

Approved: Sept. 2, 2020

**TOWN OF WINCHENDON
BOARD OF SELECTMEN MINUTES
MONDAY, AUGUST 17, 2020
-- Conducted by Zoom Remote Meeting --**

Present:

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

Keith R. Hickey, Town Manager
Linda Daigle, Executive Assistant
Taylor Tower, Administrative Assistant

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)
- August 13, 2020 Memo to the Selectmen from Town Manager re: Options to Repair Mellen Road (attached)
- August 15, 2020 Memo to the Selectmen from Town Manager re: Discussion on Veolia's Management of the Wastewater Plant (attached)
 - September 5, 2017 Memo to the Selectmen from Town Manager re: Outsourcing the Wastewater Operations (attached)
 - September 11, 2017 Executive Session Minutes (attached)
 - March 12, 2018 Executive Session Minutes (attached)
 - January 10, 2019 Memo to the Selectmen from Town Manager re: Agreement of Operation between Veolia Water North America and the Town of Winchendon (attached)
 - September 7, 2017 Memo to the Selectmen from Town Manager re: Outsourcing the Water Operations (attached)
- PowerPoint Presentation by Selectwoman Barbara Anderson re: Veolia Water North America (attached)
- Agreement for Operations and Maintenance Services between the Town of Winchendon and Veolia Water North America dated January 14, 2019 (attached)
- June 24, 2020 Memo and Presentation to Veolia and Winchendon Department of Public Works from Wright-Pierce re: Winchendon Water and Sewer Rate Study (attached)
- 20-year Amortization Schedule for the Proposed Senior Center Repairs (filed)
 - 20-year Tax Impact for the Proposed Senior Center Repairs (filed)
- 30-year Amortization Schedule for the Proposed Senior Center Repairs (filed)
 - 30-year Tax Impact for the Proposed Senior Center Repairs (filed)
- April 1, 2020 Email from Tighe & Bond Engineer to Town Manager re: Senior Center Warrant Question (filed)
- March 17, 2020 Email from Town Counsel to Town Manager re: Warrant Article Debt Exclusion for Proposed Senior Center Repairs (filed)
- July 12, 2016 Mass. DOT Plan of Topographic Survey of Central Street (attached)
- July 22, 2020 Memo to the Selectmen from Alison Manugian re: Planning Board Recommendation to Accept Central Street Layout (attached)

Due to Governor Baker's 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, Salter, yes, Anderson, yes and Barbaro, yes. Staff members present and responding in the affirmative were Keith Hickey, Town Manager, Linda Daigle, Executive Assistant 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:** LaBrie wished to address the Board and the public. These are tough times for everyone; the Board is discussing a few tough issues. She appreciates what the Board is doing and hopes we can come out of it as a strong group, working together the best as possible for the Town. She noted the difficulties of Zoom versus sitting face to face and that it can be difficult to place a name to a face during public comment. Background noise can also prove difficult and distracting, and she asked that the public wait until they are acknowledged by the Chair so that all have a chance to contribute their input.
2. **PUBLIC COMMENTS AND ANNOUNCEMENTS:** Maureen Ward reminded all that early voting starts Saturday, August 22nd from 12:00 p.m. to 4:00 pm. A full list of available dates can be found under "News & Announcements" at www.townofwinchendon.com. Early voting will take place in the 2nd floor auditorium at the Town Hall. Masks are required and hand sanitizer will be provided. A new ADA compliant drop box has been installed on the Pleasant Street of Town Hall to drop off completed ballots. It is secure and attached. Residents not yet registered to vote have until August 22nd. Town Clerk, Wendy Stevens, is available to walk residents through the process if necessary.
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:** There was no new business heard this evening.
8. **OLD BUSINESS:**
 - 8.1. Discussion on the Possible Options to Repair/Upgrade Mellen Road – Barbaro read aloud a brief description of the history of Mellen Road, as follows:
 1. 1914 Town Meeting – Article 25 voted to discontinue Mellen Road from the residence of the late J.Q. Mellen to that of J. Shaw.

