



TOWN OF WINCHENDON

SPECIAL TOWN MEETING WARRANT

**TOWN OF WINCHENDON
SPECIAL TOWN MEETING
August 4, 2014**

Worcester, ss:

To either of the Constables in the Town of Winchendon, in the County of Worcester,

GREETINGS:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Winchendon qualified to vote in town elections and town affairs to meet at the MURDOCK MIDDLE/HIGH SCHOOL, 3 Memorial Drive, off Elmwood Road in said Winchendon on

**MONDAY, AUGUST 4, 2014
AT 7:00 P.M.**

*Warden John Morris announced that a quorum was present.
Meeting was called to order at 7:00 p.m. by Moderator, Richard L. Morin Sr.*

then and there to act on the following articles:

**REPORTS AND COMMITTEES
(majority vote required)**

ARTICLE 1

Committee Reports

To see if the Town will vote to hear and act on the reports of the Finance Committee, or act in relation thereto. (usual and customary article)

BOARD OF SELECTMEN: Recommend 4-0 FINANCE COMMITTEE: Recommend 6-0

VOTED: Unanimously to pass over the article

ARTICLE 2

To see if the Town will vote to discontinue Oak Way (so-called), to the extent that said Oak Way is or ever was a public Town way or a public footway, and to transfer the care, custody, and control of said discontinued Oak Way from the Board of Selectmen for public way/footway purposes to the Board of Selectmen for general municipal purposes and/or for the relocation of the Police Station and the purpose of conveyance, and, further, to authorize the Board of Selectmen to convey said discontinued Town way/footway or any interests thereon on such terms and conditions, and for such consideration, which may be nominal consideration, as the Board of Selectmen deems appropriate; or act in relation thereto. (submitted by the Town Manager)

BOARD OF SELECTMEN: Recommend 4-0

FINANCE COMMITTEE: Recommend 6-0

VOTED: (unanimously) to approve the article as written

ARTICLE 3

To see if the Town will vote to adopt the Sex Offender Residency Bylaw as included herein, or act in relation thereto. (Submitted by the Town Manager)

SEX OFFENDER RESIDENCY BYLAW

Section 1. Determinations and Intent.

A. It is the intent of this by-law to protect the Town's interest to promote and protect the public health, safety and welfare of the inhabitants of the Town of Winchendon by creating areas around locales where children and the elderly regularly congregate and wherein certain sex offenders are prohibited from establishing temporary or permanent residence.

B. It is determined that this by-law is the most narrowly crafted means of restricting to the fullest extent possible the opportunity for registered sex offenders to approach or interact with children and the elderly where they routinely and naturally congregate and that the protections of the health and safety of our children is a compelling public and governmental interest.

C. This by-law is intended to create a civil nonpunitive regulatory scheme in order to protect children and the elderly to the greatest extent possible under the circumstances of public welfare protections and not as a punitive measure of any kind.

D. Registered sex offenders pose a clear threat to children and the elderly as vulnerable groups residing in or visiting the Town. Because registered sex offenders are more likely than any other type of offender to re-offend for another sexual offense, the Town desires to impose safety precautions in furthering the public purpose of protecting these groups. The purpose of this by-law is to mitigate the potential risk of harm to children and the elderly of the Winchendon community by deterring the ability for registered sex offenders to be in contact with unsuspecting individuals in locations that are primarily utilized by such groups. The Town desires to add location restrictions on such offenders where state law is silent.

