



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final Town Council

Tuesday, September 23, 2014

7:00 PM

Council Chambers

I. Roll Call of Members.

Present: 6 - Donna Chapman, Thomas Gleason, Roy Moore, Bob Muir, David Nadeau and Matthew Noel

Absent: 1 - Dennis Welch

II. Pledge of Allegiance.

Chairman Gleason led the assembly in the Pledge of Allegiance.

III. Minutes to be Approved:

[CD 14-325](#) To approve the minutes of the Council meeting of September 9, 2014.

Attachments: [Council Meeting Minutes of 9-9-2014](#)

A motion was made by Councilor Chapman, seconded by Councilor Muir that the minutes be approved. The motion carried by the following vote.

In Favor: 5 - Councilor Chapman, Council Chair Gleason, Councilor Moore, Councilor Muir and Councilor Nadeau

Absent: 1 - Vice Chair Welch

Abstain: 1 - Councilor Noel

IV. Public Participation.

No public participation.

V. Councilors' Comments.

Councilor Chapman: She asked who would they thank for Toby Pennel's service this past weekend? Tony said the School District, Police Department, and military units; they all did a wonderful job.

VI. Council Correspondence.

No Council correspondence.

[CD 14-287](#) Planning Board Agenda - August 25, 2014

Attachments: [Planning Board Agenda - August 25, 2014](#)

[CD 14-323](#) Planning Board Agendas - September 8 & 22, 2014

Attachments: [September 8, 2014 meeting agenda](#)
[September 22, 2014 meeting agenda](#)

[CD 14-333](#) Letter from Senator King's Office

Attachments: [Your Government, Your Neighborhood Initiative - letter of thanks](#)

[CD 14-334](#) The Opportunity Alliance - Fall 2014 Newsletter

Attachments: [Fall 2014 Publication](#)

[CD 14-336](#) Proposed Automobile Auction Facility standards

Attachments: [PB toTC Auto Auction combined 09-12-14](#)

[CD 14-340](#) Cumberland County Commissioners' Meeting Minutes

Attachments: [Agenda - Minutes of 8-18-14](#)

[CD 14-274](#) Windham Public Library Monthly Report - July 2014

Attachments: [July 2014](#)

[CD 14-321](#) Planning Department Monthly Report - August 2014

Attachments: [Planning Report 08-2014](#)

[CD 14-322](#) Windham Public Library Monthly Report - August 2014

Attachments: [Library Monthly Report - August 2014](#)

[CD 14-326](#) Public Works Monthly Report - August 2014

Attachments: [Public Works Monthly Report - August 2014](#)

[CD 14-328](#) Town Clerk's monthly report for August 2014

Attachments: [Town Clerk's Monthly Report - August 2014](#)

[CD 14-329](#) Code Enforcement Monthly Report July 2014

Attachments: [Code Enforcement Report July 2014](#)

[CD 14-330](#) Social Services Report - August 2014

Attachments: [Social Services Report - August 2014](#)

[CD 14-335](#) Monthly Financial Reports

Attachments: [Appropriation & Revenue Control reports through 9/11/14](#)

[CD 14-338](#) Fire-Rescue Performance and Activity Reports - August 2014

Attachments: [Fire-Rescue Performance Report - August 2014](#)
[Fire-Rescue Activity Report - August 2014](#)

[CD 14-339](#) Police Department - Monthly Report for August

Attachments: [Police Monthly Report August 2014](#)

[CD 14-341](#) Parks and Recreation Monthly Report - August 2014

Attachments: [Monthly Report August](#)
[Day Camp Survey Results](#)
[Dundee Park Survey Results](#)

[CD 14-342](#) Woodfords Family Services Newsletter

Attachments: [Summer 2014 Edition](#)

VII. Town Manager's Report.

[CD 14-345](#) Town Manager's Report

Attachments: [Town Manager's Report 20140919](#)
[Town Manager's Report Supplement 20140923](#)
[Town Council Letter re Library Hours](#)

Tony Plante: He expressed his appreciation to Assistant Town Manager Phyllis Moss for filling in for him at the last meeting. He was attending a site visit as part of the Robert Wood Johnson Foundation Funded Grant Project with Cumberland County and the City of Portland Public Health Coalition. They are looking at cross jurisdictional sharing and public health. It doesn't make sense for each community to try to create a fully functioning local public health function; it makes more sense for the communities to work together. Tony was asked to be part of the leadership team, and they are looking at this grant for ways to promote cross jurisdictional sharing and public health.

Last week he attended the 100th annual conference of The International City and County Management Association in Charlotte, North Carolina. He attended a session on Civic Engagement, an ongoing track on civility and public discourse and performance measurement, performance management and a few others. It was a very productive conference.

