



# **TOWN OF WINCHENDON**

## **SPECIAL TOWN MEETING WARRANT**

**TOWN OF WINCHENDON  
SPECIAL TOWN MEETING  
November 24, 2014**

Worcester, ss:

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

GREETINGS:

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

**MONDAY, NOVEMBER 24, 2014  
AT 7:00 P.M.**

then and there to act on the following articles:

***Met at Murdock Middle/High School at 7 p.m. Meeting was called to order by Moderator Richard L. Morin Sr. with a quorum present. John Giorgio was present representing Town Counsel Kopelman and Paige.***

**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, any other Board or Committee, or act in relation thereto. (usual and customary article)

- Finance Committee
- Winchendon Enhancement Committee

**BOARD OF SELECTMEN: 4-0 Recommend**

**FINANCE COMMITTEE: 5-0 Recommend**

***VOTED: (unanimously) to hear the reports of the Finance Committee and Winchendon Enhancement Committee.***

*It was moved, seconded to take Article 16 & 17 out of order.*

#### **ARTICLE 16**

To see if the Town will vote to advise the board of selectmen to take affirmative action terminating or otherwise removing the current Town Manager from his position, including but not limited to seeking and accepting the Town Manager's resignation or voting to terminate him, or act in relation thereto. (submitted by citizen petition)

**BOARD OF SELECTMEN: 4-0 Not Recommend**

**FINANCE COMMITTEE: 5-0 Not Recommend**

*Board of Selectmen Keith Barrows read appoint of order that articles 16 & 17 are out of order and may not come before the assembly. (statement attached)*

*Since this was a citizen's petition, Moderator Richard Morin allowed the Article to be voted on but no discussion would be allowed.*

*It was moved, seconded to vote on Article 16 by secret ballot.*

***VOTED: APPROVED (YES-294 Votes, NO-139 votes)***

#### **ARTICLE 17**

To see if the town will vote to approve a non-binding Resolution as follows:

Whereas, the town's independent auditors identified a multi-million dollar deficit in fiscal 2013; and

Whereas, the Town Manager failed or refused to share that information with the selectmen immediately upon his receipt of same; and

Whereas, when the auditor's finding became public, the Town Manager stated that the deficit was approximately 2.3 million dollars; and

Whereas, following its review of the town's finances the Massachusetts department of Revenue (DOR) has stated that the deficit is likely 5.7 million dollars; and

Whereas, the deficit appears to be attributable in large part to the health insurance trust fund being underfunded; and

Whereas, the auditors have publicly stated that the insurance trust fund deficit was caused by various failures including poor communication, inaccurate accounting, inaccurate reports, and a significant problem with the town's financial software system (MUNIS) resulting in permanently damaged records; and

Whereas, the DOR notified the town on October 10, 2014 that it had no funds to meet its half million dollar payroll, nor the ability to make 1.4 million dollars in vendor payments at that time; and

Whereas, the DOR is requiring the town's officials to prepare and submit a plan to the DOR to address the deficit which is equal to approximately one third of the town's operating budget; and

Whereas, under the town's Charter, the Town Manager is the "chief administrative officer" of the town; and

Whereas, the duties of the Town Manager include keeping the Board of selectmen fully informed as to the financial condition and needs of the town, and assuring that full and complete records of the financial and administrative activities of the town are kept;

Now therefore, be it Resolved that:

The voters express their lack of confidence in the Town Manager and call upon him to resign; and  
The voters seek affirmative action by the Board of Selectmen to achieve the Town Manager's resignation, or otherwise terminate him from his position forthwith; (submitted by citizen petition)

**BOARD OF SELECTMEN: 4-0 Not Recommend**

**FINANCE COMMITTEE: 5-0 Not Recommend**

***VOTED: (2/3rds) to table this article for the Results of Article 16.***

***VOTED: Due to the results of Article 16, it was moved, seconded and APPROVED (2/3rds) to postpone this article indefinitely.***

## **ARTICLE 2**

To see if the Town will vote to change the format of the previously voted and currently existing FY15 general government budget approved under Article 8 of the May 12, 2014 Annual Town Meeting as follows: from a bottom-line budget, to a department level budget with separate lines for the total of each department's salaries and expenses and the informational amounts included in said Article 8 serving as the total budget amounts for each department; and provided further that any action taken hereunder shall be expressly limited to the form of said budget only, with the departmental appropriations and the total appropriations to remain unchanged from such amount appropriated under said Article 8; or act in relation thereto.

