



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final Town Council

Tuesday, July 8, 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:

[CD 14-213](#) To approve the minutes of the June 24, 2014 meeting.

Attachments: [Minutes of 6-24-14](#)

CD 14-213 To approve the minutes of the June 24, 2014 meeting.

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

Absent: 1 - Councilor Moore

Abstain: 1 - Councilor Noel

[CD 14-214](#) To approve the minutes of the June 24, 2014 special meeting.

Attachments: [Minutes of Special 6-24-14](#)

CD 14-214 To approve the minutes of the June 24, 2014 special meeting.

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

Absent: 1 - Councilor Moore

Abstain: 1 - Councilor Noel

IV. Public Participation.

No Public Comment.

V. Councilors' Comments.

Councilor Noel: He apologized to the folks who sent him and e-mail, and was not able to respond to all of them. He said he appreciated their time and input.

VI. Council Correspondence.

No Council Correspondence.

[CD 14-218](#) Windham Community Garden report

Attachments: [Windham Community Garden report](#)

[CD 14-222](#) Proposed ordinance amendments to remove Section 915 - Building Permit Limits in Subdivisions to have public hearing with the Planning Board on July 14, 2014.

Attachments: [TC cover LUOC to PB 07-03-14](#)

VII. Town Manager's Report.

[CD 14-220](#) Town Manager's Report - July 3, 2014

Attachments: [Town Manager's Report 20140703](#)
[Town of Windham Excise Tax Receipts, 2005-2014](#)
[Town of Windham Revenue Analysis, R0409 - Excise Taxes](#)
[Intersection Safety Analysis - Route 202 and Falmouth Road](#)

Tony Plante: They have begun the process to search for successors for Police Chief Rick Lewsen and Fire Rescue Chief Charlie Hammond; they announced their plans to retire during this fiscal year. As part of the budget for 2015 he included funding to help pay for some professional help to conduct departmental needs assessments, meet with internal and external stake holders, develop candidate profiles and interview questions. They are in the process of setting up meetings for the various groups, both the Police Department and the Fire/Rescue Department will be contacting members of the Council with dates and times when they can meet with Rick Dacri of Dacri & Associates to do the work. The town will then develop interview questions and then they will conduct the search through our Human Resource's Office.

This last week ended the fiscal year 2014-2015. In regard to Motor Vehicle excise taxes, aside from property taxes, it is the largest, single source of revenue supporting operations of the town. He showed a graph showing excise tax from 2005 through 2014, a 10 year period that spans the recession. For the fiscal year that just ended the town received more excise tax revenue than any year to-date, and the highest year since fiscal 2006. Fiscal 2014 revenue (unaudited) was \$2,832,721.

A couple weeks ago the town posted a notice through the town's website and Facebook page about a change to speed limits on River Road through the construction zone from the Masonic Hall in North Windham to Bishop Drive on the southern end to 40 mph throughout. A comment was made about how dangerous the intersection was at Route 202 and Falmouth Road. There have been many crashes and numerous fatalities to the point where MDOT installed upgraded flashing signals at that intersection. Tony wanted to see if the new updated lights made any difference, so he contacted MDOT and received crash statistics, what they call critical rate factor data, which shows the rate of accidents relative to other similar intersections or segments of highway throughout the state. The results showed about a two-thirds reduction in the number of crashes. In 2011 there were no crashes at all.

He said they have begun implementation of the new permit management and asset management software for Code Enforcement and Public Works, and the go-live date is August 25th. They expect to start seeing the benefits of that system when they are looking at a months worth of data.

He has been talking with Chief Hammond about planning for the start of overnight Perdiem coverage at the No. Windham fire station planned to begin on Aug. 1st.

VIII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Chapman: Reported that they have been interviewing for the Comprehensive Plan Committee, and they will continue with those interviews up until the 14th.

2. Finance Committee.

Councilor Nadeau: Reported that they do not have anything scheduled.

B. Other Committees.

1. Land Use Ordinance Committee.

Councilor Nadeau: Reported that they will meet July 9th in the morning.

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

Councilor Nadeau: Reported that Doug was on vacation last week, and this week he is setting up a schedule to look at the roads. They are in contact with the folks from Collins Pond Road. There has been no improvement whatsoever; lawyers are now involved and they are having a meeting later this month. They have until the end of October to take care of things or it will be coming back to the Council.

