

**Winthrop Town Council
Meeting Minutes
February 6, 2012**

Attendance: Chairman Kevin Cookson, Councilors: Jennifer Currier, Linda Caprara, Priscilla Jenkins, Sarah Fuller, and Ken Buck Sr. Jeffrey Woolston (Town Manager) and Julie Winberg (Secretary) were also in attendance. Absent: James Lattin (excused)

Approve the Minutes of January 11, 2012

Motion by Fuller and seconded by Jenkins, the minutes for this meeting were approved as corrected with a vote of 6-0.

The Agenda for this meeting was revised to include and address the following:

Item #16 Summer Concert Series

Elizabeth McKenny was in attendance and requested that the town support the summer concert series for 2012. She informed the council that with the additional financial support from the Winthrop Credit Union and the Kennebec Savings Bank, the support that she is looking for from the town is only for the Gazebo, electricity, the use of the bathrooms and the occasional use of the photo copier at the town office. With the present budget and additional funds, the bands for this season will be bigger, providing their own PA system and printing of professional posters.

The council expressed their thanks and committed their support to those specific requests.

Motion by Fuller and seconded by Jenkins to provide the requested support to the 2012 summer concert series. The vote was unanimous.

Item #9 Hold a public hearing on liquor license renewal of Peppers Garden and Grill LLC.

The public hearing opened at 7:08 p.m. The fire marshal reported that there were no violations.

The public hearing closed at 7:09 p.m.

Item #10 *Consider the liquor license renewal of Peppers Garden & Grill, LLC.*

Motion by Caprara and seconded by Jenkins, the license was approved with a unanimous vote.

Item #11 *Hold a public hearing on liquor license application of Tubby's Ice Cream.*

The public hearing opened at 7:10 p.m. There were no issues reported.

The public hearing closed at 7:11 p.m.

Item #12 *Consider the liquor license application of Tubby's Ice Cream*

Motion by Jenkins and seconded by Currier, the license was approved with a unanimous vote.

Item #13 *Consider the fireworks sale and use ordinance*

This was the second reading of this ordinance noting that it has been reviewed by the town's attorney. After further clarification by the attorney present for this meeting, the ordinance passed unanimously with a motion from Caprara and seconded by Fuller. Fireworks can be used but not sold. In addition, it expands the hours when fireworks can be used and goes into effect March 6th. It requires the availability of fire extinguishers and phone access to 911 and prohibits anyone from using fireworks while consuming or under the influence of alcohol.

The ordinance follows:

TOWN OF WINTHROP

CONSUMER FIREWORKS ORDINANCE

A. Purpose. This Ordinance prohibits the sale and restricts the use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Winthrop and of the general public.

B. Title and Authority. This Ordinance shall be known as the "Town of Winthrop Consumer Fireworks Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the provisions of 30-A M.R.S.A. § 3001, and the provisions of P.L. 2011, ch. 416, § 5 (effective Jan. 1, 2012), *codified at* 8 M.R.S.A. § 223-A.

SECTION 2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consumer Fireworks – "Consumer fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:

- A. Missile-type rockets, as defined by the State Fire Marshal by rule;
- B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- C. Sky rockets and bottle rockets. For purposes of this definition, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

SECTION 3. Sale of Consumer Fireworks Prohibited.

No person shall sell, possess with the intent to sell, or offer for sale consumer fireworks within the Town of Winthrop.

SECTION 4. Use of Consumer Fireworks Restricted

No person shall use, possess with the intent to use, display, fire, or cause to be exploded consumer fireworks within the Town of Winthrop except in compliance with all federal, state and local laws, ordinances, rules and regulations. Use of consumer fireworks within the Town of Winthrop is further restricted as follows:

A. General Restrictions.

- (1) The Town assumes no liability for injuries that result from the use of consumer fireworks.

(2) A person shall use consumer fireworks only on that person's property or on the property of a person who has consented to the use of consumer fireworks on that property. The use of consumer fireworks on public property is prohibited.

(3) A person shall not use consumer fireworks if the forest fire danger is Class "3" or greater, as determined by the Department of Conservation, Maine Forest Service.

(4) Consumer fireworks shall not be used within 100 feet of any combustible structure or within 50 feet of overhead power lines.

(5) Spectators shall be no closer than 75 feet from the discharge point of consumer fireworks.

(6) Any person using consumer fireworks must provide for the cleanup and removal of all debris.

(7) As provided for by 8 M.R.S.A. § 223-A, no person shall knowingly procure, or in any way aid or assist in procuring, furnish, give, sell or deliver consumer fireworks for or to a person under 21 years of age; or allow a person under 21 years of age under that person's control or in a place under that person's control to possess or use consumer fireworks.

