



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Town Council

Tuesday, March 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 17-110](#) To approve the minutes of the March 21, 2017 Council meeting.

Attachments: [Minutes-Town Council - 3-21-2017](#)

A motion was made by Vice Chair Nadeau, seconded by Councilor Nangle, 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.

Ray Monahan: He wanted to recommend to the Council that they should have a fund to support open space, or land for Windham's future, possibly something with \$50,000-\$100,000 in it per year. He is urging the Council to do that. He said this has been mentioned in other Comp Plans. He believes it would cost approximately \$6.00 more a year for someone with a \$200,000 home.

He also mentioned that he hoped someone could graphically display the property tax showing the school, the county and the town. He said it would make sense to, when the budget comes up, look at it in terms of a long-term trend.

In regard to the River Road construction next year - he hopes when it is done there could be a pathway along the River Road for walking or some means of egress or a turnout; he would love to have access to the River.

In regard to the rest area on Route 302 that has been closed for years., he wondered if the state would sell it to the town, swap for it, or open it up. He said it did not make sense for it just to be sitting there.

Tony Plante: In response to the Route 302 rest area he said the State is looking to dispose of it, and the town has an opportunity to purchase it as is and we can choose to do whatever we like with it for \$140,000, or we can accept certain restrictions on it to be used for transportation purposes and pay \$70,000. He said use as a park doesn't

constitute a transportation use, but they will be talking about it more as they get into the budget.

V. Councilors' Comments.

Councilor Chapman: She asked if they were going to have a conversation about the County Budget on an up coming agenda? Council Chair Welch said it was his plan.

Councilor Nadeau: Cumberland County Tax Assessment is going up this year by .93%. The increase will be about \$3.49 per tax payer.

VI. Council Correspondence.

No Council Correspondence.

[CD 17-098](#) Cumberland County Tax Assessment

Attachments: [Cumberland County Tax Assessment](#)

[CD 17-099](#) Maine Municipal Employees Health Trust Correspondence

Attachments: [MMEHT Health Claims Experience Report 2016](#)

[CD 17-084](#) Fire-Rescue Department Monthly Report - February 2017

Attachments: [February 2017 Monthly Report](#)

[CD 17-087](#)

Assessing & GIS Department Report for February, 2017

Attachments: [AssessingGIS201702](#)

[CD 17-088](#) Windham Public Library Monthly Report - February 2017

Attachments: [Monthly Report February 2017](#)

[CD 17-089](#) Town Clerk's Monthly Report for February 2017

Attachments: [Town Clerk's Report for February 2017](#)

[CD 17-097](#) Parks and Recreation Monthly Report - February 2017

Attachments: [Parks & Recreation Monthly Report February 2017](#)

[CD 17-101](#) Windham Police Department Monthly Report - February 2017

Attachments: [Windham Police Department Monthly Report - Feb 2017](#)

[CD 17-102](#) Public Works Monthly Report February 2017

Attachments: [Public Works Monthly Report - February 2017](#)
[Storm Reports Feb. 2017](#)

[CD 17-105](#) Social Services Monthly Report - February 2017

Attachments: [Social Services Monthly Report - February 2017](#)

[CD 17-106](#) Financial Reports

Attachments: [Appropriation Control Report](#)
[Revenue Control Report](#)

[CD 17-107](#) Code Enforcement Monthly Report - February 2017

Attachments: [Code Enforcement Monthly Report - February 2017](#)
[Permits To Date Fiscal Year Summary](#)
[Activity Report by Project Type February](#)
[Activity Report - By Violation Type](#)
[Impact Fees Collected February](#)
[Fiscal Year Activity Comparison February](#)

VII. Town Manager's Report.

[CD 17-108](#) Town Manager's Report.

Attachments: [Town Manager's Report 20170323](#)
[Projects & Issues List 20170323](#)
[Projects & Issues Sheets 20170323](#)

Tony Plante: He gave a status report on the Tower 3 truck and the insurance claim that they had for the driveline damage that occurred while the truck was being driven from Maine to Florida last May. They had about \$28,000 in damage to the truck when the transfer case to the pump let go that was connected to the driveline and disabled the truck along I-95 on the Georgia/Florida line. E1 took it to their facility and repaired that damage, repaired the damage to the aerial, which was how this whole saga began last April in the Gorham Public Works Facility. The repairs to the aerial, which are not covered by any kind of extended warranty because the truck is 16 years old, were \$31,185.

