

**TOWN OF WINCHENDON  
BOARD OF SELECTMEN SPECIAL MEETING MINUTES  
WEDNESDAY, APRIL 28, 2021  
Town Hall, 2<sup>nd</sup> Floor Auditorium  
109 Front Street, Winchendon, Mass.**

Present:

Michael Barbaro, Chair  
Rick Ward, Vice Chair  
Barbara Anderson  
Audrey LaBrie  
Amy Salter (remote participation)

Stephen Delaney, Interim Town Manager  
Linda Daigle, Executive Assistant  
Taylor Tower, Administrative Assistant

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List of Documents Presented at Meeting:

- Draft Proclamation of Children's Mental Health Awareness Week (attached)
- Final Warrant for the Special and Annual Town Meeting to be Held 5/17/2021 (attached)

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Chairman Michael Barbaro called the meeting to order at 6:30 p.m. All rose for the Pledge of Allegiance. Barbaro asked if anyone was video or audio recording, to which there was no response. He noted that Salter was present via remote participation and all votes would be taken by roll call.

**1. SELECTMEN'S COMMENTS AND ANNOUNCEMENTS:** None were heard.

**2. PUBLIC COMMENTS AND ANNOUNCEMENTS:** None were heard.

**3. NEW BUSINESS:**

- 3.1 Children's Mental Health Week May 2nd through May 8<sup>th</sup>: Anderson said that Ann Berube, Renee Eldridge and Jon Zlotnik asked the Town and the Board to participate in and spread awareness of Children's Mental Health Awareness Week. The Board will be hosting a "Lighting Ceremony" on Monday, May 3<sup>rd</sup> at 7:00 p.m. to light up the Town Hall green. She invited all to attend and asked attendees to wear green in support. Barbaro read aloud the Proclamation of Children's Mental Health Awareness Week that will be signed by the Board of Selectmen in an act of support.

**Anderson moved the Board approve the "Children's Mental Health Awareness Week May 2nd though May 8<sup>th</sup> and to schedule a "Light up Winchendon Green" event on Monday, May 3<sup>rd</sup> at 7:00 p.m. located at Town Hall. This motion was seconded by Ward and with a roll call vote of Anderson, aye, Ward, aye, LaBrie, aye, Salter, aye, and Barbaro aye, the motion carried unanimously.**

3.2 Board Voted Recommendations of STM-ATM Warrant Articles -

Article 1 of STM – Committee Report:

Barbaro noted that there is no Special Town Meeting this year.

ANNUAL TOWN MEETING ARTICLES

Article 1: Committee Report – LaBrie moved to recommend this article, seconded by Ward. With a roll call vote of Anderson, aye, Ward, aye, LaBrie, aye, Salter, aye and Barbaro, aye, the motion carried unanimously.

Article 2: Establish/Discharge Committees

**LaBrie moved to recommend this article, seconded by Ward. With a roll call vote of Anderson, aye, Ward, aye, LaBrie, aye, Salter, aye and Barbaro, aye, the motion carried unanimously.**

Article 3: Authorize Revolving Funds

**Ward moved to recommend this article, seconded by Anderson. With a roll call vote of Anderson, aye, Ward, aye, LaBrie, abstain, Salter, aye, and Barbaro, aye, the motion carried 4-0-1.**

Article 4: Senior Tax Work-Off Program:

**LaBrie moved to recommend this article, seconded by Ward. With a roll call vote of LaBrie, aye, Salter, aye, Anderson, aye, Ward, aye and Barbaro, aye, the motion carried unanimously.**

Article 5: Community Action Committee Non-Profit Support

**LaBrie moved to recommend this article, seconded by Ward. With a roll call vote of Anderson, aye, Ward, aye, LaBrie, aye, Salter, aye and Barbaro, aye, the motion carried unanimously.**

Article 6: FY22 General Government Budget – LaBrie said that with the ongoing budgetary issues within the FY'21 budget, she is not sure that she is comfortable voting to recommend this article. Delaney responded that he has been in close contact with the Fire Chief and the Town Accountant while conducting additional analysis of the budget. He received a document from the Fire Chief that answers many questions raised in the Finance Committee meeting last night. He related to LaBrie that it is an area of concern for him as well and is under close scrutiny.

