

**TOWN OF WINCHENDON
BOARD OF SELECTMEN MINUTES
MONDAY, JULY 14, 2014
Town Hall, 4th Floor Conference Room
109 Front Street, Winchendon, Mass.**

Present: Elizabeth R. Hunt, Vice-Chair
Robert O'Keefe
Keith Barrows
Fedor Berndt

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

Remote Participation: C. Jackson Blair, Chairman

List of Documents Presented at Meeting:

- Town of Winchendon Night at Fenway Park (filed)
- Letter of Resignation from Cultural Council member Theresa Hillman (filed)
- Letter of Interest from Doneen Durling for Zoning Board of Appeals Alternate and ZBA recommendation letter (filed)
- MRPC Memo requesting representative to Commission (filed)
- MRPC Memo requesting appointment to MJTC (filed)
- Race Permit Application – “Walk, Run and Roll for our Vets, E.M. Connor Unit 193 American Legion Auxiliary (filed)
- Relay Walk Event Permit Application – “Stop the Pipeline” (filed)
- Class III License d/b/a Name Change Application for Tune and Toon, Inc. (filed)
- Class III License Renewal Recommendation from Police Dept. for Ed's Scrap Metal (filed)
- Town Manager's Report (all attached)
 - o Police Station Site Plan - June 2014
 - o Tennessee Gas Pipeline draft letter denying permission to survey town-owned land
 - o Oak Way – Discontinuance of Foot Path Memo to BOS
 - o Sex Offender Residency Draft Bylaw
- Minutes for approval: (filed)
 - o Monday, May 12, 2014 Regular Meeting Prior to Special/Annual Town Meeting
 - o Monday, June 23 Regular Meeting

Acting Chair Elizabeth Hunt called the meeting to order at 6:34 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.

Remote Participation – Hunt announced that Jackson Blair would be participating remotely this evening.

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:

Town of Winchendon Night at Fenway Park August 19, 2014 – Hunt announced the Town of Winchendon night at Fenway Park on August 19th. The tickets are for bleacher seats at the cost of \$28.00 each. The game is against the LA Angels. Contact the Town Manager’s office if interested.

PUBLIC COMMENTS AND ANNOUNCEMENTS: None this evening.

BOARDS/COMMITTEES:

Pipeline Review Committee – Garret Davieau, Chairman of the Pipeline Review Committee, came before the Board with a brief update. They have been able to have only one meeting so far in which they organized members, identified areas that they will be looking at and what the project means for the Town. They will be highlighting property owner rights, financial impacts, environmental impacts and health and safety. Core areas to focus on will be identified. Barrows mentioned Garrett has reached out to Bill Cosby and has got him on Board. They will schedule a meeting prior to the Special Town Meeting and hope to consolidate all the information that has been shared and offer the key elements for the voters to vote on and what the potential impact would be. Barrows said no pro/cons will come from the committee, they have decided to just stick to the facts, wanting to be open to all points of views. Hunt was disturbed that we have reached out to Kinder Morgan and they are shutting us out. Kreidler said last week he had an unsolicited gentleman visit who is working for the land surveying company contracted by Kinder Morgan for this project. He identified himself as our new representative. His name is Steve Martin II. He began the conversation with an apology that they haven’t engaged as often or as well as they should. Kreidler asked if that was his honest opinion or was it because they are getting their teeth kicked in across the state and they have had to regroup. Kreidler told him he had offered an alternative route if in fact it was going to come to pass which is not a foregone conclusion. Mr. Martin acknowledges that based on the organization that has taken place in the last several months in Massachusetts; it’s not a foregone conclusion it’s going to pass. The opposition to it is not like anything they have ever seen. Mr. Martin wasn’t even aware that there was another proposal being made. He now has it. The proposed route basically follows existing utilities and rails out there. Kreidler concluded in saying we have an obligation to be proceeding on three different paths; one is to be an outright opposition if that is what the majority of the population thinks that is the best interest; concurrently though, is it as bad as all of that and what is the real life experience on the southern tier, and the middle ground is if it’s not opposition across the Board and if it’s not all that bad down on the southern tier, what is best for us within the four corners of the Town. Kreidler said he’d have to argue cutting across Mill Glen over the Town forest isn’t the best. If it can be done along existing utility easements, that would be best. Mr. Davieau was thanked for his attendance.

APPOINTMENTS/RESIGNATIONS:

Resignation – Theresa Hillman, Winchendon Cultural Council - Ms. Hillman’s letter of resignation states she has moved and will have to resign. Hunt thanked her for her service. O’Keefe moved to accept the resignation; Berndt seconded. By roll call vote of all aye, the motion carried unanimously.