There was some question whether the dealer correctly and completely completed the repair to the transfer case and some associated parts in October of 2015, which is why their insurer made the offer to pay \$16,000, a little over half of the damage. They have spent time going back and forth with all involved, and consulted with the Town of Gorham, and they have agreed to accept the \$16,000; they are still going to have to figure out how to deal with the balance of the cost. The cost for the repairs is split 50/50 between Windham and Gorham.

Speaking with Chief Libby today he said the engineer from E1 was working with our mechanic today and they are very close to getting the Tower back in operation.

Tony attended a meeting of The Maine Town, City & County Management Association in Bangor last week. This years topic was marijuana; understanding the marijuana industry and marijuana laws in the State of Maine. Medical marijuana was legalized about 15 years ago, recreation and retail marijuana was made legal by the voters last November. The state is working on rules under the Marijuana Legalization Act. They have talked about how to deal with retail and also have identified some issues with medical marijuana. They are going to be continuing to work on those.

He also wanted to make it clear, and was sure the Council would when they got to it, that the consideration of amendments to the Land Use Ordinance that will be talked about tonight, would add definitions relating to retail marijuana to the Land Use Ordinance, but don't permit those uses in any of the zones; is intended to give the town some time as the state also works through some issues to understand what uses the town might consider allowing and under what conditions. He thinks they need to engage the public as well.

Later in the week Tony will submit the proposed budget to the Council for fiscal year 2017-2018 at its meeting on April 11. The Council is expected to refer that budget to the Finance Committee. The Finance Committee's meeting schedule is already in his report. Because of room scheduling issues, those budget meetings will not be televised but they are public meetings and the dates and times will be posted.

He will be out of the office next week but he will be back in time to work with them on the budget.

VIII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Nangle: They have some appointments to vote on tonight. They have not held any interviews since their last one last week.

2. Finance Committee.

Councilor Nadeau: They will be presented with the budget the following Tuesday, and on Wednesday April 12 is their first Finance Meeting from 6 to 9:00 p.m. Another on April 15 from 9:00 to 3:00, which is a Saturday, and he said he appreciated those who are available to be there. Another meeting will be on Wednesday, April 19 from 6:00 to 9:00 p.m. Once those are done they will deliberate.

B. Other Committees.

1. Parks & Recreation Advisory Committee.

Councilor Chapman: They met last night, and they are coming up with some different events and programs. Some people are here tonight to talk about the Community Center Survey, a combination of Dundee Park and the Parks & Rec Committee.

2. Maintenance Facility Joint Project Team.

Tony Plante: They had a meeting last Thursday, most of the members of the joint project team with the design team from Allied Engineering, Grant Hays Architects and Gorrill-Palmer Consulting Engineers. He thought it was a good discussion. There were a lot of good questions really pushing on issues relating to the facility; the uses that were in it and how to make best use of both the site and the facility and looking for any opportunities to economize or control or reduce the cost, but at the same time understanding the value and the functions. There is another meeting scheduled for April 13th. They are planning to invite the three people who have applied to be community members.

3. Wastewater Management Planning Advisory Committee.

Tony Plante: The Town Engineer is working to set up a meeting with the committee either next week or the week after. They have a lengthy report from Wright-Pierce on completion of task 2 and the evaluation of both treatment, but mainly disposal technologies.

4. Windham Economic Development Corporation

Tony Plante: The WEDC Board had a meeting scheduled last Wednesday, it was rescheduled from the previous week due to weather, they did not have a quorum so they could not take any action. They had good discussion on a range of topics, the Angler's Road property being among them. Tony said he understands that the Executive Director will be looking to schedule a special board meeting to act on the budget.

IX. PUBLIC HEARINGS.

[CD 17-103](#) To receive public comment on the revocation or suspension of a Recycler Permit issued to Roy Thistle at 971 River Road for failure to obtain a State of Maine recycler license pursuant to 29-A M.R.S.A. § 1101, which is required by 30-A M.R.S.A. § 3754-A(6).