3. Windham Economic Development Corporation.

Councilor Noel: Reported that the WEDC continues to meet and their main focus's are on the Angler's Road work and the expansion of the roadway in the area, as well as the "How To" flow chart and methodology for "How to Work Within the Town of Windham."

4. Wastewater Management Planning Advisory Committee.

Tony Plante: Reported that there is a meeting coming up on July 16th.

IX. PUBLIC HEARINGS.

[CD 14-195](#)

To receive public comment on the adoption of an amendment to the official Town of Windham zoning map, at the request of Shane Brey, to rezone a 1.7 acre portion of the property identified as 151 Brown Cove

Road (Tax Map Tax Map 22, Lot 7) from Resource Protection (RP) to Limited Residential (LR).

Attachments: [PB recommendation to TC_Brey request RP-LR_05-15-14](#)
[PB memo Brey request RP-LR_04-23-14 combined](#)

Amanda Lessard: It is a pleasure to be here Mr. Chairman. Shane Brey had requested a zone change from Resource Protection to Limited Residential; it was referred from the Council to the Planning Board. The Planning Board held a site visit and conducted a public hearing. They heard comments from five members of the public on the zone map amendment, all spoke against the proposed zone change. Some of the things discussed is there are additional uses that are permitted in Limited Residential that are prohibited in Resource Protection; one of those being single family dwellings but also two family dwellings, camp grounds and marinas, as you have seen in the memo in the information provided to you. Additionally, the vegetation clearing standards in resource protection are more restrictive than they are in Limited Residential. So following discussion from the Planning Board and taking into consideration concerns from the public, the Planning Board voted 4-1 to recommend the zone change with the condition, that if possible, a restriction be dedeed if appropriate and possible for the rezoned land to be used only for a single family dwelling.

Staff did consult with Maine DEP on the proposed zone change, and their comments were that it met their standards, and if the Council approved it, the Department would approve the zone change. We also spoke with Town Council who indicated that conditions would not be appropriate place on a zone change uses that are permitted in the district would need to be allowed, if there were other restrictions or conditions, that the Council chose to impose; it really should be an amendment to the text of the ordinance that would either or overlay district, that would change the uses in the district to limit them to single family only.

William Howe - 265 Smith Road: Members of the Council and residents of Windham, my name is William Howe and for the past 16 years I have resided at 265 Smith Road on Banjo Cove on Little Sebago Lake. I am not here to tell you all anything that you probably already do not know. You already know that Little Sebago is grossly over developed and I'm sure, if you have looked at a recent zoning map, there are a few areas remaining zoned "Resource Protected."

I urge any and all of you to take a leisurely ride around Little Sebago some day and try to pick out some undeveloped areas. Heck, I'll take you out in my boat if you'd like. There aren't many areas where you won't see a camp or a house. Why not develop it all some might say? Well, my answer is that Little Sebago is unique in Windham. It's a relatively narrow and shallow body of water, and as I am sure you know, we have a constant battle going on to prevent the further spread of variable leaf milfoil, which thrives in shallow areas. In fact, almost two-thirds of the known milfoil in Little Sebago is located in the lower basin, almost directly opposite from Brown Cove Road. Every time a propeller passes through a growth of milfoil, it is chopped up and each of those fragments are passed around and can produce even more milfoil as it reproduces by fragmentation. That's just one very good reason for not developing this body of water any further.

So I ask, why change the nearly 2 acre parcel of land at 151 Brown Cove Road from RP to LP, or Limited Residential? Why? Is it in the best interest of Windham and the majority of it's residents? Is it in the best interest of those living in or near Little Sebago Lake? I believe not. Rezoning opens a can of worms that cannot be put back in the can. As you know, what the developer tells you, he or she will do or will not do with the land is immaterial. It has no significance or weight in the law. He can tell you that he simply wants to set out an adirondack chair and admire the scenery, but it matters not

what he says he wants the zoning change for. In reality, a zoning change allows him, or any subsequent owner, to do anything allowed under the LR zoning designation. Do we need another housing development on the shores of Little Sebago? Do we need a marina on the shores of Little Sebago? How about a campground with a bunch of campsites filled with our friends from the south of us, fortified with adult beverages, living the dream up here in the wilderness? Do we need that? I urge the Council to vote no on rezoning this parcel of land from RP to LR and help prevent the further deterioration of this valuable, and much loved body of water. Thank you.