2. May 1984 – Letter to Winchendon Town Counsel J. Philip Howard to Attorney Henry Beth stating “a small section of Mellen Road was not discontinued and remains a public way”.
3. March 2, 1989 – Item 7 of the Planning Board minutes addresses the Mellen Brook Valley development proposal. The developer agreed to upgrade the road for the approval of Approval Not Required (ANR) lots
4. April 6, 1989 – Mellen Brook Valley presented agreement between developer and the Town of Winchendon.
5. April 6 1989 – Agreement between developer Mellen Brook Partnership and Town of Winchendon. Town agrees to “-install, design/size, and provide all drainage the DPW determines is appropriate or necessary and obtain Conservation Commission approvals. “Cut surface crown and do final grading of road with DPW grader and personnel.” The Winchendon Planning Board agrees to “sign Approval Not Required (ANR) plans for all lots owned by Mellen Brook Valley Co. with frontage on Mellen Road, provided road upgrading agreed herein is completed by Mellen Brook Valley Co. and provided each such lot satisfied at lease the minimum frontage and area requirement is the R-1 zone.”
6. April 6, 1989 – Addendum of March 1989 stating the DPW Director approves Mellen Brook proposal to remove all trees between the stone walls within the Town right of way on the portion of Mellen Road beginning at Mellen Brook Valley Company’s most
7. May 8, 1989 – Article 16 of the 1989 Annual Town Meeting voted to relieve the town of the obligation to maintain said portion of Old County Road and Mellen Road and to deem said portion of Old County Road and Mellen Road a statutory way in which public access is retained.
8. May 29, 1990 – Letter from DPW Director to Town Manager justifying the agreement signed between Mellen Brook and the Town of Winchendon.
9. June 4, 1990 – Selectmen’s meeting minutes discussing Mellen Road with Planning Board.
10. October 22, 1991 – A Road Construction Covenant requiring Mellen Brook Valley Partnership to deposit no less than 35% of the gross proceeds from every ANR lot sold on Mellen Road be deposited in a road reconstruction escrow account until a total of \$75,000 has been deposited. The escrow account was held by Attorney Henry Beth who represented the developer. Tracy Murphy reached out to Attorney Beth who confirmed he is not in possession of any Mellen Road escrow funds. I spoke to Attorney Beth who doesn’t remember any such agreement and confirmed he isn’t holding an escrow. I shared the agreement with Attorney Beth who indicated he would research his records.
11. September 2, 1993 – Letter from developer’s counsel requesting the Town plow and maintain the portion of Mellen Road that was not discontinued.
12. August 12, 1998 – E-mail from Mellen Road resident Bob Gelinas to Selectman Gould requesting Mellen Road be included in list of town wide road work that needs to be completed.
13. October 1998 – Agreement between developer Mellen Brook Partnerships, DPW Director and Acting Town Manager. Town agrees to fine grade and compact gravel. A check was sent for \$38,750 for the base coat of asphalt on a portion of Mellen Road.
14. May 2008 – Article 40 of May 2008 Town Meeting requesting the town to vote to accept, for the purpose of maintenance, that certain portion of Mellen Road that had been previously discontinued at the 1914 Town Meeting, being the Third Way under Article 25. This article was passed over.
15. September 2008 – Letter from Town Clerk Abare to MJ Galat responding to questions raised by Ms. Galat in an August 2008 letter to the Town Clerk. (could not find a copy of Ms. Galat’s letter)
16. September 11, 2017 – Request by Second Street property owner to maintain private/unaccepted roads at Board of Selectmen’s meeting.
17. November 19, 2018 – a Town plow truck sustained over \$30,000 in damage plowing an unaccepted road.
18. December 2018 - The Town Manager sends letters to the property owners living on the unaccepted portions of Mellen Road and Converse Drive requested the residents of each road

work together to fill potholes in the road reducing the risk of town plow equipment being damaged by the condition of each road.

- 19. Early 2019 - The Town Manager contacted legal counsel regarding the appropriate process necessary to authorize the Town to plow unaccepted roads. Counsel recommends the Selectmen sponsor a warrant article requesting approval from Town Meeting.*
- 20. May 2019 - The Board of Selectmen unanimously support placing a warrant article on the Town Meeting warrant. The Selectmen's sponsored article was approved by Town Meeting voters.*
- 21. June 3, 2019- The Board has a public discussion with Mellen Rd residents about the status of the unaccepted portion of Mellen Rd.*
- 22. April 2020 - Legal counsel representing several Mellen Road residents drafted a letter to the Town requesting the Town resume all aspects of road maintenance on Mellen Road. After consultation with legal counsel, the Board of Selectmen agreed to discuss the options, including the acquisition of the property below Mellen Road in Executive Sessions.*

Marc Dorwart of 245 Mellen Road interjected his interpretation of the wording "up to", stating he does not believe it to mean "throughout and beyond" and that his lawyers share the same opinion. Barbaro disagreed and asked if he could continue reading through the chronological events of Mellen Road without interruption. He continued on to read the options of repairing the road. All of the options identified would need Town Meeting approval to expend town funds on an unaccepted road. The first option is to patch the potholes, which is a temporary repair that will require future patching as needed. This repair option does not allow Mellen Road to become eligible for Chapter 90 funding. The second option is to reclaim the road. In this case, the road grindings would remain and be grinded into the gravel to better stabilize the road base. The road would remain a dirt road, to be built to Town dirt road standards. If metes and bounds were determined and the voters approved a warrant article accepting the road, it would become eligible for Chapter 90 funding. The road would need to be graded three to four times a year, with additional materials needed every few years. The third option is to reclaim and pave the road, along with surveying and legal work, it would bring the road to Town standards. Voter approval would make this section of Mellen road an accepted town road and make it eligible for Chapter 90 funding.

