

Village of Windham, Ohio

Minutes of Special Council Meeting (Regular Council Meeting held at other than Normal Date)

Held April 26, 2012

At 7:00 PM the Honorable Mayor Robert W. Donham II called the meeting to order and led in the pledge of allegiance to our nations flag.

Roll Call: Rachel Barrett – present, Deb Blewitt – present,
 Scott Garrett – present, Jena Miranda – present,
 Sheryl Prem – present, Phil Snyder – present

Also present Atty. Tom Reitz, solicitor, Police Chief Gene Fixler, Village Administrator Mike Iwanyckyj, Denise Bly, C. James Moore, Kelly Meszaros, Bob Edwards, and Mrs. Roth.

Mayor Donham said we need to amend the agenda to add some things and move some things. Councilwoman Prem isn't feeling very well this evening and asked if we would move some action items in case she doesn't make it for the whole evening. We need to add Ordinances O-2012-23, O-2012-24 and O-2012-25 and move the action items 11.2 through 11.5, 12.1, 14.1 and 14.2 to right before finance. We also had a request from guests to speak this afternoon which is after the deadline, but we are already moving the agenda and we always want to give everybody an opportunity to speak, so if you will add Mr. Moore to the prior requests of guests to speak after Bob Edwards. If somebody would make that motion we will be sure it gets reflected in the minutes.

Mr. Snyder said so moved and it was seconded by Mr. Garrett and carried by unanimous vote of Council.

The minutes of March 27, 2012 Council Meeting were reviewed and Mr. Garrett made a motion to approve them which was seconded by Mr. Snyder. The roll call vote was taken as follows: Mrs. Barrett no, Ms. Blewitt yes, Mr. Garrett yes, Mrs. Miranda no, Mrs. Prem yes and Mr. Snyder yes so the motion passed. Mr. Donham asked if there is an amendment that either of you want to have. Mrs. Miranda said that the comments from Kelly (Meszaros) and Jim (Moore) were not well documented. Mr. Donham said in the future, I mean these ones have already passed and that will be the official record, but if there is something wants to be added, send it and we will put it in or we will even table it for a month and wait to get the minutes in. It's important that we get an accurate reflection of what was said in the meeting. Mrs. Miranda said Denise Bly even did a better job and Mayor Donham asked if she did pro bono work. Mrs. Bly asked if she would have to move into the Village. Mr. Donham said we will take free work from all who offer.

The Fiscal Officer's Financial Reports by Lloyd Billman

The Income Tax collected year to date March 31, 2012 were \$116,431.12 with \$9,907.02 of the total for declarations of estimated tax.

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The expenditures for the month of March 2012 were \$235,374.57 in checks, direct deposits and charges. Check numbers 27542 through 27561 and 27567 through 27688 were paid from the primary checking account during the month with check numbers 27649 through 27662 voided during the month. Direct Deposit vouchers E30 through E84 were also issued during the month.

The all funds reconciled bank balance for March 2012 was \$1,426,411.81.

Council President's report by Phil Snyder, Mr. Snyder said he had nothing at this time.

Dispatchers Police, Fire and Rescue Squad (EMS) reports for March 2012 by Phil Snyder
Mr. Snyder moved to accept the report as given by Chief Fixler which was seconded by Mr. Garrett and the vote of Council was unanimously to support the motion.

Mayor's Communication and Correspondence Mayor Donham said he would cover this under the last chance at the end of the meeting.

Prior requests of guests to speak. Mr. Donham recognized Bob Edwards who wanted to address Council about Water Meters, Water Bills and Housing Rental License Fees. If there is a question on the legislation portion we will get to that when we actually get to the legislation as far as Council debate.

Mr. Edwards thanked all for allowing him to speak tonight. The first thing I would like to address is the Housing Rental Licensing Fees and ask Council to table that and don't even go through the third read. I have discussed it with people that I represent and other property owners within the Village, and I'm kind of surprised that you are even thinking of raising these fees. I know that it is our responsibility to find out about this but I would ask that you table it until we have a chance to present some of the reasons that we don't think they should be raised. I have dealt with rental properties in this Village for quite a while. I also want to address the water bills and water meters. I know that it has been over a year that the Village has been estimating water bills for units that are using about half of what their water meter bills for. I'd like to find out what we can do about that, and also I'd like to know when it is you are planning on using the water meters that have been replaced. I have had water meters replaced and I'm still paying estimated rates. At least half of the units are above and beyond what they should be charged.

