

BOARD OF SELECTMEN MEETING

November 6, 2017

Chairman Michael L. Champoux called the meeting to order at 7:03 p.m. in the Auditorium of the Wilmington Town Hall. Present were Selectmen Gregory B. Bendel, Kevin A. Caira, Edward P. Loud, Sr. and Michael V. McCoy. Also present was Town Manager Jeffrey M. Hull.

Chairman Champoux asked those present to rise and he led the pledge of allegiance.

TREASURY WARRANTS

Chairman Champoux asked for a motion to accept the Treasury Warrants. A motion was made by Selectman Loud, seconded by Selectman McCoy and by the affirmative vote of all, it was

VOTED: That the Board of Selectmen accept Treasury Warrants 17, 17A, 18 and 18A.

MINUTES

A motion was made by Selectman Bendel, seconded by Selectman McCoy to approve the minutes from the meeting of October 10, 2017. Selectman Caira noted that the vote counts were not recorded and requested that they be included to keep consistency. Chairman Champoux stated he had no objection and asked for a motion from the Board. A motion was made by Selectman Bendel asking Town Manager Hull to review the vote counts and include them before the next meeting, the motion was seconded by Selectman Loud and by the affirmative vote of all, it was.

VOTED: That the minutes of October 10, 2017 be reviewed to include the vote counts in the minutes to distribute to the Board.

CHAIRMAN CHAMPOUX, BOARD OF SELECTMEN, DISCUSSION RE: PETITION FOR SPECIAL TOWN MEETING TO REVISE TOWN OF WILMINGTON ZONING BYLAWS WITH RESPECT TO SUBSTANCE ABUSE DETOX FACILITIES AND TO CONSIDER POSSIBLE WARRANT ARTICLES TO AMEND THE WILMINGTON ZONING BYLAWS AND INHABITANT BYLAWS RELATIVE TO RECREATIONAL MARIJUANA

Chairman Champoux stated the Board will be discussing the scheduling of a Special Town Meeting. Selectman McCoy stated he spoke to the State Ethics Commission, Ms. Lauren E. Duca, Deputy Chief in the Legal Division in regards to conflict of interest document and what he submitted to the Town Clerk Sharon George. Selectman McCoy stated he thought this would be a simple meeting but he was dismayed when he saw his packet for tonight's meeting and read Town Counsel comments.

Chairman Champoux stated the request for Town Counsel comments were because Mr. McCoy was the spearhead for the calling of a Special Town Meeting. Selectmen McCoy stated that this was a citizen driven Town Meeting. Town Manager Hull stated that in respect to the petition, the Town Clerk certified the signatures and the minimum threshold was met.

Town Manager Hull went on to explain that for a Special Town Meeting, the Board of Selectmen has 45 days from receipt of the petition to call a Special Town Meeting which would be December 21, 2017. Town Manager Hull stated the Board needs to vote to open the special town meeting warrant, establish a date to close the Town Meeting Warrant and establish a date, time and location for the Special Town Meeting. Town Manager Hull recommends November 8, 2017 and that the special town meeting be scheduled for 7:00 p.m. on Tuesday, December 12, 2017 in the Wilmington Middle School. The Planning Board/Finance Committee Public Hearing must occur at least 10 days before Special Town Meeting or November 30, 2017. The Planning Board/Finance Committee need to submit their recommendations to the Town Clerk seven (7) days before Special Town Meeting or December 1, 2017. The Town Clerk must establish times to permit residents to

register to vote concluding by 8:00 p.m. This must occur at least ten (10) days prior to Special Town Meeting. A final date for Special Town Meeting would be December 12, 2017.

Chairman Champoux asked Town Manager Hull if the dates starting from tonight's meeting for December 12, 2017 Special Town Meeting were really compressed. Town Manager Hull stated that to have a Special Town Meeting, the Board has no more than 45 days from receipt of the petition.

Chairman Champoux stated that this is why we are having this meeting tonight. At this time, Chairman Champoux gave Board members a chance to speak. Selectman McCoy asked if he was looking for a vote for Special Town Meeting. Chairman Champoux stated that if a motion is made, a vote will be taken. Chairman Champoux requested Town Manager Hull read Town Counsel's opinion. Town Manager Hull read the opinion provided by Town Counsel. (See Appendices 1) Selectman McCoy stated he would like to read a response that he wrote in regards to Town Counsel opinion.

