



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final Town Council

Tuesday, October 14, 2014

7:00 PM

Council Chambers

I. Roll Call of Members.

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

Absent: 1 - Roy Moore

II. Pledge of Allegiance.

Chairman Gleason led the assembly in the Pledge of Allegiance.

III. Minutes to be Approved.

III. Minutes to be Approved.

[CD 14-348](#) Approve the minutes of the September 23, 2014 meeting.

Attachments: [Minutes of 9-23-2014](#)

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

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

Absent: 1 - Councilor Moore

Abstain: 1 - Vice Chair Welch

IV. Public Participation.

No public participation.

V. Councilors' Comments.

No Councilor comment.

VI. Council Correspondence.

No Council correspondence.

VII. Town Manager's Report.

[CD 14-355](#) Town Manager's Report.

Attachments: [Town Manager's Report 20141010](#)

Tony Plante: Tony gave an update on the process for finding the next Fire/Rescue Chief. Charlie Hammond will be retiring around the end of this calendar year. Rick Dacri of Dacri Associates was engaged to conduct an assessment of the department and to help determine the attributes of a candidate who can lead our Fire/Rescue Department for the next number of years. Rick put together a candidate profile, developed draft interview questions and from there the town put together an announcement of the position opening. It was listed for a few weeks, it was advertised regionally and it got some national reach. At this point they had 30 applicants by the deadline. Tony has assembled an interview team, which includes members of our own management team, including the Assistant Town Manager/HR Director Phyllis Moss, who will be coordinating the work of the interview team, two area Fire Chiefs, a representative from the School District, business community, the community at-large and our Police Department. They will go through the field of 30 based on the attributes identified in the candidate profiles, then they will narrow that field to an interview pool where they will do the first round of interviews, then that will be narrowed down to a smaller number. Once they reach that point Tony will conduct interviews and for two but no more than three, he will convene to hold community conversations; one with the management team, one with department members of the Fire/Rescue Department and one for invited members of the community. Once that process is done he will make a final determination and some preliminary negotiations with the final candidate before he brings them to the Council for the Council to meet with them and have an opportunity to hear from them and for them to hear from Council before he puts a name forward for confirmation.

At the September 9 meeting there was an update about holiday lighting plans that Councilor Chapman and Tom Bartell have been working. Tony had follow up meetings with Tom and a rep from Lucas Tree, and they reviewed pricing on a variety of lighted holiday decorations, mainly ground lighted signs and other ornaments. They were able to get comparable pricing and move forward with the contract and purchase consistent with policy. They have ordered \$30,550 dollars in contracts and ornaments, but they will still have some additional expenses for electrical work that needs to be done. They will be doing all four fire stations, trees at the rotary, signs at a couple of North Windham locations and other places.

At the MMA Convention a couple weeks ago, along with the convention, the Maine Fire Chiefs Association had its annual meeting at which they gave out their 2014 Maine Fire Chief of the Year award, and Charlie Hammond was nominated for that award. This nomination was reviewed by a committee of the Maine Fire Chiefs Association who looked at criteria related to teaching to service outside the fire service, and their commitment to the association over the years. This was awarded to him on October 1, 2014. Tony said in recognition of a lifetime of public service prior to and at certain points at the same time as being an educator, Chief Hammond has been an example of public service, and it was especially fitting where he is going to be retiring at the end of this year that he receive the award.

Other things happening - Work is continuing at the Library with the transition with Minerva. The Conservation Corp will begin doing its work at Lippman Park later this month. They are continuing work on the Strategic Planning effort. They have the community survey starting with the Comp Plan, and they have a couple of forums lined up, dates will be announced. They are done paving for this year. There is one section of Falmouth Road that was done by MDOT. The town paved Whites Bridge Road, Albion Road, Falmouth Road, and earlier completed work on Newhall Road and Route 302.

