



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Town Council

Tuesday, February 28, 2017

7:00 PM

Council Chambers

I. Roll Call of Members.

Present: 7 - David Nadeau, Dennis Welch, Tim Nangle, Bob Muir, Jarrod Maxfield, Donna Chapman and Brett Jones

II. Pledge of Allegiance.

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

III. Minutes to be Approved:

CD 17-066 To approve the minutes of the February 14, 2017 Council meeting.

Attachments: Minutes-Town Council 2-14-2017

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

In Favor: 7 - Vice Chair Nadeau, Council Chair Welch, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman and Councilor Jones

IV. Public Participation.

No Public Comment.

V. Councilors' Comments.

Councilor Chapman: The Summerfest Committee has been meeting, and they did not know whether they should run it through Linda Brooks first, or just have the Committee come to a Council meeting? She said the Committee is going to need some money. She said they would be meeting again on March 15th.

They are also going to do a similar commercial for Summerfest like they did for Winterfest through Parks & Rec.

Councilor Nadeau: He thanked Public Works again, and he said he had only had kudos on their performance this year.

VI. Council Correspondence.

No Council Correspondence.

CD 17-060 Winter Operations Budget Update

Attachments: DPW Winter Budget Memo 20170214

CD 17-072 Cumberland County 2017 Budget Message and Tax Distribution.

Attachments: Cumberland County 2017 Tax Distribution
Cumberland County Final 2017 Budget Message 1-24-17

CD 17-053 Assessing & GIS Report - January 2017

Attachments: AssessingGIS201701

CD 17-055 Windham Public Library Monthly Report - January 2017

Attachments: January 2017

CD 17-056 Fire-Rescue Department Monthly Report - January 2017

Attachments: Fire-Rescue Monthly Report - Jan 2017

CD 17-058 Windham Police Department Monthly Report - January 2017

Attachments: Windham Police Department Monthly Report - January 2017

CD 17-061 Parks and Recreation Department Monthly Report - January 2017

Attachments: Parks & Recreation Monthly Report - January 2017

CD 17-062 Social Services Monthly Report - January 2017

Attachments: Social Services Monthly Report - January 2017

CD 17-065 Public Works Monthly Report - January 2017

Attachments: DPW Monthly Report - January
January Storm Reports 2017

CD 17-067 Code Enforcement Monthly Report - January 2017

Attachments: Code Enforcement Monthly Report - January 2017

VII. Town Manager's Report.

CD 17-073 Town Manager's Report.

Attachments: Town Manager's Report 20170224
Projects & Issues List 20170224
Projects & Issues Sheets 20170224

Tony Plante: Tony reported that there is a public meeting on the River Road Project, Part 2; which is the lowe section south of Route 202 to the Westbrook line. The town has posted on the website, Facebook and to those who live along that area, they received a notice of the M.D.O.T. public meeting, which will take place on March 8 from 6:00 to 8:00 p.m. at the High School Performing Arts Center. Also, he noted that the bridge over the Colley Wright Brook will be replaced, it was not originally part of the project, but that changed last year.

Tower 3 is back and is all together, but it is currently undergoing some repairs that are not related to the aerial or drive-train damage. They have heard from the insurance company for the dealer, and they will be talking to the Council before the sign off on any settlement. This is the apparatus we own jointly with the Town of Gorham.

We are about to get into the budget process. The Department Heads have been working on their budgets for the last month. He said as soon as the budget for fiscal 2018 is adopted at Town Meeting in June they will be working on an update to the town's Strategic Plan; which will take us through the next 3-5 years incorporating elements from the Comprehensive Master Plan; which should be adopted by then and setting the stage for budgets fiscal 19, 20 and so forth.

He said he will receive department head's budgets tomorrow, then he will be working with them between now and March 31, at which point, he will submit a budget to the Council. The Council will refer the budget to the Finance Committee for its review and recommendations. The Finance Committee will make its report to the Council the end of April, first part of May, and the Council will take up the budget, with at least one public hearing before voting on a budge before the end of May. The final step in the budget approval process is budgetary Town Meeting, which occurs the Saturday after the second Tuesday of June.

