



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final Town Council

Tuesday, August 26, 2014

7:00 PM

Council Chambers

I. Roll Call of Members.

Present: 5 - Thomas Gleason, Bob Muir, David Nadeau, Matthew Noel and Dennis Welch

Absent: 2 - Donna Chapman and Roy Moore

II. Pledge of Allegiance.

Chairman Gleason led the assembly in the Pledge of Allegiance.

III. Minutes to be Approved:

[CD 14-260](#) To approve the minutes of the Council meeting of July 22, 2014.

Attachments: [Council Meeting Minutes 7-22-14](#)

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

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

Absent: 2 - Councilor Chapman and Councilor Moore

[CD 14-288](#) To approve the minutes of the Council meeting of August 12, 2014.

Attachments: [Council Meeting Minutes 8-12-14](#)

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

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

Absent: 2 - Councilor Chapman and Councilor Moore

IV. Public Participation.

No public participation.

V. Councilors' Comments.

Councilor Muir: He said he would like to have a session on the Library hours, and to talk

about fireworks.

Councilor Nadeau: Last Tuesday they went on a hike through the Lowell Preserve; he said it has grown up quite a bit and it was pretty interesting.

VI. Council Correspondence.

None.

[CD 14-273](#) Windham Public Library Newsletter August 2014

Attachments: [Check It Out August 2014](#)

[CD 14-282](#) The Archangel Committee Summer 2014 Newsletter

Attachments: [Archangel Committee Newsletter](#)

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

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

[CD 14-286](#) Monthly financial reports - FY '15

Attachments: [Appropriation & Revenue Control reports](#)

VII. Town Manager's Report.

[CD 14-289](#) Town Manager's Report.

Attachments: [Town Manager's Report 20140822](#)
[Council Goals 2014 Update 20140822](#)

Tony Plante: They had a tour of the portion of the Lowell Preserve that had the timber harvesting done a year ago this past May/June. In anticipation of the Council discussing whether to continue with the timber harvest; the time for getting that process going is coming quickly, and he noted the ideal time to do this is the winter.

This evening they had a brief meeting with the Dundee Park Staff and Dundee Park Advisory Committee down to the park. Councilor Muir and Nadeau attended. This year resembles last year in terms of numbers of days that the park has been closed to inclement weather, and park visitors stand about the same. Their revenues are down a little bit, and they did see more groups than single visitors. He said there are 10 new charcoal grills, new tables that have been built by the Park Caretaker/Assisant Manager, and it continues to be well kept.

He noted that in the correspondence section this week it normally would have had the monthly reports for July. He said with this years budget we spent quite a bit of time trying to focus more and more on mission, success and measurement. What the mission of a department is; how we define success of that mission, and at least one way in how we measure to determine whether we are being successful at that element of the mission. We want to make sure we keep returning to this in the monthly reports and not just reporting on it occasionally, but there may not always be progress to report towards those because things occur at different points of the year. The reports will be in the September 9th packets.

Reported on the search for a new Fire/Rescue Chief and then a new Police Chief. Over the last few weeks they have been working with Rick Dacri to do assessments of each of the Departments and involving departmental staff, and other people in the organization to understand where these departments are today and what their needs are. The work has been done, they had the assessments, candidate profiles, and drafted interview questions, and as of this afternoon the Fire/Rescue Chief's position has been posted in numerous places. Applications are due in by September 19th.

At the staff meeting next week we will be working as a management team on a draft mission statement. We have been pulling the mission statements that were included in the budget looking at key things and elements. Will also work on elements of visions and values, and then they will be sending them out to people in the organization for feedback and back to the Council for further feedback. The purpose of this exercise is to establish something of an interim strategic plan between now and the time we complete a comprehensive master plan in early 2017, and we can use that for a basis for writing a new strategic plan.

The implementation for the MyGov work continues. The go-live date was yesterday, but there is still a transition period they are going through.