VIII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Chapman: She and Councilor Muir went on Speak Out to talk about the vacancies on the committees. A couple things came out of it and one thing was the costs of advertising. She thought maybe putting it on website instead of always advertising in the papers might help, and Tony said they can do that, but because of the appointment rotation they do plan to advertise at least 3 times a year, and he will make sure they always have something up on the website.

Councilor Chapman said they would also like to look at some of the Charges, i.e. the Channel 7 TV, along with some other Charges.

2. Finance Committee.

Councilor Nadeau: He said they are waiting to put the discussion on the agenda, and that he would be here for one more meeting, then it would have to wait until December as he will be away.

B. Other Committees.

1. Land Use Ordinance Committee.

Councilor Nadeau: He said tonight there will be the recommendations for Cluster Subdivision.

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

Councilor Nadeau: He said letters have been sent letters out, and some roads have to have work done by a certain date, but they have had little response back.

3. Windham Economic Development Corporation.

Councilor Noel: He said the WEDC meets tomorrow morning at 7:30 at the Library.

Tom Bartell: Tom said the WEDC went in with GPCOG to look for a grant from the USDA utilizing local foods for local institutions such is schools, colleges, hospitals. The local farmers are finding it is difficult to get them into the institutions and the institutions are finding it hard to get the local foods. They are working with GPCOG along with their IMCP, which is centered around food production and processing in the Cumberland County region. They are joining them to survey and work with institutions and food producers in the local area to see if they can make a difference in that institutional buying.

IX. PUBLIC HEARINGS.

[CD 14-337](#) To receive public comment on proposed changes to sections of the Land Use Ordinance, Chapter 140, to define and create standards for an Automobile Auction Facility.

Attachments: [Planning Board memo to Council - Auto Auction Facilities](#)
[Staff to TC Auto Auction 10-10-14](#)

No public comment.

X. CONSENT AGENDA.

[14-399](#) To find that the requirements of 28-A MRSA §653 have been met and to approve an application submitted by JMA Enterprises Inc. d/b/a Pat's Pizza-Windham for a renewal liquor license.

Attachments: [14-399 Cover Sheet](#)
[Pat's Pizza Liquor renewal.pdf](#)

[14-400](#) To approve the Town Clerk's roster of Warden and Deputy Warden for the November 4, 2014 election: for Districts 24 & 25, Warden Marcia Blanchard, and Deputy Warden Paulette Shepard.

Attachments: [14-400 Cover Sheet](#)

[14-401](#) To set the date and time for extended hours of the Registrar of Voters as 4:00 to 7:00 p.m. on October 29, 2014.

Attachments: [14-401 Cover Sheet](#)

[14-402](#) To set poll hours and polling location for the November 4, 2014 General & Municipal Election as 7:00 a.m. to 8:00 p.m. at the Windham High School's Main Gym.

Attachments: [14-402 Cover Sheet](#)

[14-405](#) To approve an application submitted by Central Maine Power Company to locate one(1) utility Pole and cables and wires there on Albion Road, approximately (45') northeasterly of Pope Rd.

Attachments: [14-405 Cover Sheet](#)
[CMP Pole Permit-Albion Rd.pdf](#)

A motion was made by Councilor Muir, seconded by Councilor Welch that the Consent Agenda be approved. The motion carried by the following vote.

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

Absent: 1 - Councilor Moore

XI. UNFINISHED BUSINESS & GENERAL ORDERS.

[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 Plate: Said this item had been postponed from the previous meeting, and as part of the Council materials they have a memo from the Assistant Town Manager Phyllis Moss with a suggested replacement. He stated this could be an amendment by substitution, and Tony read the statement at the bottom of the first page of Phyllis's memo.

Councilor Chapman: She referred to Natalie's statement of "If you want, you could add, "This policy is not intended as the statement of any position on either the current DHHS policy on immigration status or on the pending litigation." She asked do we totally ignore that piece?"