Town Counsel's opinion is "non-Binding" the Attorney General's role is only once we pass this article it is then Town Counsel's job to go to the Attorney General with our article. In Wilmington it is required to apply for and secure special permits. We have not created any new zones for "Detox Facilities". Let's pass this citizen article. It is the position of Town Counsel to protect and honor the Town on our behalf. Selectman McCoy stated that Town Counsel is biased. He suggested we will have to hire separate Counsel for Special Town Meeting. Mr. McCoy stated that Town Clerk, Sharon George, stated that even if this article passes, the Attorney General will kick it out. He asks how she can make that comment. Selectman McCoy asked Town Manager Hull again about the 45 day period. Town Manager Hull stated it is in the statute.

Town Manager Hull stated he had a conversation with Town Counsel about what was past practice. Clearly this is first Special Town Meeting driven by voters in many years. Based on this, Town Counsel's determination was the 45 days. Selectman McCoy quoted Chapter 39, Section 10 and stated that he spoke to Mr. Rosenberry at the State Elections Division of the Secretary's Office about Special Town Meeting and the 45 days and he was told that December 16, 2017 should be the meeting date and that Town Counsel is wrong.

Town Manager Hull stated that the Town Clerk sends to the Attorney General the article to see if it is legally binding. Town Counsel's role is to give legal advice. Based upon the law and background as he perceives it, he advises us of the legal risk going forward and advised that the petition article will not be upheld as legal.

Selectman McCoy states he begs to differ, that the applicant will still have to go through special permit. Selectman McCoy stated that different counsel have their expertise. John Hucksam specializes in zoning, John Foscett is not John Hucksam. John Hucksam should have given the opinion. Town Manager Hull stated it is a moot point. Town Counsel cited the Millbury case as part of the basis for his advice. So the same could be said for this treatment center. The article singles out certain categories of individuals.

Selectman McCoy went on to discuss the cost for a Special Town Meeting which is \$1,778.00. Selectman Loud stated that that is based on a four (4) hour meeting. Selectman McCoy addressed the audience, "See folks one word annual and special meeting." Chairman Champoux asked Selectman McCoy to curb his comments. Selectman McCoy made a motion now as outlined by the Town Manager that December 12, 2017 to open the warrant and the Board to consider the second

article. Chairman Champoux asked for a motion. Selectman McCoy offered the motion. It was seconded by Selectman Bendel. First a motion to Open Special Town Meeting Warrant, Second to Consider a date to close the Special Town Meeting Warrant and third date to hold the Special Town Meeting Warrant. Selectman McCoy motioned to open the Special Town Meeting Warrant and Selectman Loud seconded. Selectman Caira questioned having all three (3) motions going at the same time. Selectman Bendel stated he did second Selectman McCoy's motion. Selectman Caira stated he wants to make sure the vote is done the right way. Chairman Champoux asked Selectman McCoy if he would like to retract his first motion and Selectman McCoy retracted his motion and Selectman Bendel retracted his seconded.

BOARD TO CONSIDER OPENING SPECIAL TOWN MEETING WARRANT

Chairman Champoux asked if there were any questions, comments or a motion from the Board. A motion was made by Selectman McCoy, seconded by Selectman Bendel and by the affirmative vote of all, it was

VOTED: That the Board of Selectmen open the Special Town Meeting Warrant on November 6, 2017.

BOARD TO CONSIDER DATE TO CLOSE SPECIAL TOWN MEETING WARRANT

Town Manager Hull stated that once the date of November 8, 2017 has been determined there will be no more opportunity to add any more articles. Chairman Champoux asked if all were in favor and it was unanimous.

Chairman Champoux asked if there were any questions, comments or a motion from the Board. A motion was made by Selectman Bendel and was seconded by Selectman Caira to close the Special Town Meeting Warrant on November 8, 2017. A motion having been made and seconded, and by the affirmative vote of all, it was

VOTED: That the Board of Selectmen Close the Special Town Meeting Warrant on November 8, 2017.