Appointment - Zoning Board of Appeals (Alt.) – Doneen Durling - Hunt read the letter of support from the ZBA. O’Keefe moved to accept and appoint Ms. Durling to the alternate position on the ZBA; Berndt seconded. By roll call vote of all aye, the motion carried unanimously. Doneen was thanked for her willingness to serve.

Appointment Renewals: Constable – Robert Hertubise – Passed over.

Vacancies:

MART Advisory Board - O'Keefe moved to appoint Blair; Berndt seconded. By roll call vote of all aye, the motion carried unanimously.

Montachusett Joint Transportation Committee (MJTC) – Kreidler agreed to continue to serve on this Committee. Berndt moved to re-appoint; O'Keefe seconded. By roll call vote of all aye, the motion carried unanimously.

PERMIT/LICENSE APPLICATIONS, HEARINGS:

Race Permit – “Walk, Run and Roll for our Vets” October 5, 2014 – E.M. Connor Unit 193 American Legion Auxiliary – Ms. Coral Grout came before the Board and first announced that she was appointed this evening to the National Community Service Chairman for the American Legion next year. One of the projects is the Walk, Run and Roll across the country. The roll part can be a bicycle, a wheel chair that you're pushing or a baby stroller you are pushing. We are looking to do it from the Clark Memorial to Mass. Veteran's State Cemetery and back. All the money raised will be used for activities with veterans and their families in Winchendon. They have approval from the Clark/YMCA, the Cemetery, and Lt. Walsh who will be donating his time. Children can partake. She brought packets for the Board. Berndt moved for approval; O'Keefe seconded. By roll call vote of all aye, the motion carried unanimously.

Relay Walk Event “Stop the Pipeline” – Friday, July 18th - Tracy Gambill came before the Board. She lives in Town and will be one of the properties affected by the pipeline if it goes through. There is a group of local citizens that would like to be part of this walk. The event is part of the statewide walk that will end at Dracut, Mass. on July 26. A rally will be held at the State House on July 30th. The relay is to bring awareness to the proposed pipeline and show unified opposition. She presented an updated map of the route, still beginning at Lake Dennison swim area at the entrance and will travel 6.5 miles ending at Silverhawk. They will not be going up Rt. 140. They have waivers for each walker. The route has been approved by Lt. Walsh. They will be carrying signs and a banner and have a pipe with the state petitions inside. They will receive the baton from Royalston and will bring it to Ashburnham. They will have a few safety vests provided by Lt. Walsh. Shuttles are lined up; water will be provided at stops on the map. O'Keefe moved for the applicant; Barrows seconded. By roll call vote all aye, the motion carried unanimously.

Class III License - Tune and Toon, Inc. – d/b/a Name Change to New England Auto & Recyclers (NEATR) – Mr. John Cahill, owner of Brown's Auto Salvage, explained they had partnered up with Mark and Joan Brown and now are separating and buying out their interest. The corporate name, Tune and Toon, Inc. is the same; it's the dba name that is being changed to New England Auto & Recyclers. The Board commended them on their nice clean operation with it being a benchmark to follow. They plan on adding an additional building next year and adding another twenty-five employees. Berndt questioned them on why they don't have a Class II license too. “Class III trumps a Class II; a Class III incorporates a Class II license,” replied Mr. Cahill. O'Keefe moved for the applicant; Barrows seconded. By roll call vote of all aye, the motion carried unanimously.

Class III License - Ed's Scrap Metal, 64 Main St. – License Renewal – Kreidler informed the Board since the last time Ed Vaillancourt was before you and scheduled to come back this evening, he has gotten glowing reviews from the Police Dept. Recognizing his need for some changes in the way he conducts his business, information has been provided to you by Detective Wolski who feels everything with Ed is where it needs to be. Berndt moved to extend license through the end of year; Barrow's seconded. Ed told the Board the ten day holding requirement is a hardship for him and would like to see it change to four days. Kreidler explained it was a bylaw. O'Keefe offered to work with him for a new change to the

bylaw at Town Meeting. Hunt thanked Mr. Wolski for working with him and supplying him with a memory card. By roll call vote of all aye, the motion carried unanimously

NEW BUSINESS:

Capital Planning Recording Secretary Fee- A separate line item for this expenditure was not placed in the operating budget for the Town to cover this cost. Barrows moved to support the request to expend the fees from the BOS Contingency account; Berndt seconded. By roll call vote of all aye, the motion carried unanimously. It was asked that next year it have its own line item in the budget.

