

**TOWN OF WINCHENDON
BOARD OF SELECTMEN MINUTES
MONDAY, MARCH 26, 2018
Town Hall, 2nd Floor Auditorium
109 Front Street, Winchendon, Mass.**

Present:

Barbara Anderson, Chairwoman
Audrey LaBrie, Vice-Chairwoman
Austin Cyganiewicz
Charles Husselbee

Keith R. Hickey, Town Manager
Linda Daigle, Executive Assistant
Lindsay Kuchta, Administrative Assistant

Absent:

Michael Barbaro

List of Documents Presented at Meeting

- Taylor's Message, & Not in the Playbook; A Community Speaker Series To Raise Awareness About & Reduce Substance Abuse Flyer (filed)
- Notice of Public Hearing Planning Board Continued to April 3rd, 2018 at 6:40 PM (filed)
- License/Permit/Renewal Application Clark Memorial YMCA Road Race April 21, 2018 (filed)
- License/Permit/Renewal Application Clark Memorial YMCA Boot Drive May 26, 2018 (filed)
- Letter requesting additional \$30,000 for DPW Snow and Ice Account from DPW Director Al Gallant, dated March 21, 2018 (filed)
- DRAFT Warrant Article on Taxation and Retail Location Proposals for Adult Use of Marijuana (attached)
- Memo Re: Final Town Manager Recommended Budget Adjustments and Necessary Budget Reductions if the Use of the Stabilization Fund is Eliminated (attached)
- Report of the Town Manager (attached)
- Minutes Approved:
 - Monday, February 26, 2018 Regular Meeting
 - Wed., February 28, 2018 Special Meeting
 - Monday, March 12, 2018 EXECUTIVE SESSION

The meeting was called to order by Chairwoman Anderson at 6:34 P.M. followed by the Pledge of Allegiance to the Flag of the United States of America.

Announce audio/video recording disclosure – Doneen Durling announced that she would be audio recording the meeting.

1. SELECTMEN'S COMMENTS AND ANNOUNCEMENTS:

- 1.1. Winchendon's Substance Abuse Task Force Presents "Taylor's Message & Not in the Playbook -3/29/18 – Anderson announced that the Winchendon Substance Abuse Task Force worked hard with The Winchendon School for a public speaking event located at The Winchendon School. Everyone is welcome to attend.

Planning Board's Public Hearing Notice of Continuation for Tuesday, April 3, 2018 Regarding Proposed Amendments to Winchendon's Zoning Bylaws – LaBrie read the public hearing notice announcing the Planning Board's hearing has been continued to April 3, 2018 regarding proposed amendments to the Zoning Bylaws regarding the adult use of marijuana.

Anderson noted that the Parks and Recreation Committee sponsored Easter egg hunt will be held on Saturday from 9:30AM -10:30AM at the Militia Field in Old Center.

2. PUBLIC COMMENTS AND ANNOUNCEMENTS:

There were no public comments or announcements this evening.

3. PUBLIC HEARINGS:

There were no public hearings at this meeting.

4. APPOINTMENTS/RESIGNATIONS:

There were no appointments or resignations at this meeting.

5. PERMIT/LICENSE APPLICATIONS:

5.1 Road Race Permit April 21, 2018 – Clark Memorial/YMCA - Julie Whittemore came forward to represent the road race for the Clark Memorial YMCA to be held this year on April 21st. The fun run will be three point two miles. Julie noted she hasn't had the chance to work with Lieutenant Wolski, but is not anticipating any problems with the projected route being similar to the past, but needs the okay from the Police Department.

Husselbee moved for the applicant, seconded by LaBrie with a vote of all ayes.

5.2 Voluntary Toll Booth Permit May 26, 2018 – Clark Memorial/YMCA - David Connor came forward representing this boot drive for the Clark Memorial YMCA saying if it is approved by the Board, it will be the third year it will be held. The drive raises funds to help offset the scholarship program the Clark has for the community.