Rick Jones: I am from Poland, and I am representing Mr. Brey. I think things have gotten a little bit out of hand with rumors that have been going around. This project is solely for one single family home that Mr. Brey would like to build on his property. This evening I have suggested a deed restriction. He is willing to put a deed restriction on the property voluntarily. I understand that the Council and the Planning Board cannot restrict that, but he is willing to do that. The site is 1.7 acres that is only large enough for one home, and that is all he desires to do. As for the milfoil, he currently already uses that; there is a boat dock there, and there already is access for his personal boat and that would not change. It is truly for a single family home, and we would be willing to, at any suggestion the board or the Planning Department would have, to voluntarily put any type of restriction on there that would satisfy anybody's concerns. Thank you.

Judy George - 233 Smith Road: Thank you all for taking my calls in the past two weeks and my e-mails. Just to follow what Bill said, this is our news letter from the lake association, and they have tracked how many bags of milfoil has come out of the lake from 2007 until 2013. They pull from five areas, four of which are in Gray. The most significant area is the lower basin, as Bill referred to, right across from the piece of land that they are talking about. All together from 2007, 9,608 bags of milfoil and of those 9,608, 6,714 came out of the lower basin. It is a real problem. It is very, very serious. In 2013, 12 tons of milfoil was taken out. To date, 96 tons have come out of that lake. Please vote no.

Shane Brey - 151 Brown Cove Road: I want to follow up on a couple of things that Rick mentioned. From the beginning and going through this process for roughly a year now, I started out working with the staff from the city and based on passed precedence, this is kind of the direction for this parcel. Rick has put a bunch of effort into this, and determined that there is a portion within that property that did not qualify for the Resource Protection designation, so that is where the request is coming from. Like Rick said, it is going to support one single family home, and I am definitely willing to put a deed restriction to that fact, because like he had mentioned, I don't believe there is a mechanism for that to be approved that way, so we would have to voluntarily to do that. I think that should help with some of the concerns regarding future development. Obviously, as the first gentleman mentioned, there is a lot of development on the lake; I think this is a step from preventing future development in that area. It is just a one single family home. It is the best case scenario from a development stand point, verses it ended up being with a developer, and then it becomes an access point for any other home somebody wants to build associated with it. That would definitely make a major impact on the milfoil issue, if someone was to open that up and make it a public access and drive additional traffic to the lake. This should essentially close off the development within that parcel. I think we are all working for the same thing here. I certainly appreciate the time and appreciate everybody's concern and coming out to address the matter. We all have the same objective in mind, and I hope you see that. Thank you.

Steve Davis - 84 Brown Cove Road: I agree pretty much with what people have said up to this point, but it seems to me that eliminating the property to one house doesn't really solve all of our problem, and if Mr. Brey, and I no reason to doubt his sincerity, is willing to accept limitations, I would suggest that precluding a write-of-way from other property and any commercial development or common beach, would pretty much eliminate all of

everybody worries. I suggest that might be a helpful way to solve the problem.

Chuck Hennessey - 245 Sandbar Road: I am across the lake from this property, and I want to remind some of you, some of you already know about what happened on the Sandbar Road, we had a similar situation. A twelve unit housing project was agreed to, the contractor never did fix our road and damage to the road was significant. They also had a property that was in Resource Protection and they weren't going to do anything with it; which was said at meetings with the Planning Board. Within two or three years that property, after several winters with people in there, with chippers and cleaning supposedly dead wood, vernal pools that were in there, and some of you had walked the land and had seen it, all of a sudden weren't there anymore. What happened was there was supposed to be no development there and now there is one home built and another one will be built in this area that was marsh and fill. I don't want to see the same thing happen across the lake. I am opposed to it. Take it for what it is worth. Thank you.

Lawrence Pierce - 259 Smith Road: I have a camp at 259 Smith Road. Bill is my neighbor, and he very eloquently stated the case, and I feel very strongly that he is completely right, and I don't think you should rezone it. Thank you.

Marc Agger - 28 Sebago Woods Trail Rd: I would like to speak to a few points, specifically to the e-mail from Jones Associates directed at Ben Smith concerning the argument concerning the piece of property in question does not meet the qualifications for a wildlife protection zone. The first point I would like to make is, it seems like the evaluation by the Jonas Association is not an impartial evaluation, and I wonder how the Council can make that judgment on whether Jones is correct or the original people that did the assessment and said it met the criteria for a wildlife protected. I wonder how you balance that?