At the Special meeting on Sept. 2nd there was discussion of the change of hours at the Library relating to a number of factors; one of which was the transition to a new collection management system, but also what had been identified by the Director as well as her predecessor as staffing issues in the Library, and over the years the concerns about safety at the Library and in response to all of those things combined, the Library Trustees and the Library Director undertook a process, after budget approval, to look at how to meet the staffing needs to accomplish all of those things.

After deliberation and process their decision was to eliminate Saturday hours, and that prompted calls and concerns. At the end of the September 2nd discussion a suggestion was made that the Library Director put together a staffing plan for a resumption of Saturday hours and she did that. It involved some additional part-time hours and shifting some full-time hours from one day a week to Saturday. On an annual basis the total costs would be about \$18,850; if we were to implement it for the first of October it would be about \$14,150.

After Council discussion amongst themselves and with Jen it was decided that they would stay with the current schedule.

In regard to the selection process for new Fire Chief acceptance of applications closed last Friday, 30 applicants applied. The pool shows some good candidates and it is a respectable size applicant pool. The next step is to put an interview committee together. Tony publically acknowledged all those who stepped forward and offered their help as part of the process, but in order to keep the interview committee a reasonable size and to make sure they still reflect the different stake holder groups, they have got to keep it relatively small, but they will look for other ways to get some feedback from community members.

They are continuing with the implementation of MyGov, and he noted that the system has been live for about a month, and he noted that more extensive training was held today for support staff.

At the August 26th meeting the Council approved the purchase of cardiac monitors and automatic external defibrillators, but there was some questions about the comparability of the proposals, so it was left to Tony to evaluate the additional information from the fire/rescue personnel who went through the process of evaluating the different monitors and proposals. Tony got the additional information, and in the end Zohl's still had the overall lowest cost and the best mix of features, as evaluated by the paramedics. So Tony authorized the Chief to go ahead with the Zohl purchase as approved by the Council.

In the Planning Department's report they had an exciting event take place this last week, and it marked the first time that the town was using Critical Insite, a market research and survey firm from Portland. A couple focus groups were put together to demographically resemble the town to help with putting together a survey instrument for the comp plan. They have some early feedback from the focus groups, and when they get the final report he will share it.

This weekend is the Windham Great Bike, Walk, Paddle and Run Weekend. They are hoping to get people out enjoying the town's various parks, trails, and preserves or if there is another place you like to go just go out and be active, the town would like to hear about it. This Friday, Saturday and Sunday they are asking people to keep track of it for all the members of the house hold and then by Monday, September 29th at noon, to please email the total number of steps or miles you have logged over the weekend, as a family, the to greatoutdoors@windhammaine.us and you could win something.

VIII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Chapman: There will be some appointments made tonight. They have not received any new applications.

2. Finance Committee.

Councilor Nadeau: Reported they had a little presentation about looking at the budget meeting a little differently.

B. Other Committees.

1. Land Use Ordinance Committee.

Councilor Nadeau: Reported that they have submitted cluster subdivision to them and due to the work on the comp plan they will not meet until end of month.

2. Public Easement Advisory Committee/Roads Policy Task Force.

Councilor Nadeau: Reported that letters have gone out to roads and one has already generated a response back. Doug is putting a letter together to send back. He said they should have some work by the end of the month.

3. Windham Economic Development Corporation

No report.

4. Wastewater Management Planning Advisory Committee.

No report.

IX. PUBLIC HEARINGS.

[CD 14-324](#) To receive public comment relative to the issuance of licenses for junkyard/automobile graveyards in the Town of Windham.

Attachments: [Junkyards 2015 report](#)

[Junkyards 2014 2015](#)

No public comment.

X. CONSENT AGENDA.

[14-368](#) To approve the application of Lewis Weatherby d/b/a Atlas Auto Parts for a permit to operate a junkyard/automobile graveyard.

Attachments: [14-368 CoverSheet](#)

[Atlas Auto Parts permit](#)

[14-369](#) To approve the application of Jack and Albert Bazinet d/b/a Auto & Truck Inc. for a permit to operate a junkyard/automobile graveyard.

Attachments: [14-369 CoverSheet](#)

[Auto & Truck Recyclers permit](#)

[14-370](#) To approve the application of Robert Wolstenhulme d/b/a Bob's Salvage Yard for a permit to operate a junkyard/automobile graveyard.

Attachments: [14-370 CoverSheet](#)

[Bob's Salvage Yard permit](#)

[14-372](#) To approve the application of Roy Thistle and Anna DiSanto for a permit to operate a junkyard/automobile graveyard.

Attachments: [14-372 CoverSheet](#)

[A and R Properties permit](#)

[14-373](#) To approve the application of Peter A. Bailey, Jr. d/b/a Pete's Auto Body for a permit to operate a junkyard/automobile graveyard.