Section 2. Definitions

1. “Park” means public land designated for active or passive recreational or athletic use by the Town of Winchendon, the Commonwealth of Massachusetts or other governmental subdivision, and located within the Town of Winchendon.
2. “School” means any public or private educational facility that provides services to children in grades kindergarten - 12.
3. “Day care center” means an establishment, whether public or private, which provides care for children and is registered with and licensed pursuant to the laws of the Commonwealth of Massachusetts by the Office of Child Care Services.
4. “Elderly housing facility” means a building or buildings on the same lot containing four or more dwelling units restricted to occupancy by households having one or more members fifty- five years of age or older.
5. “Place of worship” means a structure used for religious worship or religious education purposes on land owned by, or held in trust for the use of, any religious organization.
6. “Sex offender” means a person who resides, works or attends an institution of higher learning in the commonwealth and who has been convicted of a sex offense or who has been adjudicated as a youthful offender or as a delinquent juvenile by reason of a sex offense or a person released from incarceration or parole or probation supervision or custody with the Department of Youth Services for such a conviction or adjudication or a person who has been adjudicated a sexually dangerous person under G.L. c. 123A, §14, as in force at the time of adjudication, or a person released from civil commitment pursuant to section 9 of said chapter 123A, whichever last occurs, on or after August 1, 1981.
7. “Sex offender registry” means the collected information and data that is received by the criminal history systems board pursuant to Sections 178C to 178P, inclusive, as such information and data is modified or amended by the sex offender registry board or a court of competent jurisdiction pursuant to said Sections 178C to 178P, inclusive.
8. “Permanent residence” means a place where a person lives, abides, lodges, or resides for five (5) or more consecutive days or fourteen (14) or more days in the aggregate during any calendar year.
9. “Temporary residence” means a place where a person lives, abides, lodges, or resides for a period of less than five (5) consecutive days or fourteen (14) days in the aggregate during any calendar year, which is not the person’s permanent address or place where the person routinely lives, abides, lodges, or resides and which is not the person’s permanent residence.
10. “Establishing a residence” means to set up or bring into being a dwelling place or an abode where a person sleeps, which may include more than one location, and may be mobile or transitory,

or by means of purchasing real property or entering into a lease or rental agreement for real property (including a renewal or extension of a prior agreement whether through written execution or automatic renewal).

Section 3. Sexual Offender Residence Prohibition; Penalties; Exceptions

a. It is unlawful for any sex offender who is finally classified as a level 2 or 3 offender pursuant to the guidelines of the Sex Offender Registry Board, to establish a permanent residence within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship, if, after notice and a hearing before the Police Chief and/or his designee, the Police Chief and/or his designee determines that the sex offender poses a risk to the public and, therefore, residency should be limited in accordance with this section.

b. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence to the nearest outer property line of a school, day care center or park, elderly housing facility or place of worship.

c. Notice to move. Any registered level 2 or level 3 sex offender who establishes a permanent residence within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship shall be in violation of this section and shall, within thirty (30) days of receipt of written notice of the sex offender's noncompliance with this chapter, move from said location to a new location, but said location may not be within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship. It shall constitute a separate violation for each day beyond the thirty (30) days the sex offender continues to reside within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship. Furthermore it shall be a separate violation each day that a sex offender shall move from one location in the Town of Winchendon to another that is within two thousand (2,000) feet of any school, day care center, park, elderly housing facility or place of worship.

d. Penalties. Violation of this bylaw, or of any regulations adopted hereunder, may be enforced through any lawful means in law or in equity by the Board of Selectmen, the Town Manager, or their duly authorized agents, or any police officer of the Town of Winchendon including, but not limited to, enforcement by non-criminal disposition pursuant to G.L. c. 40, §21D. Each day a violation exists shall constitute a separate violation. The penalties shall be as follows:

i. First Offense: Notification to offender that he/she has thirty (30) days to move, if, after notice and a hearing before the Police Chief and/or his designee, the Police Chief and/or his designee determines that the sex offender poses a risk to the public and, therefore, residency should be limited in accordance with this by-law.

ii. Subsequent Offense: This shall be apply to any offender served or supplied with a notification of a first offense and a hearing that has failed to comply with all requirements of the notification within the thirty (30) day period. Non-criminal fine pursuant to the Town of Winchendon's General By-laws and notification to the offender's landlord, parole officer and/or probation officer and the Commonwealth's Sex Offender Registry Board that the person has

violated a municipal ordinance. Such a subsequent offence constitutes a breach of the peace for which the offender is also subject to immediate arrest.