I know that property, and I know perhaps that there is a very small island there that might meet that criteria, it is a very small piece of land, but immediately surrounding that it's completely wet, it is boggy, mossy and it seems to me that it meets exactly the criteria of what has been set out there. So I wonder what is the real truth to this, and how is it decided that 1.7 acres meets that criteria. Was it really a little bit less than that, and he needs the 1.7 acres to meet his objectives, or was it a little bit more than that because he wanted to give him a safety criteria. I think if you go anywhere around that little island, it is definitely wet, boggy, and mossy. The third point is, I think what you are doing is you are, in fact, opening up a can of worms. If you think you can stretch the rules and perhaps say this 1.7 acres doesn't meet the criteria, I think that would probably apply to about 80% of that wildlife protected area, and I think you'd be setting a precedence there to say all that other land, perhaps 80% of that, does not meet the criteria, so where is the bar there? I think it goes beyond that, if you look at this wildlife protected area and you say that 80% doesn't meet the criteria, you may as well go around the entire lake and say the same thing. I question where the bar is and the precedence you are setting, and what you would open up for future development beyond this one single home. Thank you.

Sharon Agger: I too live on the lake and I have been there since 1997, and I wanted to respond to a couple of things we just heard. That report from Jones Associate's was done in October. The one time of year when you are least likely to find wetlands, so that really jumped out at me from that report. Secondly, I think I have more of a question than a comment, and I could be wrong, but as I understand the zoning district distinction that we are changing from and to; the zone that it is in now would support a single family home but not any of the other uses, so the only logical purpose to changing it is to introduce another use, and do correct me if I am wrong.

Don Bruck - 120 Brown Cove Road: I had this property for 40 years. I have sent

Council members an e-mail and suffer the ultimate embarrassment of having it sent before finish editing it, and I will not repeat what was in it. I think you can deduce what I have to say. I am somewhat aghast that in this day and age that we are considering reducing resource protective land. In my mind it goes contrary to everything that is going on. Mr. Brey said he has offered a deed restriction voluntarily. I haven't heard what the restrictions are, perhaps he would explain it, and maybe it would accommodate everybody's concerns. So if Mr. Brey would care to elaborate on it, and then people can determine whether or not it addresses all the issues, then fine. Thank you.

Vivian Sone - 9 Moose Point: I've lived on the lake for 50 years. Before I say anything I just want to thank all of you for all of your hard work, and all the time that you give, I know it is not easy. I want to say to Shane, "this is definitely not personal about you"; however, I urge you to vote no for many, many reasons. As far as Mr. Brey is concerned, he has 22 acres, which may be 400-300 feet from the lake. I see no reason to change resource protection in this day and age in an area that has been swampy, mucky and peat and whatever. Second point, and this is respecting you Mr. Jones, if I could afford to have another man come in who does the work that Mr. Jones does, what he has said is not written in stone. Someone could totally disagree about peat, bark and every other thing. I urge you, for all of us, for Little Sebago Lake, and for everybody that lives in Windham, do not vote yes, please vote no. Thank you.

Rick Jones - I just wanted to answer some of the questions that were posed regarding the wetland delineation and the time of the year. I am a wetland scientist, and we do wetland delineations basically year round, with the exception when we have snow on the ground or when the ground is frozen. You look at three different criteria on whether the property has hydric soils, that is where you actually dig with a shovel. You look at whether or not it has a predominance of hydrophytic vegetation, which is species that are native to Maine, have a rating system and that rating system determines how often or how common they occur in wetland areas. In addition to that, you have to have evidence of hydrology that can be buttressed, we observe the vegetation buttressed stumps around trees, water stained leaves, standing water at different times of year. There is a very scientific process that we go through when we delineate a wetland.

One of the questions was about the 1.7 acres. We are requesting a rezoning of 1.7 acres, the only reason it ends up being 1.7 acres is, we tried to make the area relatively square. There is 1.2 two acres of upland that is within that 1.7 acres and that 1.2 acres would be the only portion of the property that Shane could build on, it would not be the entire 1.2 acres but everything that he did would have to fall within that 1.2 acres.