Councilor Noel: He said if someone provides documentation and it is obvious that the individual is illegal, how can we ignore it? Tony said if they have the documentation, without passing judgment on whether they are here legally or illegally, we are not immigration officials, but if they provide the documentation that fully responds to the requirement of the GA Ordinance, then for our intent, they are here legally, but we will not make that determination in the place of an agency who's responsibility it is to actually do that. Councilor Noel said "but if it is crystal clear the person is not qualified to be here", Tony said then they should not be able to provide the documentation and our denial would be based on their failure to provide adequate documentation. All documents need to be valid and current.

Phyllis Moss: She said if the applicant provides documentation that is not current, it is not acceptable. If it has been doctored up, tampered with in anyway it will not be accepted, and they will deny the applicant based on that. However, if they provide documentation that is valid, current and has not been tampered with and can prove to us that they are deserving, and live in the Town of Windham, then they qualify for assistance based upon our Ordinance, that is all there is to it. They would not provide assistance to someone that could not provide that to us.

Tony Plante: Tony said they are not in a position to make a definitive pronouncement on someone's immigration status, that is up to Immigration and Custom's enforcement. If we make a denial based on someone's inability to provide us with valid documentation, we are not making a decision based on their immigration status. We will base it on their provision of valid documentation, if they can't produce that, then we will make the denial based on their failure to provide documentation, not on their immigration status. Councilor Noel said "wouldn't it be clear verbiage or copy to say that we are going to base the decision on valid documentation being provided versus any statement relative to immigration status?" Tony said you could take the last part out, but they were trying to to say "if this looks like we are trying to make a determination based on immigration status, we are not." It was agreed that it would be clearer if they removed the last statement.

Councilor Nadeau: Moved to amend Order 14-381 by substitution to read to provide policy guidance to staff and the implementation of the General Assistance Ordinance that for the purposes of determining eligibility for assistance the town will continue to require valid documentation relating to an applicant's lawful presence in the United States, seconded by Councilor Muir.

Vote 6-0 on amendment

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

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

Absent: 1 - Councilor Moore

[14-387](#) To approve amendments to the Town's Land Use Ordinance, Chapter 140, to define and create standards for an Automobile Auction Facility.

Attachments: [14-387 Cover Sheet](#)
[Planning Board memo to Council - Auto Auction Facility](#)
[Staff to TC Auto Auction 10-10-14](#)

Ben Smith - Planning Director: Ben read from the memo dated September 12th in regard to the Planning Board's meeting of September 8, 2014. He said at the August 12th meeting there were a few additions that the Council made to the work that had been presented, and the Board was fine, generally, with the suggested additions. Regarding the storage of fluids in the memo of October 10th the Board thought a storage limit of 50 gallons should be allowed. Ben said there was also a lot of discussion around burned vehicles, and the ED District does have some standards that do talk about pollutant, and he thinks those are fine, and if there are additional things that are required, that they could come out of the site plan review process on a project by project basis. The PB did not change the length of time that the vehicles could be stored onsite, and noted that in the draft wording around screening, which was also discussed at the August 12th meeting, is that the recommendation is just to require screening from abutting properties and road ways as opposed to occupied properties.

Councilor Nadeau: He still thinks they should be covered, and also feels they should have a standard about stacking cars.

Councilor Chapman: She thought it was covered that it wasn't a junkyard, and these were wholesale cars. Ben said the PB did discuss stacking vehicles, and was not included in the motion because the discussion was about auction facilities verses junkyards/scrapyards. There was discussion about the height of fences used for screening and maybe 6 feet may not be enough, but the Board wanted to leave that open so it can be handled on a project by project basis. Councilor Chapman thinks 50 gallons is a reasonable amount looking at the number of cars they will have there. Councilor Muir said he did not think it would hurt anything to have in there that they cannot stack cars. He had no problem with the cars being covered with a tarp or under an enclosure. Councilor Noel said that was covered.

Councilor Noel: Moved to amend 14-387 to add to sections to 506 E and in 506 F.A. no more than 50 gallons of fluids stored onsite and 506 D.B. no stacking of vehicles allowed, seconded by Councilor Muir.