In following up on a Council consideration of a rezoning at the meeting of July 22nd, which was to rezone a parcel of property in C1 to RM on Sandbar Road; Tony had a couple of ideas that he worked with Ben Smith on, and he said Ben did most of the work in going back and looking at work that the LUOC had done on this issue back in 2010-2012. He included a copy of that analysis in an e-mail to the Council earlier today and will be adding it to the on-line materials. There was a question that night about where the 5 acre minimum lot size came from. They identified that the 5-acre figure was a statement of policy preference. There was no hard and fast rule about that, but looking at the size of the lots that were in the area that would be covered and orient the overlay district to larger size developments, instead of having smaller piecemeal through the district was how they arrived at that number. In speaking with Ben, he discussed the possibility of changing it to 4.5 acres or 200,000 sq. ft; and it would not significantly change the number of parcels that would be considered eligible for the retirement community care facility overlay designation or reach the minimum lot size. So if that is what the Council was inclined to do, something other than the 5 acres, it does not make a huge difference to the number of parcels that would be opened up for development.

Councilor Nadeau: He said when the LUOC looked at the acreage, they used 5 acres because they went out and looked at other communities and that is what they had for a minimum.

VIII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Muir: Reported that they will be appointing a couple of people for appointment later on in the agenda.

2. Finance Committee.

Councilor Nadeau: Reported that they may try to have meetings before the Council meetings once a month.

B. Other Committees.

1. Land Use Ordinance Committee.

Councilor Nadeau: Reported that they will be meeting tomorrow, and they are working on cluster subdivisions and they are making progress.

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

Councilor Nadeau: Reported that all the roads have been inspected, and Edra is in the process of writing letters for each and every road they inspected of the first third. He said it has come to their attention that Old County Road, off of Gilman Road, has a public portion, then a private portion. The private portion on the hill has washed out, and they are going down tomorrow to inspect it. Those folks will have to do something this year to keep plowing on that portion of the road. He said they did inspect it last year because the people were under the impression it was still all public. It was proven to them that it was not all public, and they agreed to do maintenance on the top section, and he understands that the maintenance was never done. There will be an update at the next meeting and the outcome.

3. Windham Economic Development Corporation.

It was noted that they will be giving an update later on in the meeting.

4. Wastewater Management Planning Advisory Committee.

Tony Plante: He reported that the meeting last week had to be postponed, and the next meeting is for next Wednesday. He said they have reached a point of beginning to work on an outline report and recommendations to the Council likely for the September 23rd meeting.

IX. PUBLIC HEARINGS.

[CD 14-258](#) To receive comment on a new liquor license application submitted by Danielle DeSimon d/b/a Danielle's Sebago Diner.

Attachments: [Danielle's Sebago Diner Liquor License Application](#)

No public Comment.

[CD 14-283](#) To receive public comment on the adoption of amendments to the Town's Land Use Ordinance, Chapter 140, Section 915 and Section 1001, to remove the limits on the number of building permits issued per year in subdivisions with more than 20 lots.

Attachments: [PB Recommendation to TC Section 915 - Building Permit Limits](#)

No public comment.

- [CD 14-284](#) To receive public comment on the adoption of amendments to the Town's Land Use Ordinance, Chapter 140, Section 800, to allow the Staff Review Committee to review site plan applications for projects within approved subdivisions, and development of between 25,000 square feet and one (1) acre when no buildings are proposed.

Attachments: [PB Recommendation to TC Section 800 - Staff Review](#)

No public comment.

X. CONSENT AGENDA.

- [14-303](#) To find that the requirements of 28-A MRSA §653 have been met and to approve an application submitted by Joseph Ruggiero d/b/a Ruggiero's Pizza for a renewal liquor license.

Attachments: [14-303 CoverSheet](#)
[Ruggiero's Liquor License Application](#)

- [14-309](#) To approve an application for a motion picture theater license submitted by Milton Smith d/b/a Smitty's Cinema-Windham LLC at 795 Roosevelt Trail.