e. Exceptions. A person residing within 2,000 feet of any school, day care center, park, playground, elderly housing facility or place of worship does not commit a violation of this section if any of the following apply:

i. The person established the permanent residence and reported and registered the residence prior to the effective date of this by-law.

ii. The person was a minor when he/she committed the offense and was not convicted as an adult.

iii. The person is a minor.

iv. The school, day care center, park, elderly housing facility or place of worship within 2,000 feet of the personal permanent residence was established after the person established the permanent residence and reported and registered the residence pursuant to the Sex Offender Registry Law.

v. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.

vi. The person is admitted to and/or subject to an order of commitment at a public or private facility for the care and treatment of mentally ill persons pursuant to G.L. c. 123.

vii. The person is a mentally ill person subject to guardianship pursuant to G.L. c. 201, §6 or a mentally retarded person subject to guardianship pursuant to G.L. c. 201, §6A, residing with his or her guardian or residing within a group residence that is professionally staffed and supervised 24 hours a day.

BOARD OF SELECTMEN: Recommend 4-0 as amended
FINANCE COMMITTEE: Recommend 5-1

VOTED: (2/3rds) to approve the article with the following amendments:

Section 3. Sexual Offender Residence Prohibition; Penalties; Exceptions

- a. Delete the following language: “if, after notice and a hearing before the Police Chief and/or his designee, the Police Chief and/or his designee determines that the sex offender poses a risk to the public and, therefore, residency should be limited in accordance with this section”.***

b. Penalties

- i. ***Delete the following language: "if, after notice and a hearing before the Police Chief and/or his designee, the Police Chief and/or his designee determines that the sex offender poses a risk to the public and, therefore, residency should be limited in accordance with this by-law."***

Replace all buffer areas that read two thousand feet (2,000) to read one thousand feet (1,000)

ARTICLE 4

To see if the Town will vote to adopt the citizen's petition resolution as included herein, or act in relation thereto. (submitted by Citizen Petition)

WINCHENDON: BAN THE PROPOSED GAS PIPELINE THAT THREATENS OUR TOWN, OUR PROPERTY VALUES, OUR PRISTINE ENVIRONMENT, AND WE WILL PAY TO HAVE IT BUILT.

Our children and future generations will thank us for taking action now to protect our land, air and water.

We, the undersigned registered voters of Winchendon, call for a Special Town Meeting to pass a Resolution to Ban the Tennessee Gas Pipeline from coming through our town, or to instruct our Board of Selectmen to act accordingly:

1: More than fifteen communities along the proposed route have put such resolutions into effect. Other resolutions are in process. We need to show a unified front for something that affects the Commonwealth at large.

2: The proposed 30"- 42" high-pressure pipeline brings the threat of leaks, ruptures and explosions causing damage to property and lives. T GP has ways to skirt this issue and cannot be held liable for damage to property or lives.

3: Winchendon is responsible financially for the upgrade in emergency responder equipment and training.

4: The New England Council of Governors has proposed a tariff on all New England electric rate payers to finance construction of the pipeline; if approved, TGP/Kinder-Morgan will make no investment but reap all the profit.

5: This pipeline will go through Dennison State Park, as well as bisecting family farms, new and established residence and housing developments, and disturbing wooded areas, wetlands and wildlife habitat.

6: Winchendon residents will experience no benefit from this pipeline and in fact will almost certainly suffer financial risk and risk to health and well-being from poorly maintained, leaking gas pipes.

The pipeline affects ALL of us, not just the people living along the proposed route. This hits us directly in our pocketbooks and in our way of life. Sign the petition and come to the Special Town Meeting to pass this Resolution!

BOARD OF SELECTMEN: 4-0

FINANCE COMMITTEE: Not Recommend 6-0 – *FC amended at the Special Town Meeting, to recommend this article with the motion..