Vote on amendment 6-0

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

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

Absent: 1 - Councilor Moore

[14-396](#) To refer proposed ordinance changes to Chapter 140, to amend cluster subdivision standards in order to create density bonuses in exchange for public access, reduce dimensional requirements for lots in a cluster subdivision, and allow cluster subdivisions in all residential zoning districts to the Planning Board for review and recommendation.

Attachments: [14-396 Cover Sheet](#)
[LUOC to TC_combined_09-22-14](#)

A Motion was made by Councilor Chapman, seconded by Councilor Noel that the Order be approved. The motion carried by the following vote.

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

Absent: 1 - Councilor Moore

[14-406](#)

To authorize the Town Treasurer to negotiate the terms of an Equipment Lease Purchase Agreement or Agreements and related documents providing financing of up to \$232,051 including the interest rate, maturity and other terms and conditions with whatever financial institutions the Treasurer deems appropriate and to award the Equipment Lease Purchase Agreement(s) to such financial institution or institutions as he deems to be in the best interests of the Town in order to provide the Town with two (2) cardiac monitors, five (5) defibrillators, and one (1) 2013 dump truck and plow gear (collectively the "Project") at an aggregate cost of up to \$232,051 plus interest at a rate or rates to be determined by the Town Treasurer,

FURTHER VOTED: That under and pursuant to the provisions of Maine law and the Town Charter, the Treasurer be and hereby is authorized to execute and deliver a tax-exempt Equipment Lease Purchase Agreement or Agreements in the name and on behalf of the Town for the purpose of providing the Project, at an aggregate cost of not more than \$232,051 in such form as the Treasurer may approve; and to execute and deliver in connection with such Equipment Lease Purchase Agreement(s) such other documents as required by the Lessor of such equipment; and the Treasurer is further authorized to execute and deliver on behalf of the Town such other documents and certificates as may be required in connection with such tax-exempt equipment lease purchase agreement, including an Arbitrage and Use of Proceeds Certificate and a Signature and Award Certificate; and no part of the proceeds of such tax exempt equipment lease purchase agreement shall be used, directly or indirectly, to acquire any securities and obligations, the acquisition of which would cause the tax-exempt lease purchase agreement to be a "private activity bond" or an "arbitrage bond" within the meaning of Sections 142 and 148, respectively, of the Internal Revenue Code of 1986, as amended (the "Code"); and that the tax-exempt lease purchase agreement issued pursuant hereto be and hereby is designated as a qualified tax-exempt obligation within the meaning of Section 265(b)(3)(B)(ii) of said Code; and the Treasurer be and hereby is authorized to covenant on behalf of the Town to file any information report and pay any rebate due to the United States in connection with the issuance of said tax-exempt lease purchase agreement, and to take all other lawful actions necessary to insure the

interest portion of the rental payments under and pursuant to the tax-exempt lease purchase agreement will be excluded from the gross income of the owners thereof for purposes of federal income taxation and to refrain from taking any action which would cause such interest portion of the rental payments to become includable in the gross income of the owners thereof. The Town, pursuant to Internal Revenue Service Treas. Reg. 1.150-2, hereby declares its official intent to pay, on an interim basis, costs of the Project, which costs the Town reasonably expects to reimburse with proceeds of such tax exempt Equipment Lease Purchase Agreement(s) to be issued by the Town in the maximum principal amount of \$232,051.

Attachments: [14-406 Cover Sheet](#)

Councilor Nadeau: He said he would like to see it broken down and then lumped, he thinks it would be easier to follow and remember if it has been a couple of meetings ago that it had been discussed. Councilor Noel will not vote for it because he was not in favor of some of the parts previously, so he will not vote because of the way the wording is written.