BOARD TO CONSIDER SCHEDULING DATE, TIME AND LOCATION FOR SPECIAL TOWN MEETING

Town Manager Hull stated the Special Town Meeting would have to be held at the Middle School because of the schedule December 12, 2017 at 7:00 p.m. Chairman Champoux asked if there were any questions, comments or a motion from the Board. A motion was made by Selectman Caira and was seconded by Selectman Bendel to schedule a special Town Meeting at the Wilmington Middle School on December 12, 2017 at 7:00 p.m. A motion having been made and seconded, and by the affirmative vote of all, it was

VOTED: That the Board of Selectmen Schedule the Date, Time and Location for Special Town Meeting at the Wilmington Middle School, December 12, 2017 at 7:00 p.m.

Town Manager Hull stated the Planning Board/Finance Committee meeting will need to take place on Thursday, November 30, 2017. The warrant needs to be finalized and notice needs to be posted in each of the precinct locations by November 21, 2017.

BOARD TO CONSIDER INCLUSION OF ARTICLES RE: RESTRICTING RECREATIONAL MARIJUANA ON SPECIAL TOWN MEETING WARRANT

Chairman Champoux stated that the Board is seeking a moratorium to provide more time to understand how the regulations would be developed. Chairman Champoux stated that the state has moved forward with developing regulations and is expected to finalize regulations by the middle of March 2018. The Town does not have clarity as to how the law will be implemented. Chairman Champoux proposed a warrant article for the Special Town Meeting to extend the moratorium through December 31, 2018. According to Town Counsel the Attorney General would likely accept such an extension. Chairman Champoux also suggested an article banning recreational marijuana by zoning bylaw and a similar article banning recreational marijuana by inhabitant bylaw.

Chairman Champoux asked Town Manager Hull for clarity as to whether the articles prohibit the sales, and not the use in the privacy of one's home. The Town Manager stated that the articles would ban the sale of marijuana only. At this time, Chairman Champoux asked for discussion from the Board. Selectman Bendel stated that the proposal is in line with surrounding Towns who will be voting tomorrow, it is consistent with other Towns and does not include medical marijuana.

A motion was made by Chairman Champoux, seconded by Selectman Loud that the three (3) articles be included on the Special Town Meeting warrant and by an affirmative vote of all, it was

VOTED: That the article to extend the moratorium and the two (2) articles to restrict sale of marijuana in Wilmington be included on the Special Town Meeting warrant.

It was noted that residents can express their opinions at the Planning Board/Finance Committee public hearing and at the Special Town Meeting.

Selectman McCoy requested to present another article for the Board to consider including on the Special Town Meeting warrant. Chairman Champoux stated that the article is a moot point. He asked Selectman McCoy why the article could not have been provided to Selectmen three (3) days ago so that members would have time to review it. Selectman McCoy stated the article could not have been provided earlier because he only received his Selectmen's packet on Friday night and it was only then that he decided to propose an article that would restrict drug detox centers to areas along Ballardvale Street and the industrial zones and would change section 3.4.6 of the Zoning By-laws.

Selectman McCoy stated that if the Board does not accept his article, he will have to go to option two (2) and will be at Market Basket getting signatures to keep detox centers in the general industry/highway industry zones. He stated that his article is a winner. Chairman Champoux stated he has had five (5) minutes to review the article and Town Manager Hull stated he cannot base a recommendation on such a brief review. Selectman Bendel stated if there is anyone who wants an article on the warrant they need to get the signatures and present it before Town Meeting. Selectman Caira stated he is not prepared to act on the article either. Selectman Caira questioned Valerie Gingrich, Planning & Conservation Director, about the article and stated this most recent article appears to contradict the previous petition article. At this point Selectman Caira and Selectman McCoy went back and forth about the article.

Chairman Champoux suggested that the Board should work together with the Town Manager and the Planning Director and put forward an article for Town Meeting. At this point Selectman McCoy made a motion to include his article on the Special Town Meeting warrant. The motion

was seconded by Selectman Loud. Discussion continued about the proposed article from Selectman McCoy. Chairman Champoux called for a vote and with Selectman McCoy and Selectman Loud voting in favor and Chairman Champoux, Selectman Caira and Selectman Bendel voting against by a vote of 2 to 3 it was

DEFEATED: That Selectman McCoy's article to change zoning be placed on the Special Town Meeting warrant.