Work is continuing on Land Use Ordinance changes that will help implement the part of the vision of the 21st Century Downtown Plan.

There was a Community open-house on February 26 at the Little Meeting House. They got some good input on that. They are on track with things and their plan is to have a meeting with the Council and invite the Planning Board, as they will be asked to make recommendations. At the following meeting they will come back to the Council with a review of the proposed language.

Seasonal road weight limits will be posted by the end of the week, and they will probably run for a few weeks while the frost comes out and the mud dries up. M.D.O.T. lists seasonal weight limit posting all around the state, and they sent the list to them, as well as posting it on our website and Facebook page.

Tonights consent agenda is fairly lengthy with appointments being recommend by the Appointments Committee tonight. Tony explained that the notion behind a consent agenda is to help streamline the approval of routine items that typically do not require discussion or debate. By Council Rule in Section 11, a motion on a consent agenda is a motion on each and every item in the consent agenda. He said what we have been missing is, that by putting something on the consent agenda, it automatically waives the requirement for a full reading, otherwise required by Section 7 of the rules. Tony noted that if anyone wanted to pull any item from the consent agenda, they may for any reason have it pulled, otherwise, it is moved as a whole, seconded as a whole and acted on as a whole without reading every Order listed.

VIII. Committee Reports.**A. Council Subcommittees.****1. Appointments Committee.**

Councilor Nangle: Reported that they have a lot of appointments tonight, and they are all excellent applicants, and they are very proud to have them come aboard.

2. Finance Committee.

Councilor Nadeau: They have not met recently but will meet a couple of weeks when Tony presents the budget.

B. Other Committees.**1. Parks & Recreation Advisory Committee.**

Councilor Chapman: They met last week, and had to cancel Winterfest due to the weather. They are discussing funding and grants. They need to discuss rolling the Dundee Park Committee into the Parks & Rec Committee. They lined up the concerts for the Concerts in the Park for the month of July and August.

2. Public Works/School Transportation Maintenance Facility Joint Project Team.

Councilor Nadeau: Reported that they had their first meeting last Thursday night at Public Works, and it went very well. They are looking for two members of the public to be on that committee, the one person who had applied withdrew. They are in the process to see what dates are available to meet with the engineer so they can go over how the project was put together and move forward.

Tony Plante: Explained that the community member who had withdraw did so because in setting up the project team they said they were looking for people who had relevant experience with projects of similar size and complexity. This person said they really didn't have that so they withdrew. Tony met with the team last Thursday, and the consensus was having that experience is helpful but not required.

3. Wastewater Management Planning Advisory Committee.

Tony Plante: Reported that our engineer had a meeting with DEP, and they are waiting for some material back before they set up another meeting. It is to discuss the feasibility of licensing different types of larger scale subsurface treatment systems. Before they get to a point of actually developing a design and find that it is not something DEP is comfortable permitting, they want to have that discussion in advance. They will be getting some material from Wright-Pierce and setting up a meeting.

4. Windham Economic Development Corporation

Tony Plante: Reported that they had a meeting a couple of weeks ago, and

should be set to have another meeting in two weeks. There is a renewed emphasis focusing on project specific groups instead of generic committees working on this.

They had a very good and extensive discussion with Alan Brigham from the Economic Development Administration, which has a great mission, but sounds a lot bigger than it really is. They do really good work and can give some insight on how to work with them to develop projects that would likely be funded.

Councilor Nadeau said he was shocked at how small it is, but how much funding it had at one point and how little funding it has now.

Councilor Chapman: She referred back to the Appointments Committee and said if they are going to get busy with the Natural Resources Advisory Committee, she feels they need to have Councilor Nangle reappointed to the committee. It was decided to add it to the next agenda.

IX. PUBLIC HEARINGS.

CD 17-036 Planning Board recommendations on proposed amendment to Town of Windham Land Use Ordinance, Chapter 140, Section 501 Accessory Apartments.