(8) It shall be unlawful for any person using consumer fireworks to consume alcohol, be under the influence of alcohol or be otherwise impaired while using consumer fireworks.

(9) Means to extinguish any spot fires resulting from the use of consumer fireworks must be available, including but not limited to, fire extinguishers and garden hoses. Access to 9-1-1 by landline or mobile telephone also must be available during the use of consumer fireworks should an emergency arise.

B. Hours of Use.

Consumer fireworks may be used during the hours of 9 a.m. and 9 p.m., except that on the follow days they may be used between the hours of 9 a.m. and 12:30 a.m. the following day: (1) July 4th; (2) December 31st; and (3) the Saturday and Sunday immediately before and after July 4th and December 31st.

SECTION 5. Violation and Enforcement.

- (a) Penalty for Sale Violation.** Any person who violates the provisions of Section 3 (Sale of Consumer Fireworks Prohibited) shall commit a civil violation punishable by a penalty of five hundred dollars (\$500.00) plus attorney's fees and costs for the first offense, and a penalty of one thousand dollars (\$1,000.00) plus attorney's fees and costs for subsequent offenses. Each day such violation occurs or continues to occur shall constitute a separate violation.
- (b) Penalty for Use Violation.** Any person who violates the provisions of Section 4 (Use of Consumer Fireworks Restricted) shall commit a civil violation punishable by a penalty of two hundred dollars (\$200.00) plus attorney's fees and costs for the first offense, and a penalty of one thousand dollars (\$1,000.00) plus attorney's fees and costs for subsequent offenses within six years of a use violation. Each day such violation occurs or continues to occur shall constitute a separate violation.
- (c) Enforcement.** This Ordinance shall be enforced by the Town of Winthrop Police Department.
- (d) Injunction.** In addition to any other remedies available at law or equity, the Town of Winthrop, acting through its Town Manager, may apply to any court of competent jurisdiction to enjoin any planned, anticipated or threatened violation of this Ordinance.
- (e) Seizure & Disposal of Consumer Fireworks.** The Town may seize consumer fireworks that the Town has probable cause to believe are used or sold in violation of this Ordinance and shall forfeit seized consumer fireworks to the State for disposal.

SECTION 6. Exceptions.

This section does not apply to a person issued a fireworks display from the Maine Commissioner of Public Safety or his or her designee under the provisions of 8 M.R.S.A. §§ 221-237, and particularly Section 227-A. A fireworks display shall comply with all federal, state, and local laws, ordinances, and regulations.

SECTION 7. Annual Review.

The Winthrop Town Council will hold an annual public hearing to decide if any further revision of this Ordinance is warranted.

SECTION 8. Severability.

In the event that any section, subsection or portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance.

SECTION 9. Effective Date.

This Ordinance shall take effect and be in force 30 days after its adoption by the Town Council. Notwithstanding the provisions of 1 M.R.S.A. § 302, this Ordinance applies to any applications pending or approved on the date of its passage, whether or not such applications would constitute a "pending proceeding" under 1 M.R.S.A. § 302.

Councilor Jenkins made mention that some residents have expressed their concern in using fireworks in the lakes region. It is important to mention, that this ordinance will be reviewed every year, and others if submitted, will also be reviewed.

Item #14 Hold a public hearing on public safety fee changes.

The town manager went over the existing fees and the proposed changes.

The public hearing opened at 7:30 p.m. and closed at 7:35 p.m. with no objections.

Item #15 Consider the public Safety Fee Changes.

Motion by Caprara and seconded by Fuller the public safety fee changes were approved with a unanimous vote as discussed by the town manager.

Dept	Description	Type of Fee	Proposed	Difference From Previous Years	Comments
Emergency Medical Services	Ambulance Service Fees	BLS ALS ALS2 Mileage BLS (Non - ALS (Non -	In Accordance with Annual changing Federal Medicare Fees		
Fire Department	Crach Response	Chemical Spill	\$300.00 per occurance	\$300.00	New - billable to individual's insurance company - Ordinance Needed
		Extraction	\$300.00 per extraction	\$300.00	New - billable to individual's insurance company - Ordinance Needed
Police Department	Weapon's Permits	Initial(New Application) Renewal	\$35.00 \$20.00	\$0.00 \$0.00	State Mandated State Mandated
	Fingerprints		\$3.00	\$0.00	State Mandated
	Reports	1st Page Subsequent pages DVD/CD Crash	\$15.00 \$1.00 \$20.00 \$10.00	\$5.00 \$0.00 \$0.00 \$0.00	Increases in paper/toner/time to prepare plus lost time at primary duties

