

# Minutes of the Windham Town Council Regular Meeting



Windham Town Hall Bellingham Auditorium, 2nd Floor  
Tuesday, March 20, 2018 - 7:00 PM

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**1. Call to Order.**

Mayor Victor Funderburk called the Windham Town Council Regular Meeting to order at 7:00 P.M.

Members present: Mayor Funderburk, Charles Krich, Tony Fantoli, Nectalis Martinez, Tom DeVivo, Dawn Niles, Randall Prose, Dagmar Noll, Dennis O'Brien and Rose Reyes (via telephone)

Ernie Eldridge was excused

Town Manager Jim Rivers was also in attendance.

**2. Pledge of Allegiance.**

Tom DeVivo led all in the Pledge of Allegiance

**3. Citizens and Delegations.**

Andrew Gibson, Windham Center read a statement from Murphy Sewall regarding limiting the budget on the Windham High School Renovation project. (See attachment)

Tracy Lambert, Mansfield Avenue, Willimantic, resident and adjunct member of the BOE School Planning & Design Committee shared her concerns with limiting the budget on the Windham High School Renovation project.

Kim Swart, 21 Shetucket Drive, Windham, shared her thoughts about limiting the budget on the Windham High School Renovation project.

Lynne Ide, Chairwoman of the Board of Education and former Town Council member, agrees with the comments of the three individuals above. She also spoke in support of Suzanne Tirado being appointed to fill the vacancy of Juan Flores-Alvarez on the Board of Education.

Suzanne Tirado, North Windham, introduced herself and expressed her interest in serving on the Board of Education. She also gave a brief summary of her experience.

Paul Kalajian, Windham resident and Chairman of the Board of Education School Planning and Design Committee, expressed his concerns with limiting the budget on the Windham High School Renovation project.

Kathleen Koljian, Willimantic, spoke about the limiting the budget on the Windham High School Renovation project.

**4. Town of Council Comment.**

Dawn Niles, HeartSafe Chairwoman, provided information on the CPR/AED certification classes, the vest that was purchased for the police dog through Windham-Willimantic Cares, the Community Services Awards Ceremony at the Elks Club and the new Community Calendar on the Town of Windham website. She also requested the Town Manager and the Mayor to set up a meeting with the unions regarding project labor agreements.

Tom DeVivo asked for a moment of silence in memory of Dr. David Carter, former ECSU President.

**5. Adoption of Town Council Minutes.**

**a. Special Town Council Meeting February 22, 2018.**

DeVivo MOVED, Niles seconded, to approve the Special Town Council Meeting Minutes for February 22, 2018. All were in favor except Krich and Fantoli who abstained. MOTION PASSED.

**b. Special Town Council Meeting March 5, 2018.**

DeVivo MOVED, Niles seconded, to approve the Special Town Council Meeting Minutes for March 5, 2018. All were in favor. MOTION PASSED UNANIMOUSLY.

**c. Regular Town Council Meeting March 6, 2018.**

DeVivo MOVED, Fantoli seconded, to approve the Regular Town Council Meeting Minutes for March 6, 2018. All were in favor. MOTION PASSED UNANIMOUSLY.

**6. Resignations**

None

**7. Appointments, Reappointments.**

- a. **Discussion and possible action to appoint Suzanne Tirado to fill a vacancy on the Board of Education as recommended by the Democratic Town Committee.**

DeVivo MOVED, Niles seconded, to appoint Suzanne Tirado to fill a vacancy on the Board of Education as recommended by the Democratic Town Committee. All were in favor. MOTION PASSED UNANIMOUSLY.

Councilmember O'Brien administered the oath of office to Suzanne Tirado.

