

# Town of Windham

Office of the Town Manager  
8 School Road  
Windham, ME 04062

Phyllis Moss, Asst. Town Manager/H.R. Director  
pamoss@windhammaine.us

voice 207.892.1907

fax 207.892.1910

To: Tony Plante  
From: Phyllis Moss *P. Moss*  
Re: General Assistance Policy Guidance  
Date: October 9, 2014

At the September 9, 2014 Council meeting, the Council discussed the DHHS General Assistance Guidance mandating that

- a. all municipalities determine if an individual that is applying for assistance is “lawfully present” and
- b. if an individual is determined to be not “lawfully present” no General Assistance benefits be provided to them.

The Council was provided with background information and the recommendation from the Town’s legal counsel, Jensen Baird Gardner & Henry (JBGH), indicating that this is a policy decision that must be made by the Town.

At the September 23, 2014 Council Meeting Order 14-381 was put forward, but was postponed by Council after discussion. Council requested additional research before providing this guidance.

On September 24, 2014, we received from the Town of Gorham the language used in their order regarding this same issue (see attached September 2, 2014 meeting minutes). Since the language did not appear to satisfy what the Town Council was looking for, we consulted legal counsel (see attached). Following this, the language was refined even further.

We are proposing the following amendment to Order 14-381:

**To provide policy guidance to staff in the implementation of the General Assistance Ordinance that for the purposes of determining eligibility for assistance, the town will continue to require documentation relating to an applicant’s lawful presence in the United States, but will not make any determination as to immigration status.**

REPORT OF THE  
GORHAM TOWN COUNCIL  
REGULAR MEETING  
SEPTEMBER 2, 2014

Gorham Municipal Center – Burleigh H. Loveitt Council Chambers

Chairman Phinney opened the meeting with the Pledge of Allegiance to the Flag. There were 27 members of the public present at the start of the meeting.

Roll Call: Chairman Phinney; Councilors: Roullard, Moulton, Phillips, Benner, Robinson, Hartwell.  
Also present were Town Manager David Cole and Town Clerk Jennifer Elliott.

Moved by Councilor Moulton, Seconded by Councilor Roullard and VOTED to accept the meeting minutes from the August 5, 2014 Regular Town Council Meeting. 7 yeas

#### Open Public Communications

David Alexander of Wilson Road spoke about the senior group looking for their 3<sup>rd</sup> temporary location and hoping for the possibility of the Little Falls School.

Alene Bowler of Mosher Road stated that she feels the distance to the Middle School for voters in the North Gorham area is too far and asked Council to consider the new Great Falls School as a voting place in the future.

#### Councilor Communications

Councilor Hartwell mentioned the upcoming anniversary of September 11 and how those events prompted him to join the armed services.

Councilor Robinson reported that he had visited the 9/11 Memorial and Museum in New York City and encouraged people to visit and making reservations, if they do visit. Councilor Robinson commended Superintendent Ted Sharp on his years of service. He mentioned that Mr. Sharp was the best Superintendent he had ever worked with. Councilor Robinson reported that the Ordinance Committee had met this past month and will be meeting again on September 29<sup>th</sup>.

Councilor Benner Welcomed USM students back to school and also welcomed Municipal students back to school.

Councilor Phillips reported that the Finance Committee had met and went over year-end financials and the tax lien list. She mentioned a student leadership event at USM that was let by Councilor Roullard. Councilor Roullard welcomed the USM student back to school. Councilor Roullard reported that the Historical Preservation Committee had met and set goals for their next meeting that includes making a master list of the historic properties in the Town using a wide variety of resources to accomplish that task.

#### Town Manager Report

Town Manager David Cole reported that nomination papers are still available for 2 seats for Town Council and 3 seats for School Committee. The papers need to be returned, with at least 25 valid signatures but not exceeding 100 signatures, by 4 pm on September 22 to the Town Clerk.

## School Committee Report

Chairman Dennis Libby reported that Ted Sharp, Superintendent of Schools, will be retiring on June 30, 2015, after 11 years with the Town and 50 years in education. Students are getting acclimated to the schools and teachers and next will be the transition into fall sports programs. Chairman Libby encouraged people to go to some sporting events. Schedules can be found online at [www.digitalsports.com](http://www.digitalsports.com), or through the high school website at [www.goghs.org](http://www.goghs.org).

Chairman Libby report that the house located at 55 Morrill Avenue, which the Town had purchased with intent for future use by the High School, has fallen into severe disrepair and it will be demolished before winter. This will create some additional parking in the short term. The next School Committee meeting is scheduled for September 10, 2014 at 7:00 pm in the Burleigh H. Loveitt Council Chambers.