Husselbee asked if the scholarship is given out or if it is only for members, to which David replied it is for those who are applying for memberships. The Clark gives more scholarships than money is raised for. The goal is to raise \$30,000 this year.

Anderson asked if any of the money raised goes towards the summer programs, to which Connor replied the funds are more driven towards memberships, as the Clark has been lucky to receive grants for the summer programs. Anderson also asked Mr. Connor if he was aware of the guidelines for a boot drive, to which Connor replied yes, he saw that the guidelines were recently revised and the Clark is aware of all the requirements.

Husselbee noted that Chief Walsh of the police department is not in favor of boot drives due to the safety issues they present and to limit to three hours. Anderson stated that the area of the boot drive is not safe.

LaBrie moved to approve the application as presented, seconded by Cyganiewicz with a vote of all ayes.

6. BOARDS/COMMISSIONS/COMMITTEES/DEPARTMENTS:

There were no Boards, Commissions, Committees or Department matters at this meeting.

7. NEW BUSINESS:

7.1 Request Board Authorization to Overspend FY18 Snow and Ice Budget - Hickey spoke on behalf of the Department of Public Works (DPW) Director Al Gallant and requested an additional \$30,000 for Snow and Ice expenditures. He stated he is hopeful that the money is not needed, but the department needs the cushion.

Anderson asked if the money that isn't used would go back to the Finance Committee's account, to which Hickey replied that the funds may come from savings in the budget and possibly asking for Reserve Funds.

Cyganiewicz noted from a memo from Al Gallant that it has been a busy winter for the DPW. The crew has been through Town eighty-five times this winter. A lot of work has been done and he stated that the DPW has done a great job with the resources they have.

Cyganiewicz made a motion to approve the request for the Board's authorization to overspend an additional \$30,000 on the FY18 Snow and Ice budget. Motion seconded by Husselbee with a vote of all ayes.

- 7.2 Discussion Whether to Include a Warrant Article on the May 2018 Town Warrant Implementing a 3% Sales Tax on Adult Marijuana Sales - Hickey stated that the Board is aware that adults use marijuana has been legalized and the Board has the ability to propose two articles related to the adult use of marijuana. The first article proposed is the implementing of a 3% tax on the sales of adult use marijuana. The proposed article has been reviewed by the Town's legal counsel, and it would be voted on at a Town meeting. Hickey wanted to present this item to the Board to discuss their opinion on the matter.

LaBrie asked if there is a State tax on marijuana sales, to which Hickey replied he is not sure of the percentage of tax the State will be charging, but he can get that information. LaBrie then asked if the taxation of adult use marijuana sales does get approved at Town meeting, where will the sales receipts go, to which Hickey replied the revenues for the FY19 budget have not been estimated yet for the sales tax, but the money will be transmitted to the Commonwealth and will be returned to the Town based on what is collected; the funds will ultimately go into Free Cash if we are fortunate enough to receive revenue.

Cyganiewicz asked if the three percent is the floor or ceiling for sales tax, to which Hickey replied ceiling. Cyganiewicz also asked if the tax amount was a local decision, and Hickey replied yes. Cyganiewicz then asked if other products sold in the marijuana retail establishments would be taxed, to which Hickey replied anything used in the consumption of marijuana will be taxed.

Hickey commented that the Town has the advantage of bordering a State where the use of Marijuana is not legal, and we may be able to take advantage of that. Cyganiewicz asked if any interest in businesses has been heard of to which Hickey replied yes, and Anderson added that there is a lot of interest.

Hickey then stated that there are companies looking to locate in Town to grow marijuana, as well as businesses looking to locate in Town to sell any accessories that would go along with adult use marijuana. Businesses selling accessories are looking to open prior to July 1st when the use of marijuana is legal.

Cyganiewicz asked if the cultivation facilities would be taxed as wholesale or retail, to which Hickey replied he is unsure and could find an answer for him. Cyganiewicz then replied that he heeds caution to not use the word retail until an answer is found.

Anderson noted that she guesses there will be another warrant article for the cultivation of marijuana.

Hickey noted that the Planning Department will bring in the overlay, and there will not be an article for the resale of adult use marijuana.