Dorwart debated the meaning of "up to", expressing his opinion that it does not mean "throughout and beyond"; continuing on to assert that his lawyers interpret the verbiage the same way as he does. Barbaro disagreed and explained that he is reading what the State and the Board has. Barbaro continued reading the timeline and finished clarifying the repair options that the Board is voting on.

Dorwart stated that he did a legal request of documents and opined his perception that there was no proof within these documents that the residents own the road. He carried on to say that the proposal before the Board tonight is based on the residents owning the road, when he believes there to be no proof of said ownership. He referred to a letter obtained from one of his public records requests written by Planning Director, Tracy Murphy, and said that the letter states the developer had no rights to the road. He asked how the residents own the road now if the developer did not have the rights to the road when obtaining their permits. Murphy clarified that the letter in question was in response to an attorney's assertion that the original development should have been a subdivision. She explained that the Planning Board considers multiple aspects when doing a banner, and when the roadway is on a previously approved subdivision, it is considered an existing way. This way is already existing and it does not necessarily mean that it is a public way, it just means that it is a way. Dorwart interrupted to repeat his assertion that the developer had no rights so the homeowners on Mellen Road must not have those rights either. Murphy said that if the lots have no frontage, the ownership of that way comes to the center line.

Barbaro said that the contractor had an agreement with the Town to pay \$75,000 into a road reconstruction escrow account to bring the road to Town standard, and he failed to do that. Due to the money never being paid, the road was never accepted. He reiterated that at the Town Meeting in 1914, the road was unaccepted and there has been no proof that the road was ever accepted after that.

Bill Shea asked if there was a copy of the letter sent to Mass Fish and Game available for the public to see, Hickey indicated that he is happy to share the letter with anyone who requests it. Shay asked when the letter was sent, Hickey said July 17th. Shay asked if he is expecting a response, Hickey said he asked for one.

Barbaro began screen sharing and showed a map indicating based on lot size, what the property owner's cost would be. Dorwart asked if this is a one-time fee, to which Barbaro answered yes. If the State does not pay their betterment, the Town will be on the hook for their cost. LaBrie asked if this cost is for the regrounding and reclaiming the road to a dirt road standard. Barbaro said it would bring the road to a Chapter 90 eligible paved road.

Hickey continued to explain the options before the Board and their associated cost. Dorwart asked if the Town considers this "unequal treatment of citizens when you are paying one citizen's bill and not the other". Barbaro answered that he sees this as trying to resolve a problem. He said that the Board emphasize with the residents and it is unfortunate that the developer did not put money into escrow as promised. Dorwart interrupted to inform the Board that LaBrie had admitted Town error in a 2019 meeting, but he was unable to provide proof of said statement. He asked what factors were involved and if there was a weighted scale. LaBrie informed him that there was no weighted scale and no personal feelings involved in the decision making process. She said that they have not decided to cover anything and that decision will be made by voters at the Annual Town Meeting. She explained that the Board has discussed this matter at length and it is not an easy situation. Speaking on her own behalf, she personally does believe that the Town had some culpability in the origins of this issue but the current Board is trying hard to resolve this, and move forward with something to present to the voters. She said that the Board is considering the three options presented currently and asking the Town as a whole to be involved. Dorwart interrupted again to reiterate that he doesn't believe the Town has proved the ownership of Mellen Road to be on the residents. He asked again why the Board is paying some bills and not the others, even though LaBrie had just clarified that they have not decided to pay any bills. LaBrie said nothing was decided as to what would be paved or not, and when they discovered the ownership by the State of half the road, they questioned if the Town would have to absorb that cost. Dorwart claimed that the State told him they will never pay anything for the road. He asked why citizens should have to pay for an entire state to access the state forest, and why the state is actively inviting public and heavy machinery to use the road. He asked why the chart presented showed the State in red. Hickey answered it is in red to highlight it and he will be surprised if the State is willing to contribute any money to the road improvements, and if that is the case, the community will be responsible. Dorwart claimed that he was informed by a resident that no part of Mellen Road is owned by the DCR and that DCR told him the Town of Winchendon may be the appropriate organization to respond to his request.