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

- In Favor:** 5 - Councilor Chapman, Council Chair Gleason, Councilor Muir, Councilor Nadeau and Vice Chair Welch
- Opposed:** 1 - Councilor Noel
- Absent:** 1 - Councilor Moore

[14-407](#)

To authorize a three-year lease purchase agreement in an amount not to exceed \$232,051 (principal amount) at an interest rate of 2.25% with TD Equipment Finance for the purpose of financing the purchase of (2) cardiac monitors, (5) defibrillators, and (1) 2013 dump truck and plow gear.

Attachments: [14-407 Cover Sheet](#)
[Lease quotes & capital budget plan](#)

Tony Plante: He pointed out that for the dump truck they had originally planned to finance for 5 years, and if you look in the approved capital plan, that is the way it shows up, but because the amount that they planned out for the five years is high enough, they were able to take advantage of the lower interest rate combined with the defibrillators and monitors to reduce the term to three years. The overall annual payment for the three years is a little bit more, but then you don't have payments at all in years four and five.

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

- In Favor:** 5 - Councilor Chapman, Council Chair Gleason, Councilor Muir, Councilor Nadeau and Vice Chair Welch
- Opposed:** 1 - Councilor Noel

Absent: 1 - Councilor Moore

[14-410](#) To find that the requirements of 28-A MRSA §653 have been met and to approve an application submitted by New England 9 Ball LLC d/b/a Sneaky Pete Billiards for a renewal liquor license.

Attachments: [14-410 Cover Sheet](#)
[28-A MRSA 653](#)
[Sneaky Pete's Liquor renewal.pdf](#)

Rick Lewsen - Police Chief - Read a letter from the land owner of the Sebago Plaza where Sneaky Pete's is located. He said Gareth is substantially behind on his rent and he will be terminating his tenancy shortly at the Sebago Plaza, 824 Roosevelt Trail. Today Gareth Steele sent Chief Lewsen an email asking if it would be possible to have his liquor license application delayed until the next meeting. Rick's recommendation is to postpone this to the November 18th.

Councilor Nadeau: He asked if there were any legal issues regarding his liquor license? Chief Lewsen said he had a fine this summer for minors drinking at his establishment.

A motion was made by Councilor Noel, seconded by Councilor Welch the the Order be postponed to November 18. The motion carried by the following vote.

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

Absent: 1 - Councilor Moore

[14-411](#) To adopt mission, vision, and values statements as part of the town's strategic planning process.

Attachments: [14-411 Cover Sheet](#)
[Mission, Vision and Values Summary REVISED 20141006](#)

Tony Plante: He said this was the result of the conversation they had at the Special meeting of September 30th. It was a follow-up to the work they did, which followed on work that staff and he did pulling it all together. Tony read the Mission statement and said they took the word "local" out as it was a little redundant. He then read the Vision statement and noticed the word "local" was left in and needed to be removed, but he wanted to add the notion of flexibility; because it is not enough to simply respond, because you can respond in an inflexible, rigid and static way and that is not what they were looking for.

Councilor Muir: Moved to strike the word "local" in the Vision statement.

Vote 6-0 on amendment.

A motion was made by Councilor Noel, seconded by Councilor Welch that the Order be approved as amended. The motion carried by the following vote.

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

Absent: 1 - Councilor Moore

XII. Discussion Items.

[CD 14-318](#) Report of the Wastewater Management Planning Advisory Committee.

Attachments: [CD 14-318 Cover Sheet](#)
[Map 10-2014 Exhibit 1](#)
[WMPAC Report Final](#)

XIII. Agendas & Scheduling.

[CD 14-356](#) Agenda Items Report.

Attachments: [Agenda Items Report - Scheduled Items 20141010](#)
[Agenda Items Report - Items Not Yet Scheduled 20141010](#)

XIV. ADJOURN.

**A motion was made by Councilor Noel, seconded by Councilor Muir to adjourn.
The motion carried by the following vote at about 8:48 p.m.**

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

Absent: 1 - Councilor Moore

Respectfully submitted,

Linda S. Morrell
Town Clerk, CCM