As for the wildlife habitat, the standards call for moderate or high value wildlife habitat and that is a standard that I don't set. That is a standard that is set by Inland Fisheries and Wildlife and their biologists make that determination. I am not aware that this property ever did qualify. I couldn't find any record whether it actually did qualify under that criteria. There are five different criteria that constitute whether a piece of land would be in Resource Protection. I am not sure I've never found anything in the research that we did that showed that the property was ever mapped as a bird habitat. The way these zoning maps are created they look at areas globally, so this is not an uncommon thing to find portions of the property that does not qualify to the standards. In this particular case, we have an area that is certainly large enough to build a single family home.

As to the deed restrictions, we initially stated that we would restrict that to one single family home because that was the recommendation that the Planning Board sent down. Again, after hearing the concerns here Shane has no desire to create a right-of-way access for anyone else, and he would be willing to put that in as a deed restriction to the property and that would be recorded. One of the comments were he could build on that

lot in Resource Protection, and that is true, he could build a home on that lot as it currently is zoned. The problem is he can't have a garage; he is limited to 1,500 square feet and that was not he was looking for when the discussion was started with the Code Office. It went through the process with the Code Office, and it was their recommendation to come before the City Council and the Planning Board to get it rezoned in order for him to be able to build the building that he desires to build.

Shane Brey: I don't necessarily have a plan at this point; this is kind of phase one. I would like to get this lot established and depending on how the lot develops here. The difference is the 1,500 square feet is a foot print number, so when you include that and you include the garage space, you end up with maybe 900 square feet of living space. Especially with a deed restricted lot, that is a large lot for a very small property. It is a lot based on the area doesn't qualify for the Resource Protection that would support a larger home on that piece of property. The biggest thing is, somebody is always going to own that lot, it is not going to end up in public domain, so at some point if that parcel is not developed to some degree, it is going to end up being a right-of-way. I think that is the basic concern; nobody wants to have twelve or fifteen more boats down there on any given day. All concerns are valid, there is no doubt about that, and the biggest thing is with the resource protection building envelope, it doesn't necessarily support a house for that lot size. That is the main reason for the request, above and beyond that I am not a developer, this is not a development project, it is a simple family home request. We can debate it back and forth and everybody is absolutely right, there is environmental impacts with everything that happens on the lake, and we are all aware of that. The less access that is available, I think, is the best case scenario for the homeowners in that neighborhood. Eventually something will end up there, it just will, everything gets developed and everything will get developed somehow. I am not here with a team of lawyers trying to establish a big chunk, just a suitable building.

Judy George: Then why didn't you request a variance, and not a rezone. You could get a variance for that house you want to build instead of rezoning.

Dr. Constance Silver: I am a scientist. When we talk about wetlands it seems that everyone has a different definition of what wetlands might be. My definition is very simple; I am admitting here that I am 75 years old, my cousin up there is 74 years old. We grew up on what we used to call the Brown Cove Road extension. To us wetland is what we almost drowned in constantly. We were up to our behind in mud as children; down there today I can still be up to my behind in mud; that to me is what wetland is, and I think that is a very simplistic view with having grown up there.

Steve Davis: Mr. Brey said he would accept additional restrictions; he mentioned excluding a right-of-way. Would he also be willing to exclude a marina and a common beach?

Mary Burton Roberge - Brass Lane: I just had my third stroke last week, and I wouldn't miss this meeting for anything, and please, I beg of you, do not rezone this area. I did a water study for the United States Government all through the 70's when I was teaching in Connecticut; I worked with Dr. Ferguson and we set up the program from the Mississippi all the way to the Key's, and let me tell you, what you are doing is absolutely unbelievable. You better use your senses and do your research. You can see that nobody wants this rezoned, and if it is good for your coffers here, it is not good for the lake. This is our very fragile baby, and we have to treat it with tenderness. I absolutely adore that lake and being able to be there, and I plan on doing it until I die, and you are going to ruin it for all of us and yourselves included. This is our natural resource. All I can tell you is, I will fight if I have to fight you in court because I'm that mad that you'd even consider it, and if you knew about water studies what I know and what friends of mine know; I will be your worst friend because I am your neighbor and you are hurting me. This is one of the biggest joys I have in life. I was born in Portland at the Queen's

Hospital and I am here most of my life; I have traveled all over the world, and I've taught in other countries, done research for Ecuador and studying in Poland. I studied the water everywhere I go, and what you are doing here is terrible, and I am going to do more research. I will let you go on with your meeting and let other people speak, but know there is a feisty storm on Brass Lane and I'm just starting.