Attachments: CD 17-036 Cover Sheet

PB recommendation to TC Accessory
Apartments 01-26-17 combined

Elaine Pollock - Gentle Breeze: "I am happy to see this provision coming before the Council; I consider it forward thinking. In my opinion, it is always good when Windham's ordinances do not create hindrances but provide people centered opportunities and solutions. As a society, we create some unfortunate obstacles for families. Single family zoning was a great designation in the 1950's and 60's, but 50 years later it no longer provides the flexibility our society in the 2000's need.

We used to have big family homes that could accommodate multi generations. The most were ranches or homes with all the bedrooms on the second floor and do not easily adapt to multi-generational families. In addition, today's people desire more independence and most floor plans don't allow for that; we are also living longer. Therefore, the little house, which is what I will call it, is being reborn.

I'd like to outline three ways that I see this little house provision being beneficial. First, young adults, singles and couples, whether boomerang kids or young couples, this would provide a beneficial option. It is a great way to build responsibility and independence with boomerangs. It is a great way for young adults or young couples to be able to build up a little nest egg and not a lot of debt, and to establish themselves in their own place. Given today's economy, as well as extended young adulthood, this is a great need among many in their twenties and into their early thirties.

Second, considering the adult with a disability, we're no longer putting those with disabilities in institutions, and the state has never funded group homes adequately. For the person with the disability, this little house could provide the means to live independently, yet near their support system. Few can disagree that such an arrangement would allow them to build or maintain independence for a person with a disability. Again Windham creating, hopefully, win-win options.

Third, the elderly. This provision in our ordinances could be a godsend for those who are elderly. They would not have to leave the immediate area they likely love, and especially beneficial to those who have been tied to their land for 40-50+ years or even over multi-generations. We have numerous elderly in Windham that this could benefit.

As a community we have worked towards creating opportunities for Windham's elderly, and that should be commended. Unfortunately, for most, those opportunities do require a move, even within the community.

The ordinance would allow them to move just a few yards away and still maintain independence, and we all know how important that is for those in their 80's and 90's; as their health may not be as great as it was, but is still capable of living independently. Possibly their grandchildren or great-grandchildren would live in the family home. The next generation could maintain and take care of the larger family house, and the mature person could live, respectfully, on their own fixed income in a smaller home. We all know that large homes are sometimes what force people out of their homes, and if there are other options, that would be beneficial.

Again, Windham has the opportunity here to create another win-win or with the mother-in-law case; this little house could be the in-law apartment or granny flat where the parents living further away, or the grandchildren move to be closer to the grownup children or grandchildren. We all know those in their 80's and 90's would like to maintain as much independence for as long as possible, but if health or finances decline, they would appreciate family very close by, and if that just means moving to the little house, I think that is definitely a win-win.

We all know that it can be a struggle and/or challenge to accommodate aging parents or grandparents in our homes. Most of our homes are really not designed for that. This ordinance provision would provide Windham's families with that other option. My opinion, why would anyone be in favor of not changing that ordinance? With that being said, I am not sure that all Windham zones and properties would accommodate a little house, and from what I read, I do not really see that part of it addressed. Also septic requirements need to be doable for those with existing homes because, naturally, this won't all be new construction.

I thank you for your considerations, and personally, I think it is a great solution for a lot of people. Thank you."

Public hearing closed.

CD 17-037 Planning Board recommendations on proposed amendment to Town of Windham Land Use Ordinance, Chapter 140, Section 204 Nonconforming Lots of Record.

Attachments: CD 17-037 Cover Sheet

PB recommendation to TC Nonconforming Lots 01-26-17 combined

Ben Smith: This is a relatively a minor change to the Land Use Ordinance in Section 204 Nonconforming Lots, and it is really getting down into the code where it has been the practice, as far as being able to address existing nonconforming lots, and how they are treated, going forward, when it comes to development and divisions of the property. With the advice of the town attorney they drew up some proposed language to add into Section 204, which is in the packet. It is one step above a house keeping change.

Public hearing closed.

CD 17-038 Planning Board recommendations on proposed amendment to Town of Windham Land Use Ordinance, Chapter 140, Sections 800 and 900 relative to Post Approval Activities.

