

**TOWN OF WINCHENDON
SPECIAL TOWN MEETING
December 30, 2013**

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, DECEMBER 30, 2013
AT 7:15P.M.**

then and there to act on the following articles:

Met at the Murdock Middle/High School Auditorium. Meeting called to order at 7:15 p.m. by Moderator Richard L. Morin Sr. with a quorum in attendance.

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:

FINANCE COMMITTEE:

VOTED: Unanimously to APPROVE the Finance Committee report.

DEFICIT RECONCILIATION FINANCIAL ARTICLES

(majority vote required)

FY14 General Government Budget Reduction

ARTICLE 2

To see if the Town will vote to reduce the FY14 General Government Operating Budget as voted at the May 20, 2013 Annual Town Meeting Article 6 by \$46,150.74 by reducing the amount listed below:

\$ 46,150.74 Community Development

or act in relation thereto. (submitted by Town Accountant and Town Manager)

BOARD OF SELECTMEN:

FINANCE COMMITTEE:

VOTED: Unanimously to APPROVE the article as written.

FY13 School Charter and Choice Assessment Deficit Reconciliation

ARTICLE 3

To see if the Town will vote to amend Article 10 of the May 20, 2013 Annual Town Meeting by increasing the indirect costs by \$109,898.00 from \$2,934,370.00 to \$3,044,268.00 for the operating budget of the Winchendon Public Schools for the fiscal year beginning July 1, 2013, or take any action thereon. (Submitted by Town Accountant and Town Manager)

VOTED: Majority to APPROVE the article as written.

FY13 School Transportation Deficit Reconciliation

ARTICLE 4

To see if the Town will vote to reauthorize the use of the sum of \$64,453.60 from prior year Medicaid Reimbursement Articles (\$37,564.00- Article 8 of the Special Town Meeting of October 29, 2012 and \$26,889.60- Article 16 of the Annual Town Meeting of May 23, 2011) to fund the FY13 School Department transportation deficit of \$51,252.04 and to amend Article 11 of the May 20, 2013 Annual Town Meeting by increasing the FY14 School Transportation budget by \$13,201.56, or act in relation thereto. (submitted by Town Manager)

BOARD OF SELECTMEN:

FINANCE COMMITTEE:

VOTED: 2/3rds to APPROVE the article as written.

GENERAL GOVERNMENT FINANCIAL ARTICLES

(majority vote required)

ARTICLE 5

To see if the Town will vote to raise and appropriate the sum of \$18,000.00 (\$18,000 from FY14 budget reduction Article 2A, above) as grant to the non-profit Community Action Committee in consideration of the numerous services provided to the Town, or act in relation thereto. (submitted by the Town Manager)

BOARD OF SELECTMEN:

FINANCE COMMITTEE:

VOTED: Unanimously to APPROVE the article as written.

ARTICLE 6

To see if the Town will vote to raise and appropriate the sum of \$15,566.74 (\$4,000.00 revised excise revenue + \$2,150.74 from FY14 budget reduction Article 2A, above) and to reauthorize the use of the sum of \$9,416 (prior year Assessor's Articles- \$6,100.00 Article 16, May 21, 2012 Annual Town Meeting and \$3,316.00 Article 17, May 21, 2012 Annual Town Meeting) to fund the balance of the \$67,789.65 contractually required sick leave buyback for retired former Assessor Linda Bevan, or act in relation thereto. (submitted by Town Manager)

BOARD OF SELECTMEN:

FINANCE COMMITTEE:

VOTED: Unanimously to APPROVE the article as written.

SCHOOL FINANCIAL ARTICLES

ARTICLE 7

To see if the Town will vote to transfer the sum of \$36,816.20 as reimbursement for expenses and revenue generated from the Municipal Medicaid Reimbursement Program during fiscal year 2012, or act in relation thereto. (Submitted by the School Committee)

BOARD OF SELECTMEN:

FINANCE COMMITTEE:

VOTED: Unanimously to PASS OVER this article

ARTICLE 8

To see if the Town will vote to transfer the sum of \$26,245.60 as reimbursement for expenses and revenue generated from the Municipal Medicaid Reimbursement Program during fiscal year 2013, or act in relation thereto. (Submitted by the School Committee)

BOARD OF SELECTMEN: FINANCE COMMITTEE

VOTED: Unanimously to PASS OVER this article.

ARTICLE 9

To see if the Town, as per instruction from the Department of Revenue, will vote to transfer previously appropriated Medicaid reimbursement funds as per Annual Town Meeting Article #16 on 5/23/2011 and certify as free cash the sum of \$26,889.60, or act in relation thereto. (Submitted by the School Committee)

BOARD OF SELECTMEN: FINANCE COMMITTEE:

VOTED: Unanimously to PASS OVER this article.

