

Approved: August 24, 2020

**TOWN OF WINCHENDON  
BOARD OF SELECTMEN MINUTES  
MONDAY, AUGUST 10, 2020  
-- Conducted by Remote Meeting --  
Zoom Meeting ID: 973 8954 1253**

Present:

Michael Barbaro, Chairman  
Rick Ward, Vice-Chairman  
Amy Salter  
Barbara Anderson  
Audrey LaBrie

Keith R. Hickey, Town Manager  
Taylor Tower, Administrative Assistant

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List of Documents Presented at Meeting:

- Introduction to Remote Meeting (attached)
- Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20 (attached)
- Department of Planning & Development Information Regarding CDBG Loan Subordination (filed)
- Marc Dorwart Open Meeting Law Complaint Form Dated July 13, 2020 (attached)
  - Draft Letter from Legal Counsel Regarding Open Meeting Law Complaint Dated August 6, 2020 (attached)
- 2020 Special and Annual Town Meeting Draft Schedule (filed)
- Guide to FY21 Budget and Town Meeting Timeline (filed)
- List of Election Workers Suggested for Appointment (filed)
- Town Manager's Report 8/10/2020 (attached)
- Minutes to be Approved
  - July 13, 2020 Regular Meeting
  - July 13, 2020 Executive Session
  - July 27, 2020 Special Meeting
  - September 11, 2017 Executive Session
  - March 12, 2020 Executive Session
  - April 27, 2020 Executive Session

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*Due to Governor Bakers recent Executive Order and state of emergency declaration with the outbreak of the Coronavirus (COVID-19), this meeting was conducted remotely through Zoom Meeting. The public was notified how to join the meeting through instructions noted on the agenda.*

Chairman Michael Barbaro called the meeting to order at 6:30 p.m.

Barbaro confirmed members present and persons anticipating to speak by calling their name and asking for a response in the affirmative: Ward, yes, LaBrie, yes, Anderson, yes, Salter, yes, and Barbaro, yes. Staff members present and responding in the affirmative were Keith Hickey, Town Manager, Tracy Murphy, Director of Planning & Development, and Taylor Tower, Administrative Assistant.

Barbaro read the “Introduction for Remotely Conducted Open Meetings” which noted Governor Baker’s Executive order of March 12, 2020 and outlined the guidelines and ground rules for the meeting this evening.

All rose for the Pledge of Allegiance.

Barbaro advised all participants that the meeting was being recorded and cautioned screen sharing. When asked if anyone besides the Town was video or audio recording the meeting, there was no response.

1. **SELECTMEN’S COMMENTS AND ANNOUNCEMENTS:** Anderson thanked all those involved in the storm cleanup, noting that there was a horrible mess around town but due to the diligence of residents and first responders, it was cleaned up pretty quickly. Ward pointed out and thanked the DPW crew for their work done during the storm. Barbaro also wished to thank the DPW and the Police for their fast action and their ability to clean up the town as quickly as possible.
2. **PUBLIC COMMENTS AND ANNOUNCEMENTS:** Marc Dorwart informed the Board of his intention to ask a few questions regarding Mellen Road; the first of which was if after reviewing the minutes and video of July 13, 2020 meeting, the Town Counsel had unequivocally stated the letter and the spirit of the Open Meeting Law had not been violated during this executive session. He continued to ask if anything other than the “real value” of Mellen Road had been discussed, and if a third party had been involved in these discussions. His fourth and final question was when the minutes and video of this executive session will be released to the public. Barbaro informed Dorwart that the minutes and video have not yet been released as they are still considered privileged at this time. When the Board votes to release these minutes, they will become available to the public. He noted that other than Town Counsel, there has been no third party involved in the discussion of Mellen Road. Dorwart wished to inform the Board that his questions are significant and will be reviewed by the Attorney General when the time comes.
3. **PUBLIC HEARINGS:** There were no public hearings scheduled this evening.
4. **APPOINTMENTS/RESIGNATIONS:** There were no appointments or resignations this evening.
5. **PERMIT/LICENSE APPLICATIONS:** There were no permits or licenses before the Board this evening.
6. **BOARDS/COMMISSIONS/COMMITTEES/DEPARTMENTS:** Not applicable this evening.
7. **NEW BUSINESS:**
  - 7.1. CDBG Loan Housing Rehab Program Loan Subordination – Tracy Murphy, Director of Planning and Community Development, explained to the Board that there is a housing rehab client that was part of the 2005 program. This homeowner has the opportunity to refinance their existing mortgage, and that the Town needs to agree to subordinate. The homeowners are improving the conditions of the property and will be paying about half the percentage that they currently are.  
  
