



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Town Council

Tuesday, October 25, 2016

7:00 PM

Council Chambers

I. Roll Call of Members.

Present: 6 - Donna Chapman, Roy Moore, Bob Muir, David Nadeau, Dennis Welch and Tim Nangle

II. Pledge of Allegiance.

Council Chair Chapman led the assembly in the Pledge of Allegiance.

III. Minutes to be Approved:

CD 16-385 To approve the minutes of the October 11, 2016 Council meeting.

Attachments: [Minutes-Town Council - 10-11-2016](#)

A motion was made by Councilor Welch, seconded by Councilor Muir that the Minutes from both the regular and Special meeting on October 11, 2016 be approved. The motion carried by the following vote.

In Favor: 6 - Council Chair Chapman, Councilor Moore, Councilor Muir, Councilor Nadeau, Vice Chair Welch and Councilor Nangle

CD 16-387 To approve the minutes of the October 11, 2016 special Council meeting.

Attachments: [Minutes-Special Town Council-10-11-2016](#)

IV. Public Participation.

Linda Morrell - Informed the public that for this election the voters will need to enter the school through the long canopy entrance at the High School, for this election only. This will allow for more people to be under cover in case of bad weather. For future elections we will go back to using the same entrance as usual, the doors across from the tennis courts.

There will be no school for the high school that day so parking shouldn't be an issue.

Councilor Chapman asked about the 250' mark for political signs and would changing the entrance affect the signs along the side of the road. I stated that we would be remeasuring and placing the "no political activity" signs appropriately.

V. Councilors' Comments.

No Council Comment.

VI. Council Correspondence.*No Council Correspondence.*

CD 16-382 Maine Seniors Magazine - Article Windham's Medical Loan Closet

Attachments: [Maine Seniors, "Medical Loan Closets," Summer 2016](#)

CD 16-370 Parks and Recreation Department Monthly Report - September 2016

Attachments: [Parks & Recreation Monthly Report - September 2016](#)

CD 16-371 The Town Clerk's Monthly Report for September 2016.

Attachments: [Monthly Town Clerk's Report for September 2016](#)

CD 16-372 Monthly Financial Reports

Attachments: [Monthly Revenue Control Report](#)

[Monthly Appropriation Control Report](#)

CD 16-373 Windham Public Library Monthly Report - September 2016

Attachments: [Windham Public Library Monthly Report - September 2016](#)

CD 16-374 Public Works Monthly Report - September 2016

Attachments: [Public Works Monthly Report - September 2016](#)

CD 16-375 Police Department Monthly Report - September 2016

Attachments: [Police Department Monthly Report - September 2016](#)

CD 16-376 Code Enforcement Monthly Report - September 2016

Attachments: [Code Enforcement Department Report September 2016](#)

[Shoreland Zoning Amendments 53 2016](#)

[Activity Report - By Violation Type \(1\)](#)

[Activity Report by Project Type September 2016](#)

[Fiscal Year Activity Comparison \(1\)](#)

[Inspections Summary - By Project Type \(1\)](#)

[Impact Fees Collected September 2016](#)

[Door count through September 2016](#)

CD 16-377 Assessing & GIS Monthly Report - September 2016

Attachments: [Assessing Report - September 2016](#)

CD 16-378 Fire-Rescue Department Monthly Report - September 2016

Attachments: [Fire-Rescue Monthly Report - Sept 2016](#)

CD 16-386 Social Services Monthly Report - September 2016

Attachments: [Social Services Monthly Report - September 2016](#)

VII. Town Manager's Report.

CD 16-383 Town Manager's Report.

Attachments: [Town Manager's Report 20161021](#)

[Projects & Issues List 20161021](#)

[Projects & Issues Sheets 20161021](#)

Tony Plante: He said with respect to Election Day there will be no Council meeting that night by Council Rules Section 1. Any meeting day that falls on Election Day is moved to the following Tuesday, but there will be one on November 15.

He said the Angler's Road Project is virtually complete, but they are still waiting for the mast arms and signals. He does have a construction meeting tomorrow morning to review the project and figure out what the status is of the mast arms and signals. It looks like they should be installed the end of November, but are hoping to make it happen sooner.

The South Windham Fire Station is continuing to move along. They were looking for completion early to mid-November, but with the rains from this past weekend there was a leak in the roof. They did know there was a leak in the roof and this was something that was to be taken care of by the contractor, but they were not able to get the roofing people in and now we have damage to some of the work that was done.

Tony sent an email to the town attorney earlier today, in regard to the legalization of marijuana and the response he received from him about other communities that are looking at adopting moratorium ordinances in anticipation of the possible passage of Question 1 on November 8.