Attachments: CD 17-038 Cover Sheet

PB recommendation to TC Post Approval 01-27-16 combined

Ben Smith: These changes deal with requirements for post-approval activities related to site plan and subdivision approval, and over the years the Planning Department has managed the Performance Guarantee Process, and construction and inspection process to make sure they are approved by the Planning Board and built to the approved plan. We've identified a number of changes working with the performance guarantees. The most impactful change has to do with the time limit to complete approved projects.

Today there is a time limit from when you get your project approved as a subdivision, for example, you have three years to start construction, but there is no time limit to how long that construction activity would take place once you start it. So there'd been a number of examples, in both residential and commercial subdivisions, where projects have commenced and projects have gone for four, five, six or more construction seasons. Even as new buildings get occupied we have several subdivisions that are almost completely built out but the final paving is not completed, sidewalks were not installed for a long time, stormwater is not functioning, so this would be a time limit on how long it takes from when you start a project to complete a project.

The second change has to do with how the schedule of values for determining the amount the guarantees are established. Hopefully it will take a lot of what ends up being back and forth out of the process, so today an applicant who has an approved subdivision or site plan would present a schedule of values, a list of the costs associated with the construction of the project, and the engineer would review that and say "this number is not high enough or this one is too high" and it is a back and forth negotiation. This change proposes to have a list of values, maintained by the town, i.e. x number of feet for an under drain, x number of dollars for a ton of pavement, those kinds of things, and you simply calculate quantities, and there is no back and forth on the amount of the guarantee that comes out at the end of the equation.

Third is limiting the dollar amount frequency of reduction request. Again, this is to reduce the administrative burdens associated with letters of credit. We have had some projects that request very frequent reductions, sometimes three or four a month during construction season, and that burns a lot of engineering time to verify that the work has been completed.

Fourth is a limit on the expiration dates and guarantees so that they don't fall out of season. This is a fairly common requirement so that you don't end up with a letter of credit that expires in January when no one, the applicant or the town will be in a position to complete the work until after the roads get unposted.

Fifth is more of a clarification on lining up and making it more consistent with the performance guarantee, and making sure the project is constructed appropriately, and the guarantee required for one year after completion of construction for roads that are to be offered to the town, so that those cover the same things today.

So it is a package of changes that, together, ease the administrative burden and ensure projects get completed in a timely manner and that stormwater functions are approved, road pavements are built as approved.

Public hearing closed.

X. CONSENT AGENDA.

- 17-042 To appoint John McGinnis to a two-year term on the Windham Economic Development Corporation, to expire February 15, 2019.

Attachments: CoverSheet 17-042

- 17-043 To appoint James Cobb to a three-year term on the Zoning Board of Appeals, to expire February 15, 2020.

Attachments: CoverSheet 17-043

- 17-044 To appoint Chuck Fleck to a three-year term on the Zoning Board of Appeals, to expire February 15, 2020.

Attachments: CoverSheet 17-044

- 17-045 To appoint Steve Clauson to a three-year term on the Board of Assessment Review, to expire February 15, 2020.

Attachments: CoverSheet 17-045

- 17-046 To appoint Michael Libby to a three-year term on the Energy Advisory Committee and Natural Resources Advisory Committee, both to expire February 15, 2020.

Attachments: CoverSheet 17-046

- 17-047 To appoint Melissa Oldakowski to a three-year term on the Parks and Recreation Advisory Committee, to expire February 15, 2020.

Attachments: CoverSheet 17-047

- 17-048 To appoint Krystal Ash Cuthbert to a three-year term on the Library Board of Trustees, to expire February 15, 2020.

Attachments: CoverSheet 17-048

- 17-049 To appoint Joanne Mattiace to a three-year term on the Zoning Board of Appeals, to expire February 15, 2020.

Attachments: CoverSheet 17-049

- 17-050 To appoint Rachael Bidwell to a three-year term on the Human Services Advisory Committee, to expire May 15, 2020.