**8. Presentations & Special Reports.**

None

**9. Mayor's Report.**

Mayor Funderburk reported he had attended the following events:

- The Irish Club - speaking engagement
- Special Olympics - presented awards to the athletes
- Fireman's Dinner - honoring Robert Miles for 50 years of service
- Windham High School forum on safety

**10. Town Manager's Report.**

Town Manager Rivers reported on the following:

- The Promotional Ceremony for 3 Police Officers on March 27th
- Ambulance contract with the Town of Scotland - continuing to receive & review data. Currently in Committee and removed from the budget
- Mandatory Sexual Harassment/Workplace Violence Training
- Update on the snow budget - \$30,000 over expended

**11. Discussion and Possible Action regarding Communications to Council.**

None

**12. Discussion and Review of Agendas, Minutes, Reports of Town Boards, Committees, and Commissions.**

- a. **Report from the Chairman of the Town of Council's Committee on Administration, Finance, Developer, Health and Human Services.**

Chairman Krich noted the Committee held a Special meeting last night and he reported on the following:

- Presentation by CIL - Corporation for Independent Living on possibly developing 804 Main Street
- Two executive sessions - one on Collective Bargaining and one on the purchase and sale of Town property.
- Request the Town Manager to initiate an opioid lawsuit - vote of 5-0
- Request the Town Council approve the resolution regarding the WHS Renovation project - vote 4-1

b. **Report from the Chairman of the Town Council's Committee on Public Safety, Public Works, Environment, Culture and Recreation.**

Chairwoman Niles noted the Committee had met last Wednesday and she reported on the following:

- Joining the Sustainable Energy Program
- Ambulance contract between Windham and Scotland - more information needed regarding call volume & length of calls
- The possibility of Main Street becoming a one way street and/or a Town Road
- Shaboo Stage - rental fees - possible promoter for the venue
- Status of the Parking Garage
- Dog Park - possible locations
- Installation of trash and recycle bins
- Speed Signage in School Zones - 25 mph

13. **Resolutions and Ordinances.**

- a. **Discussion and possible action to approve a resolution to appropriate an additional \$275,000 for the Renovation and Construction of the Windham Middle School and Windham High School Classrooms and Offices Project for a Total of \$1,144,000 and a Bond Authorization of \$1,144,000 to Finance the Total Appropriation and to hold a Town Meeting on April 3, 2018 at 6:30 pm.**

Niles MOVED, O'Brien seconded, to waive the reading of the resolution. All were in favor. MOTION PASSED UNANIMOUSLY.

DeVivo MOVED, Reyes seconded, to adopt Resolution #2728. All were in favor.

**RE: Appropriation of an additional \$275,000 for the Renovation and Construction of the Windham Middle School and Windham High School Classrooms and Offices Project for a**

**Total Appropriation of \$1,144,000 and a Bond Authorization of \$1,144,000 to Finance the Total Appropriation.**

**BE IT RESOLVED by the Town Council THAT**

**WHEREAS**, on November 15, 2017, the Town of Windham's (the "Town") Board of Finance (the "11/15/17 BOF Meeting") authorized a reallocation of previously appropriated Board of Education capital funds in the amount of \$869,000 (the "Initial Appropriation") to fund the cost of the renovation and construction of the Administrative and Early College Opportunities (ECO) facilities and a maintenance garage at Windham High School and the cost of the renovation and construction of classrooms and offices at Windham Middle School (collectively, the "Classroom and Office Construction Work"); and

**WHEREAS**, prior to the 11/15/17 BOF Meeting, the Initial Appropriation was approved by Town Council, the Board of Finance and the Town's voters in connection with the Board of Education's capital budgets; and

**WHEREAS**, an additional appropriation of \$275,000 is necessary to fund the costs to complete the Classroom and Office Construction Work; and

**WHEREAS**, the Town desires to fund the Total Appropriation with the issuance of its general obligation bonds.

**NOW THEREFORE BE IT RESOLVED:**

that the Town Council of the Town of Windham (the "Town") approves that the additional sum of \$275,000 be appropriated to fund the cost to complete the Renovation and Construction of the Windham Middle School and Windham High School Classroom and Offices Project for a total appropriation of \$1,144,000 (the "Total Appropriation"), such project to include, but not be limited to, renovation and construction of the Administrative and Early College Opportunities (ECO) facilities and a maintenance garage at Windham High School and the cost of the renovation and construction of classrooms and offices at Windham Middle School, and including all site preparation work, as well as the purchase of furniture, fixtures and equipment and engineering, architectural and temporary and permanent financing costs and to meet the Total Appropriation and in lieu of a tax therefor, bonds of the Town be issued pursuant to Chapter 109 of the Connecticut General Statutes, as amended, or any other provision of law thereto enabling, in the amount of \$1,144,000 or so much thereof as may be necessary after deducting grants or other sources of funds available therefor, which bonds shall be general obligations of the Town to which its full faith and credit is pledged.