**Ward moved to recommend this article, seconded by LaBrie. With a roll call vote of Anderson, aye, Ward, aye, LaBrie, aye, Salter, aye, and Barbaro aye, the motion carried unanimously.**

Article 7: FY22 Water Dept. Enterprise Budget – Anderson was concerned with what she perceived to be a raised Water and Sewer rate reflected within this budget. Brian Croteau, Director of Public Works, came forward and explained what she was referring to was when the capital projects were brought into the budget. These capital projects do not affect the rate previously approved by the Board. It will not be increased from what they had voted. Anderson asked for an audit to be conducted on the Water and Sewer Enterprise Accounts. Delaney replied he believed the Department is included in the annual audit. Barbaro added that each year a specific department is requested in the audit for a deeper look and the water/wastewater budget could be done next year as part of the single audit. Delaney also noted that he has drafted an RFP to be presented at an upcoming meeting and believes it will address part of her concern she has had with the analysis of operations also and ties in to the question related to operations by contract.

**LaBrie moved to recommend this article, seconded by Ward. With a roll call vote of LaBrie, aye, Salter, aye, Anderson, no, Ward, aye and Barbaro, aye, the motion carried 4-1.**

Article 8: FY22 Wastewater Enterprise Budget

**Ward moved to recommend this article, seconded by LaBrie. With a roll call vote of Anderson, no, Ward, aye, LaBrie, aye, Salter, aye and Barbaro, aye, the motion carried 4-1.**



Article 9: FY22 Transfer Station Enterprise Budget

**LaBrie moved to recommend this article, seconded by Ward. With a roll call vote of LaBrie, aye, Salter, aye, Anderson, aye, Ward, aye and Barbaro, aye, the motion carried unanimously.**

Article 10: FY22 School Budget

**LaBrie moved to recommend this article, seconded by Ward. With a roll call vote of Anderson, aye, Ward, aye, LaBrie, aye, Salter, aye and Barbaro, aye, the motion carried unanimously.**

LaBrie disclosed that she works for the School system, and Barbaro disclosed that his wife is an employee of the School system.

Article 11: FY22 Monty Tech's Assessment

**LaBrie moved to recommend this article, seconded by Ward. With a roll call vote of LaBrie, aye, Salter, aye, Anderson, aye, Ward, aye and Barbaro, aye, the motion carried unanimously.**

Article 12: Capital – DPW Lease/Purchase of 10 Wheel Dump Truck

**Ward moved to recommend this article, seconded by LaBrie. With a roll call vote of Anderson, aye, Ward, aye, LaBrie, aye, Salter, aye and Barbaro, aye, the motion carried unanimously.**

Article 13: Capital – Police Cruisers

**LaBrie moved to recommend this article, seconded by Ward. With a roll call vote of Anderson, aye, Ward, aye, LaBrie, aye, Salter, aye and Barbaro, aye, the motion carried unanimously.**

Anderson questioned the need to constantly replace Police cruisers, saying that she has driven in Fitchburg and seen their Police Department driving older vehicles. She asked if the replacement of cruisers could be thought about a little more critically. Barbaro said that when the Capital Improvement Committee spoke to the Police Chief about this Capital item, he said that they replace cruisers every three years because Winchendon has so many miles, causing more wear and tear and higher mileage on the cruisers. Anderson said she is still questioning that and suggested in the future that we be more frugal.

Article 14: Capital – Beals Memorial Library Electrical Upgrades and Fire Suppression System

**Ward moved to recommend this article, seconded by LaBrie. With a roll call vote of LaBrie, aye, Salter, aye, Anderson, aye, Ward, aye and Barbaro, aye, the motion carried unanimously.**

Article 15: Capital – Critical Repairs to Senior Center – Anderson asked if this expense will have an impact on the tax rate. Delaney said there will be a slight impact on the tax rate, but that it will not change the taxes this coming fiscal year, FY'22.

**LaBrie moved to recommend this article, seconded by Ward. With a roll call vote of LaBrie, aye, Salter, no, Anderson, aye, Ward, aye and Barbaro, aye, the motion carried 4-1.**

Article 16: Capital – Emergency Generator for Toy Town Elementary School - Anderson asked the feasibility of keeping Toy Town Elementary open in the future, explaining that she does not

want to invest in something short term. Delaney answered that the generator could likely be moved if need be.