The Parks & Recreation Department and the Parks & Rec Advisory Committee are working on a grant application to the Land & Water Conservation Fund for the Skate Park & Community Park improvements that they talked about in September. That will be coming before the Council on November 15. The deadline for application is November 18.

Tony had a meeting today, along with the Finance Director, with representatives from the Portland Water District about our assessment for South Windham sewer for 2017. They meet with them annually, because there is sewer in the So. Windham Village. The treatment plants are operated by the PWD, and annually they have to decide or determine what their assessment will be for the following year for the maintenance operation and upkeep of the interceptor sewers, pump stations and our share of the treatment facility. He said that for the first time since 2010 our assessment will be going up 2.5% as of January 1. Reason 1 - Increased costs of individual items of the budget, and because the assessment is based on a proportional share of flow.

He said in regard to the Council Orientation, similar to what we did this past January for the new Council, is to get together with Department Heads and other staff to talk about goals for the coming year. The dates that were previous suggested, December 3 & 10 do not work, so he said they will wait until January like they did last time.

VIII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Nangle: The Appointments Committee met with Nick Kalogerakis and would like to nominate him for a 2-year term to the Windham Economic Development Corp. with a term to expire on 2/15/2018, and Trista Collins to the Human Services Advisory Committee for a 3-year term to expire on 5/15/2019.

2. Finance Committee.

Councilor Nadeau: He said they have not met.

B. Other Committees.

1. Land Use Ordinance Committee.

No report.

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

Councilor Nadeau: He reported that everything looks good.

3. Windham Economic Development Corporation

Tony Plante: There is an annual meeting coming up this Wednesday evening beginning at 5:00 p.m. at the Windham Veteran's Center. There will be a presentation from the WEDC, the first ever Economic Development Champions award and a keynote speech by Charles Lawton, a noted local economist.

4. Wastewater Management Planning Advisory Committee.

Tony Plante: He said they received a report from Wright-Pierce yesterday. They sent it out to the committee, they are reviewing it, and they will be setting up a meeting in the next couple of weeks..

5. Parks & Recreation Advisory Committee.

Councilor Chapman: There is a Halloween Adventure party this weekend at the Middle School, they are hoping for a good turnout.

IX. PUBLIC HEARINGS.

CD 16-351 To receive public comment on a proposed Consumer Fireworks ordinance, Chapter 96 of the Code of the Town of Windham.

Attachments: [Chapter 96 Consumer Fireworks DRAFT 2016 Update 20161007](#)

Susan Rallis - Smith Rd. on Little Sebago Lake. She previously sent an email asking the Council to pass an ordinance. She urges the Council to vote in favor of this ordinance. They found bum marks on their float and boat cover. She feels it is like harassment listening to the fireworks going off constantly.

Julie Warren: Is pleased with the Ordinance as it stands. She said two Saturdays ago, around 7:30 pm, there were fireworks set off and it scared her dog right off the couch.

Jeff Dunlop - Basin Road: He is dead set against any fireworks in the town at all, but could live with a few days a year..

Jeff Lander - Dutton Hill Road: He agrees with Mr. Dunlop. He said his wife goes to bed at 8:00 p.m. and wakes up at 9:00, 10:00 or 11:00 pm. and there is always fireworks going off. They also have three horses. He hopes the Police Department tightens up the laws. Feels it would be fair to allow them on certain occasions.

Earl Harnden - Presumpscot Cove: Is glad to see they are doing something after 3 years of complaints. His development, along with another in the area, are competing to who can have the loudest fireworks.

Rob Gears - Dutton Hill Road: He stated that for the last few years there has been a constant barrage of explosions, sometimes it is every day of the week but slows down this time of the year. Glad to see they are helping the citizens. He read the draft that a committee wrote and feels it covers all the high spots, but felt it still left some time for people to have some celebration time.

Donna Rondeau - 5 Dutton Hill Road: She is concerned about some of the Veteran's out there who have PTSD.

Public Hearing Closed.

X. CONSENT AGENDA.

XI. UNFINISHED BUSINESS & GENERAL ORDERS.

16-168 To adopt a proposed Consumer Fireworks ordinance, regulating the use of consumer fireworks, as Chapter 96 of the Code of the Town of Windham.