	Alarms	Initial (New)	\$20.00	\$5.00	Would also be applied by fire Department
		Renewal	\$10.00	\$5.00	
	False Alarms	1st	\$15.00	\$5.00	
		2nd	\$20.00	\$5.00	
		3rd	\$25.00	\$5.00	
		4th	\$30.00	\$5.00	
Dept	Description	Type of Fee	Proposed	Difference From Previous Years	Comments
	Parking Tickets	Overtime	\$5.00	\$3.00	Requires Ordinance Change - Gentle reminder to park legally
		Handicapped (Public)	\$200.00	\$200.00	State Mandated
		Handicapped (Private)	\$50.00	\$0.00	
		Unlawful	\$10.00	\$5.00	Requires Ordinance Change - Gentle reminder to park legally
Animal Control	Impoundment	1st	\$15.00	\$5.00	Requires Ordinance Change
		2nd	\$25.00	\$5.00	Requires Ordinance Change
		3rd and Subsequent	\$35.00	\$5.00	Requires Ordinance Change
Dispatch	Per Capita to Communities Served				Based on 2000 Census Includes Police, Fire, & Rescue
		Monmouth	\$11.78	\$0.00	
		Fire	\$1.61	\$0.00	
		Public Works	\$0.31	\$0.00	Readfield

Item #8 Consider a tax increment financing proposal for the Winthrop commerce center

The council reviewed a proposed amendment to the town's tax increment financing arrangement with the Winthrop Commerce Center. The amendment adds estimated increases in the property's value resulting from property improvements that are expected during the remaining 14 years of the tax break. The amendment approved by the town with a motion by Fuller and seconded by Jenkins which passed with a unanimous vote, would give the town 25 percent of the projected new taxes from the project beginning in 2016. That figure would rise to 50 percent in 2021. Note: this will be going to a public hearing.

Chairman Cookson added that for any additional work that the center will have done does not need to have prior approval by the council. However the town would have to categorize what the money will be spent on. The amendment will be considered later at a public hearing.

Manager's Report

The town council will be briefed by April if there are any encumbrances needed for the next fiscal year.

The Annual Report for the year ending June 30, 2011 is moving forward. The release date will be March 2012. The annual report for 2012 will be released in 2012.

Council approval is needed to spend an additional \$8,000 to purchase a diesel 1-ton truck. The following is the breakdown for this expenditure: a check from MMA \$34,867.50 for the truck; \$41,980.00 for the plow assembly; and \$983.00 for a portable radio. The policy had a \$1,000 deductible for equipment damage and \$250 for comprehensive losses. MMA applied the \$1,000 deductible before finalizing the check amounts. Purchasing a truck powered by gas would not be available until the end of winter. A diesel truck is available now. It costs approximately \$8,000 more than the gasoline truck that burned. A review of the sub-accounts in the public works budget including asphalt (roads, potholes, sidewalks) and building maintenance) may pay for at least part of the required \$8,000 in the attempt to avoid financing the additional \$8,000. Any additional monies would have to be taken from undesignated funds.

Motion by Caprara and seconded by Fuller passed with a unanimous vote to replace the plow truck taking the \$8,000 needed from the public works account or from surplus.

The current financial management vendor will not be used past June 30, 2012. Approval from the council is required to sign a contract with Trio to be fully functional by April 2012 with the billing effective July 1, 2012. A \$500 conversion fee to Trio has to be paid by June.

Note: the town manager will not be attending the ICMA National Convention and that conversion fee can be taken from the travel sub-account in Executive Administration. The breakdown of the total cost for Trio will be: initial cost of software (\$10,150), annual maintenance fee (\$3,500), training (\$3,625), and conversion (\$500) for a grand total initial cost of \$14,275 and annual support costs of \$3,500. The cost for Trio is less than the annual cost for our current financial management software. Note: The lead clerk prepared the tax liens in 15 minutes versus the 2-3 days it normally took to complete with the other financial management software.

Motion by Fuller and seconded by Currier passed with a unanimous vote to go ahead with the Trio Financial System.

The ambulances need to be replaced as they have become too expensive to maintain. The 1998 ambulance is broken down more than on the road. The 2003 ambulance has 189,000 miles. The longer one waits beyond 100,000 miles, the lower the trade in value becomes. The two options on the table are to replace both vehicles at the same time which would result in more of an upfront cost and slightly more of an annual cost. The other option would be to stagger the purchases resulting in less of an impact to the budget.

The request to replace the two ambulances will be put on the next agenda to further investigate the need, the requirements and the funding.

The councilors' package for the upcoming meeting in March will be sent out on 2/29/2012. Submissions for the Council Agenda must be received by 2/27/2012.

Brief discussion followed on: Turtle Run Culvert, Route 133/State of Maine Electrical Inspector, Planning Board/Presti

Adjourn

Motion by Fuller and seconded by Jenkins, the meeting adjourned at 8:45 p.m.