**Ward moved to recommend this article, seconded by LaBrie. With a roll call vote of Anderson, aye, Ward, aye, LaBrie, aye, Salter, aye and Barbaro aye, the motion carried unanimously.**

Article 17: Capital – Water Fund – Replace Water Meters

**Ward moved to recommend this article, seconded by Ward. With a roll call vote of LaBrie, aye, Salter, aye, Anderson, no, Ward, aye and Barbaro, aye, the motion carried.**

Article 18: Design Costs Required for Local Grants - Anderson asked if this is a one-time fee, to which Barbaro answered that it will be a line item within the budget moving forward. LaBrie said that this applies to any grants that staff applies for that require a design to be included with the grant application. She described it as seed money so that she can prepare the designs for the applications. Anderson asked if the money will be refunded to the account from the grant, to which Delaney answered that some grants do include design fees and some do not.

**Ward moved to recommend this article, seconded by LaBrie. With a roll call vote of Anderson, no, Ward, aye, LaBrie, aye, Salter, aye and Barbaro, aye, the motion carried 4-1.**

LaBrie asked to discuss Articles 19, 20 and 24 altogether, as they all pertain to Mellen Road, and get a better sense of what they entail, and to review the remaining articles first.

Article 21: Town Charter Amendment

**LaBrie moved to recommend this article, seconded by Ward. With a roll call vote of Anderson, aye, Ward, aye, LaBrie, aye, Salter, aye and Barbaro, aye, the motion carried unanimously.**

Article 22: General Bylaw Amendment

**LaBrie moved to recommend this article, seconded by Ward. With a roll call vote of LaBrie, aye, Salter, aye, Anderson, aye, Ward, aye and Barbaro, aye, the motion carried unanimously.**

Article 23: Accept Deed in Lieu of Foreclosure – Hall St. and Lincoln Ave.

**Ward moved to recommend this article, seconded by Anderson. With a roll call vote of Anderson, aye, Ward, aye, LaBrie, aye, Salter, aye and Barbaro aye, the motion carried unanimously.**

Article 19: Mellen Rd. Acceptance –Brian Riley of KP Law, the Towns' Counsel, explained that a section of Mellen Road was discontinued a long time ago. In order to get this road accepted, he said that the Board of Selectmen need to approve the layout, then the road must be voted to be accepted at Town Meeting. After Town Meeting approval, easements must be acquired from property owners along Mellen Road. State statute mandates that these easements must be granted within 120 days of Town Meeting. Once all these steps are completed, Mellen Road would officially, and in a recordable capacity, be a public road. He continued on to say that in a typical situation, articles 19 and 20 would be combined. If the Town voted to accept, the next vote would be on easements. Referring to Article 20 and the easement required from the Massachusetts Department of Conservation, Riley said that he has been working with Mr. Delaney and Ms. Murphy, Director of Planning & Development, to contact someone at the State. They do not think there will be any opposition, but they do require a Special Act to allow a State agency to grant an



easement. If that gets through the general court, gets approved and signed by the governor, then it will need to be signed off on by the State agency. Again, he said, this all needs to happen within 120 days of Town Meeting. If it doesn't, Riley said that there will need to be a Special Act approved by the court. Having the State property that abuts Mellen Road makes it more complicated. In regards to Article 19, Riley said that is to accept the road based on the layout. Regardless of whether citizens choose to support Article 19 or 24, which are essentially different methods of accepting the road, Article 20 must pass because easements will be required either way.

Anderson expressed her belief that Mellen Road is not a private road, and said it is an unaccepted road. Riley said that when a road is private, such as in this case when a portion of the road was discontinued, it means that the road is not a public way anymore. Anderson questioned when the road was discontinued, to which Ward explained that the road was discontinued at Town Meeting in 1914 and such vote can be found in the Town Reports. Anderson said that there is a lack of a paper trail on the behalf of the Town and that moving up to 1989 Town Meeting, there was a discontinuance of a road that included the language "up to Mellen Road", which she believes insinuates that Mellen Road was existing. She also argued that Approval Not Required's (ANR's) were granted for this road in the 1990's, which according to Massachusetts General Laws, cannot happen on a private road.