**BOARD OF SELECTMEN: 4-0 Recommend**

**FINANCE COMMITTEE: 5-0 Recommend**

***VOTED: (2/3rds) to APPROVE the article as written and shown on the handout titled "Article 2" with the departmental appropriations and the total appropriations to remain unchanged from such amount appropriated under said Article 8 of the May 12, 2014 Annual Town Meeting.***

## **ARTICLE 3**

To see if the town will vote to make the following FY15 General Government budget cuts, or act in relation thereto.

11222	571000	SELECTMEN TRAVEL	\$ 2,000.00
11232	571000	TOWN MANAGER IN STATE TRAVEL	\$ 1,000.00
11452	571000	COLL-TREASURER IN STATE TRAVEL	\$ 300.00
11512	530040	LEGAL	\$ 5,000.00
11592	534032	COMMUNICATION COMMITTEE	\$ 3,500.00
11712	571000	CONSERVATION IN STATE TRAVEL	\$ 100.00
11922	527000	TH COPIER	\$ 1,000.00
11821	511020	COMM DEVELOPMENT P/T CLERK	\$ 7,489.00
11821	511020	PRINCIPAL PLANNER	\$ 2,250.00
11821	511660	WRA STIPEND	\$ 3,325.00
12101	511022	POLICE PATROLMEN	\$ 23,923.00
12101	513000	POLICE OVERTIME	\$ 20,000.00
12201	513000	FIRE OVERTIME	\$ 24,500.00
12201	519040	FIRE UNIFORMS / CLOTHING ALLOW	\$ 1,500.00
12202	523000	FIRE WATER CHARGES	\$ 250.00
12202	523500	FIRE SEWER CHARGES	\$ 250.00
12202	534012	FIRE CELL PHONES	\$ 1,200.00
12202	550000	FIRE NEW RECRUITS	\$ 1,000.00
12202	558020	FIRE WATER SUPPLIES	\$ 250.00
14211	511036	DPW HIGHWAY OPERATORS	\$ 62,963.00
14911	511035	DPW CEMETERY SUMMER HELP	\$ 3,700.00
14212	553000	HIGHWAY MATERIALS & SUPPLIES	\$ 8,000.00
16101	511010	BML LIBRARIAN	\$ 1,500.00
			\$ 175,000.00

**BOARD OF SELECTMEN: 4-0 Recommend**

**FINANCE COMMITTEE: 4-1 Recommend**

***VOTED: (2/3rds) to APPROVE the article as printed with the exception of the proposed reduction in line 14911 511035-Cemetery Summer Help, and reduce accordingly the amounts raised and appropriated for the FY15 General Government Budget for a total reduction of \$171,300.00***

#### **ARTICLE 4**

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to address the Town's fiscal condition, including, but not limited to, authorization for the Town to borrow a sum or sums of money for periods of not more than 10 years for the purpose of maintaining and operating the Town while it adjusts its level of expenses and revenues so as to achieve balanced budgets and fiscal stability and to fully fund such other special funds or outstanding obligations of the Town as may be required, including covering FY14 deficits and structural underfunding of certain accounts to allow for a balanced budget in FY15 and FY16, and

establishment of a special fund or funds into which the proceeds of such borrowing are to be deposited, all as deemed necessary and appropriate by the Board of Selectmen after consultation with the Director of Accounts at the Massachusetts Department of Revenue Division of Local Services, with the expenditure of the proceeds of any such borrowing to be in accordance with procedural safeguards established by such legislation, and with enhanced regular reporting to the Department of Revenue while the so-called "deficit bonds" are outstanding; and further, to authorize the General Court to make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to bill before enactment by the General Court; and to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of this petition; and further, to appropriate such sum or sums of money as may be needed for these purposes, and authorize the Treasurer, with the approval of the Board of Selectmen, to borrow said sum and issue bonds and notes therefor in accordance with G.L. c.44 or any other enabling authority; provided, however, that any appropriation made hereunder shall be expressly contingent upon enactment of the special legislation requested hereunder; or act in relation thereto.