**BE IT FURTHER RESOLVED** that should the appropriation and bond authorization be approved by the voters at Town Meeting,

(i) the Town Manager and the Treasurer be authorized to issue and sell such bonds and notes in anticipation of such bonds and to determine the amount, date, date of maturity, interest rate, form and other details of such bonds and notes, pursuant to Chapter 109 of the Connecticut General Statutes, as amended, or any other provision of law thereto enabling; and

(ii) the Town Manager and the Treasurer shall sign the bonds and notes by either manual or facsimile signatures and that the law firm of Pullman & Comley, LLC is designated as bond counsel to approve the legality of the bonds; and

(iii) the Town Manager and the Treasurer, or either of them, is authorized to designate a bank or trust company to be the certifying bank, registrar, transfer agent and paying agent of the bonds; to sell the bonds and notes at public or private sale or negotiation; to deliver the bonds and notes; and to perform and comply with all requirements of the Internal Revenue Code of 1986, as amended, and to perform all other acts and execute such documents which are necessary or appropriate to issue the bonds and notes including, but not limited to, the execution and delivery of a bond purchase agreement, tax compliance agreement and bond insurance agreement; and

**BE IT FURTHER RESOLVED** that the Town reasonably expects to incur expenditures (the "Expenditures") in connection with the capital project for which a general functional description is provided above. The Town reasonably expects to reimburse itself for the cost of the Expenditures with the proceeds of bonds of the Town described above. The maximum principal amount of such debt is not expected to exceed \$1,144,000. This declaration of official intent is a declaration of official intent made pursuant to Treasury Regulation Section 1.150-2; and

**BE IT FURTHER RESOLVED** that, a Special Town Meeting is hereby called to be held on April 3, 2018 at the Windham Town Hall, Bellingham Auditorium, 979 Main Street, Willimantic, Connecticut 06226 at 6:30 p.m. to consider and vote upon the resolution to authorize bonds for the Renovation and Construction of the Windham Middle School and Windham High School Classroom and Offices Project as set forth above.

**MOTION PASSED UNANIMOUSLY**

- b. Discussion and possible action to approve a resolution for authorization to issue bonds in the Maximum amount of \$65,000 to fund the cost of the Windham Center School boiler project and to hold a Town Meeting on April 3, 2018 at 6:30 pm.

Niles MOVED, DeVivo seconded, to waive the reading of the resolution. All were in favor. MOTION PASSED UNANIMOUSLY.

Niles MOVED, DeVivo seconded, to adopt Resolution #2729. All were in favor.

**RE: Authorization to Issue Bonds In the Maximum Amount of \$65,000 to Fund the Cost of the Windham Center School Boiler Project.**

**BE IT RESOLVED by the Town Council THAT**

**WHEREAS**, on November 15, 2017, the Town of Windham's (the "Town") Board of Finance (the "11/15/17 BOF Meeting") authorized a reallocation of previously appropriated Board of Education capital funds in the amount of \$65,000 (the "Appropriation") to fund the cost of installing a boiler at the Windham Center School; and

**WHEREAS**, prior to the 11/15/17 BOF Meeting, the Appropriation was approved by Town Council, the Board of Finance and the Town's voters in connection with the Board of Education's capital budgets; and

**WHEREAS**, the Town desires to fund the Appropriation with the issuance of its general obligation bonds.

**NOW THEREFORE BE IT RESOLVED:**

that the Town Council of the Town of Windham (the "Town") authorizes, in lieu of a tax therefor, the issuance of bonds to fund the Appropriation pursuant to Chapter 109 of the Connecticut General Statutes, as amended, or any other provision of law thereto enabling, in the amount of \$65,000 or so much thereof as may be necessary after deducting grants or other sources of funds available therefor to fund the cost to install a boiler at Windham Center School, and including all site preparation work, as well as the purchase of furniture, fixtures and equipment and engineering, architectural and temporary and permanent financing costs. The bonds shall be general obligations of the Town to which its full faith and credit is pledged.