Cyganiewicz noted that the language does not say retail; as cultivation is adult use of marijuana as well. There are questions that need to be answered about it; why would there be a separate article for cultivation facilities if the warrant article didn't cover it.

Hickey stated that the motion can be worded to state that any appropriate sales that would be taxed under the new medical marijuana act or adult use marijuana act we support applying tax to any applicable sales.

Anderson believes we should get the whole three percent in taxes, especially considering the increased cost for the Town with the need for additional police and EMT staff.

Hickey noted that only retail sales will be taxed.

Husselbee stated that because we are a Town that is not competing against other Towns, he is in full support of the three percent.

Hickey noted that it was his impression that retail sales locations will be in every community. We don't get a draw from a wide radius of communities. People will be coming from New Hampshire just as people from Winchendon go to New Hampshire for cigarettes and alcohol.

LaBrie moved to include the warrant article on the May Town Meeting Warrant to consider a 3% sales tax on adult use marijuana; seconded by Husselbee with a vote all ayes.

- 7.3 Discussion Whether to Include a Warrant Article on the May 2018 Town Warrant Limiting the Number of Retail Sales Locations – Hickey noted that the State Legislation allows a community to limit the amount of locations that is based on no fewer than twenty percent of the retail liquor licenses, and the Town has seven licenses. Twenty percent of the seven is 1.4 establishments, so the Town is minimally allowed to have two locations. This is what the warrant article would address.

Anderson asked if there wouldn't be a cap if the article didn't pass, to which Hickey replied yes. The cap could be increased to whatever number, but there can be no fewer than two. In the case that the Town is looking to increase the cap, they will have to bring the matter to Town meeting.

Husselbee asked, as it stands currently, could anyone that wants a license approach the Board and try to obtain a license? LaBrie replied that they must obtain State approval first, along with many other steps before they can acquire the license.

Anderson asked if there is a State regulating board for adult use marijuana like the ABCC. Hickey replied there is a licensing board.

Husselbee asked if the Town charges a license fee, to which Hickey replied there are fees associated if the license is approved. Tracy Murphy, Planning Director, is trying to establish what an appropriate fee would be; once it is determined it can be presented to the Board of Selectmen for approval.

Cyganiewicz noted he would hate to limit the opportunities for entrepreneurs, but agrees with the cap of two retail establishments. It can always be adjusted in the future. Hickey stated that the cap could be increased as soon as November if the Board felt it was necessary.

Anderson noted she likes to think the Board's opinion matters at Town meeting, and hates to limit the amount of adult use marijuana retail establishments to two, but at the same time is concerned because at this point a lot is still unknown.

LaBrie stated that we have to address both sides of the matter; by starting at two it allows the Town to take baby-steps and review the effects later.

Cyganiewicz noted that if you think about the free market, Gardner has three smoke shops within five hundred feet of each other, and all of them will eventually try to become retail marijuana establishments when it becomes legal. He believes that if we don't limit the market, it will correct itself. The nature of business is just not working out for them. There aren't a lot of locations that would fit within the zoning requirements.

Anderson noted that over sixty percent of the Winchendon voters, voted in favor for this. This is a matter that the Town cares about. LaBrie added that caring about it doesn't mean that all of the people who voted in favor of it will go out and use it. People may see the medical benefits, but the entire sixty percent will not frequent the shops.

Husselbee stated that it is the Board's job to introduce the legalization of adult use Marijuana establishments in town in a way that will not cause the Town detriment.

Cyganiewicz stated who are we to decide how many establishments that the Town wants or does not want. The economy in Winchendon services other communities. He is hopeful that New Hampshire residents may take advantage as it will bring the Town revenue. If we truly think that having these retail establishments would increase a need for security, can that be backed up with proof from other communities and the effects of legalization there?

Husselbee responded to Cyganiewicz's comment of "who are we" replying, "We are the Board of Selectmen, voted by the Town to make recommendations for the best interest of the Town, and for this situation it is our responsibility to set the limit to decide whether we want it or not. We are consultants for the Town to give them what they want."