ARTICLE 10

To see if the Town will vote to transfer the sum of \$26,889.60 as reimbursement for expenses and revenue generated from the Municipal Medicaid Reimbursement Program during fiscal year 2010, or act in relation thereto. (Submitted by the School Committee)

BOARD OF SELECTMEN: FINANCE COMMITTEE:

VOTED: Unanimously to PASS OVER this article.

ARTICLE 11

To see if the Town, as per instruction from the Department of Revenue, will vote to transfer previously appropriated Medicaid reimbursement funds as per Special Town Meeting Article #8 on 10/29/2012 and certify as free cash the sum of \$37,564, or act in relation thereto. (Submitted by the School Committee)

BOARD OF SELECTMEN: FINANCE COMMITTEE:

VOTED: Unanimously to PASS OVER this article.

ARTICLE 12

To see if the Town will vote to transfer the sum of \$37,564 as reimbursement for expenses and revenue generated from the Municipal Medicaid Reimbursement Program during fiscal year 2011, or act in relation thereto. (Submitted by the School Committee)

BOARD OF SELECTMEN: FINANCE COMMITTEE:

VOTED: Unanimously to PASS OVER this article.

ARTICLE 13

To see if the Town, will vote to return surplus available funds of \$14,962.42 (from Article #7 Toy Town Boiler Repairs) and balance to zero that account or act in relation thereto. (Submitted by the School Committee).

BOARD OF SELECTMEN: FINANCE COMMITTEE:

VOTED: Unanimously to PASS OVER this article.

ARTICLE 14

To see if the Town will vote to transfer from available funds of \$14,962.42 (from Article #7 Toy Town Boiler Repairs) to a new Capital Project Account to help defray costs associated with FY14 MMHS boiler repairs. (Submitted by the School Committee).

BOARD OF SELECTMEN:

FINANCE COMMITTEE:

VOTED: Unanimously to PASS OVER this article.

GENERAL ARTICLES

(majority vote required)

ARTICLE 15

To see if the Town will vote to adopt a new General Bylaw to be numbered#_____.

Regulations for the Removal and Disposal of Canine Waste (Pooper-Scooper Law)

SECTION 1 – AUTHORITY

1. These regulations are made pursuant to Chapter III of Massachusetts General Law MGL), Section 31, to protect the public health of the residents of Winchendon.

2. Evidence demonstrates that canine waste can cause serious health problems.

SECTION 2 – REMOVAL AND DISPOSAL OF CANINE WASTE A.

Removal/Disposal

It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his/her dog on any sidewalk, gutter, street, park or other public area, or on any private property neither owned nor occupied by said person. No person who owns, possesses or controls such dog shall appear with such dog on any sidewalk, gutter, street, park or other public area, or on any private property neither owned nor occupied by said person, without the means of removal of any feces left by such dog. For the purpose of this section, the means of removal shall be any tool, implement or other device carried for the purpose of picking up or containing such feces in a manner that such feces shall be unexposed to said person in public. Disposal shall be accomplished by transporting such feces to a suitable place.

B. Penalties

Any person who violates or permits a violation of this CHAPTER shall be subject to a fine of FIFTY (\$50.00) DOLLARS to be assessed for each and every violation. All fines shall be payable to the Town of Winchendon through the Town Clerk's office. The Chief of Police may, as an alternative to initiating criminal proceedings, treat violations of this chapter in a non-criminal manner pursuant to the provision of MGL CH 40, sec 21D.

C. Authorized Enforcement Personnel

The following persons shall be authorized enforcement: Police officer, Animal Control Officer, Board of Health Agent, Members of the Board of Health, or act in relation thereto. (submitted by the Board of Health)

BOARD OF SELECTMEN:

FINANCE COMMITTEE:

Town of Winchendon, Massachusetts
Special Town Meeting Warrant
December 30, 2013

VOTED: Unanimously to PASS OVER this article.

ZONING ARTICLES

(two-thirds vote required)

ARTICLE16

To see if the town will amend the zoning map by changing the zoning of the parcels having frontage on Spring Street between Hunt's Pond, so called, and the westerly boundaty of the C1 zone from PD (Planned Development) to C2 (Neighborhood Business) and by changing the zoning of those parcels between the above mentioned parcels and Whitney Pond from PD (Planned Development) to R10 (Residential); all in accordance with a map showing the affected parcels on file in the office of the town clerk; or act in relation thereto. (submitted by the Planning Board)

BOARD OF SELECTMEN:

FINANCE COMMITTEE:

PLANNING BOARD:

VOTED: Unanimously to PASS OVER this article.