## Old Business

Item #8485 As previously Moved and Seconded, ORDERED, that the Town Council send the Certificate of Taking Document produced for the Phinney Street Extension eminent domain proceedings voted by the Town Council on March 5, 2002, to the Spekin Forensic Laboratories in East Lansing Michigan for verification, and

Be It Further Ordered that the Town Council appropriate an amount not to exceed \$2,500 from the contingency account to pay for the work. 0 yeas, 7 nays (Roullard, Moulton, Phillips, Phinney, Benner, Robinson, Hartwell)

## New Business

Chairman Phinney opened Public Hearing #1 on a referendum asking voters to amend the Town Charter by adding language to define a crime of moral turpitude. The proposed amendment is:

Section 5.5: Pursuant to Section 202 of the Town Charter, if a member of the Town Council is convicted of a crime of moral turpitude, the Council member's office shall be immediately become vacant upon conviction or a guilty plea or a plea of no contest. For the purposes of the Section, the term "crime of moral turpitude" shall include conviction of Murder or a Class A, B, C or D crime, while in office, or conviction of a similar crime if outside the State of Maine

2 members of the public spoke in opposition to defining moral turpitude.

1 member of the public spoke of the dangers of drunk driving, as his wife was killed by a drunk driver.

There were no further comments and the Public Hearing was closed.

Chairman Phinney opened Public Hearing #2 on a referendum asking voters to approve a proposal to renovate and improve the existing public safety building and construct a new police station at 270 Main Street with an estimated cost of \$4.99 million, to be funded with bonds for up to 20 years.

Andy Hyland of Port City Architecture gave a power point presentation of an overview of the project.

Dennis Libby of Queen Street had a question of placement on a possible road from the back of the property that was answered by Mr. Hyland.

Jim Means of Beatrice Drive commended the Council for the choice of the company to design and produce the project plans. There were no further comments and the hearing was closed.

Chairman Phinney opened Public Hearing #3 on a referendum asking voters to authorize the Town to accept a Federal Grant of up to \$632,690.00 to purchase breathing apparatus and thermal imaging cameras with local funds not to exceed \$31,634.50, which local funds are already included in the budget

and so will result in no change to the tax rates. There was no public comment and the hearing was closed.

Chairman Phinney opened Public Hearing #4 on a renewal liquor license in the name of Gorham Sports Center. There was no public comment and the hearing was closed.

Item #8498 Moved by Councilor Robinson, Seconded by Councilor Phillips and ORDRED, that the Town Council approve a renewal Restaurant Liquor License for Southern Maine Community Recreation Center d/b/a Gorham Sports Center, located at 215 Narragansett Street. 7 years

Chairman Phinney opened Public Hearing #5 on a new Restaurant Liquor License in the name of M and G X-Mac II, LLC (Ocean Garden). Michael Martin, the applicant, stated that he is buying Ocean Gardens and the only change to the signage may be a new logo, and that he was eager to do business in Gorham. There was no further comment from the public and the hearing was closed.

Item #8499 Moved by Councilor Robinson, Seconded by Councilor Moulton and ORDERED, that the Town Council approve a new Restaurant Liquor License in the name of M and G, d/b/a Ocean Garden Restaurant located at 390 Main Street. 7 years

Item 8500 Moved by Councilor Roullard, Seconded by Councilor Moulton and ORDERED, that the Town Council accept a bill of sale from Sold, Inc. for the Wastewater Pump Station, Force Main and Collector Sewers as described on plans entitled "Heartwood, Weeks Road, Gorham dated February 2000 as revised March 19, 2001", and  
Be it Further Ordered that the Town manager is authorized to execute an agreement with the Portland Water District transferring these facilities to them. 7 years

Item #8501 Moved by Councilor Moulton, Seconded by Councilor Roullard and ORDERED that the Town Council approve the recommendation from the Village Parking Study to remove the barn at 10 Preble Street and construct a 24 space parking lot. 0 years, 7 nays (Roullard, Moulton, Phillips, Phinney, Benner, Robinson, Hartwell) Prior to the above vote, 8 members of the public spoke in opposition to this project.

Item #8502 Moved by Councilor Robinson, Seconded by Councilor Phillips, Moved by Councilor Phillips, Seconded by Councilor Moulton to AMEND the proposed order to appropriate the \$32,000 from Recreation Department Program fees, as a lump sum instead of a 5 year pay-back process. 7 years. The Order as Amended to read as follows; ORDERED, that the Town Council authorize the purchase of a 14-passenger handicap accessible bus for the Recreation Department to provide for cost effective transportation at a cost not to exceed \$56,900, and  
Be It Further Ordered, that the bus will be purchased using \$25,000 in Recreation Department Reserve funds with the balance of funds, not to exceed \$32,000, to be appropriated from Recreation Department Program fees. 7 years

Item #8503 Moved by Councilor Phillips, Seconded by Councilor Robinson and ORDERED that the Town Council authorize the Town Manager and the Finance Director to solicit bids for the following properties acquired through foreclosed tax liens:

1. A parcel of land (approximately 13.9 acres) located on Deering Road (Tax Map 14, Lot 6.102)
2. A parcel of Land (approximately 2.9 acres) located on Deering Road (Tax Map 14, Lot 6.101)



3. A house and land located at 4 Briarwood Lane (Tax Map 39, Lot 40)

Be it Further Ordered, that the Town Manager and Finance Director, after the bid process, provide their recommendation to the Town Council for the disposition of these properties. 7 years