Mark Agger: I think this is a little bit more of a minor issue, but the access and egress to this 1.7 acres, there is supposedly a gravel path that goes down there that crosses the Resource Protection zone and what is grandfathered in there? I'm sure it could hold a little 4 wheeler type of a thing, and I think they kind of fixed it up a bit already. In order to get trucks, SUV's, cars and garages and friends, that will have to be massively beefed up, and that is cutting through an area that he is not having rezoned. I know Mr. Brey likes his property to be nice, and he is going to want to fix things up, and he is going to want to clean up the edge of the property and kind of stretch the rules a little bit. I wonder how you can leave that in tact, the way it is now, without getting a variance for that as well?

Ann Maloney - 10 Lady Slipper Lane: I am a new resident on Lake Sebago, a new home owner on Lake Sebago, but I have been coming to Lake Sebago since 1967 every summer, and to capture what someone else has already said "I won't characterize how far up my person the muddy water was over on that property, but it was always a muddy field as far as I can recall. My concern is Mission Creek; when people started talking about this zone change there was a lot of interest in the community, and I have spoken to a woman who has a camp on Panther Lake, I forget the name of the other lake the second person lived on, but each of those lakes has experienced a similar problem to the problem we are facing now. That the land owner got permission for a small project, and with each passing year the small project has expanded itself to incorporate a lot of other activities on the land that were not part of the original permission. I think the town has kept this land in resource protection, and I have counted the number of times the zoning map has been addressed since 1967 and it is 18 times and you never felt a need to make a change during that time period, I would hope you don't have a reason to make a change now. Thank you.

Rick Jones: A question came up regarding variance, and I think Amanda may be able to address this, but this would not be, as my understanding, this would not be eligible for a variance because there is a number of very strict criteria, and I think Amanda may have that right there. I don't think this one would not qualify. Somebody suggested a restriction to a marina. Shane has no intent of any commercial use down there, so absolutely, he would be willing to put that in. Then there was a concern about over-use or funnel development where you develop property on the other side of the road and then access this property. It is my understanding that currently could be done with that property. That could become a common access to a number of lots or campsites or whatever, that could be developed on the other portion that Mr. Brey owns. Again, he has no intent of doing that, and he is willing to put that restriction in there so the town would then be protected so that would never be able to happen; it would be a deeded restriction. From that standpoint this would be a much more restricted use of that property then what is currently allowed down there.

William Howe: I just wanted to state that I find it ironic that Mr. Brey agrees with those who are opposed to this and had no retort to any of our arguments, except to say that it is going to happen sometime, you might as well let me do it. Well not if we have the backbone to continue to say "no" and keep the zoning the way it is, it won't happen.

Amanda Lessard: Variances are only allowed for a lot area, lot coverage, setbacks and off street parking. The ordinance clearly specifies that it shall not be granted to permit a use or structure otherwise prohibited, and the ordinance does limit the floor area for buildings and accessory structures. When a single family home is allowed in Resource

Protection it is only when there is no location otherwise outside of Resource Protection. This lot is 27 acres, there is land outside of the Resource Protection district where a single family home could be located. The other question was road driveway construction is permitted in the Resource Protection district with Planning Board approval, so if the existing driveway were to be widened Planning Board could review and approve that widening. It would also require DEP permits for alteration of that wetland.

Rick Jones: Mr. Chairman, I would like to clarify one thing Amanda had said. The parcel being talked about is only 11.5 acres; this lot and this is the only portion on the property that is upland and a large enough area in order to be able to support a building. The way the ordinance is written, and this is common in most towns, Brown Cove Road creates the split so there is actually two lots there.

Public Hearing closed at 8:00 p.m.

[CD 14-210](#) To receive public comment on proposed amendments to Chapter 111 General Assistance Ordinance, an update of the appendices which establish certain benefit maximums as required by statute.

Attachments: [General Assistance Ordinance Changes](#)

No public comment.