Attachments: CoverSheet 17-050

A motion was made by Councilor Chapman, seconded by Councilor Nangle to approve the Consent Agenda. The motion carried by the following vote:

In Favor: 7- Councilor Chapman, Councilor Jones, Councilor Maxfield, Councilor Muir, Councilor Nadeau, Councilor Nangle and Council Chair Welch.

XI. UNFINISHED BUSINESS & GENERAL ORDERS.

17-055 To abate for 2014 and 2015, and authorize the tax collector to discharge as uncollectible any remaining balance of personal property taxes assessed to account L0019P.

Attachments: CoverSheet 17-055

Abatement-PP-L0019P

Tony Plante: This is a personal property account that was assessed in error because the property owner did not let us know the property had been disposed of, and the town assessed it for three years, but the property no longer exists. This renders the account uncollectible, and statute allows the Assessor to abate one year and the Town Council to abate the other two years.

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

In Favor: 7 - Vice Chair Nadeau, Council Chair Welch, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman and Councilor Jones

17-011 To enter into executive session under 1 M.R.S.A. §405(6)(D) for "discussion of labor contracts and proposals and meetings between a public agency and its negotiators" on the collective bargaining agreement with Gorham and Windham Professional Firefighters Association/IAFF Local 4095.

Attachments: CoverSheet 17-011

A motion was made by Councilor Nadeau, seconded by Councilor Chapman to go into executive session. The motion carried by the following vote:

In Favor: 7- Councilor Chapman, Councilor Jones, Councilor Maxfield, Councilor Muir, Councilor Nadeau, Councilor Nangle and Council Chair Welch at 7:45 p.m.

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

In Favor: 7- Councilor Chapman, Councilor Jones, Councilor Maxfield, Councilor Muir, Councilor Nadeau, Councilor Nangle and Council Chair Welch.
No votes were taken in executive session.

In Favor: 7 - Vice Chair Nadeau, Council Chair Welch, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman and Councilor Jones

17-051

To approve a three year collective bargaining agreement for the period July 1, 2016 through June 30, 2019 between the Town of Windham and the Gorham and Windham Professional Firefighters Association/IAFF Local 4095, and to authorize the Town Manager to sign the agreement on behalf of the Town.

Attachments: CoverSheet 17-051

Tony Plante - There are some language changes related to work rules, schedules, things of that nature. This is a 3-year contract that runs from July 1, 2016 through June 30, 2019. We have, for six months, no cost of living adjustments, we are making a \$750 lump-sum payment to each of the four unit members to cover that period beginning January 1, 2017. There is a 2% cost of living adjustment, which they will apply retroactively March 1. Also on July 1, 2017 and 2018 there will be an additional 2% cost of living adjustment for this unit. Along with other employee groups, the non-union employees and Public Works bargaining unit will become eligible for the town's Longevity Bonus Program, which pays out a graduated lump sum starting at \$500 one-time a year, in November. They will become eligible for that in the contract year that begins July 1, 2017. As part of a recruitment tool, where they have added two paramedic positions, it is likely they will add other paramedic positions in the future. He thanked the members of both bargaining teams, the Assistant Town Manager/HR Director Phyllis Moss and the Fire/Rescue Chief Brent Libby; they were a great help. He wants to recognize their efforts and appreciate their spirit of constructive involvement in the process.

Council Chair Welch thanked the men and women of our Fire Department. They do a great job.

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

In Favor: 7 - Vice Chair Nadeau, Council Chair Welch, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman and Councilor Jones

17-052

To approve amendments to the Land Use Ordinance, Chapter 140 of the Code of the Town of Windham, to allow accessory apartments to be contained within an accessory building to a single-family detached dwelling.

Attachments: CoverSheet 17-052

PB Memo re. Accessory Apartments 20170126

Tony Plante: Tony pointed out that accessory apartments are already permitted in Windham. The distinction is they have to be contained within or attached to the existing single family dwelling. What this amendment would do is allow an accessory apartment to be contained in or be in an accessory building that is not attached to the single family dwelling, but only one per property. It will allow, in effect as Mrs. Pollock described, the little house, as opposed to an addition to the existing family dwelling.