Anderson noted she believes that the Board needs to leave their options open, and that two establishments as a limit might be a little too constraining.

Husselbee added that we can always vote up the limit, and we probably will. After a license has been given it cannot be ousted. When more is discovered about how things will work for the community, more licenses can be given.

Anderson noted if there is an infraction against the business, they are forced to close, to which Daigle added that a public hearing would be called to order to address the issue(s).

Husselbee moved to approve of a draft warrant article limiting the number of retail store locations to two. With no second being heard, the motion died.

Cyganiewicz moved to amend the language to the proposed warrant article to not limit the number of adult use marijuana retail establishments in Winchendon. Anderson seconded it for discussion.

Anderson noted since there are seven liquor store licenses, the amount of licenses for retail marijuana establishments could be started at four to start with. Each business could take a corner of the overlay. It also doesn't mean all licenses need to be used.

Hickey noted that whatever number be approved, there has to be a compelling reason why we deny someone. He suggests that an applicant can't be denied just because we don't like where it is going or we don't want a second one. Anderson replied that the market can dictate, and it might not support a location. Flooding the market with one particular business would be not lucrative for anyone. Hickey agreed with Anderson.

LaBrie stated she is not comfortable and would not vote for unlimited locations, and would support no more than three. It would allow a little variation in location, and the market to decide which ones, if any, survive.

Anderson noted that neighboring communities might take advantage if the Town is too strict.

Cyganiewicz moved to amend his motion to limit to three retail establishments; seconded by Anderson.

Art Amenta of the Planning Board came forward and asked if the Selectmen could override the Planning Board's draft article to which Hickey replied he is unsure.

LaBrie moved for a five minute recess at 7:32PM, seconded by Husselbee with a vote of all ayes.

The Board returned from recess at 7:41PM.

Hickey said he spoke with Planning Director Tracy Murphy during recess. From the conversations Ms. Murphy has had with Town Counsel, he concluded that if the Board recommends the article that has three retail adult establishments and the Planning Board has a meeting next week, they can discuss whether they

support their number or if they agree with the Board's decision. The Planning Board could be asked to modify the amount from two to three. If the Planning Board wants to stay at two, we could come back and argue the point.

Anderson stated she would like to keep the amount of licenses at three, mostly because local people would have an opportunity to invest in business. There are local people who have interest.

LaBrie asked if one entity can request more than one retail license in the same town, to which Hickey replied he thought they may be able to.

The Board voted on Cyganiewicz's motion to limit the licenses to three. **By a vote of *Husselbee no, all others aye, the motion carried by majority vote.***

- 7.4 Discussion of Town Manager's Final FY19 Budget for Board Approval - Hickey reviewed the minor six adjustments to propose to the Board to be considered in the Board's FY19 budget. Ultimately, numbers just had to be moved around to balance the budget.

Anderson asked about the \$10,000 coming from the Public Work Materials account; Hickey noted that the DPW account will be the same as it was in FY17 with the reduction.

Anderson then asked about the adjustment to the Stabilization Fund. Hickey noted that he wanted to present to both the Board and Finance Committee a request to utilize \$94,000 in funds from the Stabilization account to move from one savings account into the supplemental reserve account to properly fund it. As mentioned before, Hickey believes that the deficit will be paid off in FY19 and come FY20 there will not be a need for the \$94,000 to be budgeted. Hickey stated he understands it is a lot to absorb, and there were no questions on the use of the Stabilization Fund but there were some comments. One member of the Finance Committee noted they would not vote to use the Stabilization Fund. Hickey is trying to be proactive as to what the Board and Finance Committee would support a cut in. He also wants to ensure the Board that he is not trying to cause issues, but sincerely suggests the Board consider the cuts if the Stabilization Fund isn't being used. The proposed cuts would be the elimination of a police officer, a staff member at The Council on Aging, the removal of roadside trash, elimination of the equipment warranty, a reduction in the Town Manager overtime budget, and potentially cut the \$10,000 annual dues to the Clark Memorial YMCA. Hickey wanted to get a sense of how the Board felt about the proposal before he brought it before the Finance Committee.