Attachments: [16-168 Cover Sheet](#)

[Chapter 96 Consumer Fireworks DRAFT 2016 Update 20161007](#)

[Councilor emails regarding fireworks/fireworks ordinance UPDATED 20161024](#)

Tony Plante: Tony briefly read the Ordinance to let the people know what it does and does not permit. (See Attached) He said what Councilor Chapman was speaking about was on October 4th there was a suggestion that Saturdays be added to that as days on which consumer fireworks would be permitted, again, assuming it is not a Fire Danger Class of 3,4,5 that day and you are more than 150 feet from a building and you have gotten a permit. She noted that she did not see that in this draft.

Councilor Nangle: Based on what he has heard this is the best draft that they have come up with, and no one he has spoken with supports fireworks every Saturday. He was concerned about Police enforcement.

Chief Schofield: To address the issue of any town ordinance violation is to ticket and fine people to court, not arresting them. Their goal is to have voluntary compliance with the Ordinance. What they like about the Ordinance is it gives them some clear direction and to follow up on complaints.

He said the public is justifiably frustrated with the noise, but the people were acting within accordance with the law, so the Police had no authority to ask anyone to cease their behavior. If they can get voluntary compliance, because when the Police take people into court on a ordinance, his Court Officer has to manage the entire process. The court does not get involved when it comes to prosecuting the case if they have to call in witnesses or present a case to the judge if there is a trial. While it is nice to have clear rules and enforcement action in place, it does require a lot of staff time and hours in order to do that. Public education will be a key component to make it work.

Councilor Welch: In reference to a speaker from the audience who said he heard that unless you actually see someone with fireworks in their hand and lighting them, then they can get a ticket. Chief Skofield said that is not exactly true. The standard of proof, in a case like this, is a lot less than a typical criminal case. They have to prove, most likely than not, someone was responsible for shooting off fireworks.

Councilor Chapman: In the draft she had seen previously fireworks were allowed every Saturday, but the draft for the public hearing did not have it. She feared without having Saturday in there the Police would be getting all of those complaints because people will be doing it anyway. Gorham has a hard time enforcing it, and they have had the ordinance since the state law changed.

Councilor Muir: He will support the ordinance in the way it is drafted. He said people have to realize that the Police will be prioritizing the calls and if a crime or domestic call comes in they will be dealt with before a fireworks complaint.

Councilor Nadeau and Councilor Welch: They are in support of the ordinance but both were concerned with the 150 feet. A lot happens around the lakes and the lots are not 150 feet wide for many of them.

Councilor Nangle: He received a call from a lake resident who paddle boards, and she comes across lots of litter from fireworks in the water. This could be an environmental issue as well.

Councilor Moore: People should have the ability to have fun; he doesn't like to over regulate things. He thinks only having four days is a little short cited. He suggested maybe having one certain Saturday per month.

Councilor Welch: He was in favor of the Saturdays, and he stated he hoped to hear from the others who were in favor of fireworks and would want to keep the Saturdays in the ordinance, but all he has heard from are the people who are here tonight and e-mails from those who are against it, so he has to support them.

In the ordinance it talks about seizing peoples fireworks, and if they can legally possess them in this state, do we have the authority to seize their fireworks? Chief said not if

they are in simple possession. Councilor Welch questioned whether they should take it out of the ordinance.

Tony said section 96-5 is Seizure and Disposal. This is a common feature in other fireworks ordinances that the town looked at, and it was sent to legal counsel for review. This was not pointed out as a problem. Chief Skofield said it would most likely be if the fireworks was being seized for evidence in court for evidence of a violation. If someone has mere possession, they would not seize it.

Tony Plante: Reminded people that the ordinance will take 30 days to go into effect, so between now and November 25th they will have some work to do about getting the word out. Councilor Muir said people may have to bear with the noise until the word gets out and the ordinance goes into effect.

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

In Favor: 6 - Council Chair Chapman, Councilor Moore, Councilor Muir, Councilor Nadeau, Vice Chair Welch and Councilor Nangle

16-178 To adopt a resolution proclaiming Saturday, November 26, 2016 as "Small Business Saturday."

Attachments: [16-178 Cover Sheet](#)

[Small Business Saturday Proclamation DRAFT 20161021](#)

[Small Business Saturday Info Sheet](#)

Councilor Chapman: Read the resolution attached.

Tom Bartell: They very much supports this, and they can promote people utilizing small businesses. He said we have everything we need here in Windham and the Lakes Region.

Amy Senator - Executive Director of the Chamber: She thanked them for doing the resolution. Their Chamber represents ten communities in the Sebago Lakes Region, and Windham has one of the largest populations of businesses. They have done several events in the past years to promote small businesses. On November 10th they have an event coming up just prior to the date, they will utilize all of the tools they have to get out all the information to people.