**BOARD OF SELECTMEN: 4-0 Recommend**

**FINANCE COMMITTEE: 5-0 Recommend**

***VOTED: (2/3rds) to APPROVE as set forth in the warrant, provided that said special legislation authorized hereunder shall include authorization for the Treasurer, with the approval of the Board of Selectmen, to borrow a sum of \$6,000,000 and issue bonds and notes therefor, under such terms and conditions, and subject to such procedural safeguards as the Department of Revenue, through the Director of Accounts or otherwise, shall determine is appropriate.***

## **ARTICLE 5**

To see if the Town will vote to raise and appropriate a sum or sums of money for increases to appropriations for certain FY15 operating accounts identified by the Department of Revenue to be in deficit; provided, however, that the appropriation made hereunder shall be expressly contingent upon approval by the Town at an election of a Proposition 2 ½, so-called, override for the operating budget for the fiscal year beginning July 1, 2014; or act in relation thereto.

**BOARD OF SELECTMEN: 4-0 No Recommendation**

**FINANCE COMMITTEE: 4-1 Not Recommended**

***VOTED: (2/3rds) to DISAPPROVE this article.***

## **ARTICLE 6**

To see if the Town will vote to authorize the Board of Selectmen to file special legislation to repeal Chapter 300 of the Acts of 1995, *Infrastructure Investment Fund in the Town of Winchendon* and to provide that any residual balance remaining in the fund shall be available for all lawful municipal purposes, or act in relation thereto.

**BOARD OF SELECTMEN: 4-0 Recommend**

**FINANCE COMMITTEE: 5-0 Recommend**

***VOTED: (2/3rds) to DISAPPROVE the article.***

#### **ARTICLE 7**

To see if the Town will vote to adopt Chapter 64L, section 2a of the Massachusetts General Laws relating to the adoption of the Massachusetts Meals Tax, or act in relation thereto.

**BOARD OF SELECTMEN: 4-0 Recommend      FINANCE COMMITTEE: 5-0 Recommend**

**VOTED: (2/3rds) to APPROVE the Article as printed.**

#### **ARTICLE 8**

To see if the Town will vote to raise and appropriate, borrow, transfer from available funds, or otherwise provide the sum of an amount not to exceed Fifty Thousand Dollars and zero cents (\$50,000) for the purpose of an investigative/forensic audit to be conducted by the Office of the State Auditor, which shall include but not be limited to an audit of the Health Insurance Trust Fund, Special Revenue and Trust funds, and the financial accounting system operation, or act in relation thereto. (submitted by the Winchendon School Committee.)

**BOARD OF SELECTMEN: 4-0 Not Recommend  
FINANCE COMMITTEE: 5-0 Not Recommend**

***VOTED: (2/3rds) to postpone the article indefinitely.***

#### **ARTICLE 9**

To see if the Town will vote to amend Article \_\_\_\_ of the Town Meeting of \_\_\_\_ by which the town voted to accept M.G.L. Ch. 40, Section 8C regarding the establishment of a Conservation Commission, by changing the words “seven members” to “five members” and by adding the following new language: “The Conservation Commission shall be reduced from seven members to five members by attrition through the expiration of members’ terms or resignation of members.”, or act in relation thereto. (submitted by the Conservation Commission)