ARTICLE17

To see if the town will amend the zoning bylaw by adding to ARTICLE 2 DEFINITIONS the following definitions: MGL or M.G.L. The General Laws of Massachusetts as currently in force.

Parties in interest The petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the town planning board and the planning board of every abutting city or town

Salvage Yard A facility where second hand motor vehicles are remodeled, taken apart or rebuilt, such as to require a license under section 59A of Chapter 140 of the M.G.L.; this includes a junkyard (see above) and also includes an automobile graveyard as defined in section 1 of chapter 140B of the M.G.L.
Or act in relation thereto. (submitted by the Planning Board)

BOARD OF SELECTMEN:

FINANCE COMMITTEE:

PLANNING BOARD:

VOTED: 2/3rd to APPROVE this article as written.

ARTICLE 18

To see if the town will amend article 12 of the zoning bylaw by striking out sections 12.2, 12.3, 12.4, 12.5 and 12.7 and inserting the following sections:

SECTION 12.2 PROJECTS REQUIRING SITE PLAN REVIEW

12.2.1 The following types of activities and uses require site plan review by the Planning Board Unless a specific site plan approval so specifies, site plan approval does not mn with the land. It is granted to a particular site owner or business. A change of the owner or operator of a premise will require a new site plan review.

- A. Construction, exterior alteration or exterior expansion or change of use of a municipal, institutional, commercial, industrial, or multiple-family structure;
- B. A change in the dimensions of the lot or lease of a part of the lot on which a business or other use is located will require a new site plan review.
- C. Three or more dwelling units started within one year by entities controlled by one person on land that at any time within the ten years preceding was a single parcel or were abutting parcels. No building permits may be issued for additional work that will make such projects subject to this section until site plan approval has been granted for all units involved. A single site plan application may cover contiguous lots. For the purposes of this section, the term "person" shall include an individual, joint owners, or any other entity commonly recognized by law as a person.
- D. Any use or change in use of any structure or group of structures in common ownership that requires 10 or more parking spaces under this zoning bylaw, or the construction, reconstruction, alteration or expansion of a standalone parking area that has 10 or more parking spaces.
- E. Grading, clearing, or other land development activity which will require disturbance of more than 10,000 square feet of land area or 35% of the area of the lot, whichever is less,

with the exception of agricultural activity, or work in conjunction with a approved subdivision plan or earth removal permit.

- F. Installation of utility lines longer than 500 feet including electric lines, communication lines, and pipelines. Electric lines, telecommunications lines, water lines, sewer lines, or stormwater lines within the rights-of-way for public ways are excepted.
- G. Any use requiring a special permit issued by other than the Planning Board in accordance with section 5.2 Schedule of Use Regulations if required by that Board.
- H. A property owner or occupant may apply for site plan review for a project even if such review is not required.

SECTION 12.3 EXEMPTIONS FROM SITE PLAN REVIEW

12.3.1 Except as provided in section 12.2.1 C , site plan review shall not be required for:

- A. The construction or enlargement of any single family or two family dwelling or building accessory to such dwelling unless the subject accessory building contains more than 500 square feet of floor area;
- B. Any building used exclusively for agriculture, horticulture or floriculture;
- C. Projects involving only the construction, reconstruction or alteration of any feature, which the building commissioner or other duly authorized town inspector certifies in writing, that are required in order to correct an unsafe or dangerous condition.

SECTION 12.4 PLANNING BOARD REGULATIONS

The Planning Board shall adopt rules and regulations governing the submission and review of site plans. These regulations shall include:

- A. The regulations may establish more detailed impact limits for projects than those established in sections 12.5.
- B. The required contents of an application. The regulations may allow or require all or part of applications be in electronic format.
- C. The regulations shall contain a provision that allows a waiver of any regulation for good cause.
- D. Detailed procedures for consideration of an application. E.

Standards for project design and construction.

- F. The procedure for amending or modifying an approved site plan. Such changes shall require the same level of review as would a new site plan proposing similar work or use.
- G. Requirements for implementing its decision and such other provisions as may be pertinent to the consideration and approval of site plans.
- H. Unless a particular site plan allows the approval to run with the land, a requirement that the approved plan contain a clearly written condition specifying that the plan approval applies to that applicant and proposed use only and does not run with the land.

SECTION 12.5 REQUIRED PROCEDURE

12.5.2 Applicants are encouraged to meet with the Planning Agent or Board prior to making a formal submission of plans to discuss site plan requirements and the level of review required. The agent or board may provide a set of guidelines to assist applicants in meeting site plan, architectural, and landscaping objectives.