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

In Favor: 6 - Council Chair Chapman, Councilor Moore, Councilor Muir, Councilor Nadeau, Vice Chair Welch and Councilor Nangle

16-180 To extend winter maintenance to Anthoine Road from Route 302 (Roosevelt Trail) to 25 Anthoine Road pursuant to the Council's "Policy Regarding the Extension of Windham Maintenance on Public Easements."

Attachments: [16-180 Cover Sheet](#)

[Anthoine Road Association Request](#)

[Public Works Director Response to Anthoine Road Request](#)

[Winter Road Maintenance -Easement Acceptance Policy](#)

Doug Reynolds: He said they are curious as to what becomes of their application, so they can improve the road further in order to get maintenance approved.

Tony Plante: Tony said they have materials from the Anthoine Road residents and a copy of their requests. Pursuant to the Council's policy on extending winter maintenance to public easements our Public Works Director Doug Fortier went down and took a look. The Council has a memo dated September 26th from Doug to Tony evaluating the requests against the policy. The memo stated that there are a number of points in which the request does not meet council policy, so they are unable to recommend the extension of winter maintenance at this time but it is a Council decision.

Councilor Nangle: He said he understood the policy, but the biggest issue he has is the town restricts the winter maintenance based on whether the road went through subdivision process. The property owners have no control over that; the people who have bought houses on these private roads have no control over whether or not it has gone through subdivision, and he thinks to penalize a group of residents because the developer used loop holes at times to develop, basically, an illegal subdivision, the town should not be holding that against the residents. However, if the road does not meet the standards and is not wide enough, there are obstructions that could damage town equipment would make sense, but he would amend the policy that says that it has to go through a subdivision review, if it has gone through one, and is acceptable it should just be a public road.

Councilor Nadeau: He said that 48% of the towns roads are private roads. This request is only asking to go part way down Anthoine Road, there is no turn around.

Councilor Chapman: She said she would not support this. She read some State language on Private roads and Road Associations - In general, a municipality has no legal right to spend public funds to repair, maintain or plow privately owned roads. In emergency cases, such as a house fire, it is legal to send a snow plow down so that a fire truck can get to it, but the owner is responsible for ensuring that the road is sufficiently maintained to allow the plow to get through. In 2009 the legislation modified this law to allow municipalities to use municipal equipment to be used on roads that were negatively impacting the water quality of a nearby great pond, as listed by the DEP.

She said they are truly not supposed to be expending tax payer funds on private roads. She said according to what they found in the memo, Anthoine Road is not. She asked if they could get it up to standards and come back and ask Council again in the future. Doug Reynolds said they would, they really wanted to find out what they needed to do.

Counoilor Muir: He said there is a definite difference between an easement for winter maintenance and adopting a road. If the town adopts a road, the town ends up maintaining the whole thing. With the number of private roads we have in town, that is something we do not budget for.

Mary Ledoux: She spoke with Doug Fortier, and they found that there were three different areas that they didn't meet. She had a question about travel surfaces and good repair with the town's subdivision ordinance as minor road standards.

Tony Plante: Tony said Doug could work with them and go through what they can do. Tony said we have public easements all over town, some new and some not. He said this policy was established in the early 1990's to try to bring some level of quality to the public easements that the town was maintaining. Public easements are a limited public right over a private road as a way of providing services to residents and property owners

on private roads.

Councilor Nadeau: He said a pitfall with this was the town was being asked to do only a part of a road.

Tony said if the Council would rather not vote no tonight, an option would be to move to postpone it indefinitely, so you are not sending them away with a flat "no".

Councilor Nangle: Moved to postpone indefinitely, seconded by Councilor Muir.

A motion was made by Councilor Nangle, seconded by Councilor Muir to postpone indefinitely. The motion carried by the following vote.

In Favor: 5 - Council Chair Chapman, Councilor Moore, Councilor Muir, Vice Chair Welch and Councilor Nangle

Opposed: 1 - Councilor Nadeau

16-181 To authorize a purchase in an amount not to exceed \$106,925.58 for the data center servers and software, backup system server and licensing, Exchange server licensing, and rack, such be reimbursed by a tax-exempt municipal lease purchase agreement.

Attachments: [16-181 Cover Sheet](#)

[FY2017 IT Capital](#)

[IS-2017-002](#)

[Server Hardware](#)

[Barracuda Backup](#)

[Licensing](#)

[Rack - 24U](#)

Tony Plante: Tony explained that this was a project that was in the capital equipment replacement plan, where the project requires financing and requires Council approval.

Tom Trautlein: This is something they have been pointing to for the last few years for Town Hall and Police Safety. This is the unification of a bunch of different systems primarily in town hall and public safety. It will bring it into a single unit by a virtualize server stack. It will also replace the backup component, which is very old and will increase our disaster recover scenario options dramatically. Tom said a good part of the pricing is in licensing.