Dorwart would like to see proof that the residents own the road. Hickey began to explain, again, that the road was formally discontinued by Town Meeting vote in 1914 and that there is no proof it was ever accepted again. He said that the Town found that Mellen Road and other unaccepted roads had been maintained by the Town (in the nature of winter maintenance and patching), and that the community does not have the authority to expend Town funds on unaccepted roads. When that information came to light, it was agreed that the Board will bring a warrant to Town Meeting for a vote to spend money on unaccepted roads. The Town still has no authority to expend public money for maintenance on an unaccepted road. The Town and residents can bring to Town Meeting a warrant article to allow the expenditure of public funds to be used on unaccepted roadways. He explained that over the past year, the Town has simply attempted to address and resolve an issue that began a number of years ago. His intention is to allow for improvements to be made to the roadway if there is interest in doing so and providing and allowing options for maintenance and improvement. The tax records indicate that DCR owns almost 4,000 feet of frontage on Mellen Road and it is their decision solely whether they have interest in contributing. David Watkins of Mellen Road addressed each Selectmember and asked if they had read his letter from his attorney. Barbaro answered no, LaBrie and Ward read it in its entirety from front to back with all attachments. Watkins stated that the members should read the document five times at a minimum and should be able to recite from it if asked. Salter answered that she had looked over the documents and the Town pays for legal counsel to interpret letters and asked where this was going. Anderson said that she read the document and even had it in front of her at present. Watkins claimed that none of the members had read the document to his satisfaction and asked who is liable for the

road if someone gets hurt. He said liability does not fall on the residents but on the Town. Hickey replied that town counsel, who is well versed in public sector law, assured him that if an emergency vehicle were unable to respond to a call due to the current condition of the road, the Town would not be liable. Watkins said that this is an absurd mess that occurred 20 years ago and the Town is 100% responsible for their input at the time. He alleged that his attorney believes the residents to be 100% correct and said the Town needs to investigate this further. He also presented Planning Board documents that state Mellen Road will be maintained by the Town and that document is law, not the opinion of Mr. Hickey and Mr. Barbaro.

Barbaro reminded the residents that all documents are sent to town counsel to be interpreted. The Board emphasized that they are simply trying to resolve this situation as best possible. Unfortunately, that section of Mellen Road remains unaccepted at this point. It will be going to Town Meeting as a warrant article seeking a vote to allow the Town to maintain it. Dorwart contested the fact that it is not legal to repair an unaccepted road and proclaimed that Town bylaws state the opposite. Barbaro clarified that it can be done if an article is proposed and approved by voters, and that is exactly what the Board is attempting to accomplish. Frank Bowler, of Mellen Rd., asked why the developer wasn't held accountable for their failure to pay the agreed upon \$75,000 for the final stages of Mellen Road and why wasn't there a bond. He is appalled at this "sham" and cannot believe that it has happened. He continued to say that a lawyer's job is to represent their client and of course they will side with their client.

Barbaro reminded the residents that none of the Board members or current Town leaders were involved in the origins of this problem and agreed that staff should have gone after the developer, who has since gone bankrupt. The Town's legal counsel does not blindly back the Town, their job is to interpret the law and advise the Town of their rights. It doesn't make anyone happy, Barbaro said, and he can assure residents that the Board is not happy with the issue at hand either. He can understand their frustration and is attempting to resolve the issue. Spending all evening arguing and interrupting is not helpful to the Town or its constituents.

Jason Tavares of Mellen Road said if the Town could accept the road as is, and then spend money on it, it doesn't have to be approved to accept the road. He said it can be accepted as is and then improved with Town funds.

Barbaro asked if the meeting could move forward without bickering and obstruction. He continued to explain the options for repairing the road and reminded the Board that any option would have to be approved before a warrant article would be drafted, presented to Finance Committee, and then voted upon at Town Meeting. Bill Shea said he understands that options had been laid out addressing the repair of the road and asked why the Town is not holding the State accountable. He asked why the Board refers to Mr. Hickey so much and declared that he works for the Selectboard. He declared that the Town had no issues at all before Mr. Hickey arrived and "slashed the budget in an effort to sustain his position". He said he is appalled at the "second rate treatment" of the citizens of Mellen Road. He continued to say that this is criminal and the Board is forgetting their role to represent the citizens. Dorwart asked what would happen if homeowners did not pay their betterment, to which Barbaro answered there is a twenty year payment plan on the tax bill. If it still remains unpaid, it will be liened to the house. Ward asked if the only way this would work is if all residents agreed, Hickey said that's correct. Anderson said she walked the length of Mellen Road today and that it is in deplorable condition. Knowing that inclement weather is coming around the corner, she cited concern for emergency vehicles and the timeliness of their response given the condition of the road. While we are discussing legality, she said, potholes need to be filled and that would be the least amount of work while still knowing the residents are covered for the winter. Salter agreed with Anderson, and said that something needs to be done immediately. Ultimately, the voters will decide, but she said the Board can put options out there for the residents to vote on. She asked Mr. Gallant, the Director of Public Works, if something could be done immediately. Gallant answered that he works for the Board and it's their decision. LaBrie agreed that the road is in bad condition and said that is not the argument at hand. She reminded the Board that patching potholes cannot be done until Town Meeting, which is September 28th.