PUBLIC COMMENTS

Mr. Frank West, 2 Birchwood Road, addressed the Town Manager regarding his concerns with the Special Town Meeting being held at the Middle School. He questioned how many parking spots were available and the number of seats for those who would attend and suggested it be held in the High School. Town Manager Hull stated consideration would be given to the High School. He did not know the exact number of seats but would confirm. Mr. West asked if he could look at the overflow seating and asked if there were any other articles the Board was aware of. Chairman Champoux stated he was not aware of any other articles and Town Manager Hull stated he was not aware of any, but by tomorrow or Wednesday there might be additional articles.

Mr. Joe Burns, 9 Pinewood Road, asked the Board if they would consider holding the Special Town Meeting on a weekend, as opposed to a weeknight because the meeting could go long. Chairman Champoux stated he hopes it will not go long. Mr. Burns stated that holding it on a Saturday would give all residents an opportunity to attend. Town Manager Hull stated that given the time of year it is hard for people to come out and that one night should be enough to complete business. Chairman Champoux stated that given the observations being made, it should be possible to get through the meeting in one night. Selectman Caira stated that he has some concerns as well. He suggested waiting to see what articles come in. Chairman Champoux asked if the Board has some flexibility to reschedule. Town Manager Hull stated that a decision on the date must be made tonight based upon the timeline. Selectman Caira suggested keeping the meeting on the 12th and if it over runs the next night is available.

Town Manager Hull stated that there is a need to reserve the Middle School Auditorium for the next night in case the meeting runs over. Selectman McCoy made a motion to hold the Special Town Meeting on the Saturday. Selectman Loud noted that the meeting needs to be scheduled within forty-five (45) days. Town Manager Hull stated that the two (2) other dates are December 16th or 21st. Chairman Champoux asked Selectman McCoy if he was making a motion to change the date. Selectman McCoy responded "yes." Selectman Bendel reminded the Board that they had not yet taken a vote.

A gentleman from the audience stated that on the meeting of the 25th (September) it was stated that there was not enough time to review. Chairman Champoux stated that he did not have a vote on the issue of the detox facility. He stated that tonight the Board is being asked to support an article and he is not prepared to do that with five (5) minutes to review it. Chairman Champoux stated he wants the professional opinion of the Town Manager, the Planning Director and the Town Counsel. He noted he is representing 23,000 people in this community.

Mr. Karl Sagal, 7 Lawrence Court, stated he would like to speak in support of a Saturday for the Special Town Meeting. The Town's people are used to a Saturday and would have better

representation. He noted the discussion had gone on for a couple hours and that the meeting should be in the High School. Town Manager Hull stated that the challenge is the notice for a public hearing must occur at least then (10) days before the Special Town Meeting, therefore, this does not involve just changing one date. Selectman Loud asked if the Board really wants a Special Town Meeting eight (8) days before a holiday. He believes it is appropriate to leave the dates as suggested by the Town Manager. The Town Manager suggested an option of starting the meeting at 6:00 p.m. instead of 7:00 p.m. to give an additional hour of time for deliberation.

Mrs. Burns addressed the Board stating she would prefer a Saturday. She works in Boston and at night with children's performances, given the time of the year, parents would not want to miss them, therefore it should be on a Saturday. Chairman Champoux brought up the costs involved between a Saturday and a weekday night. Selectman McCoy made a motion to call the Special Town Meeting for December 16, 2017 at 10:30 a.m. at the High School gym. Town Manager Hull stated again that he would need to confirm the availability of the gym. Selectman Caira seconded the motion based upon availability, and if not to go back to the original date of the 12th. Mrs. Burns stated she appreciated the effort.