Mr. Donham said I appreciate that Bob, I will address Bob and if you guys have any questions, feel free. As far as Housing Rental License Code we are going to discuss that at length in a little bit, but it has been our recommendation that we are going to raise them. They have only been raised a hand full of times in the past thirty years and quite honestly it is a negative fund. I don't think anybody here wants to raise anything anymore than it is, but at this point it is about a 20% depleting fund and our general fund can't absorb the cost any longer.

The estimated meter readings, if you think there is something fishy have Mr. Iwanyckyj take a look at it. We look at them on a case by case, but everybody that is being estimated, the meters which are there have been declared non-working and you have experienced this I know you have where you have thirty-five thousand gallons come up on a month where we know you haven't used that much. We know there are issues with them, so we try to get the best reading we could looking at the past usage for the past six months of past usage. Mr. Edwards said the thing which is wrong with that is you estimated during the summer months where they are watering lawns, etc. So why should we be paying a water bill for an estimated usage for a long period of time. I have had Mr. Iwanyckyj come out and check the usage and you can't estimate on something that doesn't work.

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Mr. Donham said I think the only thing we can go by is our best evidence so if there is more evidence you can present, if there is other billing history for that same tenant, we take that into account and we adjust it. But we also can't say you aren't getting billed because we don't know what the usage is. We have to guess it at something. If there is some other past usage that this tenant has, maybe they were filling a swimming pool up, bring it in and Mike will adjust it. He has done that on several people. Mr. Edwards said I have already addressed this with Mr. Iwanyckyj. Mayor Donham said I don't think you have, that's why I'm saying that's what he would need is some type of evidence to overrule the evidence we have. Mr. Edwards said the only problem with that is I have addressed that with Mr. Iwanyckyj a number of times and I have called you on the same matter and you haven't returned my calls. Mr. Donham said I didn't get your call on water bills; I got your call on this meeting but if there is something compelling, that Mike hasn't addressed you can certainly submit it to me. If I don't address it, submit it to Utilities (Committee). And your last question was when is the water meter project going to be brought online. We are sending out this month our final thirty day notice to get people to put the meters in. The lag has been that people aren't responding to get their new meters. So after our next water billing we will have thirty days. After that we will need probably sixty days of readings before we can bring them online so we can get the right rate adjustments. Mr. Edwards said so you are telling me for another three or four months we are going to continue to pay high bills. Mr. Donham said no, you are using the water. What I am telling you for the next three or four months we are going to continue to estimate it at fair market price and that is what you are going to pay. And if you can show me you are not paying a fair market price, we will adjust it and make it whatever is fair. We didn't pull the number out of our butts we pulled it from what was actually used. Mr. Edwards said over the course of the past three months I have probably moved in fifteen new tenants, where did those numbers come from. Mr. Donham said previous usage for that. Mr. Edwards said we don't have any previous usage. I have one building with three units. Mr. Donham asked is it a brand new building never lived in? Mr. Edwards said I have three new tenants. Mr. Iwanyckyj said what I do when there is no history it is 1000 gallons per adult and 500 gallons per child. Mr. Edwards said ok so why shouldn't I get the same rates? Mr. Iwanyckyj said the water meter hasn't worked for years in those units. Mr. Edwards said exactly, that's my point. Mr. Donham said Mr. Edwards I think we have heard it, if Council has any other questions for you we can take them at this time otherwise we'll move on to Mr. Moore. Mr. Iwanyckyj explained that we can't do anything (about reading the new meters) until we go to school for that. We have to know how to run the software so there will be a day spent in administration and a day in the field to learn about it. June is the earliest we will be able to do that. Mr. Donham said it will probably be July. Mr. Edwards said it doesn't matter if it is December, the problem is you continue to charge me for the water that isn't being used. Mrs. Meszaros asked if she could interject just one little thing. Mr. Donham said yes, quickly because we need to get to the agenda. Mrs. Meszaros said I remember from previous experience if there was a non-working meter the tenants were automatically charged 6000 gallons. Mr. Donham said that is if you don't get any reading. If you don't have a meter or it doesn't read at all. Mrs. Meszaros said that was what was established if you had a non-working meter you were charged for 6000 gallons. Mr. Donham said I think it was 16000 gallons. Mrs. Meszaros said I think it was 6000 gallons. Mr. Donham said I think it was for a long time but it was increased if it was estimated as a non-working meter and this remains the case if you have a non-working meter we estimate it at a very high number to make sure nobody is gouging so we estimate it at the highest residential number that we can because that is incentive for somebody to get a meter. The whole reason for meters is to pay for what you use; if you use a lot, rip the meter out and if the non-working rate is low then you are making a good judgment. Mrs. Meszaros said I think what Mr. Edwards is trying to say is if you have been estimating everybody's bill for a very long time based upon those previous amounts which may or may not have a basis in reality. If you are

