

Session; Barrows seconded. By roll call vote of all aye, the meeting adjourned into Executive Session at 6:16 p.m.

RECONVENE OPEN SESSION:

Open Session was reconvened at 6:36 p.m.

Chairman Berndt asked again if anyone would be audio or video recording the session to please announce. No response came from those in attendance.

Minutes - Wednesday, March 18, 2015 – Public Session/Executive Session

Barrows moved to approve the minutes of March 18, 2015 as printed; Hunt seconded. By a vote of all aye, the minutes were approved.

O’Keefe moved to approve and release the Executive Session Minutes of March 18, 2015; Barrows seconded. By a vote of all aye, the minutes were approved and released.

Board Vote of any Action from Executive Session – O’Keefe moved the Board approve and execute the Amendment to the Oct. 15, 2014 Employment Agreement between the Town of Winchendon and James M. Kreidler, Jr. Barrows seconded. By vote of all aye, the motion carried unanimously.

The Board recessed at 6:38 p.m. to execute the document and reconvened at 6:43 p.m.

The agenda was taken out of order waiting until after 7:05 to address the Special Town Meeting Draft Warrant.

SELECTMEN’S COMMENTS:

O’Keefe commented that “occasionally elected officials have to do things they don’t want to do and the public often asks us to do things that we disagree with and tonight you are going to see that. What you just saw signed is actually the termination agreement for the Town Manager. You will hear more about it when we get to the article but I’m not happy, but you wanted it done so it is getting done. I hope the Town’s happy.”

PUBLIC COMMENTS AND ANNOUNCEMENTS:

Written Questions Submitted March 18, 2015 from Citizen Danielle Hart to the Board and School Committee – Kreidler read Ms. Hart’s question into public record regarding Indirect Cost percentage of 77% to the school. Kreidler explained the 77% that Ms. Hart is referencing specific to Indirect Costs is limited to Health Insurance. Whenever we have talked about Indirect Cost and referenced 77%, it is just health insurance and none of the other Indirect Costs. Going down the list of Indirect Costs we have things like Administrative charge which is a percentage of costs like the Accountant, the Treasurer/Collector, the Assessors and the Audit. Those are driven as the percentage of the total appropriation, school and town, which would be similar to the calculation Ms. Hart sites from the Dept. of Revenue’s website. The additional ones for property and liability and Worker’s Comp insurance are actual bills. The only time 77% comes into effect is for health insurance and that is driven solely on a head count. He gave an example of if we have 100 employees on health insurance, 77 of them would have been school employees and the balance would have been town employees. It was mentioned Ms. Hart could contact them if further clarification was needed.

Selectwoman Hunt announced the Clark/Memorial YMCA is having an Open House and Ribbon Cutting on March 29th from 2:30 – 4:00 to tour the newly renovated building.

APPOINTMENTS/RESIGNATIONS:

Council on Aging Appointment – Mr. John Webber was present on his letter of interest to serve on this committee. The COA unanimously supports his appointment. Mr. Webber and COA Chair Judy Mizhir were present. O’Keefe moved to appoint Mr. Webber to the COA; Hunt seconded. Ms. Mizhir introduced Mr. Webber and spoke highly of him saying he is already volunteering and contributing to the senior center.

By a vote of all aye, the motion carried unanimously. They were both thanked for attending the meeting and serving the Town.

TOWN MANAGER’S REPORT:

Kreidler offered he had one item on his report this evening with a ratification of appointment of Kris Provost to the Winchendon Enhancement Sub-committee of Toy Town Partnership. Hunt moved to ratify the appointment of Mr. Provost to the Toy Town Partnership committee. O’Keefe seconded. By a vote of all aye, the motion carried unanimously.