Voted: (unanimously) the following motion:

To adopt the following Resolution Opposing the Northeast Expansion of the Tennessee Gas Pipeline in Massachusetts

WHEREAS, the so-called Northeast Expansion of the Tennessee Gas Pipeline is a high-pressure natural gas pipeline (hereafter “the Pipeline”) proposed by Tennessee Gas Pipeline Company, a subsidiary of Kinder Morgan, Inc. that would run through many communities in Central Massachusetts; and

WHEREAS, the Town of Winchendon has a regional interest in protecting the environment in Massachusetts and in the United States, and the public health generally; and

WHEREAS, the pipeline would transport natural gas obtained through hydraulic fracturing, a drilling method well known for its potential for ground water contamination, impact on air quality, and the harmful health effects of its chemical byproducts, among others; and

WHEREAS, pipelines of this kind carry inherent risks such as leaks and ruptures, and, as conveyors of flammable gas, can cause accidents such as the 2010 explosion in a residential neighborhood in San Bruno, California that resulted in the death of 8 people and the destruction of 38 homes; and

WHEREAS, the pipeline may pass through environmentally sensitive areas in our region such as forests and wetlands, as well as across Dennison State Park, Winchendon Forest; and

WHEREAS, Winchendon residents will experience no benefit from the pipeline; and

WHEREAS, taxpayer money would pay for evacuations and emergency response in the event of explosions, fires or other accidents; and

WHEREAS, our energy challenges are better addressed through investments in green and renewable energy solutions.

***NOW THEREFORE BE IT RESOLVED THAT the Board of Selectmen, Winchendon
Massachusetts***

- 1. Stands in opposition to the Northeast Expansion of the Tennessee Gas Pipeline and all similar projects that may be later proposed.***
- 2. Stands in solidarity with nearby communities working to disallow the Pipeline within their borders.***
- 3. Affirms the need for public policy at the local, state and federal levels to encourage renewable energy and combat climate change, and supports legislation to ban or impose a long-term moratorium on hydraulic fracturing as well as storage, treatment or disposal of hydraulic fracturing fluid or byproducts within the Commonwealth.***
- 4. Shall cause a copy of this resolution to be presented to the area legislative representatives and the Governor, asking them to take action to prevent the construction of the Pipeline within the borders of the Commonwealth of Massachusetts.***
- 5. Recognizes the expressed will of the assembly as demonstrated in numbers 1 through 4 directly above, but notwithstanding said expression, shall in its capacity as the chief elected executive board of the community, act at all times as it deems most protective of and in the best interest of the community.”***

It was moved, seconded and unanimously voted to adjourn the meeting at 7:59 p.m.

ATTEST:

Judy A . LaJoie

Judy A. LaJoie
Winchendon Town Clerk

And you are hereby directed to serve this warrant by posting attested copies thereof at the several places designated by the bylaws of the town of Winchendon fourteen days at least before the time of holding such meeting and by mailing a copy of this warrant to each household in Winchendon in which a registered voter resides or by publication of the same in a newspaper of local distribution as required by said bylaws.

Hereof, fail not and make due return of said warrant with your doings thereon at the time and place of the meeting aforesaid. Given under our hands and seal this 21st day of July 2014.

BOARD OF SELECTMEN:

C. Jackson Blair

C. Jackson Blair, Chairman

E.R. Hunt

Elizabeth R. Hunt, Vice Chairwoman

Robert M O'Keefe

Robert M. O'Keefe, Selectman

Keith R. Barrows

Keith R. Barrows, Selectman

Fedor Berndt

Fedor Berndt, Selectman

I have this day posted the within warrant as therein directed:

Robert D. Shea

PRINT CONSTABLE NAME

Robert D. Shea

7/21/14

SIGN CONSTABLE NAME

DATE:

**FINANCE COMMITTEE PUBLIC HEARING
WEDNESDAY, JULY 23, 2014
AT 7:00 PM
SECOND FLOOR AUDITORIUM
TOWN HALL**

This institution is an equal opportunity provider. To file a complaint of Discrimination write USDA, Director, Office of Civil Rights, Washington, DC 20250-9410.

Town of Winchendon, Massachusetts
Special Town Meeting Warrant
August 4, 2014