Chairman Champoux asked the Board if there was a motion. Selectman Loud offered a motion which was seconded by Selectman Caira. Town Manager Hull confirmed the intention was to call the Special Town Meeting for December 16, 2017 at the High School Auditorium and if that space is unavailable to go back to the original date of December 12, 2017 at the Middle School. Mr. Sagal stated he looked at the High School calendar and there is nothing on it for the 16th. Selectman Caira stated that the Sons of Italy has an all-day event for the Wrestling team at the Shriners and those people would not be able to attend the Special Town Meeting. There was further discussion about the dates.

Chairman Champoux asked for a motion which was made by Selectman Loud and seconded by Selectman Caira, and by affirmative vote of all it was

VOTED: That the Board of Selectmen schedule the Special Town Meeting Wilmington High School Auditorium, December 16, 2017 at 10:30 a.m.

NEW BUSINESS

Chairman Champoux offered his congratulations to Louis Cimaglia, Veterans Services Director who received an honorable mention at the Care Dimension award program "Where We Honor Veterans," for all his hard work.

Selectman Bendel encouraged residents to come out Saturday and honor Veterans at the Town Common. He also would like to thank the Department of Public Works for all the hard work after the storm.

Selectman Caira stated he attended the Brady Event for Suicide Prevention and Opioid use. The Brady Foundation is a charitable organization devoted to helping people in our community overcome addiction.

Selectman Loud also attended the event and would like to give thanks to the Veterans who gave their lives and kudos to Frank West for all he does. He stated that Lou Cimaglia Veteran Services

Director has requested green lights be place on the Town Common and to please put one at your house as well.

IMPORTANT DATES

Town Manager Hull reviewed important dates including:

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| November 25 | – | Curbside Collection of Yardwaste |
| November 6-9 | – | Brush Drop-Off – Old Main Street – 8:00 a.m. to 2:00 p.m. |
| November 10 | – | Town Offices Closed – <i>Veterans Day</i> |
| November 10-11 | – | Brush Drop-Off – Old Main Street – 9:00 a.m. to 4:00 p.m. |
| November 11 | – | Veterans Day Ceremony – Town Common – 11:00 a.m. |
| November 13 | – | Board of Selectmen Meeting – Town Hall – Room 9 – 7:00 p.m. |
| November 15 | – | Brush Drop-Off – Old Main Street – 8:00 a.m. to 2:00 p.m. |
| November 18 | – | Brush Drop-Off – Old Main Street – 9:00 a.m. to 4:00 p.m. |
| November 18 | – | Shawsheen Tech Craft Fair – 100 Cook Street, Billerica – 9:00 a.m. to 3:00 p.m. |
| November 22 | – | Brush Drop-Off – Old Main Street – 8:00 a.m. to 2:00 p.m. |
| November 23 | – | Thanksgiving Day - <i>Town Offices Closed</i> |
| November 24 | – | <i>Town Offices Closed</i> |
| November 25 | – | Brush Drop-Off – Old Main Street – 9:00 a.m. to 4:00 p.m. |
| November 27 | – | Board of Selectmen Meeting – Town Hall – Room 9 – 7:00 p.m. |
| November 27 | – | Discussion of Local Property Tax Policy with Reference to Classification for FY-2018 Board of Selectmen Meeting – Town Hall – Room 9 – 7:00 p.m. |
| December 2 | – | Christmas Tree Lighting – Town Common – 4:00 p.m. |
| December 3 | – | Breakfast with Santa – Knights of Columbus Hall
8:30 a.m. to 10:00 a.m. <i>or</i> 10:30 a.m. to 12:00 p.m. |
| December 3 &
December 4 | – | Festival of Trees – Villanova Hall |
| December 3 | – | Holiday Social – Harnden Tavern – 1:00 p.m. to 4:00 p.m. |
| December 7 | – | Santa's Workshop – Town Hall – Room 9 – 6:00 p.m. to 7:30 p.m. |

Chairman Champoux added the dates of November 30, 2017 for the Planning Board/Finance Committee meeting and December 16, 2017 for the Special Town Meeting.

There being no further business to come before the Board, a motion was made by Selectman Loud, seconded by Selectman McCoy and by the affirmative vote of all, it was

VOTED: That the Board of Selectmen adjourn.

Meeting adjourned at 9:03 p.m.

Respectfully submitted,

Recording Secretary