[CD 14-215](#) To receive public comment on amendments to the Town's Land Use Ordinance, Chapter 140, and Wireless Telecommunications Facilities Siting Ordinance, Chapter 141, to change the Planning Board and Zoning Board of Appeals submission deadlines.

Attachments: [Application Submission Deadlines](#)

No public comment.

X. UNFINISHED BUSINESS & GENERAL ORDERS.

[14-240](#) To approve a liquor license application submitted by Riding to the Top Therapeutic Riding Center for a fundraising event to be held on October 18, 2014.

Attachments: [Cover Sheet 14-240](#)

[Riding to the Top Liquor License Application](#)

A motion was made by Councilor Chapman, seconded by Councilor Welch 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

[14-238](#) To adopt proposed amendments to the town's General Assistance Ordinance, Chapter 111 of the Code of the Town of Windham, which

update appendices establishing certain benefit maximums as required by statute.

Attachments: [Cover Sheet 14-238](#)
[General Assistance Ordinance Changes](#)

A motion was made by Councilor Nadeau, seconded by Councilor Muir 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

[14-223](#)

To approve amendments to the Town's Land Use Ordinance, Chapter 140, and Wireless Telecommunications Facilities Siting Ordinance, Chapter 141, to change the Planning Board and Zoning Board of Appeals submission deadlines.

Attachments: [Cover Sheet 14-223](#)
[PB recommendation to TC Submission Deadline Amendment 06-13-14 combined](#)

Ben Smith: He said the Planning Board did review and hold Public Hearing on the proposed changes to the submission deadlines for submissions to the Planning Board and submissions to the Zoning Board of Appeals. It does change the ordinance language in sections 800 and 900 of the LUO, as well as section 500 that has to do with conditional uses and the wireless telecommunication ordinance, which is a separate ordinance from the LUO. He said currently the Planning Board submission deadline is 4 weeks ahead of the meeting for which an item is to be scheduled, that is proposed to be shortened to 3 weeks, which would allow applicants, for example, the first meeting in July to potentially make a meeting in August, which is not the case today based on a 4 week submission deadline. The submission deadline for the Zoning Board of Appeals to review a conditional use is proposed to go from the existing 2 weeks to 3 weeks, which would allow for a few more days of staff review time and legal advertising. That does not have an impact on the submission deadline, which would remain 2 weeks for administrative appeals of Code Officer decisions.

Ben said the vote of the Planning Board was to recommend to the Town Council - approval of the proposed applications submission deadline amendments to the Land Use and Wireless Telecommunication Facilities Siting Ordinances. Vote 7-0.

A motion was made by Councilor Chapman, seconded by Councilor Welch 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

[14-164](#)

To approve changes to the Land Use Ordinance related to standards for Automotive Repair Services and Automobile Storage Lots.

Attachments: [Cover Sheet 14-164](#)[TC Auto Repair and Storage combined 05-08-14](#)[TC Auto Repair only combined 06-27-14](#)[TC Auto Storage only combined 06-27-14](#)

Councilor Noel moved the Order, seconded by Councilor Welch.

Councilor Nadeau: Asked if it could be postponed until the next meeting? He wanted a workshop to straighten out the Automobile Storage.

Councilor Noel said they talked about it in a workshop as it is currently written by the LUO & by the PB and they really got two recommendations. He said there was an external request at the eleventh hour, and he and the WEDC believes that it should be handled separately and should not be incorporated in detail into the current wording into the LUO or the PB. They should still be in either format A or format B and allow the ED request to be handled separately, on a separate order, as either an addendum to this or a separate section specifically for the ED zone. He said they should look at it specifically for what the intent was.

Councilor Nadeau: He said he was in favor of the automobile repair section; he was not comfortable with the automobile storage section. He said when he asked them to be separated he wanted the motion for them to be separate, because he is in favor of one and not so certain about the other.

Ben Smith: At the last meeting the Council was presented with ordinance wording. One showed the LUOC recommendations, another recommendation showed the PB's recommendations. At the end of that discussion the Council asked to separate these out, not by the body they came from, because the Council chose the LUOC as more preferable than the PB, but to separate these so auto repair services and all the changes associated with it are in one document and clear, and all of the changes associated with automobile storage lots are in a separate document so the changes associated with those are clear, and that is what they have in their packets. He made an attempt, in the cover for each, to say what the existing standards were, what the new standards would be as proposed by the LUOC, and where those uses would be allowed.