**BE IT FURTHER RESOLVED** that should the bond authorization be approved by the voters at Town Meeting,

(i) the Town Manager and the Treasurer be authorized to issue and sell such bonds and notes in anticipation of such bonds and to determine the amount, date, date of maturity, interest rate, form and other details of such bonds and notes, pursuant to Chapter 109 of the Connecticut General Statutes, as amended, or any other provision of law thereto enabling; and

(ii) the Town Manager and the Treasurer shall sign the bonds and notes by either manual or facsimile signatures and that the law firm of Pullman & Comley, LLC is designated as bond counsel to approve the legality of the bonds; and

(iii) the Town Manager and the Treasurer, or either of them, is authorized to designate a bank or trust company to be the certifying bank, registrar, transfer agent and paying agent of the bonds; to sell the bonds and notes at public or private sale or negotiation; to deliver the bonds and notes; and to perform and comply with all requirements of the Internal Revenue Code of 1986, as amended, and to perform all other acts and execute such documents which are necessary or appropriate to issue the bonds and notes including, but not limited to, the execution and delivery of a bond purchase agreement, tax compliance agreement and bond insurance agreement; and

**BE IT FURTHER RESOLVED** that the Town reasonably expects to incur expenditures (the "Expenditures") in connection with the capital project for which a general functional description is provided above. The Town reasonably expects to reimburse itself for the cost of the Expenditures with the proceeds of bonds of the Town described above. The maximum principal amount of such debt is not expected to exceed \$65,000. This declaration of official intent is a declaration of official intent made pursuant to Treasury Regulation Section 1.150-2; and

**BE IT FURTHER RESOLVED** that, a Special Town Meeting is hereby called to be held on April 3, 2018 at the Windham Town Hall, Bellingham Auditorium, 979 Main Street, Willimantic, Connecticut 06226 at 6:30 p.m. to consider and vote upon the resolution to authorize bonds for the Windham Center School Boiler Project as set forth above.

**MOTION PASSED UNANIMOUSLY**

- c. **Discussion and possible action to approve a resolution regarding the Windham High School Renovation Project.**

Krich MOVED, Niles seconded, to waive the reading of the resolution. All were in favor except DeVivo and Reyes who opposed. MOTION PASSED.



O'Brien MOVED, DeVivo seconded, to amend the resolution to delete subparagraph 3e and replace it with the following language. All were in favor except Krich and Fantoli. MOTION PASSED.

**Unless additional funds are authorized by the Town Council, the budget for the renovations shall not exceed the state-approved amount of \$78,613,738, consisting of a budget of \$71,670,200 for the high school renovations (\$66,670,200 plus abatement cost of \$5,000,000), plus a separate project budget of \$6,943,538 for the Town of Windham's Board of Education offices);**

**Changed to**

**(e) Because Windham voters approved an allocation of \$112,332,777 to this project and the State approved amount is \$78,613,738, the Town Council will authorize a preliminary budget for the project only after providing the Building Committee with the opportunity to submit its recommendation to the Council no later than April 27, 2018, and after public input to the Committee from the State and from the Planning and Design Committee of the Board of Education, among others.**

**MOTION:** Niles MOVED, DeVivo seconded, to approve Resolution #2730 as amended. All were in favor except Fantoli who opposed.

## **BE IT RESOLVED by the Town Council THAT**

**WHEREAS**, on November 7, 2017, Windham voters approved at referendum an appropriation to conduct renovations at the Windham High School;

**WHEREAS**, State of Connecticut Dept. of Education ("DOE") regulations require towns to create school building committees when they make capital improvements to public schools, if those towns wish to receive state reimbursement for their capital expenditures;

**WHEREAS**, the Town of Windham wishes to receive state reimbursement for its capital expenditures to the maximum extent possible to reduce the costs of renovation on Windham taxpayers;

**WHEREAS**, approximately 80% of the expenditures, not exceeding \$78,613,738, will be reimbursed by grants overseen and administered by the DOE; and

**WHEREAS**, the Town Council wishes to establish an *ad hoc* school building committee for the Windham High School renovations to receive state reimbursement for the project and to provide for excellence in the construction and oversight of the capital improvements:

**THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF WINDHAM:**

Section 1. Ad Hoc Windham High School Renovation Building Committee Established.