**BOARD OF SELECTMEN: 4-0 Recommend      FINANCE COMMITTEE: 5-0 Recommend**

***VOTED: (Unanimously) To APPROVE to amend the vote taken in the Annual Town Meeting in 1958 by which the Town voted to Accept. G.L. c.40, §8C and create a seven member Conservation Commission, to reduce the size of the Conservation Commission from seven members to five members, and further, to provide that such reduction in the size of the Commission shall be accomplished by attrition, through the expiration of term, or sooner resignation, of two members of said Commission.***

#### **ARTICLE 10**

To see if the Town will vote to exempt itself from the provision of the Town Zoning Bylaw 9.5 SIGNS PROHIBITED IN ALL ZONES, section 4, “Blinking, flashing, intermittent lighted, moving, animated or rotating signs including electronic message center signs.” for public safety and

informational purposes, or act in relation thereto. (submitted by Public Works Director John Deline)

**BOARD OF SELECTMEN: 4-0 Recommend      FINANCE COMMITTEE: 5-0 Recommend**

***VOTED: (Unanimously) to PASSOVER the article.***

## **ARTICLE 11**

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** to include;

### **12.10 SPECIAL PERMITS**

**12.10.1 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”

**12.10.2 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.

**12.10.3 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 off street parking or other special features beyond the minimum required by this or other applicable codes or regulations.
- F. Control of the number, location, size and lighting of signs.
- G. Requirement of number, design, and location of access drives or other traffic features.

**12.10.4** 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: 4-0 Recommend      FINANCE COMMITTEE: 5-0 Recommend**

***VOTED: (2/3rds) to APPROVE as printed in the warrant, provided that the first paragraph of Section 12.10.2 shall provide as follows:***

***Special permits may, in the discretion of the permit granting authority, be granted where specific provisions of this Bylaw are met, except when particulars of the location or use would cause granting of such permit to be to the detriment of the public interest because:***

## **ARTICLE 12**

To see if the town will amend the zoning bylaw by adding the following definitions to Article 2 to include;

**OPEN-AIR SALVAGE YARD** - Open-air storage of materials, merchandise, products or equipment needed in connection with an individual or entity engaged in the business of acquiring or owning salvage automobiles for resale in their entirety or as spare parts.

**MOTOR VEHICLE AND EQUIPMENT SALES** - Salesroom and related facilities, including but not limited to open-air display, for the sale or lease of automobiles, motorcycles, recreational vehicles and similar vehicles, boats, or light industrial or farm equipment.

**CONTRACTOR'S YARD** - A facility used for the provision of general contracting services associated with business which may include office and workshop areas and areas for the storage of equipment, including but not limited to motorized vehicles, machinery, and/or materials used in association with the contractor's business.

GVW - The gross vehicle weight rating established by a manufacturer when applied to a motor vehicle, trailer, semi-trailer or semi-trailer unit, including the gross combination weight rating, if any, when applied to a semi-trailer unit or to a tractor-trailer combination.

LICENSES GRANTED UNDER MA GEN LAW CHAPTER 140 SEC 59 & 59A -

Class 1 – Refer to MGL Chapter 140 Section 58

Class 2 –Refer to MGL Chapter 140 Section 58

Class 3 - Refer to MGL Chapter 140 Section 58

FABRICATION - Manufacturing Process in which an item is made (fabricated) from raw or semi-finished materials instead of being assembled from ready-made component parts. Product may be part of or a finished item.

HYDROPOWER - Power derived from the force of energy of moving water

SIGN, INTERMITTENT LIGHTED - Light alternately ceasing and beginning again sequentially or alternately at predetermined intervals.

SIGN, BLINKING – To light intermittently.

SIGN, FLASHING - Rhythmic light and darkness at predetermined intervals.