Attachments: [14-309 CoverSheet](#)
[Smitty's Motion Picture License Application](#)

- [14-322](#) To approve an application submitted by Northern New England Telephone Operations LLC and Central Maine Power Company to locate one (1) utility pole and cables and wires there on Collinwood Circle, approximately (130') southwesterly of Running Brook Rd.

Attachments: [14-322 CoverSheet](#)
[Fair Point Pole Location](#)

Councilor Nadeau asked that they show us the right-of-way in the drawing.

Councilor Noel: He asked if staff could find out where do the telephone poles get placed relative to the right-of-way? Is it in the right-of-way, or along the outside edge of the right-of-way? If they approve it, is it the town's responsibility to pay for the removal or the relocation of that pole if the road gets widened because we authorized it to be placed in the right-of-way instead of along the outer most edge of the right-of-way?

Councilor Nadeau: He said some folks have service underground, and the electric company is obligated if your service is above ground to take it to your house because it is their wire, but if is underground it is your wire.

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

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

Absent: 2 - Councilor Chapman and Councilor Moore

XI. UNFINISHED BUSINESS & GENERAL ORDERS.

[14-293](#) To find that the requirements of 28-A MRSA §653 have been met and to approve an application submitted by Danielle DeSimon d/b/a Danielle's Sebago Diner for a new liquor license.

Attachments: [14-293 CoverSheet](#)

[Danielle's Sebago Diner Liquor License Application](#)

Heather McNally: She said she is in mid-construction and moving forward. Heather has had a discussion with her, and she plans to be open by October 1st. Heather would recommend approval with a condition of having an occupancy permit.

Councilor Noel. Moved to amend Order 14-293 to add that an occupancy permit is obtained prior to the issuance of the liquor license, seconded by Councilor Nadeau.

Vote 5-0 on amendment.

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

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

Absent: 2 - Councilor Chapman and Councilor Moore

[14-297](#) To make appointments to boards and committees.

Attachments: [14-293 CoverSheet](#)

A motion was made by Councilor Muir to appoint Karen Hickey to the Dundee Park Advisory Committee for a 3-year term, ending 5-15-17, and David Libby to the Public Easement Advisory Committee for a 3-year term, ending 2-15-17, seconded by Councilor Noel. The motion carried by the following vote.

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

Absent: 2 - Councilor Chapman and Councilor Moore

[14-308](#) To award a bid for the purchase of cardiac monitors, defibrillators, and brackets from ZOLL Medical Corporation and Bound Tree Medical for the total price of \$68,696.59, as outlined in the memo from Fire-Rescue Chief Charles Hammond dated August 13, 2014, such purchase to be reimbursed by the proceeds of a tax-exempt municipal lease-purchase agreement with annual payments to be made from capital equipment replacement funds, account 100-9110-44190.

Attachments: [14-308 CoverSheet](#)
[AT & T Data Plan Rate Sheet](#)
[Bound Tree Quote for Zoll Brackets](#)
[Cardiac Monitor Memo](#)
[FR-2015-003](#)
[Physio Control Monitor tech support](#)
[Zoll Monitor Defibrillator Purchase](#)
[Zoll Quote](#)

Tony Plante: Introduced Chief Hammond and Mark Scribner, a Windham Paramedic, to share the process they went through. Mark Scribner explained their process on how they decided on Zoll Medical Corporation and Bound Tree Medical, and then he answered the questions the Councilors posed to him.

Councilor Nadeau: Wants to make sure they will be able to transmit from anywhere in town, as we have lots of low areas in town where transmissions are not good.

Councilor Noel: He had a couple of unanswered questions. 1) what is the life cycle of these units, are they comparable to the others? 2) what were the other quotes, and where did they come in if they also met our specifications? Tony said they will get the answers.

They decided to vote on the Order and leave it up to Tony to get the answers to the two questions, and if the life expectancy is about the same as the old ones, and the bids are similar, then they will leave it up to his discretion. If they are out of line, then bring it back, but other than that let it go. All were in favor of that.