**LaBrie moved the Board of Selectmen approve the request of the homeowner of 12 Kemp Street to refinance their home as required by the CDBG Affordable Housing Program and authorize the Town Manager to sign any documentation on behalf of the Board of Selectmen, seconded by Ward. With a roll call vote of Anderson, aye, Salter, aye, LaBrie, aye, Ward, aye and Barbaro, aye, the motion carried unanimously.**
  - 7.2. Review Open Meeting Law Complaint Dated July 28, 2020 Filed by Marc Dorwart and Discuss Response to Complaint – Town Counsel, after reviewing the meeting minutes and watching the meeting video, compiled a formal response to the Open Meeting Law Complaint. Barbaro read aloud the response from Town Counsel which states that the Chair did make a motion to enter into Executive Session under Purpose 6 (“to consider



the purchase, exchange, lease or value of real property”) stating that an open meeting could have a detrimental effect on the Town’s position, and after some discussion with attendees, a roll call vote to enter Executive Session was taken. Barbaro also had clearly stated that the meeting would not resume after the Executive Session. The letter concluded that there is no basis, therefore, for these aspects of the complaint. Anderson declared that she has serious concerns with the letter and that she is trying to justify using Purpose 6, and is unsure that the Board meets those qualifications. Barbaro replied that the Town has reached out to Town Counsel many times and Counsel maintains that the Town is well within their rights to continue using Purpose 6 and asked if Anderson would like to amend any of the specific wording. Dorwart asked about the discussion of Mellen Road in the Executive Session of July 13<sup>th</sup>; Barbaro informed him that there is no public comment allowed during Board discussion.

**LaBrie moved the Board of Selectmen approve the Open Meeting Law response this evening as presented, seconded by Ward. With a roll call vote of LaBrie, aye, Ward, aye, Salter, aye, Anderson, no, and Barbaro, aye, the motion carried 4-1.**

- 7.3. Review of Draft Annual Town Meeting Timeline and Vote to Schedule STM/ATM and Open and Close the Warrant – Hickey apprised the Board that in light of recent changes to the state budget and the funding of Chapter 70, he thought it appropriate to compile a draft timeline for Annual Town Meeting and Special Town Meeting. These Town Meetings will allow for safe and proper social distancing and all of the items within the proposed timeline will meet mandatory, statutory requirements and have been reviewed by Town Counsel. It is an aggressive timeline, but is necessary in order to bring something forward for September 28<sup>th</sup> and to present a draft budget. Ward expressed that the Board had been hesitant to present a draft budget due to not having official numbers from the State and asked if there is reason to be confident in these figures. Hickey replied that he had received estimated revenues from the State and from Chapter 70 with some minor changes in the smaller revenues. The largest of revenues coming from the Commonwealth were publicized the prior week, and Hickey is comfortable that the State has provided solid numbers with the potential of some minor adjustments. Ward asked if the August 24<sup>th</sup> and August 31<sup>st</sup> meetings to present the draft budget would be joint with the Board of Selectmen and the Finance Committee; to which Hickey responded yes, that is what is proposed and what has been done in the past. LaBrie asked if the School Department would be able to compile their budget during these timelines; Hickey said that he had shared the timeline with Joan Landers, Superintendent, and had not heard anything to suggest that they would be unable to submit a budget in that timeframe. Anderson asked if because everything is so fluid, the Board would have the ability to shift the schedule as needed. Hickey indicated that it can be moved if there is significant reason to. Anderson voiced that she is concerned with logistics and wants to make sure the Board does not get themselves into a corner. Barbaro answered that we do have solid numbers from the State at this point and adjustments can be made if necessary.