NEW BUSINESS:

Harris Road/Tarbell Road Bridge Right of Way Taking - Kreidler stated Dir. John Deline was not here this evening to speak about this as he was not feeling well. This is step one of the process to lay out the road as a town way. He read the draft referral letter that needs to be sent to the Planning Board seeking their comments and/or recommendation. Hunt moved the Board of Selectmen vote its intention to lay out portions of West Street and Harris Road as public ways, all as shown on a plan entitled “Plan of Layout of Portions of West Street and Harris Road Winchendon Massachusetts Prepared for Town of Winchendon,” dated January 12, 2015, prepared by the WSP Transportation and Infrastructure, said plan on file with the Town Clerk, and to forward this vote and the plan to the Planning Board for its comments and recommendations pursuant to M.G.L. c.41, §81I; O’Keefe seconded. Kreidler said the plan on the table shows what the realignment will look like and in order to get on the Annual Town Meeting warrant, they need to vote its intention, forward it to the Planning Board, get their response back to you for inclusion in the warrant. Barrows stated procedurally and for public information, the motion before them is the recommendation coming from their DPW Director, we vote our intentions, it then goes to the Planning Board for their recommendations and ultimately a placement on the warrant for Town Meeting. By vote of all aye, the motion carried unanimously.

Recording Secretary Fee – Berndt mentioned this has been before them before with the Executive Assistant looking for assistance with the Selectmen’s meeting minutes. Daigle said she is seeking someone else to record their minutes but that she would still attend their meetings and record the Executive Session minutes.

She spoke of the difficulty to keep up with the many meetings they have had and to keep up with the day to day work in the office as well. She provided the Board with information helping with questions they had at the last meeting they discussed this topic. Included in their packets was the Public Body Checklist for Creating and Approving Meeting Minutes as well as sample minutes from the actual State Commission who sets the ruling. She noted it was interesting to see their minutes were detailed as well. She suggested using the Board of Selectmen’s Contingency Fund to cover the fees. The current balance is \$4,700.00 and thought \$1,000 would be what is needed for the remainder of the fiscal year. With the detail normally in their Selectmen’s minutes, she recommended a fee schedule of \$100 for meetings that last up to two hours; \$125 for meetings lasting two to three hours and \$150 for meetings lasting three to four hours. O’Keefe asked her how long it would take her for a two hour meeting to review the tape, the notes she takes and actually prepare the minutes. She replied six hours, it’s three times the length of the meeting. The Board discussed the brief meetings they might have and wanted to be sensitive to the workload need but also sensitive to what is realistic. Discussion of what other boards and committees compensate their Recording Secretary fees took place. The compensation is variable depending on whether they are compiling packets, posting agendas, etc. It ranges from \$45.00 to \$75.00. O’Keefe asked if these rates will present an issue

with others being paid less. Kreidler said your minutes are markedly more complicated minutes generally speaking. If you look back at copies of your minutes versus anyone else's, the level of detail that goes in to these minutes has proven to be valuable when you've had to look back at things and felt it warranted that distinction. O'Keefe said that's a good point to make so we don't have every Recording Secretary now wanting to move to the scale when the job is very different. Barrows moved the Board approve from the Selectmen's Contingency account support to complete minutes of the Board of Selectmen's meeting any time a meeting exceeds more than one hour in length with the schedule being one to two hours at a rate of \$100; two to three hours a rate of \$125 and three to four hours at a rate of \$150; O'Keefe seconded. He asked the Chair when he works with the Town Manager on preparing the budget of the Board to modify the upcoming fiscal year to actually specify this item rather than the Contingency Account. By vote of all aye, the motion carried unanimously. Ms. Daigle thanked the Board.

With the time being 7:07 p.m., the Board returned to the Special Town Meeting Draft Warrant.

SPECIAL TOWN MEETING APRIL 6, 2015:

Special Town Meeting Draft Warrant – Barrows said at their last meeting a week ago they scheduled a Special Town Meeting to be held at 7:00 p.m. on April 6, 2015. The warrant consists of two articles. Barrows read the Selectmen's report in the draft warrant:

**“JOINT STATEMENT OF THE BOARD OF SELECTMEN AND
TOWN MANAGER JAMES M. KREIDLER, JR.**

March 23, 2015

The Board of Selectmen and the Town Manager have negotiated an addendum to the Contract between the parties. The Agreement recognizes the expressed will of the non-binding vote of the November 24, 2014 Special Town Meeting regarding the Town Manager's continued service, as well as the Board's need to limit the Town's liability for any decisions of future Boards that cannot be supported by fact, and therefore, the Town and Mr. Kreidler have collectively agreed that a separation is in the best interest of all parties.