There shall be a Town of Windham High School Renovation Building Committee, to have and to exercise the powers and duties set forth in this Resolution. The Committee shall foster effective public communication and decision-making regarding the construction of the School.

Section 2. Composition.

- (a) The Committee shall consist of seven regular members and two alternates.
- (b) The Nominating Committee shall appoint Committee members subject to concurrence by the Council.
- (c) Upon a vacancy occurring, the Nominating Committee shall appoint a successor subject to the concurrence of the Council.
- (d) Committee members shall serve without compensation or reimbursement of expenses incurred.
- (e) Committee members shall consist of the chair of the Town Council's Administration, Finance, Development and Health & Human Services Committee, and other persons at large who are reflective of the community and who are interested in educational excellence, fiscal restraint, decision-making transparency and design distinction, preferably having experience in construction, public contracting, engineering, management or architectural work. The makeup of the Committee shall comply with the minority representation provisions of Connecticut General Statutes § 9-167a.

### Section 3. Duties.

The Committee shall conduct its business in accordance with the following directives:

- (a) To keep the Town Council, Board of Finance, Board of Education and community accurately informed about the status of the construction for the renovations, and to respond to public questions and concerns about the projects;
- (b) In discharging its responsibilities the Committee shall be cognizant of, and committed to, the need for equal employment opportunity, affirmative action and diversity at every stage of the project, including professional services (design, architects, engineering);
- (c) In selecting contractors, including project managers, architects, engineers, suppliers of materials and all others, the Committee shall evaluate their commitment to equal employment opportunity, affirmative action and diversity not only in work subject to state set-aside requirements, but also in private projects;
- (d) State set-aside requirements shall apply to the entire project, not only the portion of the project receiving state funding;
- (e) Because Windham voters approved an allocation of \$112,332,777 to this project and the State approved amount is \$78,613,738, the Town Council will authorize a preliminary budget for the project only after providing the Building Committee with the opportunity to submit its recommendation to the Council no later than April 27, 2018, and after public input to the Committee from the State and from the Planning and Design Committee of the Board of Education, among others.
- (f) The renovations shall be built to a minimum of LEED Gold standards, and to the latest International Building Code energy efficiency standard;
- (g) Contractors must pay prevailing wage;
- (h) Contractors must give preference to local labor and suppliers of materials and implement apprenticeship programs through Windham Technical School or other job training.

(i) Contracts entered into by the Committee shall contain a provision in bold typeface that: (1) violations of subparagraphs (d), (g) and (h) by contractors or subcontractors shall constitute a material breach of the contract and the contract shall be null and void; and (2) contractors must acknowledge their responsibilities under state law and Section 3 of this resolution and certify they will meet those responsibilities before the contract will be formally awarded.

#### Section 4. Powers.

The Committee shall have the following enumerated powers, and all powers necessary or appropriate to accomplish effectively the above duties and these enumerated powers:

(a) To select, evaluate, and direct the work of project and construction contractors, architects and project managers;

(b) To work with State officials to preserve and implement the funding grant by which approximately 80% of eligible construction costs are paid for by the state for the renovations, and to assure that the state reimburses the Town to the maximum extent allowed under law;

(c) To request the assistance of the Superintendent of Schools and the Town Manager, their staffs, or persons under contract with the Board of Education or the Town.

#### Section 5. Sunset.

The Ad Hoc Windham High School Renovation Building Committee Established shall expire nine months after issuance of a Certificate of Occupancy for all of the High School renovations.

#### **MOTION PASSED**

**MOTION:** Krich MOVED, Niles seconded, to add Item 15a under New Business; Discussion and possible action to authorize the Town Manager to initiate a lawsuit against manufacturers of opioid pharmaceuticals, distributors and/or others. All were in favor. MOTION PASSED UNANIMOUSLY.