Anderson noted she doesn't approve of taking money from the Stabilization Fund which was initially a rainy day fund. Something needs to be saved for at all cost. In her head, it would be the \$94,000 added up to the new police officer that was added as well as dispatcher. Going back to the last discussion, she noted that we have to be proactive knowing perhaps the adult marijuana shops might require that we do in fact add an additional police officer sooner rather than later. Anderson also noted she is not comfortable with any of the cuts proposed.

Husselbee stated that the money to fund maintenance and upkeep of the landing spot for med flights at the Clark could be done without. He believes a majority of the costs could be taken from the stabilization fund, and also mentioned the Finance Committee Reserve Fund.

Anderson noted that the Finance Committee has been safeguarding the Town's finances for the past few years now, and they have been ensuring the financial health of that account.

Hickey stated that \$65,000 from the Reserve Fund is the only amount in either budget to address the emergency that couldn't be made up for in the operating budgets. In FY17, the Town didn't need it and it lapsed into Free Cash. He understands the concern, and agrees with the Chair that \$65,000 isn't a lot if you're dealing with a \$29,000,000 budget.

Cyganiewicz noted the need for the Supplemental Reserve Fund is from the deficit legislation and the additional \$300,000 we are budgeting for will go away. He does not recommend using the Stabilization Fund for continuing expenses but does believe it will be in place after next year and hopefully not relevant. Stabilization should be used for one-time expenses and he feels appropriate to use in this respect.

LaBrie stated that there are cases where taking funds makes fiscal sense and she would be supportive of tapping into the fund for this but to ensure next year it is not reoccurring.

Anderson asked Hickey if he was looking for a motion, to which he replied he was just looking to bring this to the Board's attention before the budget got too far along. Whether it is the Board's consensus to support moving forward at Town Meeting and use the Stabilization Fund as proposed, or otherwise make cuts if the Board is alright with it. Anderson noted that there would be negative effects if the cuts were taken.

Hickey noted that he should have discussed this with the Board when the budget was originally presented. Ultimately, he wants a budget that both the Board of Selectmen and Finance Committee support.

Anderson noted that she appreciates and understands the gravity of having to borrow from the Stabilization Fund.

8. OLD BUSINESS:

There were no old business items at this meeting.

9. TOWN MANAGER'S REPORT:

Hickey noted that there will be free Narcan training on April 18th at 6:30PM, if there are any people interested in attending. Those who complete the class will get a free dosage of Narcan. Thanks go to the Police Department for hosting this event.

Additionally, if any dogs haven't been licensed the deadline is March 31st. Any licensing after that date will incur a fee.

1. Financial Updates-

- a. I presented my FY19 budget to the Finance Committee on March 19th. I have offered to meet with Fin. Comm. members as a group or individually to answer any questions they have prior to their April 24th public hearing.
- b. As a reminder, the warrant closes on Monday, April 9th at 10:00 am.

2. Personnel Updates-

- a. Town Accountant Bill Schlosstein attended and completed the second of three training courses to prepare for taking the Certified Town Accountant exam. The courses are offered annually. Mr. Schlosstein will take the third course next winter followed by sitting for the exam.

The Board thanked Bill who was in attendance this evening.

3. Project Updates-

- a. Work is continuing on the Royalston Road North temporary bridge installation. The bridge foundation on the east side is formed and concrete has been poured. The contractor is waiting for the concrete to cure prior to requesting MassDOT to allow work to begin on the west side. The temporary traffic lights and cameras have been installed and will be active once the temporary bridge is in use, sometime in April.
- b. The Fire Department and Building Commissioner are finalizing plans to begin placing a red X on buildings that they believe are unsafe for public safety officers to enter.

- c. I contacted National Grid for an update on the approval to begin the streetlight project. On February 23rd Winchendon was second or third in their legal department cue. As of March 21st, Winchendon is second in the cue.

Hickey added that Winchendon still remains second on list for the work. The legal department would not provide a date of review.