Barbaro asked if there was a consensus to put forward an article requesting \$4,200 to patch the road in the meantime. Salter said she would like to patch the potholes and bring the road up to an accepted dirt road

standard. She said she has never seen a betterment for a road and does not think it is fair; she would like to see the Town pay to bring the road up to an accepted dirt road.

Salter motioned to include two articles on the warrant; one to have the potholes on Mellen Road fixed and one to bring the road to a dirt road without a betterment. Anderson seconded for discussion.

Anderson asked if the road is brought to a dirt road, does that make it accepted. Gallant said the Town needs to ascertain ownership of the road first. If nobody knows who legally owns it, nothing can be done. Anderson asked if those warrant articles could be done. Ward would feel better with two motions; one to address an article for the potholes, and then another motion to address the second part of the motion by Salter.

Salter motioned to bring a warrant article forward to patch the potholes for \$4,200, seconded by Ward. With a roll call vote of Anderson, aye, Salter, aye, LaBrie, aye, Ward, aye and Barbaro, aye, the motion carried unanimously.

Barbaro addressed the intent of the Board to bring the road to an accepted dirt road standard. He said he is inclined to go with the higher figure, so it can be reduced if necessary. Once we get the road fixed, we can bring another article up at the next Town Meeting to be an accepted dirt road. It would take two cycles of Town Meeting.

Salter motioned to include a warrant article to reclaim road to a dirt road status to be able to use Chapter 90 funds in the future for a total of \$86,165; seconded by Anderson.

Salter clarified that the cost will be absorbed by the Town rather than by a betterment.

With a roll call vote of Salter, aye, Anderson, aye, LaBrie, aye, Ward, nay, and Barbaro, aye, the motion carried 4-1.

Dorwart would like the Board to know that he has heard them say that the Town cannot legally fix or repair roads if they are private or discontinued. He claimed that the Town bylaws state if there is a petition by citizens to fix a pothole on any private or public road, and the Town Manager and DPW Director determine it is dangerous, they are allowed to spend some money to fix it.

Frank Bowler asked why the road can't be accepted first; Barbaro reiterated that legally the road has to meet Town standards in order to be accepted by the Town.

- 8.2. Discussion on the Wastewater Contract between Veolia North America and the Town of Winchendon – Anderson said she became very concerned when the Board was first approached with the Water & Sewer Rate Study conducted by Wright Pierce. She reminded the Board that each member voted to outsource upon recommendations from Mr. Hickey and Mr. Gallant, specifically citing cost effectiveness and the difficulty of sourcing qualified employees with the proper, comprehensive wastewater licenses. It is easier for a large company such as Veolia, with their extensive resources and work force, to source said candidates to operate our plant. Another benefit is their ability to cover vacations and time off due to their extensive workforce. She found it difficult to do research, and said that a Google search predominately turned up their corporate affiliations. She referred to the current rate survey provided by the report, and pointed out that Ashburnham has the highest rate. Veolia also manages their water and sewer. Going back to being cost effective, she said, the rates for water will go up over 5% and sewer will go up 13% every year for the next four years. Over time, there will be a 60-80% increase for both. Hickey clarified that there is a 6% increase for water, would calculate to a 24% increase over four years. With a 14% increase in wastewater, it would translate to roughly a 54% increase. Anderson continued with her presentation, and noted that she found an article about a Rockland, Mass. Veolia employee that was found to be stealing. Another article indicated that Veolia acted unfairly to receive a contract. The Town of Lynn, Mass. engaged in a six year legal battle in which they agreed to pay \$6.7 million. Anderson asked who paid for the study; Hickey indicated that Veolia initiated the study, as such, they paid half and the Town paid half. Anderson wanted to point out it is important to know