12.5.2 Any person planning to develop a site, redevelop a site, or use it for a different purpose shall present it to the Planning Agent. A sketch of the planned use and an explanation of the proposal will be required. The Planning Agent may require additional information.

12.5.3 There shall be three levels of site plan review.

- A. Planning Agent Review - If the project will have little or no impact on the abutters, the community or the environment; the planning agent may, after consultation with the board members which may be done electronically, grant approval (which will be subject to appeal as provided below.) The applicant shall submit an application and pay a fee as required by the board's current fee schedule. Otherwise the proposal will be referred to the Board for decision.
- B. Planning Board Informal Review- If the project will have no substantial impact on the abutters, the community and the environment or if such impacts can be mitigated by conditions so as to result in no substantial impact, the Board may consider the matter in an informal conference. Notice shall be given to the abutters in accordance with section 11 of chapter 40A MGL. The abutters and the public shall have a right to participate in the conference. The Board may impose such conditions on its approval as it deems necessary.
- C. Planning Board Formal Review- If the likely impact of the project on the abutters, the community and the environment of the proposal will exceed the limits set above or in its regulations, the Board shall conduct a public hearing on the proposal with notices as required by section 11 of chapter 40A MGL.

12.5.4 If the project will require board review under subsections B or C, above, The applicant shall submit an application as required by the regulations to the Department of Planning and Development and shall pay the fee(s) required by the current fee schedule adopted by the planning board;

12.5.5 Upon determining the application is complete the Planning Agent shall, transmit copies of the application including plans to the various town agencies which may be affected by the project for their advisory review and comments. A development review meeting with the applicant and appropriate town agencies may be held. Each agency shall be requested to provide its written comments to the planning board within 35 days of such submittal. A failure to respond shall be considered as lack of objection to the project as submitted.

12.5.4 The application shall be considered by the Planning Board within 45 days after a complete application has been received.

12.5.5 The Planning Board may hire such consultants as it deems necessary at the applicant's expense under the provisions of section 53G of Chapter 44 of the General Laws.

12.5.6 Should there be no Planning Agent, the Board shall designate some person to perform the duties of planning agent required in this article.

12.5.6 Decisions

A. If the review has been made by the Planning Agent and the agent has approved the plan, no further review shall be required unless a party at interest appeals the decision to the Board within 20 days after the filing of the decision with the town clerk. The Board shall then consider the application de novo under the provisions of section 12.5.3 B or 12.5.3 C and make its decision.

B. A decision of the Planning Board shall be made by a majority vote of those present and eligible to vote and shall be in writing.

12.5.7 All decisions of the Planning Agent or the Board shall be filed in the office of the town clerk and persons at interest notified thereof. Site plan approval decisions shall not take effect until twenty days have elapsed after such filing during which no appeal has been filed, or if such an appeal was filed, it has been dismissed or denied. Actions on site plans shall be subject to judicial appeal as is provided in section 17 of Chapter 40A of the General Laws.

12.5.8 Whenever an applicant starts work under a newly approved site plan, all previous site plans for the same lot or parcel shall become void.

SECTION 12.7 PERIODIC REVIEW

All site plans except for those for sites no longer active shall be reviewed by the zoning enforcement officer, the planning board or its agent(s) at intervals of not more than five years. Such review should include a site visit in accordance with all applicable laws. If the site is found not to conform to the approved plan or the current use is different from that approved, the owner or operator of the site shall bring the site and/or use into conformity or secure for a modification of the site plan.

Failure to do so shall be a violation of the bylaw, or act in relation thereto. (submitted by the Planning Board)

BOARD OF SELECTMEN:

FINANCE COMMITTEE:

PLANNING BOARD:

VOTED: Unanimously to DISAPPROVE this article.

ARTICLE19

To see if the town will amend its zoning bylaw by striking out note 7 of table 7.2 in article 7 and inserting in place thereof the following: 7. The distances shown in table 7.2 for front setback, side setback, and rear setback are the minimum distances from the respective lot lines on which any stlucture, whether temporary or permanent, other than a fence, a retaining wall, a driveway, a walkway, a lamppost, or an allowed sign may be placed unless allowed by the Planning Board under site plan review. The planning board may also waive the maximum height and maximum impervious area requirements as part of site plan review. Neither shall there be any regular storage or display of materials allowed closer to the property line than the setbacks, or act in relation thereto. (submitted by the Planning Board)

BOARD OF SELECTMEN:

FINANCE COMMITTEE:

PLANNING BOARD:

VOTED: 2/3rd to APPROVE the article as written.