With guidance and advice from the Town's attorney from Mirick O'Connell, the Town's Labor and Employment Counsel of thirty (30) years, the Winchendon Board of Selectmen and our Town Manager of fifteen (15) years, James M. Kreidler, Jr., have amended the employment agreement between us, contingent upon a Town Meeting vote to fund it.

**The Agreement will result in Mr. Kreidler resigning his employment with the Town
of Winchendon effective on or before May 1, 2015.**

Under the Agreement, Mr. Kreidler will continue to hold and fulfill the duties of the position of Town Manager until on or before May 1, 2015 on the same terms as

outlined in his October 15, 2014 Employment Agreement which would have otherwise allowed Mr. Kreidler to remain employed with the Town for another thirty-nine (39) months until June 30, 2018.

There is a just cause for termination provision in the current employment agreement, but after discussion with the Town's Labor and Employment Counsel, and based on the totality of all information, including the information provided by the DOR and Town's auditor, Mr. Kreidler's composite performance evaluations over fifteen years, and the fact that Mr. Kreidler has never received any discipline during his tenure, the Board has determined that there is no cause, let alone just cause, for Mr. Kreidler's termination from employment notwithstanding any public calls and promises to the contrary.

If Mr. Kreidler were to be terminated, the dispute would be submitted for arbitration pursuant the terms of the very first contract between the parties negotiated in December of 2000 and signed by then-Selectmen White, Boucher, Barrows, Sordoni and Gould. During the appeal to arbitration the Town would be legally obligated to pay Mr. Kreidler's full salary and benefits for eighteen (18) to twenty-four (24) months. These funds would be paid to Mr. Kreidler regardless of the ultimate outcome of the matter,

Additionally, the Town would also be responsible for Mr. Kreidler's attorney's fees and would not be able to fill the position pending the results of an appeal.

Further, such a termination would necessarily open the Town to a wrongful termination suit and a variety of additional legal claims with financial exposure in excess of \$2 million dollars plus attorney's fees, the majority of which would be uninsurable.

In a mutual effort to avoid a protracted and costly legal and financial situation and continued discord in the community, the Board and Mr. Kreidler agreed on the following: Mr. Kreidler agreed to forfeit twenty-one (21) months of the current total contract salary and benefits, twenty-one (21) months of contract health insurance eligibility and thirty-nine (39) months of contract creditable service for retirement and in return the Board agreed that he shall be paid for the remaining balance of eighteen (18) months of salary and benefits under the October 15, 2014 Agreement in a lump sum payment of \$299,602.69.

This Agreement will allow a new Board to select a permanent Town Manager of its choosing without delay or legal exposure.

In short, all factors having been considered and with particular weight given to the potential for significant liability to the Town, the majority of which is uninsurable, the Board and Mr. Kreidler fully believe that it is best for the Town and Mr. Kreidler to part on these mutually agreed upon and fair terms. Further, the Board fully believes that it is critical that we all put the matters that have divided this community over the past several months behind us and move forward together.

The Board sincerely thanks Mr. Kreidler for his years of exceptional service to the Town and particularly extend our gratitude for his willingness to have stayed with us over these past six (6) very difficult and incredibly stressful months to put us back on solid fiscal ground when he could have just as easily chosen to take a non-renewal of his contract back in the fall, a full year's severance and just walked away.

Mr. Kreidler thanks the Board and the citizens of Winchendon for the opportunity to serve as its Town Manager for the past fifteen years and wishes the community nothing but peace and healing.”

Barrows then read Article 2 of the Special Town Meeting Warrant:

ARTICLE 2

“To see if the Town will vote to fund the Separation and Release Agreement amendment to the current thirty-nine (39) month contract between the Town and Town Manager James M. Kreidler, Jr., which contains the terms of the Town's and Mr. Kreidler's mutually agreeable separation from employment with the Town, by appropriating \$299,602.69 from the stabilization fund to cover eighteen (18) month's salary and benefits, or act in relation thereto. (submitted by the Board of Selectmen and the Town Manager)”

O'Keefe moved to close, approve and post the Special Town Meeting warrant; Hunt seconded. By a vote of all aye, the motion carried unanimously.