Councilor Nangle: So this will improve the liability, speed and along with Tyler Technology, and we will have better service with them.

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: 6 - Council Chair Chapman, Councilor Moore, Councilor Muir, Councilor Nadeau, Vice Chair Welch and Councilor Nangle

16-182 To authorize the town manager to execute a contract on behalf of the town with Tyler Technologies, Inc. for replacement, maintenance, and support of the town's financial software systems for a period of seven (7) years

totaling \$629,726.00; of which, one-time fees and first year costs totaling \$107,918.00 to be reimbursed from the proceeds of a tax-exempt municipal lease purchase payment.

Attachments: [16-182 Cover Sheet](#)

[Windham, ME Tyler SaaS Contract - 101816 Clean](#)

[TM-2009-001](#)

Councilor Chapman: She asked why did the price jump from the \$476,713 up to the \$629,726?

Tony Plante: Tony said it was because we went from five years to seven years. He said the analysis that was given to the Council was based on five years. Councilor Chapman asked why, when they discussed a five year contract, it was changed to seven years? Tony said there has been no vote on it as of yet, so there is no authorization on the table, and there is no disadvantage to extending it to seven years because the pricing is fixed for two more years. If we take the five year contract, it leaves the town open to prices going up in years six and seven.

Councilor Nangle: He said he has dealt with situations like this, in moving from one software provider to another, and he described it as nightmarish. He feels if we can include another two years and not have to go through the RFP process for an additional two years, so be it.

Councilor Chapman: She said she is trying to be conservative, and she does not like a seven year contract because she won't be sitting there for seven years. She asked Brian Wolcott if they saw that the first proposal was for seven years? Brian Wolcott said the Council had a copy of the contract in their packet, which indicated a term of seven years. The one in tonight's packet reflects the review of the town's attorney.

Brian Wolcott: He said he had spoken to a few colleagues about their software programs, and their fees were not locked in, so when they needed a new contract they were a little unnerved by it, so it is better if the town can lock these numbers in for seven years, it would be a prudent decision. Discussion continued for several more minutes before a vote was taken.

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

In Favor: 5 - Councilor Moore, Councilor Muir, Councilor Nadeau, Vice Chair Welch and Councilor Nangle

Opposed: 1 - Council Chair Chapman

16-183 To approve an application submitted by Northern New England Telephone Operations LLC and Central Maine Power Company to locate (1) utility pole and cables and wires on Cottage Road, approximately 1430 feet southerly of intersection of Ridge Road.

Attachments: [16-183 Cover Sheet](#)

[Pole Location - Cottage Road](#)

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

In Favor: 6 - Council Chair Chapman, Councilor Moore, Councilor Muir, Councilor Nadeau, Vice Chair Welch and Councilor Nangle

16-166 To enter into executive session under 1 M.R.S.A. §405(6)(A), which provides for the "Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency," for the purpose of conducting the town manager's performance evaluation.

Attachments: 16-166 Cover Sheet

A motion was made by Councilor Muir, seconded by Councilor Welch that they go into Executive Session. The motion carried by the following vote at 9:06 p.m.

In Favor: 6- Council Chair Chapman, Councilor Moore, Councilor Muir, Councilor Nadeau, Councilor Nangle and Vice Chair Welch.

A motion was made by Councilor Nangle, seconded by Councilor Chapman to come out of executive session. No votes were taken. The motion carried by the following vote at 10:15 p.m.

In Favor: 6- Council Chair Chapman, Councilor Moore, Councilor Muir, Councilor Nadeau, Councilor Nangle and Vice Chair Welch.

XII. Discussion Items.

XIII. Agendas & Scheduling.

CD 16-384 Agenda Items Reports.

Attachments: Agenda Items Report 20161021

Projects & Issues List 20161021

Projects & Issues Sheets 20161021

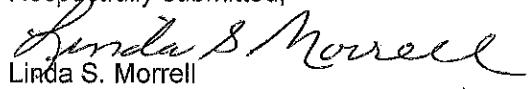
There was discussion of agendas and scheduling.

XIV. ADJOURN.

A motion was made by Councilor Nangle, seconded by Councilor Muir, that they be adjourned. The motion carried by the following vote at 10:15 p.m.

In Favor: 6 - Council Chair Chapman, Councilor Moore, Councilor Muir, Councilor Nadeau, Vice Chair Welch and Councilor Nangle

Respectfully submitted,


Linda S. Morrell

Town Clerk, CCM