Attachments: [Roy Thistle Application](#)
[BMV Notification](#)
[Owner Notification of March 28, 2017 Public Hearing](#)

Roy Thistle - A. R. Properties: I own the junkyard on River Road. I bought the property in 2013. Heather McNally and I went through talking with the state to see whether a license was going to be needed and at the time it was not needed. I've owned the property, like I said, since 2013 and have never been required to hold this license.

In December I was approached by a representative from the State Motor Vehicle Department, Joseph Gould. He came in and said I needed an Auto Recycling Salvage License, and I explained to him that do not run that type of business there, it is basically a storage facility. What I store is used car dealers abundance of vehicles. I don't sell any parts or anything. It was the first time he had encountered something like this, with a facility that was licensed by a town for a junkyard/graveyard. He needed to do some follow up with a nother gentleman at the state. He left me a package to fill out, which I reviewed, and it was very complicated because more than 80% of it did not apply to me.

I contacted him and had a few more questions for him.

On the 17th of January I was approached by a Jason Nein with a summons to court and was told by Jason that as long as this was in order by April 20, that there wouldn't be a problem and he would speak for me to the DA. This license, in three years that I have been there, has never been required.

I found out about this hearing this morning from one of my tenants. Tony and I talked earlier and he sent me a letter about this meeting. I have had two issues up there with my mailboxes with the past few storms. I don't really receive a lot of important mail there. My mailbox has been repaired, but the letter must have been between storms. If I had known about this hearing tonight, I would be here with this license in hand.

I have an appointment with a representative of the state, I can't remember her name, but I have an appointment with her at 9:00 a.m. Friday morning to get this license enacted. The reason why I am going to do it Friday, is tomorrow I need some things signed by the Code Enforcement Office showing that everything is compliance with the junkyard/graveyard license. So this afternoon I spoke with Phyllis Moss, and she told me I should ask you to please table this, and by the end of the week I could have this license in order.

X. CONSENT AGENDA.

[17-058](#) To find that the requirements of 28-A M.R.S.A. § 653 have been met and to approve an application submitted by Ken Ray d/b/a Dena's Lobster House & Tavern for a renewal Liquor License.

Attachments: [Cover Sheet 17-058](#)
[Dena's Lobster House & Tavern-Liq. renewal](#)

[17-059](#) To approve an application submitted by Ken Ray/Dena Withey d/b/a Dena's Lobster House & Tavern at 765 Roosevelt Trail for a renewal Special Amusement permit.

Attachments: [Cover Sheet 17-059](#)
[Dena's Lobster House & Tavern-Spec. Amusement renewal](#)

[17-065](#) To appoint Cameron Goodwin to a three-year term on the Energy Advisory Committee to expire August 15, 2020.

Attachments: [Cover Sheet 17-065](#)

[17-066](#) To appoint Bob Rosborough to a three-year term on the Library Board of Trustees to expire February 15, 2020.

Attachments: [Cover Sheet 17-066](#)

[17-067](#) To appoint Catherine Miller to a three-year term on the Library Board of Trustees to expire February 15, 2020.

Attachments: [Cover Sheet 17-067](#)

[17-068](#)

To appoint Margaret Pinchbeck to a three-year term on the Planning Board to expire February 15, 2020.

Attachments: [Cover Sheet 17-068](#)

Councilor Nangle: He wanted to thank all of the applicants because the town couldn't run everything without them. Councilor Nadeau said he seconded what Councilor Nangle said and noted that a few of them were reappointment and thanked them for stepping up again.

A motion was made by Councilor Muir, seconded by Councilor Nadeau that the Consent Agenda be approved. 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.

[17-052](#)

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](#)

Councilor Nangle: He said he completely supports the intent behind it, and he thinks they all do, but his biggest concern is the standards for what these buildings could be built to. He said they kept talking about tiny homes, and he is not trying to merge these two things together, but he wondered what is the prohibition under our current zoning from purchasing a modular manufactured home and dropping it on a slab?

What standards are modular manufactured homes built to? He said if they are going to approve these homes, he would like to see them built on-site, allowing for the usual construction inspection process to ensure they meet code, because these buildings are trucked in and the town does not have the ability to inspect them while being constructed off-site.

Councilor Welch said he thought that even if they were built off-site they would have to go through Code. Tony said manufactured homes have to meet codes. He understands they are somewhat different because they are manufactured off-site, so our Code Officers are not able to visually inspect the construction of the wall or what is in the wall, etc., but manufactured housing is routinely installed in Windham, and every where around the state and they are required to meet codes. The installation process is still subject to inspection by the municipality. As long as it met the limitations in the accessory apartment language, you could have a manufactured home of less than 600 sq. ft. placed on a site that already has an existing, detached single family home with this as a detached accessory building/accessory apartment.