OLD BUSINESS:

Blair mentioned Ms. Hunt and he had the pleasure of presenting the Boston Post Cane to the oldest resident in Winchendon at the Broadview home and that he had received a very nice thank you letter from her family. Hunt added it took place in the half shell at Broadview and was really nice.

TOWN MANAGER'S REPORT:

1. **Personnel Updates** - None.

2. **Financial Updates-**
 - a. **School Retirees Health Care Costs** - Kreidler reported as a part of the FY15 state budget that was just signed by Governor Patrick the following is now law regarding school employee retiree's health insurance costs as relates to net school spending. See Town Manager's report for the excerpt from the MMA website.

Back in 2008, the Selectboard and Finance Committee voted unanimously, and ultimately the Town Meeting adopted a warrant article to petition the legislature for home rule to allow the Town of Winchendon to count for school retiree's health insurance towards Net School Spending. It made it to the legislature and in their wisdom they said we really shouldn't do this just for you; there are a handful of communities across the state it affects and should be done across the board simultaneously. Six years later, it was in fact just done.

What does this mean? Back in 1993 when the education reform act was implemented, a question was asked of each community how they handled retiree's health insurance for their employees. If it was paid for in the General Government budget, a box was checked; if you said it was paid from the School Budget, a different box was checked. Depending on what box you checked, you were then pigeon-holed into having those funds count towards Net School Spending or not if they were in the General Government budget. We were one of the few that checked the box in 1993 that we pay it in the General Government budget and so have never been able to count it towards a local contribution towards local education. What does this mean? While it has become the mantra to say that we, until this override most recently, have been a minimum contribution community, the data doesn't bear that statement out. Against 75 to 80% of communities in the Commonwealth who can count school retiree's health insurance, it really is not a fair level comparison. We spend on or about \$375,000/\$380,000 on school retiree's health insurance. We have historically spent that amount of money above the minimum contribution level but not been able to get credit for it. This now allows us to do so. One caveat in this piece of legislation is that irrespective of the fact that the Selectboard and the Finance Committee unanimously supported this and Town Meeting adopted this, it rest, begins and ends with the vote of the School Committee. It is his recommendation that they join him either in total or a subgroup of or individual member in engaging the School Dept. in this discussion. If this happens, it will negate all of the good work done on the override and it

is not his proposal. In fairness to School Committee member Mike Barbaro's proposal that it's always been in the Town Government budget and it is not fair to say it's easy to afford it, the Town Manager would like to have a meeting to discuss how we transition over some defined period of time. There is a timeline with the legislation to be phased in over several years but perhaps we can do something more time sensitive and more appropriate for the School Department. O'Keefe stated he sees two different issues. First, should the Town receive credit for the net minimum it is spending? Absolutely, yes; the people of Winchendon are spending the money; the people should get credit for the money they are spending. Second, should the School essentially suffer a loss of the money? No, they shouldn't. He thinks it would be a requirement for the Town Manager to work with the Superintendent and figure out a language that protects the school's budget but the same time gives the people credit. He proposed for every dollar of retiree indirect costs, the school will receive the exact same amount in excess of net school minimum from the town. The amount wouldn't change for them but the people will finally get credit. When we add this figure to the override, we would be \$700,000 over net minimum – 14% higher than in the past. He wondered how we could get even higher than that.

Kreidler said he wrestles with the townspeople getting credit for every dollar of retiree's health insurance without those dollars being supplanted from the existing appropriation. He thinks, however, it is only fair and appropriate, over time finding some mechanism such as those costs truly become spent under the school budget. Eighty percent of communities benefit in that regard because it is a true accounting of the costs. There has to be some way to soft pedal into this over time. Offering an example he said perhaps every new retiree stays on the school ledger and we retain the expense for the life of the existing retiree. There is timing contemplated in the legislation, but he thought there should be a more sensitive way to do it. O'Keefe didn't think anyone on the School Committee would vote for this. Kreidler added he lives in a world, where just because he's a member of the School Committee that on occasion I would step back and see the whole pie.

Hunt offered to assist but noted she was unable to get the Superintendent and Town Manager together and wondered if it needed to be part of a joint meeting and possibly include the Finance Committee. Kreidler reported he has spoken to the new Finance Committee Chair, Tom Kane, to seek guidance and support. He has General Government budget as well as educational experience and could be that mediator to say cut the nonsense. Mr. Kane, who was present at the meeting, accepted the work. It was asked to report back to the Board.