Attachments: [14-373 CoverSheet](#)

[Pete's Auto permit](#)

[14-374](#) To approve the application of Stephen Rogers d/b/a Serv-U-Garage for a permit to operate a junkyard/automobile graveyard.

Attachments: [14-374 CoverSheet](#)

[Serv-U-Garage permit](#)

[14-375](#) To approve the application of Jeff Whitney d/b/a Whitney's for a permit to operate a junkyard/automobile graveyard.

Attachments: [14-375 CoverSheet](#)

[Jeffrey Whitney permit](#)

Tony Plante: He said for the sake of the public he wanted to point out that junkyards/automobile graveyards are not permitted uses in the Town of Windham; these are all grandfathered and existed before the town adopted zoning. They are subject to state law and are inspected by Code Enforcement on an annual basis. All of these businesses were found to satisfy the requirements of state law.

A motion was made by Councilor Muir, seconded by Councilor Nadeau that the Order be approved. The motion carried by the following vote.

In Favor: 6 - Councilor Chapman, Council Chair Gleason, Councilor Moore, Councilor Muir, Councilor Nadeau and Councilor Noel

Absent: 1 - Vice Chair Welch

XI. UNFINISHED BUSINESS & GENERAL ORDERS.

[14-285](#) To adopt a resolution in support of the "Be the Influence" community

collaborative in addressing the pervasive adverse effects of substance use and abuse in the community.

Attachments: [14-285 CoverSheet](#)

[Resolution 14-285 in Support of the Be the Influence Community Collaborative](#)

Tony Plante read the resolution (see attached) and then the following people came up to give a presentation on "Be the Influence"; Liz Blackwell-Moore from Opportunity Alliance, Christine Hesler, RSU #14 curriculum director, Aimee Senatore, and Sgt. Andrew. Everyone was invited to their launch of the program, which is happening on September 29th at 10:00 am at the high school.

A motion was made by Councilor Muir, seconded by Councilor Chapman that the Council support the resolution. The motion carried by the following vote.

In Favor: 6 - Councilor Chapman, Council Chair Gleason, Councilor Moore, Councilor Muir, Councilor Nadeau and Councilor Noel

Absent: 1 - Vice Chair Welch

[14-355](#) To make appointments to boards and committees.

Attachments: [14-355 CoverSheet](#)

Councilor Chapman moved to appoint to the Karen Hickey to the Dundee Park Advisory Committee, David Libby to the Public Easement Advisory Committee, (note: Karen & David were previously appointed on August 26, 2014) and Bruce Raeburn to the Library Board of Trustees all for three year terms, seconded by Councilor Muir.

In Favor: 6 - Councilor Chapman, Council Chair Gleason, Councilor Moore, Councilor Muir, Councilor Nadeau and Councilor Noel

Absent: 1 - Vice Chair Welch

[14-366](#) To appoint a voting delegate and an alternate voting delegate to the Maine Municipal Association annual business meeting.

Attachments: [14-366 CoverSheet](#)

[Voting Credentials for MMA Annual Business Meeting](#)

A motion was made by Councilor Muir to appoint David Nadeau as the official Voting Delegate and Anthony Plante as the alternate Voting Delegate, seconded by Councilor Gleason. The motion carried by the following vote.

In Favor: 6 - Councilor Chapman, Council Chair Gleason, Councilor Moore, Councilor Muir, Councilor Nadeau and Councilor Noel

Absent: 1 - Vice Chair Welch

[14-371](#) To approve a Joint Funding Agreement with the U.S. Geological Survey (USGS) in the amount of \$16,000 for continued water quality monitoring in the well network in North Windham, funding for which shall come from the Roosevelt Promenade TIF fund.

Attachments: [14-371 CoverSheet](#)
[Email from USGS regarding groundwater monitoring agreement](#)
[USGS Agreement](#)

Tony Plante: Tony said the contribution from the U.S. Geological Survey this year will be zero. In the e-mail from the USGS their hope is that they will be able to modify the agreement once the new federal fiscal year starts October 1st. He still thinks this is important work that would continue the work from about the last 20 years in monitoring ground water quality in North Windham. They would still sample and track the ground water quality for a number of key indicators in most of the well network, and if Council approves it, they will see what happens after October 1st.

A motion was made by Councilor Muir, seconded by Councilor Gleason that the Order be approved. The motion carried by the following vote.

In Favor: 6 - Councilor Chapman, Council Chair Gleason, Councilor Moore, Councilor Muir, Councilor Nadeau and Councilor Noel

Absent: 1 - Vice Chair Welch

[14-381](#) To provide policy guidance to staff in the implementation of the General Assistance Ordinance that for the purposes of determining eligibility for assistance, immigration status not be considered.