Item #8504 Moved by Councilor Roullard, Seconded by Councilor Moulton and ORDERED, that the Town Council designate the Gorham Art Alliance as the Local Arts Agency. 7 years

Item #8505 Moved by Councilor Hartwell, Seconded by Councilor Phillips and ORDERED, that the Town Council direct its general assistance administration to deny general assistance benefits to illegal immigrants. 0 years, 7 nays (Roullard, Moulton, Phillips, Phinney, Benner, Robinson, Hartwell)

Item #8506 Moved by Councilor Hartwell, Seconded by Councilor Phillips and ORDERED, that the Town Council go on record as opposing a recent law suit filed the Maine Municipal Association against the State of Maine that seeks clarification for the sharply conflicting instructions from the Maine Department of Health and Human Services, the Governor and the States Attorney General about the proper administration of general assistance. 3 years, 4 nays (Roullard, Robinson, Phinney Benner)

Item #8507 Moved by Councilor Robinson, Seconded by Councilor Benner and ORDERED, that the Town Council refer a proposal to amend Chapter 1, Section IX, of the Land Use and Development Code, to allow creative parking solutions, to the Planning Board for public hearing and the Board's recommendation. 7 years

Item #8508 Moved by Councilor Moulton, Seconded by Councilor Benner and ORDERED, that the Town Council refer a proposal to amend the Land Use and Development Code to allow patios within the setback, except those in the Shore Land Zone, to the Planning board for public hearing and the Board's recommendation. 7 years

Item #8509 Moved by Councilor Hartwell, Seconded by Councilor Roullard and ORDERED, that the Town Council refer a proposal to amend Chapter II, Section XII to allow people keeping farm animals in the Urban Residential Zone, to sell products made from their animals and to allow a reduced setback requirement for fences, to the Planning Board for public hearing and the Board's recommendation. 7 years

Item #8510 Moved by Councilor Moulton, Seconded by Councilor Phillips and ORDRED, that the Town Council accept the bid of Daigle & Houghton for a 6-wheel plow truck, with a trade-in included in the amount of \$60,664.58, and  
Be it Further Ordered that the Town Council accepts the bid of H P Fairfield for the Sander in the amount of \$10,470 and a load cover in the amount of \$1,600 and the Liquid Calcium Spray System of \$4,200 for a total price for the Plow truck of \$129,816.58. 7 years

Item #8511 Moved by Councilor Phillips, Seconded by Councilor Roullard and ORDERED, that the Town Council accept the bid of H P Fairfield for a trackless tractor, minus the Cold Planer for a cost of \$115,026, and  
Be it Further Ordered, that the Town Council accepts a proposal from Wescott & Sons for a Cold Planer in the amount of \$16,695 for a total price for the Trackless Tractor of \$131,723. 7 years

Item # 8512 Moved by Councilor Roullard, Seconded by Councilor Robinson and ORDERED that the Town Council go into executive session, pursuant to Title 1, M.R.S.A Section 405 (6) (A) to discuss the

process for hiring a Police Chief and pursuant to Title 1 M.R.S.A Section 405 (6) (C) to discuss an offer to purchase Town Property at 21 Main Street. 7 yeas

Moved by Councilor Moulton, Seconded by Councilor Hartwell and VOTED to come out of Executive Session. 7 yeas

Moved by Councilor Moulton, Seconded by Councilor Hartwell and VOTED to Adjourn. 7 yeas  
Time of adjournment 10:36 pm

A True Record of Meeting

ATTEST: \_\_\_\_\_  
Jennifer Elliott, Town Clerk

\_\_\_\_\_

## Phyllis A. Moss

---

**From:** Natalie L. Burns <nburns@JBGH.com>  
**Sent:** Monday, September 29, 2014 12:33 PM  
**To:** Phyllis A. Moss  
**Subject:** RE: Order language

See below. Let me know if you have any questions.

Natalie L. Burns, Esq.  
**Jensen Baird Gardner & Henry**  
Ten Free Street  
P.O. Box 4510  
Portland, Maine 04112-4510  
207-775-7271 or 800-756-1166  
Fax: 207-775-7935  
[nburns@jbggh.com](mailto:nburns@jbggh.com)  
[www.jbggh.com](http://www.jbggh.com)



---

**From:** Phyllis A. Moss [<mailto:pamoss@windhammaine.us>]  
**Sent:** Monday, September 29, 2014 12:19 PM  
**To:** Natalie L. Burns  
**Subject:** Order language

Natalie –

Per our conversation:

To provide policy guidance to staff in the implementation of the General Assistance Ordinance that for the purposes of determining eligibility for assistance, immigration status not be considered until the conclusion of the pending litigation between Maine Municipal Association and the Maine Department of Health and Human Services.

If you want, you could add, "This policy is not intended as the statement of any position on either the current DHHS policy on immigration status or on the pending litigation."

Many thanks. P.

**Phyllis Moss**  
Assist. Town Mgr./H.R. Director  
Town Manager's Office  
Town of Windham  
ph(207) 892-1907  
fax(207) 892-1910  
[pamoss@windhammaine.us](mailto:pamoss@windhammaine.us)