3. Project Updates-

- a. **Police Station Site Plan** - Enclosed in the packets is a copy of the submitted police station site plan materials. Kreidler reported the matter is going before the Planning Board Tuesday, July 15, 2014. They are still on track to have bid specifications out on the street by the first week of August with a projected bid award date of early September and begin of construction by mid-September. This evening the Planning Board had a site visit and with all things considered they would have hard pack and base pavement down and enveloped wrapped up prior to cold weather and then do the interior work over the course of the winter months and final site work in the Spring.

Kreidler referred the Board to Page 7 C-1.1 of the plan noting the foot path talked called Oak Way. It is a six foot strip of land that runs from Pleasant St. to Central St. He referenced the document in their packets that explains Oak Way being a foot path between the two streets that was accepted at Town Meeting in 1907. He said the current path empties into the former

courthouse. The plan is to have the Police Dept. able to go out to Pleasant St. through this strip of land. The Winchendon Redevelopment Authority has negotiated with the owners of that grass lot and has a closing pending. What is proposed here on the plan is a driveway out from the back of the Police Station onto Pleasant St. and the reverse. It will be a driveway, not a road. It will have signage for “public safety access only.” O’Keefe questioned the public access that appears to be near the sally port that could potentially impede police response. Kreidler suggested a different maker on the plan and that he most likely mis-spoke about the access there knowing it was reviewed by professionals.

Jim further described the plan noting a sidewalk being put in further down towards Pleasant St. which will replicate the pathway between Pleasant St. and Central St. It moves it south of the vehicular traffic and activity and makes it safer. Kreidler continued with the technical aspect of this foot path informing the Board a Town Meeting vote would be required to discontinue the way with the underlying land ownership still remaining with the Town. The Planning Board has this site plan before them tomorrow. This would have to be a contingent vote of the Planning Board if they were inclined to support this site plan reliant on a Town Meeting action to discontinue the six foot swath of land known as Oak Way. What is necessary this evening is a vote of the Selectboard to send a letter to the Planning Board; a copy has been enclosed in their packets.

O’Keefe disclosed that he is an abutter and cannot take action if it is being asked now. Kreidler said action is requested further in his report.

- b. **Tennessee Gas Pipeline** - Kreidler enclosed a copy of a draft letter that he received from M.J. Galat. The letter reinforces the fact that he has not given the pipeline company permission to survey town land. The letter goes a bit further and prohibits survey work on public roadways. He said he is not authorized to execute such a statement without a vote of the Board as “Roadway Commissioners”.

Berndt moved this authorization; O’Keefe seconded. By roll call vote of Barrows aye, O’Keefe aye, Berndt aye, Blair no, Hunt aye, the motion carried by majority vote.

4. **Miscellaneous Updates-**

- a. Kreidler reported they have received the requisite number of signatures on a petition to call a Special Town Meeting to consider the question of enacting a ban on the proposed pipeline. Given the timing of the submittal and the requirement that the meeting be called with 45 days of certification of the signatures, they have two choices:
 - i. To call the meeting for July 28, 2014 which would give the required two weeks posting. In order to do so, you would need to vote to do so this evening and do so on or before the intended starting time planned for the meeting.
 - ii. You can call the meeting for August 4, 2014 which would give the Pipeline Review Committee time for their meeting.

Blair moved for August 4th; Berndt seconded. By a vote of all aye, the motion carried unanimously.

With the minimum required seventy-two hour notice, Barrows moved to open the warrant this evening and that it close Thursday evening at 7:45 p.m.; O'Keefe seconded. By roll call vote of all aye, the motion passed unanimously.

O'Keefe moved to set the time of the Special Town Meeting for 7:00 p.m.; Barrows seconded. By roll call vote of all aye, the motion passed unanimously.

- iii. As further relates to the special town meeting, there are two issues for which timing is of the essence that have risen in the past week that require attention at a town meeting:

Sex Offender Residency Bylaw- Enclosed is a copy of a draft Sex Offender Residency Bylaw the Town Manager received through Town Counsel that has recently met the approval of the Attorney General's office. He has been working with a citizen who has an interest in getting such a bylaw passed and she is aware of the pending Special Town Meeting and wishes very strongly that the issue be addressed in that meeting. He has advised her that there are three ways in which that could be accomplished:

1. It could be directly submitted by a town agent per the Charter once the warrant is opened, or
2. Via citizen petition containing the requisite number of signatures either while the warrant is open, or
3. Via citizens petition as a separate call of a new Special Town Meeting.