Attachments: [14-381 CoverSheet](#)
[Memo G.A. Policy Guidance](#)
[Memo - Amended order language 14-381](#)

Tony Plante: This item was discussed on September 9 following communication from The State Department of Health and Human Services with regard to cities and towns administering general assistance for persons who's immigration status may or may not be legally present in the United States. He said we have had legal guidance from Bernstein Shur through MMA and we got guidance from the town attorney as well. He and Assistant Town Manager Phyllis Moss were of similar opinion that we are stuck in the middle of this issue, and in terms of the risk to the town, that our risk is greater following DHHS guidance and exposing the town to liability under a civil rights claims then we would be for risking reimbursement of general assistance funds from the state. Our current budget for General Assistance, in total, is \$50,000, so the state's portion of that would be \$25,000. He said he thinks it is safe to say that in any civil rights law suit the towns potential exposure would be well in excess of \$25,000. We are not taking a position when it comes to whether the DHHS position is right or wrong; that is still a matter to be worked out. We know that we have an ordinance that we have to abide by; which was adopted by the Council; which is the same model the General Assistance ordinance that every city and town in the State of Maine uses, and given that, and given the potential exposure to the town, his understanding of the discussion on the 9th was we would choose not to take immigration status into account when determining general assistance eligibility.

Jensen Baird is recommending that if someone does not qualify, we do not give them assistance, but if they do qualify they receive it. The guidance that they have been given may not be complete, and it opens the town up for a possible civil right's suit if we deny based upon the fact that they are lawfully present; the determination of which may not be correct. Phyllis said they would most likely want to include the disclaimer that says "we are not experts at this, we can't really determine, and we can follow your guidance and go step by step, but we still might make a mistake." Including this disclaimer protects the municipality in some way. Phyllis said the application itself

requires them to gather certain pieces of information in order to make a determination for general assistance, if we are not able to get those pieces of information, someone will be denied assistance. If they cannot give us what we need; they will be denied regardless. She said they have 24 hours to make a decision and they verify all of their information with the help of Department of Health and Human Services and they double check pretty much everything before they make a determination.

Tony said his understanding of the issues with DHHS's guidance is - we are not in a position to be able to determine whether someone is or isn't in the country legally. He thinks this is what this is intended to address, all the different sets of different circumstances that could lead someone to be here and not be a citizen; we cannot tell reliably whether they are here legally or not legally, so if they are otherwise eligible, that we would provide assistance. If they are not eligible, he does not care where they are from; they are not getting it.

Phyllis said that the Town of Gorham has decided to go with what MMA is recommending; which is to provide assistance to someone who might not be lawfully present, if we make that determination. The risk to them is less than a civil rights suit, and Gorham made the decision on their own regardless of what we were doing.

After some Council discussion, they felt they wanted to postpone, as the order was a little too broadly worded.

Councilor Muir moved to postpone Order 14-381 to October 14th, seconded by Councilor Gleason.

14-381 To provide policy guidance to staff in the implementation of the General Assistance Ordinance that for the purposes of determining eligibility for assistance, immigration status not be considered.

In Favor: 6 - Councilor Chapman, Council Chair Gleason, Councilor Moore, Councilor Muir, Councilor Nadeau and Councilor Noel

Absent: 1 - Vice Chair Welch

XII. Discussion Items.

[CD 14-305](#) Lake Region Bus Update

Attachments: [RTP council update](#)
[RTPLRB RackCard](#)
[RTP Update Presentation](#)

[CD 14-303](#) Facilities Master Planning: Establishing Top Level Priorities

Attachments: [SMRT Space Needs & Facilities Master Plan Final Report](#)

[CD 14-302](#) Strategic Planning: Draft Mission, Vision, and Values Statements

Attachments: [Vision, Mission, and Values 20140825](#)
[Vision, Mission, and Values 20140905](#)
[Email to Council on DRAFT Mission, Vision, and Values 20140912](#)

XIII. Agendas & Scheduling.

[CD 14-344](#) Agenda Items Report

Attachments: [Agenda Items Report 20140919](#)

Note: The last two discussion items were not taken up, but will be the subjects of a special meeting on September 30 at 7:00 p.m.

XIV. ADJOURN.

A motion was made by Councilor Noel, seconded by Councilor Muir, that the be adjourned. The motion carried by the following vote at 9:32 p.m.

In Favor: 6 - Councilor Chapman, Council Chair Gleason, Councilor Moore, Councilor Muir, Councilor Nadeau and Councilor Noel

Absent: 1 - Vice Chair Welch

Respectfully submitted,

Linda S. Morrell
Town Clerk, CCM