**Ward moved the Board of Selectmen approve the establishment of Monday, September 28, 2020 as the date of the 2020 Annual Town Meeting. The meeting will be in the Murdock High School Gymnasium beginning at 7:00 pm. Ward further moved that the 2020 Annual Town Meeting warrant open at 8:00 am on Tuesday, August 11, 2020 and close at 10:00 am on Wednesday, August 19, 2020, seconded by LaBrie. With a roll call vote of Anderson, aye, Salter, aye, LaBrie, aye, Ward, aye and Barbaro, aye, the motion carried unanimously.**

- 7.4. Discussion on Sponsoring a Warrant Article Creating an Exemption for Gold Star Families – Hickey advised the Board that a member had recently asked if the Town had adopted the Gold Star Family tax exemption. After research, it was found that the exemption was not adopted, thus prompting Hickey to place this item on the agenda for discussion. A Gold Star family is defined as surviving parents or guardians of one military personnel who went missing in action during active duty and are presumed to have died, or military personnel or veterans who died as a proximate result of injuries sustained or illnesses contracted during active duty service. There is currently one known family in Winchendon that could benefit from this exemption. LaBrie asked if this is a one-time property tax exemption, Hickey said it would be yearly. Ward raised questions regarding the verbiage of the warrant article, his first concern being the usage of the word



“family”, citing the many men and women serving in Iraq and Afghanistan with spouses and children. Spouses with children at home should have some sort of exemption from this included in the warrant article. After looking at the guidelines on the Division of Local Services, Ward clarified that this topic is under clause 22H and clause 22D, which canvasses surviving spouses and clarifies why they should be included. He also wondered if a surviving family member also owns a business in town, the property tax exemption would apply to that property as well. Hickey answered that he will verify that a spouse can be included in the Gold Star Family tax exemption. Hickey reminded the Board that this is a state law and the language included in their addenda has been sourced directly from those existing laws. He hopes to see this placed on the warrant to become an exemption that eligible residents may be able to utilize moving forward. Ward asked to see state law referenced within the warrant article, and a specific reference to surviving spouses. LaBrie asked if the Board could vote to establish a placeholder and adjust the verbiage as needed for each Board member to feel comfortable supporting this warrant.

Dorwart chimed in to reiterate the previously discussed point that this is an existing state law the town needs to adopt. He continued to castigate the Board, claiming that a Gold Star parent had previously been denied this exemption due to the Town not yet having adopted the state law. He would like to see the Town continue their initiative of formally adopting state laws. He persisted that the exemption is about more than money; these families deserve the recognition for their family member that fought for our country and perished. LaBrie recapitulated that this matter will be established at Town Meeting; she does have family members in the military and it is needless to lecture her patriotism. Barbaro said his father and his uncles fought in the Korean War. He recognizes and appreciates the sacrifice of military members and he wholeheartedly endorses the adoption of this law. This is the first he has heard of this matter and he is happy to vote to see this item become a warrant article. As with most state laws, they have to be formally adopted locally and the Board addresses them as best they can.

**LaBrie moved the Board of Selectmen approve sponsoring a Gold Star property tax exemption warrant article on the 2020 Annual warrant, seconded by Ward. With a roll call vote of Anderson, aye, Salter, aye, LaBrie, aye, Ward, aye and Barbaro, aye, the motion carried unanimously.**

Dorwart wished to inform the Board that he is not interested in hearing the difficulties of the process of formally accepting laws. He told the members that this is the job that they are volunteering for and admonished them for being unaware of this statute. He informed the Board that they work for him, residents elected them to their terms and he asked them to keep up with the laws.

- 7.5. Appointment of Election Workers – Mass. General Law, Chapter 54, Section 12 requires the Board to annually appoint election workers. As such, Town Clerk Wendy Stevens has compiled a list of recommended election workers and their positions. Anderson asked how positions are delegated to election workers and what the process is. Hickey answered that Ms. Stevens meets with these potential workers and conducts a casual “interview”. After learning of their past job positions, strengths and weaknesses, she places them in positions she feels confident that they will fit well. LaBrie asked if there are enough recommended election workers to fulfill regulations; Hickey answered yes.

**LaBrie moved the Board of Selectmen approve the list of election workers presented this evening and recommended by Town Clerk Wendy Stevens, seconded by Barbaro. With a roll call vote of LaBrie, aye, Ward, abstain, Anderson, no, Salter, aye and Barbaro, aye, the motion carried 3-1-1.**

## **8. OLD BUSINESS:**

## **9. TOWN MANAGER’S REPORT:**

### **1. Financial Updates-**

- a. The Division of Local Services’ official aid levels for Fiscal Year 2021 baseline Chapter 70 and unrestricted general government aid (UGGA) was recently announced. These levels of aid are based on an agreement between the Senate, House and Administration to commit to no less than level funding for UGGA and increases in Chapter 70 to account for inflation and enrollment that will keep

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all school districts at foundation, under the law as it existed for FY 2020. Below is a table that compares the original Cherry Sheet revenue estimates with the revised revenues.