Kreidler offered to submit it as an agent of the town or she can get the signatures. He gave a bit of background about this. O'Keefe stepped away from the table as he is an abutter to the property. Kreidler stated this individual runs a daycare across the street from a residence that the new owner has forecasted will be rented out to people who are transitioning from having been incarcerated for offenses that may include sexual offenses. She states this causes great concern for her and her family and her business. This bylaw sets a map that will be superimposed over the Town circling schools, churches, play grounds, day cares that would prevent anyone that is registered as a Level 2 or Level 3 sex offender to live anywhere inside of that circle.

Blair asked the owner of the other property, not knowing a restriction will be put in place, will not be able to use that property in the manner they wished to do so; nor will people who have served their time coming out in transition will be allowed to use that property, correct? Kreidler said, correct, unless they are already living there prior to the bylaw which would allow them to be grandfathered in. Blair suggested we have two businesses here and we are being asked to deny one of them the right to operate their business. Hunt said the second business would hinder only Level 2 or 3 sex offenders. It doesn't eliminate other types of offenses. Kreidler offered that this draft bylaw has been vetted and been proved it is constitutionally appropriate and societally appropriate. It will be ultimately the decision of the Town Meeting Vote.

Berndt moved for the Town Manager to submit something in regards to this draft bylaw; Barrows seconded. By a vote of Barrows aye, Berndt aye, Blair aye and Hunt aye, the motion carried unanimously.

Oak Way (so called)- Kreidler informed all that Mr. O’Keefe previously announced this would be a conflict and is still out of the room. He read the Memo to the Board regarding “Oak Way.”

Berndt moved that Oak Way (so-called) is no longer needed as a public foot path/pathway; Barrows seconded. By roll call vote of Blair aye, Barrows aye, Berndt aye, Hunt aye, the motion carried unanimously.

To the extent that Oak Way is or ever was a Town way or public footway, Barrows moved that the Board of Selectmen vote its intention to recommend to a Special Town Meeting called for August 4, 2014, the discontinuance of said Oak Way as a Town way/public footway, and to refer the proposed discontinuance to the Planning Board for its comments and recommendations pursuant to G.L. c. 41, §81I; Berndt seconded. By a roll call vote of Barrows aye, Berndt aye, Blair aye and Hunt aye, the motion carried unanimously.

Blair moved to send the attached letter to the Planning Board regarding the discontinuance of Oak Way and to authorize Selectwoman Hunt to sign the document in the absence of Chairman Blair; Barrows seconded. By roll call vote of Barrows aye, Berndt aye, Blair aye and Hunt aye, the motion carried unanimously.

Barrows moved to place the attached warrant article regarding the Discontinuance of Oak Way on the warrant for the Special Town Meeting; Berndt seconded for discussion. By roll call vote of Barrows aye, Berndt aye, Blair aye and Hunt aye, the motion carried unanimously.

Selectman O’Keefe came back into the meeting at 8:03 p.m.

MINUTES:

Monday, May 12, 2014 - Regular Meeting prior to STM/ATM - Berndt moved to approve as written; Barrows seconded. By roll call vote of all aye, the minutes were unanimously approved.

Monday, June 23, 2014 - Regular Meeting - Barrows moved approval; Berndt seconded. By roll call vote of Barrows aye, Berndt aye, Blair aye, O’Keefe abstain and Hunt aye, the motion carried unanimously.

COMMUNICATIONS:

Hunt announced she received a phone call from School Committee Chairman Mr. Niles informing her he had two people submitting letters of interest for the School Committee position. Mr. Niles asked her to see if the Selectmen could join them July 24 at 7:00 p.m. for this joint appointment. Kreidler said it was customary the Selectboard meet and announce publicly that there is a vacancy and that applications will be accepted at either the Selectmen’s office or at the School’s office. It might be premature when you have not yet publically noticed it. Blair moved they make an announcement that there is a vacancy on the School Committee and encouraged applications; Berndt seconded. By roll call vote of all aye, the motion carried unanimously.

The Board discussed meeting dates. Barrows and Hunt confirmed they would be available on August 11 but Blair and O’Keefe will be away. Berndt was not sure and wouldn’t know until the end of the week.

Daigle was asked to notify Chairman Niles that due to quorum issues, we will notify the School Committee when our next meeting will be. If August 11th wasn't doable, then it might have to wait until the first meeting in September.

AGENDA ITEMS: August 11, 2014 Meeting Attendance – Discussed above.

ADJOURNMENT: With no Executive Session needed this evening, O'Keefe moved to adjourn, Berndt seconded. By roll call vote of all aye, the meeting adjourned at 8:12 p.m.

Respectfully submitted,

Linda Daigle
Executive Assistant