- d. Road construction work will begin on a section of Route 12 on or about the week of April 2, 2018. The section of Route 12 that will be improved will be from the state line to approximately 100' South of Mill Street. The work will include grinding the existing asphalt, installing new asphalt, relining the street, new signage and constructing a new sidewalk along the north side of Route 12.

Anderson asked if the work being done near the diner on Route 12 would obstruct traffic to the diner. Hickey replied it will be one lane of traffic and could cause a temporary obstruction to businesses on Route 12. Businesses will be reached out to prior to April 2nd.

4. Miscellaneous Updates –

- a. The Planning Board held their public hearing on the proposed bylaws regarding the adult sale of marijuana. The public hearing was continued until April 3rd. Retail sales on Central Street currently remain in the Planning Board's bylaw proposal. The Planning Board also is debating reducing the buffer zone from 500' to possibly no buffer zone.

Hickey added that what concerns him is the discussion of two items in the bylaw that are not eliminating Central Street in the area of valued usage and talk of reducing the buffer to something less than five hundred feet. He agrees with the Board's decision that an adult use marijuana retail establishment doesn't belong on Central Street, and reducing the buffer to three hundred feet. It creates an atmosphere where the establishments are much closer to areas where kids congregate. Unless the Board wouldn't like him to attend the meeting he would like to attend on April 3rd to reiterate that the Board of Selectmen, Police Chief, and he want the ability to sell adult use marijuana on Central Street removed.

Anderson asked if the Board would be receiving a list of the buildings that will be getting marked with a red X. Hickey said he would get a list for the Board as the buildings will be marked chronologically.

Hickey noted that the Public Works Department has put voids in the dams to start filling slowly, and will continue to do so until spring.

Cyganiewicz brought up a grant recently accepted by Hickey and Tracy Murphy in the amount of \$15,000. Hickey noted that the Planning Department applied for the grant to improve downtown signage. The grant would allow for the Planning Department to contract with a design company to get public input on the type and design of signs that would be posted on streetlights and consistent with the Welcome to Winchendon signs. The expectation would be to finish the design and get input completed and finalized by December first. We are hopeful that the signs will be up by the summer of 2019.

10. **MINUTES:**

- 10.1 Monday, February 26, 2018 - Regular Meeting - *Cyganiewicz made a motion to approve the minutes from February 26, 2018, seconded by Husselbee with a vote of all ayes.*
- 10.2 Wednesday, February 28, 2018 - Special Meeting - *LaBrie made a motion to approve the minutes from February 28, 2018, seconded by Husselbee with a vote of all ayes.*
- 10.3 Monday, March 12, 2018 - EXECUTIVE SESSION - *LaBrie moved to approve Executive Session minutes of March 12, 2018 and hold, not released; Husselbee seconded. By roll call vote of all aye, motion carried unanimously.*

11. **COMMUNICATIONS:** N/A

12. **AGENDA ITEMS:**

Hickey noted on April 9, 2018 at 10:00AM the warrant closes. The draft is basically done, and with the discussion had, an article will have to be added to request the use of The Stabilization Fund. After speaking with Legal Counsel, it was stated the initial review is done, and they are rushing to get back to the Board so they are aware of what the language has to be. There are five separate warrant articles for PILOT agreements for solar fields in Town. LaBrie noted she would like to wait until the warrant closes. Hickey noted he can provide a draft copy for the Friday before so any changes that have been made can be identified.

The School Department has a meeting coming up on March 28, 2018, and the Finance Committee will have their meeting on March 29, 2018.

The Substance Abuse Task Force now has a needle safe depository located at the Police Station. There are two drop boxes, one for needles and one for prescription drugs; free of charge.

13. **EXECUTIVE SESSION:** There was no Executive Session at this evening.

14. **ADJOURNMENT:**

LaBrie moved to adjourn, seconded by Husselbee. With a vote of all ayes, the meeting adjourned at 8:30PM.

Respectfully Submitted,



Lindsay Kuchta

Recording Secretary