RECESS:

Execution and Posting of Special Town Meeting Warrant of April 6, 2015

A brief recess was taken at 7:15 p.m. to execute the STM Warrant and hand over to the Town Clerk and Town Constable for posting. The Board reconvened at 7:19 p.m.

OLD BUSINESS:

CDBG EDF Update – RHI Building - Director of Development Gerry White came before the Board to brief them on the grant funding seeking to renovate the RHI building and convert the upstairs to mixed use up to six apartments for low to moderate income individuals. The application is due April 7th. The Public Hearing was held the other day with receiving positive comments and endorsement of other Boards to go ahead and apply. He is the process now with the architects and structural and electrical engineers to get the

design done along with the bid specifications to go out with the application. He hopes to hear back shortly after that with approval. He asked if the Board had any questions. Barrows asked his thoughts on the application in terms of strength. White said this application is a two phase process. They applied with a pre-application to address what our intentions are with the whole project. If DHCD finds it's a good project meeting all the national objectives and thresholds, they invite you to apply. He liked to say that is about a 99% chance we will get that if you can meet their standards. He spoke about being able to show a percentage of the bid plan specifications, showing funding availability of the owner in the event it goes over budget. Our chances are good, but there are always trip hazards and he is working with everyone involved to make sure they don't have them. The RHI building is perfect candidate for that. This grant is criteria specific where the last one was more competitive. He hopes to meet the expectations of each element. Mr. White was thanked.

Class II Policy Discussion – There were no updates this evening.

PERMIT/LICENSE APPLICATIONS, HEARINGS:

Solicitation Permits – SolarCity – Mr. Lorenzo Leonardo and Mr. Natnale Girmay came forward on their applications for door to door soliciting of solar energy. The previous permitted person from SolarCity is no longer doing this. O'Keefe pointed out that Mr. Leonardo has the state license that the Board's policy requires but doesn't see this for Mr. Girmay. Mr. Girmay stated he has recently just started this work and has applied for his state license. He does have a permit from the City of Gardner. Mr. Leonardo's state license is expiring on April 27th and he will be renewing it. Hunt recused herself from this discussion and left the table as she is doing business with the previous solicitor. Barrows asked them to explain SolarCity a bit for the benefit of the community. They canvas the area driving around and prequalify homes that they think could benefit both the homeowner and the company. They look at the pitch of the roof, how much sun light exposure and shade exists, and the quality of the roof. All of those things are considered and if it's determined the home qualifies, they will knock on the potential customers door and present them with an offer. If they are interested, then set up an appointment to go through the utility bill and show them what they could save. The next step is a site surveyor to measure to visit the home and design a panel for a proposal to be presented. If agreed, SolarCity pulls the permit and does the installation at no cost to the customer. Berndt noted the comment from the Fire Chief that if there are any public complaints about this to contact the Police Dept. It was recommended that if they are going door to door a specific day to notify the Police Dept. so they are aware. O'Keefe moved to approve both applications with the condition of them obtaining and keeping their State Peddler License; Barrows seconded. By vote of Barrows aye, O'Keefe aye and Berndt aye, the motion carried unanimously. The hours will be Mon. – Sat. 12:00 p.m. – 8:00 p.m.

MINUTES:

Monday, March 2, 2015 - Joint BOS/SC/FC Meeting – Not ready for approval this evening.

COMMUNICATIONS: N/A

AGENDA ITEMS:

Meeting Schedule - The Board asked the Executive Assistant to check with the School Committee and the Finance Committee for their availability to attend a Joint Meeting scheduled for April 27, 2015.

ADJOURNMENT:

Barrows moved to adjourn; Hunt seconded. By roll call vote of all aye, the meeting adjourned at 7:32 p.m.

Respectfully submitted,

Linda Daigle
Executive Assistant