ARTICLE 20

To see if the town will amend Table 7.2 in the zoning bylaw by striking out the figure 100 feet as the required minimum frontage in the C2 district and insert the figure 75 feet in its place, or act in relation thereto. (submitted by the Planning Board)

BOARD OF SELECTMEN:

FINANCE COMMITTEE:

PLANNING BOARD:

VOTED: Unanimously to PASS OVER this article.

ARTICLE21

To see if the town will amend the zoning bylaw by changing the title of Article 12 from Site Plan Review to Site Plan Review and Special Permits and to add a new section to article 12:

12.7 Special Permits

12.7.1 Granting Authority. Special permits may be granted by the Planning Board or by the Board of Zoning Appeal as specified elsewhere in this Bylaw. Each of said boards shall be considered a "permit granting authority"

12.7.2 Criteria. Special permits will normally be granted where specific provisions of this Bylaw are met, except when particulars of the location or use, not generally true of the district or of the uses permitted in it, would cause granting of such permit to be to the detriment of the public interest because:

- A. It appears that requirements of the Bylaws cannot or will not be met, or
- B. Traffic generated or patterns of access or egress would cause congestion, hazard, or substantial change in established neighborhood character, or
- C. The continued operation of or the development of adjacent uses as permitted in the

Zoning Bylaw would be adversely affected by the nature of the proposed use, or

- D. Nuisance or hazard would be created to the detriment of the health, safety and/or welfare of the occupant of the proposed use or the citizens of the Town, or
- E. For other reasons, the proposed use would impair the integrity of the district or adjoining district, or otherwise derogate from the intent and purpose of this Bylaw.

12.7.3 Conditions. In acting upon special permits the special permit granting authority shall take into account the general purpose and intent of this Bylaw and, in order to preserve community values, may impose conditions and safeguards deemed necessary to protect the surrounding neighborhood, in addition to the applicable requirements of this Bylaw, such as, but not limited to, the following:

- A. Front, side or rear yards greater than the minimum required by this Bylaw.
- B. Screening of parking areas or other parts of the premises from adjoining premises or from the street by specified walls, fences, planting, or other devices.
- C. Modification of the exterior features or appearance of the structure.
- D. Limitations of size, number of occupants, method or time or operation, or extent of facilities.
- E. Requirement of number, design, and location of access drives or other traffic features.
- F. Requirement of off street parking or other special features beyond the minimum required by this or other applicable codes or regulations.
- G. Control of the number, location, size and lighting of signs.

12.7.4 Any development application requiring a special permit from the Planning Board that contains elements requiring a special permit from the Board of Zoning Appeal may be allowed by the Planning Board within the scope of the Planning Board special permit and shall not require a separate application to the Board of Zoning Appeal, or act in relation thereto. (submitted by the Planning Board)

BOARD OF SELECTMEN: FINANCE COMMITTEE: PLANNING BOARD:

VOTED: Unanimously to APPROVE this article as written.

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 16th day of December 2013.


It was unanimously APPROVED to Adjourn the meeting at 8:49 p.m.

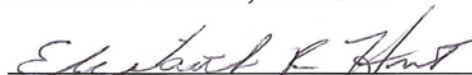
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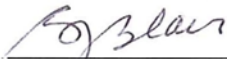
Judy A. Ruschioni

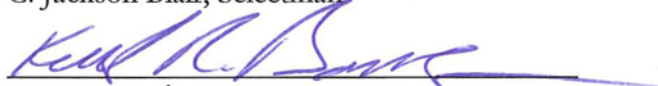
Town clerk

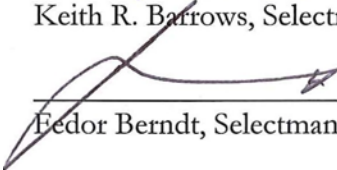
BOARD OF SELECTMEN:


Robert M. O'Keefe, Chairman


Elizabeth R. Hunt, Vice Chairwoman


C. Jackson Blair, Selectman

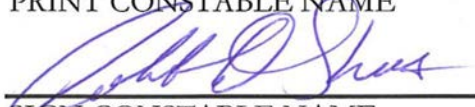

Keith R. Barrows, Selectman


Fedor Berndt, Selectman

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



PRINT CONSTABLE NAME

 12-16-2013

SIGN CONSTABLE NAME DATE:

Town of Winchendon, Massachusetts
Special Town Meeting Warrant
December 30, 2013

**FINANCE COMMITTEE PUBLIC HEARING
THURSDAY, DECEMBER 19, 2013
AT 7:00PM
SECOND FLOOR AUDITORIUM TOWN HALL**

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