Councilor Nadeau asked where can you put an auto storage lot in the new proposal? Ben said, as proposed going forward, auto storage lots would be allowed in the ED zone and the Industrial zone. He said it does not include any of the proposed changes that were made as a result of that business coming in at the eleventh hour. Ben's recommendation, after speaking with folks involved with that business, would be to handle the auto storage lots as they came out of the LUOC as they were intended to deal with impound facilities, and then if the Council would like to explore definitions and standards for this other use, which is different from an impound lot, and is more accurately described as an automobile auction facility, it is very different in the activities that are carried on there and different in the scale. They are similar in that they are flat places to keep cars that don't run but that is where the similarities end. .

Councilor Nadeau: Moved to divide article 14-164 into Automotive Repair and the other into Automobile Storage Lots, seconded by Councilor Muir.

Vote 6 - 0 to divide the vote

14-164 To approve changes as amended to the Land Use Ordinance related to standards for Automotive Repair Services.

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

Absent: 1 - Councilor Moore

14-164 To approve changes as amended to the Land Use Ordinance related to standards for Automotive Storage Lots.

In Favor: 4 - Councilor Chapman, Councilor Muir, Councilor Noel and Vice Chair Welch

Opposed: 2 - Council Chair Gleason and Councilor Nadeau

Absent: 1 - Councilor Moore

[14-183](#)

To adopt an amendment to the official Town of Windham zoning map, at the request of Shane Brey, to rezone a 1.7 acre portion of the property identified as 151 Brown Cove Road (Tax Map Tax Map 22, Lot 7) from Resource Protection (RP) to Limited Residential (LR).

Attachments: [Cover Sheet 14-183](#)

[PB recommendation to TC Brey request RP-LR 05-15-14](#)

[PB memo Brey request RP-LR 04-23-14 combined](#)

Councilor Noel moved the Order, seconded by Councilor Welch.

Peter Anania - Brown Cove Rd: He asked the Council to postpone this until they get to see the proposed deed restrictions in writing, and be able to evaluate those.

Lawrence Pierce - 259 Smith Road: He said eighteen previous Town Councils have voted against this, share their wisdom.

Councilor Nadeau: He will vote against it, because in Resource Protection right now he can put a house up, and the 1,500 square feet is foot print only; you can get a garage in there as well as a second floor.

Councilor Chapman: She said she'd be voting against as she has done in the past when she sat on the Council 2010. She thinks they do need to protect the lakes. She took a ride around in the area yesterday and saw a lot of ferns, cat o' nine tails, etc.

Councilor Noel: He appreciated everyone who spoke earlier. There has been a lot of give and take in the discussion and a lot of education and a lot of willingness on both sides. He thinks there are some significant improvements in terms of additional restrictions that the owner has willingly said he would put in writing that would stop some of the things that have been expressed as concerns. Those are huge, restricting the ability of a right-of-way, a common beach, a marina; the things we do not want to see and the people don't want to see, could occur to some degree. It is Resource Protected but that does not restrict him from harvesting minerals or woods, it does not restrict him from deeding access from the water, it does not restrict him from doing many of the things that you have already expressed concerns about, but he is willing to restrict himself from doing those things.

Councilor Muir: He thinks the people realizes what he can do in Shoreland Protection, and he does not feel comfortable with the rezoning. Eventually the land could be sold, and he felt there was some other reason why they were going for the Limited Residential.

Councilor Welch: He agreed with Councilor Muir and will also be voting no.

The motion failed by the following vote.

Opposed: 5 - Councilor Chapman, Council Chair Gleason, Councilor Muir, Councilor Nadeau and Vice Chair Welch

Absent: 1 - Councilor Moore

Abstain: 1 - Councilor Noel

[14-251](#) To grant a member of the Council an excused absence.

Attachments: [Cover Sheet 14-251](#)

A motion was made by Councilor Noel, seconded by Councilor Welch that Councilor Moore's absence be excused. 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. Discussion Items.

[CD 14-183](#) Draft Complete Streets Policy.

Attachments: [Complete Streets memo_06-24-14](#)
[Windham Complete Streets 2nd draft_06-24-14](#)

XII. Agendas & Scheduling.

[CD 14-221](#) Agenda Items Report.

Attachments: [Agenda Items Report 20140703](#)

XII. ADJOURN.

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