Councilor Chapman: She asked Ben if there was any discussion of this in the Comp Plan? She noticed the Planning Board does not supports this and was surprised to see that, as she feels it could be beneficial to a lot of people and she would agree with Elaine Pollock.

Ben Smith: He said he didn't believe the Comp Plan addressed accessory apartments, specifically, because they are allowed as attachments currently. The proposed language

is a very simple change in the wording, but would potentially allow a portion of a separate structure on properties. He explained that a lot of communities across the country are allowing and loosening up regulations on accessory apartments as a way to increase the amount of vitality in an area, allow more density and have more multi-generational living arrangements.

Councilor Chapman: She said the state is looking at towns more and more to take care of family members. There are no beds available in nursing homes and assisted living facilities.

Ben Smith: Said he didn't think there are any other regulations about how these could be used. Remembering when they discussed the accessory apartments, they talked about only allowing in-law apartments and they realized it would be too much to enforce and regulate for the Code Department. He noted that there could be B&B issues as well.

Councilor Maxfield: He asked if there was some guidance that Planning was going by, like in the current ordinances or plans, that put them on the side of not recommending this change? He said he thinks it is a good idea but he does have some concerns. He wants to help out the elderly and our families, but if passed, what prevents people from building a tiny shed and having it become a rental unit in the backyard and having it happening in droves?

Ben Smith: There is not a lot of detail provided because it was a unanimous decision. He believes there was some discussion on whether there are some areas of town more suited than others.

Councilor Maxfield: His only concern is, like so many other things in life, we have people who will abuse this, and ruin such a good thing. This should not be a for-profit type of thing, there should be a need for it to help a family member out.

Councilor Nangle: He is afraid this will morph into something else, but hearing Mrs. Pollock, he agreed with her. He would like to be assured this will not become a typical rental property. Ben pointed out that there is nothing in there that would prohibit people from renting out to non-relatives. He does not know what this potential change would do. They have not had, in the last three years or so, a crush of applications for this use, maybe a dozen. Councilor Nadeau said in looking at a Code Enforcement report of July 2015 and July 2016 there was only 1 application for an accessory apartments. Ben said one option would be to try it out and see how it goes and make adjustments down the road, or they could dig a little deeper and do some more work.

Tony Plante: He said presently, accessory apartments are required to be within or attached to the existing dwelling; the only change here is it is not required to be attached. They still have to adhere to set backs. As mentioned earlier, they do not have any regulations or restrictions of how or to whom they may be rented or by whom they may be occupied. He'd be willing to bet there are some B&B's out there. He said before this was even in place there were many of those kinds of apartments out there.

Councilor Chapman: She said there will always be somebody who abuses the system, but feels for the ones that wouldn't, this would benefit. She doesn't think there will be a mass outbreak of applications.

Councilor Nadeau: He said he proposed this and looked at all the arguments against it. There are many places in town who have cellars done over and are being used for apartments or others who rent places out. There are a lot of places that rent rooms out.

He said he understands this could be abused, but this could be beneficial to many folks.

Councilor Welch: Thinks this is a good thing for elderly parents and keeping them out of nursing homes.

Councilor Nangle: He said he thinks there is a difference of having an accessory apartment in your home versus having a detached building on your property. You typically you would not rent an apartment out in your home to three college kids, but with this second detached building, you might.

Councilor Maxfield: Asked if Windham had anything in our ordinance with setbacks? Ben said yes, there was.

Councilor Muir: He said we could get to a point where we have a lot of them out there. What do folks do with them once their parents can't stay in it any longer? The tiny house craze is big and our ordinance does not really allow for tiny houses, would this be a way around that? He would tend to go with the Planning Board's decision.

Councilor Jones: Depending on the zoning you can have more than one lot on the property, right? So it is not much different as long as you meet the setbacks.

Ben Smith: The idea was these could be allowed in a way that kind of integrates with an existing building. He thinks the Planning Board had some concern about altering the character of a neighborhood or doubling the amount of people in the neighborhood, which theoretically is possible. It is hard to say what the implications are, there have not been a lot of these, but with this change, would it make it more attractive?