that Veolia wanted the study to be done. LaBrie noted that under section 11 of the contract with Veolia, it was mandated that Veolia would draft for the Town a five-year Capital Improvement Plan and budget identifying major repairs and capital expenditures that will be necessary at the facility, which they did in November 2019. She said she is not sure why Wright Pierce conducted the study. Anderson said the rate increase is not contractual. Barbaro clarified that Wright Pierce is an independent company that is contracted by Veolia. He reminded the Board that in recent history, there have not been a lot of water increases. Inflation costs factors into everything and the Town has been using retained earnings to run the Water and Wastewater plans with a low rate offered to users. He offered an anecdote that the Town is robbing the little piggy banks and those funds will soon be depleted. The State will become involved and will mandate the Town to pay out of free cash any deficits in those accounts. The rates need to be changed and Wright Pierce offered several options for the Town to choose from. Barbaro said Veolia is a worldwide company with contracts across the world, and that their contract with the Town is in effect until June 30, 2022. Veolia has done everything that was expected of them and they have done nothing that would warrant an escape clause. They have implemented many cost-effective practices to save the Town money, such as using recycled water to operate the wastewater plant. They also adjusted the chemicals used to treat the wastewater and cut costs while still meeting legal standards. Barbaro informed the Board that he is a water user himself and while he is unhappy that costs are going up, he understands the costs of inflation and that rates need to increase in order to maintain the treatment plants and infrastructure. A resident disputed the 18% yearly increase, saying it's quite high of an increase each year and asked if the Board could do better. Barbaro said unfortunately, this is what has to happen. The water rate will increase 6.8% and the sewer rate has to increase more because there are less sewer users. Inflation drives up costs, thus dictating the cost of the product must increase as well. David Watkins said some users just use water, some use wastewater as well. He asked who is paying for this across the Board and said he assumes water and sewer at all school buildings will cost more as well. Barbaro said that the water and wastewater are enterprise funds and that they pay for themselves. Watkins asked if this will be factored into the school budget; Hickey clarified that any municipal building has to pay the additional charges and that cost is absorbed in the different department budgets. Hickey said it will affect the school budget, but the challenge is not in the expenses, rather than in the revenues, for a couple reasons. In FY'20, the Town used \$80,000 in retained earnings for water and \$220,000 in retained earnings for wastewater. The Town does not have those funds available anymore and already has a shortfall. In addition, in 2016 or 2017, the Board adopted a water shutoff policy that sanctioned the Town to shut off water service to users with delinquent accounts that did not work with the Town to devise a payment plan. In the past, users had their properties lienied for outstanding water and sewer charges which accrued principal interest. The surge from that income has dried up and that income is not coming in anymore. Hickey reminded the Board that it was made clear to them that Veolia is a for-profit company, which is reflected in the March 12, 2018 Executive Session minutes. When Hickey and Gallant approached the Board with the intent to outsource, it was done primarily in the interest of ensuring sufficient staffing with the required licenses. The wastewater must be operated every single day and not having qualified, licensed staff available daily is not an option. There were only two full time employees at the wastewater plant at the time and one was approaching retirement. It was also explained that Veolia would offer employment to these personnel. The Board voted unanimously at the March 18, 2018 Executive Session meeting to authorize Town staff to explore outsourcing. A Request for Proposals was then drafted and Veolia won the contract by offering the lowest qualified bid. Hickey reminded the Board that Veolia implemented cost effective, more efficient methods such as using recycled water and adjusting the amount of chemicals. Veolia has saved the Town well over \$36,000 in additional costs just in their first year and Hickey completely stands behind the recommendations made to the Board in 2018. Veolia has done everything promised and has been successful since they took over. The issue is caused by inflation of costs and lack of revenue, not anything that Veolia did or neglected to do.

Dorwart asked who is responsible for overseeing hiring, benefits and salary, to which Barbaro answered Mr. Hickey. Dorwart instructed the Board to stop giving Mr. Hickey his annual step increases to save the Town money. Barbaro said the Town Manager has done a fantastic job. Salter asked to stick to the topic at hand, which is the water and sewer rates.

Anderson said that in her research on Veolia, she found that Wright Pierce does the majority of Veolia's engineering quotes. She argued that Wright Pierce stands to gain money and profit for making the report that they did, and it may not be as independent as it was conveyed to be. She also contended that while inflation costs are rising, they have not risen 80% over four years. LaBrie asked if the Five Year Capital Plan created by Wright Pierce included the upkeep of the plant itself. Hickey said financial information was shared with Wright Pierce, making sure they took into consideration any kind of capital need either plant will need over the next few years. LaBrie asked to clarify that the suggested increase is not just for the plants, it is maintenance and upgrade needs in infrastructure and hydrants. Hickey said yes. LaBrie shared that she is not on Town water or sewer, and that wells and septic systems come with their own costs. Last fall, she had to put in a new septic system. She spent in four months what a water and sewer user for the Town would spend over 24 years. If her well pump failed, she would be on the hook for \$10,000. She relates with the inconvenience of coming up with the additional money but reminded listeners it is not inexpensive for public or private users. Anderson asked what the cost of the sewer betterment was a number of years ago; Daigle replied she believed it was \$5,900 per EDU (Equivalent Dwelling Unit). Anderson said she pays about \$1,400 - \$1,600 a year for water and sewer and an increase on top of that would make it much more expensive. Barbaro said nobody is happy that the rates need to be raised and said that they should be raised at a regular interval to minimize the immediate impact. Anderson said she understands that the Board members are the Water Commissioners and that it is their responsibility to raise rates as needed. If this rate increase does not pass, what happens? Hickey answered that the Department of Revenue may require the taxpayers to fund the operation of Water and Wastewater plans until a budget can be approved. The Town will be required to place a warrant at Town Meeting to have the general budget fund whatever the shortfall is. Watkins criticized the Board for entering into contract with Veolia, alluding to his research that he believed showed Veolia in an unfavorable light. He instructed the Board to beef up the DPW and fund them the resources they need to operate both plants. Barbaro repeated the actuality that the Town is under contract with Veolia until July 2022, at which point the Board can discuss which direction they would like to go in. They have done nothing wrong that would warrant terminating their contract. Anderson expressed that she would like to piggy back on Mr. Watkins' point and said that Veolia is in litigation in Flint, Michigan. The Board owes it to the residents to do their due diligence before rates are raised, and she said that the timing couldn't be worse in increasing rates. Salter reminded the Board that audits are conducted yearly and that Veolia and their employees are not stealing money from the Town.