Councilor Nangle said he isn't trying to keep anyone's loved ones from them, he just wants to make sure we are building the safest community that we can, and respecting the neighbors and their property rights.

Councilor Maxfield: He said he would vote for this because he is behind the idea, but he would like them to look at this whole concept deeper, especially after the standards becomes more uniform.

Councilor Chapman: She said she would support this because she thinks the tiny home concept, if they build that to code on a foundation in the back yard, is no problem. The tiny home on a trailer is a whole other issue, and we are not even looking at that yet. That will be a whole different discussion.

Councilor Muir: He said he would support the Planning Board's recommendation.

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

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

Opposed: 1 - Councilor Muir

[17-060](#)

To approve the July 1, 2017 to June 30, 2018 contract for services provided by the Animal Refuge League.

Attachments: [Cover Sheet 17-060](#)

[Animal Refuge League Renewal Letter](#)

[Animal Refuge League Contract](#)

[Animal Refuge League Kennel Statistics](#)

Councilor Chapman: They do a great job.

Tony Plante said that the rate is going from \$1.38 per capita to \$1.40 from 2016 to 2017.

17-060 To approve the July 1, 2017 to June 30, 2018 contract for services provided by the Animal Refuge League.

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

[17-061](#)

To revoke or suspend the recycler permit issued to Roy Thistle at 971 River Road for failure to obtain a State of Maine recycler license pursuant to 29-A M.R.S.A. § 1101, which is required by 30-A M.R.S.A. § 3754-A(6).

Attachments: [Cover Sheet 17-061](#)

[Roy Thistle Application](#)

[BMV Notification](#)

[Owner Notification of March 28, 2017 Public Hearing](#)

Roy Thistle: He said, again, that he has an appointment in Augusta to have his license enacted on Friday. If he had known this meeting was tonight, it would be here. He hopes everyone takes it into consideration and let him get it taken care of by Friday. Code will be there tomorrow and then he can get approval by the state.

A motion was made by Councilor Nangle to postpone Order 17-061 until the April 11, 2017 meeting, and at that time Mr. Thistle should provide us with all the appropriate documentation and state approval, seconded by Councilor Muir. 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

[17-071](#) To refer amendments to the Land Use Ordinance, Chapter 140, Section 300 adding definitions relating to retail marijuana establishments as discussed at the Council meeting of March 21, 2017.

Attachments: [Cover Sheet 17-071](#)

[Retail Marijuana Establishments Amendments 20170303](#)

Tony Plante: Tony explained that this set of amendments adds definitions to the town's Land Use Ordinance that relate to retail marijuana establishments. All the definitions come directly out of the Marijuana Legalization Act that by adding these definitions to the Ordinance, it establishes definitions of these uses in the ordinances but we are not adding them to any of the zones. It would, in effect, close the door on somebody being able to apply for a permit for any type of retail marijuana establishment where it is not permitted anywhere in town, and they couldn't claim that it is something else because we do not have the definitions that says it is some other kind of use or activity that is already defined in the ordinance. He said as long as we are making progress dealing with the issues we are okay to do both.

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

XII. Discussion Items.

[CD 17-068](#) Community Center Survey Report & Discussion.

Attachments: [CoverSheet CD 17-068](#)

[Community Center Survey Results Summary](#)

[Community Center Survey Response Data](#)

[CD 17-069](#) Parks & Recreation Advisory Committee and Dundee Park Advisory Committee Charges.

Attachments: [CoverSheet CD 17-069](#)

[Dundee Park Advisory Committee Charge](#)

[Parks and Recreation Advisory Committee Charge](#)

XIII. Agendas & Scheduling.

There was discussion of agendas and scheduling.

[CD 17-109](#) Agenda Items Reports.

Attachments: [Agenda Items Report 20170323](#)

[Projects & Issues List 20170323](#)

[Projects & Issues Sheets 20170323](#)

XIV. ADJOURN.

A motion was made by Councilor Chapman, seconded by Councilor Nangle, that they be adjourned. The motion carried by the following vote around 9:00 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