Linda Daigle
Executive Assistant