A motion was made by Councilor Noel, seconded by Councilor Welch that the Order be approved on the condition of Councilor Noel's questions being checked out first. The motion carried by the following vote.

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

Absent: 2 - Councilor Chapman and Councilor Moore

14-312

To approve amendments to the Town's Land Use Ordinance, Chapter 140, Section 915 and Section 1001, to remove the limits on the number of building permits issued per year in subdivisions with more than 20 lots.

Attachments: [14-312 CoverSheet](#)
[PB recommendation toTC Sec915 08-13-14 combined](#)

Ben Smith: Ben said this section has to do with building permit limits within subdivisions. He recommended removal of that section, as it does not meet the state requirements for our growth management ordinance, and it also seems to be ineffective at limiting residential growth within the town. He said the next question is, does the Council want a growth management ordinance in the community? He didn't feel this current section is a good way to go about that and should be removed, but separately,

the council should consider "is this something they want to replace with wording that does meet the state requirements and would limit the potential issuance of residential building permits within the community?" He did a rough calculation and it is likely if we had an ordinance in place today that met the state requirements, the town would be in a position of limiting permits before the end of the year. Do we want to remove the wording as currently written, which is the staff recommendation, and do we want to have a conversation as a community about whether we want something to replace that?

Tom Bartell: He recalled in years past there was a limit at one point for the number of building permits, and he believed that when we hit that limit we had they gym full of people wanting to get a building permit, which they were unable to do. Somehow that was changed so we did not have a limit anymore. He thinks they ought to think carefully whether this is something we want to do as a community.

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 - Council Chair Gleason, Councilor Muir, Councilor Nadeau, Councilor Noel and Vice Chair Welch

Absent: 2 - Councilor Chapman and Councilor Moore

[14-313](#)

To approve amendments to the Town's Land Use Ordinance, Chapter 140, Section 800, to allow the Staff Review Committee to review site plan applications for projects within approved subdivisions, and development of between 25,000 square feet and one (1) acre when no buildings are proposed.

Attachments: [14-313 CoverSheet](#)

[PB recommendation toTC Staff Review 08-13-14 combined](#)

Ben Smith: Ben said there is two pieces to this; it goes back to the Council's assignment to LUOC earlier this year, and one of the top three priority items was to look at staff approvals within approved subdivisions. He said E5 of the ordinance has the first point having to do with reclassifying all site plans within an approved subdivision as minor. So today there is a split between minor subdivisions and major subdivisions. A minor is classified as minor between 2,000 and 5,000 square feet of building area, anything over 5,000 square feet of building area is a major subdivision. The first part of this proposed change would classify any building site plan, whether it is over 5,000 feet, or 20,000 feet or over a 100,000 square feet, it does not matter if it is within an approved site plan and can plug into the assumptions that were made during the approval of that subdivision. It would be classified as a minor and go through the staff review committee approval process as oppose to the Planning Board approval process.

The second portion has to do with classifying as a minor site plan any site plan that has a nonresidential use with no buildings on it, and that is between 25,000 square feet and and one acre and calling it a minor site plan. So today any non-residential use with no buildings, like a gravel pit, a golf course, etc. that don't involve buildings of structures, anything over 25,000 square feet is automatically called a major site plan. This would differentiate between that type of disturbance activity between 25,000 square feet and one acre and calling that a minor, and anything over one acre of development without buildings would be a major. If it is under one acre it does not require a DEP permit or engineered stormwater, that would be classified under the town ordinance as proposed as a minor site plan.

Tom Bartell: It is a very positive step and will be well received in the development community, because if manufacturers come to town they need to have a quick response from the town on these things, and if they can come into an approved subdivision and set things up; it acts more like a pre permitted site and is very favorably looked upon from a development point of view.

Dustin Roma: He said he was a big supporter of this topic. This would be something that would encourage some businesses to locate here in town; just the perception of having a staff review even though they are not using different principles and standards than the Planning Board would use, it is just the perception of expediting the review of a project; it goes a long way when people are making business decisions.