**d. Discussion and possible action to approve a resolution regarding**

**participation in the Sustainable Energy CT Municipal Certification Program.**

DeVivo MOVED, Niles seconded, to waive the reading of the resolution. All were in favor. MOTION PASSED UNANIMOUSLY.

Niles MOVED, Noll seconded, to adopt Resolution #2731. All were in favor.

**Sustainable CT Resolution**

**Town Windham**

**Resolution Supporting Participation**

**In the Sustainable CT Municipal Certification Program**

**WHEREAS**, Sustainable CT is a comprehensive, statewide, action-oriented voluntary certification program, built by and for municipalities, with the vision that: Sustainable CT communities strive to be thriving, resilient, collaborative, and forward-looking. They build community and local economy. They equitably promote the health and well-being of current and future residents. And they respect the finite capacity of the natural environment.

**WHEREAS**, Sustainable CT is designed to boost local economies, help municipal operations become more efficient, reduce operating costs, and provide grants and additional support to municipalities.

**WHEREAS**, The Town of Windham embraces an ongoing process of working toward greater sustainability, selecting which actions it chooses to pursue from the voluntary menu of actions provided by Sustainable CT.

**RESOLVED**, by the Town Council of the Town of Windham do hereby authorize the Town Manager or his/her designee to serve as the Town's Sustainable CT Contact person for the Sustainable CT Municipal Certification process and authorize her to complete the registration on behalf of the Town or Windham.

**RESOLVED**, that we will focus attention and effort within the town on matters of sustainability and in order to promote Town Council local initiatives and actions toward Sustainable CT Municipal Certification, the Town Council establishes an advisory Sustainability Team of a min of 3 and no more than 9 members. These members can set up small working groups as needed. Town Staff will act as liaison members.

**RESOLVED**, that the first meeting of the Sustainability Team must be held within 90 days of passing this resolution and that the Team shall meet as frequently as needed, but no less than quarterly.

**RESOLVED**, that the Sustainability Team shall report annually to the Town on the progress of its activities toward Sustainable CT certification, with reports and presentations made publicly available,

**MOTION PASSED UNANIMOUSLY**

**14. Old business.**

None

**15. New Business.**

Discussion and possible action to authorize the Town Manager to initiate a lawsuit against manufacturers of opioid pharmaceuticals, distributors and/or others. All were in favor. MOTION PASSED UNANIMOUSLY.

**16. Future Agenda Items**

None

**17. Citizens and Delegations**

None

**18. Adjournment**

DeVivo MOVED, Niles seconded, to adjourn the Windham Town Council Regular Meeting at 8:28 P.M. All were in favor. MOTION PASSED UNANIMOUSLY.

**Submitted by**

**Barbara J. McKinney**

**Clerk of the Council**

3/20/18

Town Council members. My name is Murphy Sewall, a voter in Windham Center. I have asked my neighbor, Andrew Gibson, to read my comment to you because I am being treated for a blockage between my left kidney and my bladder. The condition is painful enough to prevent me from attending tonight's meeting, and won't be resolved for several more days.

I urge you to reject fixing, or otherwise limiting, the budget for the Windham High School, early childhood leaning center and board of education offices renovation until the building committee has negotiated with the State's Department of Administrative Services and hired and consulted with a qualified project management, design, and engineering team.

The \$112 million dollar estimate for the project was created using procedures and processes specified by the same agency that now concludes that the work can be done for only \$78 million. The reality of that estimate is that DAS proposes to reduce their share of the project from just over \$68 million to a little more than \$62 million while reducing Windham's contribution from \$43 million to only \$16 million. It hardly is obvious how so drastic a change makes sense or why DAS should have de facto control of Windham's funds,

This renovation is a once in a generation opportunity. It would be shame to mess it up at the outset. Apologies for drastically underfunding the project two or three years from now will be sad, and won't correct the mistake.

I imagine it is possible the project can be done for less than \$112 million, but the qualified architects and planners that the Board of Education has consulted are adamant that \$78 million is far too little.

What is your rush? Let's wait until we have much better information before doing something that may turn out to be foolish. Thank you.