Barbaro reminded the Board that there is a vote in front of them to either accept or reject the study. Salter asked if the Board could vote in yearly increments rather than just one blanket vote for a four-year increase plan; Hickey said yes. A resident asked what other options are. Hickey said the general fund and operating budget could supplement the cost of the deficit. He reminded the Board that the increase is not due to Veolia. The Department of Revenue will ask the Town to support a warrant article to increase the operating budget to absorb the cost of the increase of revenue shortfall. The Town does not have resources available any longer to offset or artificially lower the rates.

Gallant asked if he could share some information that might help simplify why more money is needed. Over the past three years, there have been twenty four water main breaks costing the Town \$82,000 to fix. The Board changed the way services are defined, and made a bylaw that instead of the Town only owning the mains, they now own and are responsible for the maintenance and repair up to property lines. That has caused an increase of \$30,000 a year over three years. There has been \$230,000 spent on water meter replacements over the past three years. \$170,000 has been spent on hydrant replacements due to failure. Every time the hydrants are flushed, which is twice a year, new problems are found. There was a tank from 1984 that was not being used and had to be taken down. Between engineering costs and bidding, it cost \$25,000. The Water Department was still using an emergency response van from 1986 with almost 300,000 miles on it, which was recently replaced. Veolia does not control the rate, the Town does. He also informed the Board of what he has to look forward to. There are three pipes in rivers that are over a hundred years old and if one of them breaks, the Town will not have water for three or four days. There is a water line that runs through a two-mile stretch of woods from Ashburnham to Winchendon that is sixty or seventy years old, with equally old trees surrounding it. If it were to break, the Town can anticipate a job totaling hundreds of thousands of dollars. Gallant said his sole job is to fix these things and protect the Town. He reminded the

Board of the new I/I demand from the EPA and DEP mandating that the Town separate sewer pipes from drain pipes. This is a costly project, costing Mr. Gallant's department \$80,000 from their sewer contingency account. Besides that, there are two pump stations that have needed new motors. If anything were to fail, there would be no way to pump water throughout those two sections of town. An increased water rate will allow for properly scheduled maintenance and service to these plants, eliminating the heightened risk of failure.

Dorwart asked why the Board is allowing Veolia, a for-profit company, to make a profit. He asked what they can do more efficiently than the Town can. Gallant reminded Dorwart, again, that the issue was the lack of workforce and qualified candidates. He had two employees that could leave at any time, being that they are at-will employees and that is their right. The plants must be staffed at all times, and the absence of an employee (whether from being sick, emergency leave, vacation, etc.) would force the Town to pay \$180/hour to keep their DEP license. Dorwart interrupted again, at which point Barbaro asked him to let people respond without interrupting them and to listen to what is being said. It has been made clear several times tonight alone and in previous meetings that Veolia, being an international company, has a huge work force. Any time employees are not at work, Veolia is obligated to replace them. The Town does not have that ability or resource. This was the sole concern of Town staff and was the driving force in outsourcing.

Hickey said the challenge and concern that staff had was the very narrow pool of qualified applicants with the licenses required to operate a wastewater plant. Veolia has provided the stability and peace of mind knowing that the wastewater plant always has the staff needed to keep the Town running. Unfortunately, Veolia is being brought into a rate increase discussion that doesn't pertain to them. Outsourcing was the way to go whether it was Veolia or another low bidder.