*Or act in relation thereto. (submitted by the Planning Board)*

**BOARD OF SELECTMEN: 4-0 Recommend**

**FINANCE COMMITTEE: 5-0 Recommend**

***VOTED: (2/3rds) to APPROVE the article as printed.***

## **ARTICLE 13**

To see if the town will amend its zoning bylaw by deleting the dimensional requirement in Article 6 Section.2.3 and adding “**does not create any new nonconformity**”;

- A. Any lawful pre-existing nonconforming structures or buildings or uses may be reconstructed, extended or altered provided that such alteration or extension **does not create any new nonconformity** and further provided that no such reconstruction, extension or alteration shall be permitted unless the Zoning Board of Appeals determines, by special permit, that such reconstruction, extension or alteration shall not be substantially more detrimental than the existing nonconforming use or structure to the neighborhood. No special permit is needed if the reconstruction, extension or alteration is to be a nonconforming single or two-family dwelling and said reconstruction, extension or alteration does not increase the nonconforming nature of the dwelling. In addition, no such building shall be added to, enlarged, or

reconstructed to an extent greater than fifty percent (50%) of its area at the time of the adoption of this Bylaw or such amendment or except as provided for in Section 4.7.2M.

*Or act in relation thereto. (submitted by the Planning Board)*

**BOARD OF SELECTMEN: 4-0 Recommend**

**FINANCE COMMITTEE: 5-0 Recommend**

***VOTED: (2/3rds) to APPROVE the article as printed.***

#### **ARTICLE 14**

To see if the town will amend the zoning bylaw by changing **Section 5.2.5 C.** of the use table to allow recreational activity conducted commercially, i.e. campground, ski area or golf course in the Industrial Zone (I) by **Special Permit**;

<b>5.2.5 Principal Use Categories</b>	<b>Zoning Districts</b>						
<b>Conservation and Recreation</b>	<b>R80</b>	<b>R40</b>	<b>R10</b>	<b>C1</b> Hwy Comm	<b>C2</b> Nbhd Bus.	<b>I</b>	<b>PD</b>
C. Recreational activity conducted commercially, i.e. campground, ski area or golf course	SP	SP	SP	SP	N	SP	SP

*or act in relation thereto. (submitted by the Planning Board)*

**BOARD OF SELECTMEN: 4-0 Recommend**

**FINANCE COMMITTEE: 5-0 Recommend**

***VOTED: (2/3rds) to APPROVE the article as printed.***

#### **ARTICLE 15**

To see if the town will amend the zoning bylaw by changing **Section 5.2.2 X.** of the use table to allow retail sales & services facility for boats and marine equipment in the Neighborhood Commercial District (C2) by **Special Permit**.

<b>5.2.2 Principal Use Categories</b>	<b>Zoning Districts</b>
<b>Commercial Uses</b>	

	<b>R80</b>	<b>R40</b>	<b>R10</b>	<b>C1</b> Hwy Comm	<b>C2</b> Nbhd Bus.	<b>I</b>	<b>PD</b>
X. Retail sales & service facility for boats and marine equipment	N	N	N	Y	<b>SP</b>	SP	N

*Or act in relation thereto. (submitted by the Planning Board)*

**BOARD OF SELECTMEN: 2-0-2 No Recommendation**

**FINANCE COMMITTEE: 5-0 Recommend**

***VOTED: (2/3rds) to APPROVE the article as printed.***

*At 9:25 p.m. it was moved, seconded and APPROVED to Adjourn the Special Town Meeting.*

**ATTEST:**

**Judy A. LaJoie**  
**Winchendon Town Clerk**

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

Hereof, fail not and make due return of said warrant with your doings thereon at the time and place of the meeting aforesaid. Given under our hands and seal this 10<sup>th</sup> day of November 2014.

**BOARD OF SELECTMEN:**

\_\_\_\_\_  
Fedor Berndt, Chairman

\_\_\_\_\_  
Elizabeth R. Hunt, Vice Chairwoman

\_\_\_\_\_  
Robert M. O'Keefe, Selectman

\_\_\_\_\_  
Keith R. Barrows, Selectman

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

\_\_\_\_\_  
PRINT CONSTABLE NAME

\_\_\_\_\_  
SIGN CONSTABLE NAME

\_\_\_\_\_  
DATE:

**FINANCE COMMITTEE PUBLIC HEARING  
WEDNESDAY, NOVEMBER 19, 2014  
AT 7:00 PM  
SECOND FLOOR AUDITORIUM, TOWN HALL**

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