	<u>Original Cherry Sheet Estimate</u>	<u>Revised Estimate</u>	<u>Difference</u>
Chapter 70	\$11,530,760	\$11,491,100	(\$39,660)
Unrestricted Gen. Gov't. Aid	\$1,836,495	\$1,786,474	(\$50,021)
Totals	<u>\$13,367,255</u>	<u>\$13,277,574</u>	<u>(\$89,681)</u>

While the revised revenue estimates are nearly \$90,000 less than the original estimates, the outlook is much brighter than just a week ago. Hickey is confident he can revise the FY'21 budget to have little impact to the services currently provided.

- b. The Fire Department was recently awarded an Assistance to Firefighter's Grant from FEMA in the amount of approximately \$59,000 for 20 sets structural firefighting turnout gear. The grant pays for 95% of the cost of the turnout gear and the Town funds the remaining 5% or approximately \$3,100.
- c. The Fire Department also received a grant from FEMA for personal protective equipment.

## 2. Personnel Updates-

- a. There are no personnel updates this week.

## 3. Project Updates-

- a. The EPA's project on Lincoln Ave. Extension is now finished. Any remaining equipment and the temporary fence will be removed in the next two weeks.
- b. Al Gallant, Tracy Murphy, Fire Captain Bryan Vaine and I met with representatives from the Montachusett Veterans Outreach Center to be updated on the veteran's housing project. MVOC will be submitting funding requests in the near future. MVOC also indicated they are willing to present their proposal to the Board of Selectmen for review and comment.
- c. Mass. Broken Stone will begin the 2020 paving program during the week of August 17<sup>th</sup>.

## 4. Miscellaneous Updates –

- a. Winchendon partnered with the Commonwealth for street salt bidding for the upcoming winter season. The winning bid was \$56.10 per ton, the same price per ton as last winter.

Anderson thanked the Fire Department and Chief Smith for obtaining those grants, it's a big help especially this year.

## 10. **MINUTES:**

10.1 Monday, July 13, 2020 Regular Meeting – LaBrie moved to approve the minutes of the regular meeting of July 13, 2020, seconded by Ward. With a roll call vote of Salter, aye, Anderson, aye, Ward, aye, LaBrie aye and Barbaro, aye the motion carried unanimously.

10.2 Monday, July 13, 2020 EXECUTIVE SESSION – Ward moved to approve and not release the minutes of the July 13, 2020 Executive Session meeting, seconded by LaBrie. With a roll call vote of Salter, aye, Anderson, aye, LaBrie, aye, Ward, aye and Barbaro, aye, the motion carried unanimously.

10.3 Monday, July 27, 2020 Special Meeting – Ward moved to approve the minutes of the July 27, 2020 Special Meeting. LaBrie sought an amendment, citing that her name is on the attendance roster and she was absent from that meeting. Ward motioned to approve the minutes as amended, seconded by Barbaro. With a roll call vote of Salter, aye, Anderson, aye, Ward, aye, LaBrie, abstain and Barbaro, aye, the motion carried 4-0-1.

## **EXECUTIVE SESSION Minutes for Release:**

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10.4 Monday, September 11, 2017 EXECUTIVE SESSION – LaBrie moved to release the executive session minutes of September 11, 2017. Ward explained he was not a member at the time so he is abstaining. The motion was seconded by Barbaro. With a roll call vote of Salter, abstain, Anderson, aye, LaBrie, aye, Ward, abstain, and Barbaro, aye, the motion carried 3-0-2.

10.5 Monday, March 12, 2018 EXECUTIVE SESSION – LaBrie move to release the executive session minutes of March 12, 2018, seconded by Barbaro. With a roll call vote of Salter, aye, Anderson, aye, Ward, abstain, LaBrie, aye, and Barbaro aye, the motion carried 4-0-1.

10.6 Monday, April 27, 2020 EXECUTIVE SESSION – This item was passed over.

11. **COMMUNICATIONS:** Barbaro reminded the Board of the upcoming meeting schedule of August 17<sup>th</sup>, August 24<sup>th</sup> and August 31<sup>st</sup>.
12. **AGENDA ITEMS:**
13. **EXECUTIVE SESSION:** There was no Executive Session this evening.
14. **ADJOURNMENT:** LaBrie moved to adjourn, seconded by Ward. With a roll call vote of Salter, aye, Anderson, aye, Labrie, aye, Ward, aye and Barbaro, aye, the meeting adjourned at 7:22 p.m.

Respectfully submitted,

Taylor C. Tower

Taylor Tower  
Administrative Assistant