Riley responded that in order to resolve those issues, if Mellen Road does pass and everything is recorded, the road will officially become a public way. He iterated that residents want to see this issue resolved and put to bed. Anderson described the results of the last Annual Town Meeting as indicative that the residents demanded that the road be accepted, and said the job of the Board is to do what they want – whether the road is declared by prescription or by Article 19. She believes there is a reason that the Citizens' Petition, Article 24, states that residents are "not waiving any rights". She said they are saying that they were a public road before, and asked if there is a difference by now claiming it is a public road and that the title searches done when the homes were purchased is incorrect. She asked if there could be repercussions for the residents and their properties if that waiver is not included in the article. Riley answered that in his opinion, no. He explained that if Article 19 and 20 get approved, at some point Mellen Road will become a public way. It won't make a difference of the rights that the property owners have and in his opinion, that language is not essential to preserve that road. Referring to the language in Article 24 where the residents of Mellen Road request to collect lawyer fees and damages, Barbaro asked Riley if they can legally do that. Riley said he does not see a claim here for damages, and he does not see within the language that Articles 19 and 24 are mutually exclusive where one must pass and the other must fail. Barbaro said that Article 19 has a layout to be approved by the Planning Board and the Selectmen, and 24 does not. Riley said the road has to be based off the layout that this Board has approved. Ward asked if Article 19 requires a 2/3rds vote, to which Riley said yes. Ward confirmed that if Article 19 requires a 2/3rds vote, so does Article 24. Ward asked if Articles 19 and 24 both pass, which the Board should pursue, to which Riley said they refer to the same plan and the same properties, however, if 19 passes, Article 24 could be passed over. If Article 20 does not pass, it would be impossible to get the road validly accepted. The Board needs the authorization to obtain easements from the State.

LaBrie said she has been researching what the residents of Mellen Road have been asserting, that they do not own the land that the road is placed on. By looking through State documents, she found that the Town shall not take more than necessary to achieve the road, as it is a less monetary investment. It indicated that the Town would not own the land beneath the road. She looked through the deeds to trace the ownership of the land and said it was interesting, because one deed does not have that exemption line and then the next one does, or the deed will state

“accepting that portion of the premises lining Mellen Road”. This tells her that the residents still own the land under Mellen Road. She said she will forward this information to staff in an effort to assist with obtaining easements, and she is not sure what it will actually take to get these easements. Riley said that there are plenty of public roads where the Town does not own the deeds to the roads. Acquiring the easements, typically the property owners along the edge have an agreement for the road to be paved and maintained.

Anderson said that having Articles 19, 20 and 24 is ridiculous and unfair to residents of Winchendon. She said the Board does have the authority to just declare the road by prescription. Riley explained that it is more complicated than that, and to declare a road by prescription, it must go through the land court and can sometimes become very complicated. He suggests Article 19 to accept the road in a recordable fashion. LaBrie added that if the road is declared a road by prescription, anybody could challenge it and then the burden of proof is on the Town.

**Ward moved to recommend this article, seconded by Salter. With a roll call vote of LaBrie, abstain, Salter, aye, Anderson, no, Ward, aye and Barbaro, aye, the motion carried 3-1-1.**

Article 20: Authorization to Allow Selectmen to Acquire Temporary and Permanent Easements for Mellen Rd.

**Ward moved to recommend this article, seconded by Salter. With a roll call vote of Anderson, no, Ward, aye, LaBrie, abstain, Salter, aye and Barbaro, aye, the motion carried 3-1-1.**

Article 24: Citizens Petition for the Town to Accept Certain Portions of Mellen Rd.

**Ward moved to not recommend this article, seconded by Barbaro. With a roll call vote of LaBrie, abstain, Salter, aye, Anderson, no, Ward, aye and Barbaro, aye, the motion carried 3-1-1.**

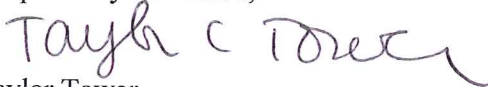
3.3 Assignment of Town Meeting Warrant Articles to be presented by Board Members on May 17, 2021 – The Board discussed and assigned warrant articles to each Selectmen to present at Town Meeting.

4 **OLD BUSINESS:** There was no old business scheduled this evening.

5 **ADJOURNMENT:** Barbaro noted that the next meeting will be held next Wednesday, May 5<sup>th</sup> at 6:30 p.m. to review the Mellen Road layout.

**Ward motioned to adjourn, seconded by LaBrie. With a roll call vote of Anderson, aye, Ward, aye, LaBrie, aye, Salter, aye and Salter, aye, the meeting adjourned at 7:49 p.m.**

Respectfully submitted,

  
Taylor Tower  
Administrative Assistant