Ward moved to accept the study. The rate increase of 6.82% per year for water and 14.28% per year for wastewater will be effective with the second billing of FY21. Salter clarified that the rate increase is only for one year and will be voted upon on a year-to-year basis. **The motion was seconded by LaBrie. With a roll call vote of Anderson, nay, Salter, aye, LaBrie, aye, Ward, aye and Barbaro, aye, the motion carried 4-1.**

- 8.3. Discussion on Including a Warrant Article for the Repairs to the Senior Center on the Annual Town Meeting Warrant – Ward said there has been discussion that the Town cannot afford this cost, which he says is not what the discussion should be about. The Board needs to decide who has the right to decide if the Town can afford it. Do the five members of the Board decide the fate of one of the most historic icons in the Town? He said he just wants to allow the voters the chance to decide the future of the building, which was already saved and then added to the historical register. It is a hub for the seniors and delaying the decision will cause us to just be in the same boat next year. The snow, ice and wind will only further deteriorate the condition of the building. LaBrie agreed with Ward and noted she does understand the concerns some members have regarding the state. She believes it should come before the Town and before Town Meeting. Salter apologized for changing the subject but asked what is happening with the proposed repairs to the Fire Station and why it is not on the warrant. Hickey explained that they are on hold as the design came back and was deemed too expensive to move forward. Salter said that is a huge expense that will continue to rise.

Tina Santos said that Ward's wife is on the Board of the Senior Center so she believes this to be a conflict of interest and asked Ward to recuse himself. Barbaro said that Board members collect no financial gain, so there is no profit and thus no conflict of interest. Ward informed Santos that she is incorrect in her allegations – he and his wife are not on the Board of the Senior Center. They are members of an unaffiliated group called the Friends of the Senior Center, and their only mission is to raise funds.

Ward moved the Board of Selectmen include a warrant article on the 2020 Annual Town Meeting warrant for the completion of phase one and two repairs according to the Tighe and Bond study for the amount of \$3.762 million, seconded by LaBrie. With a roll call vote of Anderson, no, Salter, no, LaBrie, aye, Ward, aye and Barbaro, aye, the motion carried 3-2.

- 8.4. Request to Accept Layout of Central Street and Place Warrant Article on Annual Town Meeting Warrant – Hickey reminded the Board that through the Central Street reconstruction project preliminary design phase, the Town was made aware that there is no evidence of a “formal” acceptance of the layout of Central Street. Mass DOT requires that the town provide formal acceptance of the layout prior to the construction phase of the project. The Planning Board met July 21st and unanimously supported including a warrant article for the Central Street layout.

LaBrie moved the Board of Selectmen approve the Central Street layout as presented this evening and request the Town Manager draft a warrant article to be placed on the 2020 Annual Town Meeting warrant, seconded by Ward.

Watkins asked why this was never approved, Hickey informed him that sections had been approved but some were not. Watkins claimed that not a lot of thought was put into this and accused the Town of only pushing this through to get state funding. Watkins complained that it is “appalling” that this being pushed through “without thought”, and he would like it on record that “the entire town is being railroaded”.

With a roll call vote of Anderson, no, Salter, aye, LaBrie, aye, Ward, aye and Barbaro, aye, the motion carried 4-1.

9. **TOWN MANAGER’S REPORT:** Hickey informed the Board that he and Selectman Ward met with the potential developers of former White’s Mill last Thursday and sat through a lengthy presentation that detailed their plans. It is very consistent with what has been done in the past. They will be seeking relief from the Board on their past-due taxes; Hickey informed them that may not be realistic due to how little has been done on the property since their ownership.

Barbaro asked if Hickey spoke to the Gold Star mother who had previously been denied the Gold Star tax exemption due to it not being an accepted Town Bylaw. Hickey had spoken with her and informed her that the Gold Star Tax Exemption warrant article would be presented at Town Meeting, and that the Board apologizes for the bylaw not already being an accepted bylaw.

10. **MINUTES:** There were no minutes to approve this evening.


11. **COMMUNICATIONS:**

12. **AGENDA ITEMS:** LaBrie reminded the Board of their upcoming meeting schedule. Anderson asked when Town Hall will be open to the public. Hickey reminded her that this topic was brought before the Board roughly three weeks prior. The Governor has issued limitations on the number of people in the building, which would mandate that not all employees could work their normal schedule without exceeding the limit. Employees would have to be sent home or work remotely and split shifts, thus reducing efficiency. The Board agreed that may be problematic and agreed to keep Town Hall closed. Hickey has not been made aware of any complaints raised by the public that they have been unable to conduct business. Town staff has been accommodating in making appointments or meeting residents outside. He reminded the Board that they have the ability to change the current hours if they wish, and they can provide guidance what they would like the hours to be.

13. **EXECUTIVE SESSION:** There was no Executive Session scheduled.

14. **ADJOURNMENT: LaBrie motioned to adjourn.** April Mills asked the Board to consider posting a clickable link to join the Zoom meeting because she was unable to type the URL correctly. **Ward seconded the motion to adjourn. With a roll call vote of Anderson, aye, Salter, aye, LaBrie, aye, Ward, aye and Barbaro, aye, the meeting adjourned at 9:13 p.m.**

Respectfully submitted,


Taylor Tower, Administrative Assistant

*Board of Selectmen Minutes
August 17, 2020*