Councilor Nangle: He said he would like to see a restriction on minimum lot size as to where you could put these. He thinks that would protect the neighbors and neighborhood if they are not allowed on just any size lot.

Councilor Nadeau: He said this came about due to a phone call he received. The gentleman has a disabled daughter, and they live in an out dated ranch house, with a detached two car garage. He wanted to put the apartment on the garage. It did not make it financially feasible to put it off of the house. Dave weighed the pros and cons, and he understands if the man sold the house, the realtor will promote the house as having income property. He doesn't think it is fair to limit to the growth area, because if you are dealing with in-laws or handicapped, they are not living in just those specific areas in town. He agreed it does have some baggage. He thinks all we have to do is monitor them.

Councilor Jones: Said that he thinks that with the kind of building codes we have, and how expensive it is to build a building that meets code these days; he does not think people will be throwing these in the backyards to make money off them.

After some more discussion it was decided to postpone the Order.

A motion was made by Councilor Chapman to postpone Order 17-052 until March 28, 2017, seconded by Councilor Nangle.

The motion carried by the following vote.

In Favor: 6 - Council Chair Welch, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman and Councilor Jones

Opposed: 1 - Vice Chair Nadeau

- 17-053 To approve amendments to the Land Use Ordinance, Chapter 140 of the Code of the Town of Windham, regarding existing nonconforming lots.

Attachments: CoverSheet 17-053

PB Memo re. Nonconforming Lots 20170126

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

In Favor: 7 - Vice Chair Nadeau, Council Chair Welch, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman and Councilor Jones

- 17-054 To approve amendments to the Land Use Ordinance, Chapter 140 of the Code of the Town of Windham, on post approval activities relating to performance guarantees.

Attachments: CoverSheet 17-054

PB Memo re. Post Approval Activities 20170127

Councilor Nangle: He is concerned and would like to see the amount of time that the builder or construction company must warranty the roads increased, currently it is only a year, and he thinks we are seeing a lot of different weather issues. He would like to see that extended to two or three years to allow a couple of frosts/thaw seasons. He doesn't want the town paying for those repairs or the new road association that has been formed on the road, and has no money to deal with a road that is crumbling beneath them.

He asked Ben if he thought the \$10,000 for the performance guarantee is adequate? Ben said that is the number they have in some of the other ordinances.

Ben Smith: They have three years to start the project for subdivision approval. Councilor Nangle asked if they could do that under the private road ordinance as well? What is the time frame that they have to finish the project? Ben said there is no end date, but under the proposal it is to have it completed two years from the start of construction so it could be up to five years from start to finish.

Ben Smith: He said the performance guarantee is to make sure it is constructed from the way it was approved, and then the warranty guarantee is on defects and workmanship to make sure it holds up. That is only being required today for roads that are being offered for public acceptance. For private roads there is no warranty required, and on paved roads that go through subdivision, there is a requirement that they lay the base pavement to go over winter before the surface pavement goes on and if the road is to be offered for public acceptance, there would be a warranty for additional winter so it would see a minimum of two winters.

17-054 To approve amendments to the Land Use Ordinance, Chapter 140 of the Code of the Town of Windham, on post approval activities relating to performance guarantees.

In Favor: 7 - Vice Chair Nadeau, Council Chair Welch, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman and Councilor Jones

XII. Discussion Items.

XIII. Agendas & Scheduling.

CD 17-074 Agenda Items Reports.

Attachments: Agenda Items Report 20170224
 Agenda Items Not Yet Scheduled 20170224
 Projects & Issues List 20170224
 Projects & Issues Sheets 20170224

There was discussion of agendas and scheduling.

XIV. ADJOURN.

A motion was made by Council Chair Welch, seconded by Councilor Muir, that they be adjourned. The motion carried by the following vote at 9:22 p.m.

In Favor: 7 - Vice Chair Nadeau, Council Chair Welch, Councilor Nangle, Councilor Muir,
 Councilor Maxfield, Councilor Chapman and Councilor Jones

Respectfully submitted,



Linda S. Morrell
Town Clerk, CCM