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

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

Absent: 2 - Councilor Chapman and Councilor Moore

[14-323](#)

To approve an agreement between the Town of Windham and the Maine Department of Transportation (MDOT) for Municipal Partnership Initiative (MPI) funds to align and improve the intersection of Anglers Road, Whites Bridge Road, and Route 302.

Attachments: [14-323 CoverSheet](#)

[MPI-Agreement Windham 20232.04](#)

Tony Plante: Tony explained that this was a project that had been worked on at a staff level and the WEDC has been working on it for several months, and they have had the discussion with the proposed North Route 302 Roadway Impact Fee, which the Council did approve a version of that. They've been working with MDOT to identify the portions of the project they would consider eligible for match, so they can leverage the full \$500,000 in municipal partnership initiative funds. They did agree to count the \$455,500, which is the purchase price of the Angler's Road property by WEDC, even though that property, ideally, except for the portion where the Angler's Road right-of-way will be relocated, will eventually be sold in some fashion and developed.

This would leave the town to come up with the balance of the construction, which for the purposes of this agreement, was estimated at a little over a million and a quarter dollars. The maximum we can get from the state of is \$500,000. They have done some work since, and the actual cost of construction will be somewhat less than the one and quarter million dollars, but they need to keep the project moving. From the time the agreement is approved they have 12 months to start and 2 years to finish the project.

Councilor Nadeau said his one request would be to keep a running total on what that TIF is, and to see where it is and where it isn't. There is a lot of things coming out of it.

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 - Council Chair Gleason, Councilor Muir, Councilor Nadeau, Councilor Noel and Vice Chair Welch

Absent: 2 - Councilor Chapman and Councilor Moore

[14-324](#) To refer proposed amendments to the Land Use Ordinance, Chapter 140, regarding code enforcement officer interpretations and rockeries to the planning board for review and recommendation.

Attachments: [14-324 CoverSheet](#)

[Chapter 140 Amendments Relative to Rockeries and Code Interpretation](#)

Councilor Muir asked if this was going to do what they wanted it to do, and Councilor Noel asked what the process was at the Planning Board level, will there be a public hearing on it? Councilor Nadeau said they would have to hold a public hearing.

Heather McNally: The interpretation of the language is her biggest concern with the requirement for the opinion of an engineer or an application; that could be interpreted to mean for any type of application, not just a rockery application, it could be considered a commercial application.

The building code, when adopted by the state, did not exclude the section within the code that said a policy could not be put in place that makes it any less than restrictive. They did allow for municipalities to do portions within the permitting section of it, and she has talked with Tony about the possibility of exempting those in the permit section of our ordinance.

Her biggest concern with the application for stamp plans, is to apply for a permit being too broad and not just pertaining to rockeries.

Councilor Muir: So if someone is building a rockery and they have stacked walls for landscaping, and even if it is away from a house and does not support a structure, they currently need to get a building permit, but if this passes they will not need one. Heather said that was correct.

A motion was made by Councilor Welch, seconded by Councilor Muir that the Order be referred to the Planning Board. The motion carried by the following vote.

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

Absent: 2 - Councilor Chapman and Councilor Moore

XII. Discussion Items.

[CD 14-253](#) Facilities Master Plan.

Attachments: [14-0818 Final Draft for Council Review \(12+ MB\)](#)

[CD 14-240](#) Windham Economic Development Corporation update.

Attachments: [WEDC Council Update 8-26-14](#)

[GATEWAY NORTH TIF SUMMARY](#)

[Gateway North TIF A and B](#)

XIII. Agendas & Scheduling.

[CD 14-290](#) Agenda Items Report.

Attachments: [Agenda Items Report 20140822](#)

XIV. ADJOURN.

A motion was made by Councilor Noel, seconded by Councilor Muir that they adjourn at 11:17 p.m. The motion carried by the following vote.

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

Absent: 2 - Councilor Chapman and Councilor Moore

Respectfully submitted,

Linda S. Morrell
Town Clerk, CCM