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estimating everybody across the board then you should adjust those people down to a realistic estimate. Mr. Donham said it is realistic, it's what they used though. None of these people have a quote unquote non-working that I am aware of that falls under our ordinance. We are saying we declared them non-working as of this date and started estimating but previous to that these people were paying a reading bill. We would show up at their house 4000 gallons and they would pay that. I don't think they were paying the 'it doesn't work, we are not reading it' rate. Mr. Edwards said in this particular case you are way off base. In this particular one unit out of the thirty or forty that I manage, this one unit the meter never worked. Mr. Donham said and we charged you the non-working rate. Mr. Edwards said no, there was a time they were charging 8000 gallons and when I complained to Terri it dropped down to 6000. But even at 6000 gallons your rates ... I've got a little old lady that lives in there, she doesn't have a washer or dryer and she doesn't use a thousand gallons a month and we're still gouging her, you are the one who is gouging her. Mr. Donham said she should have a meter. You are talking about extraordinary circumstances where somebody doesn't have a meter. Everybody should have a meter. If this one person didn't have a meter and its estimated artificially high bring it to Mike and Mike will look at it. If you didn't get the answer from Mike let me look at it. If you don't get the answer from me then go to Scott he is the chairman and he will look at it. Mr. Edwards said there are quite a few of them that are being charged... Mr. Donham said well then submit those individual accounts... Mrs. Prem said last week, or last month we were sitting around here and everybody said oh, the water rates that are being estimated, let's fill up our pools. We aren't making money here because there are people who are taking advantage the other way. Mr. Edwards said you are one hundred percent right. That's a very good possibility, but I've got a pretty good track record in this town for what I do and I don't take advantage of anybody. Mr. Donham said well Mr. Edwards I think we understand what you are saying. If it has gone to Mike submit it to me. If not submit it to Scott and we will take a look at it. Does anybody else have any further questions for Mr. Edwards because I know we have definitely gone over our three minutes per person.

Mr. Donham then called upon C. James Moore. Mr. Moore thanked the Mayor for letting him speak and then asked if it is necessary for him to speak now or should he wait until the Housing Code and Utilities portions of the meetings are being addressed. Mr. Donham said I'd address Council now. Mr. Moore continued, first I want to ask I gave you information from the Villager article and I want you to understand that I submitted that to you now because I would have no opportunity to address something that is not on the agenda after you have already passed the minutes, so that's why I did it this way so you understand that so everybody understands that. I don't know whether you took offense to it or what but I don't expect to come here and Kelly or anybody else or any of the residents and speak and get no response in the minutes about any of the specifics of what we talked about. So Bob just got through speaking, I'm getting ready to speak now about what I have to say. So, I mean if you are not going to put something in the minutes about what we are saying, what's the use. Mr. Donham said we have gone back and forth on minutes and this is an entirely Council issue and Lloyd does the best he can. Sometimes Lloyd gets yelled at for putting too much in and then months like this he gets yelled at for not putting enough in. Whatever Council says was the minutes are the minutes, but minutes are summary. They are not verbatim. Mrs. Miranda said did you not say that we can add the correction to the minutes at the next. Mr. Donham said absolutely, anytime Council has something they want to amend the minutes to... Mrs. Miranda said that will be included in the next minutes. Mr. Moore said I shouldn't have to challenge... Mrs. Miranda said I'm not saying that you should, Jim. I'm not saying that you should have to tell us, but I'm just saying that it can be handled. Solicitor Reitz said I'd like to interject about what the procedure is, once you have approved your minutes that's it, they are done. Now, Mr. Moore has brought some

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additional information which should appear in your minutes for tonight. This document that he submitted should be part of your record from tonight's meeting. So I would suggest that the minutes for this part of the meeting should be very thorough tonight because this is the only opportunity you have to add to what you have already approved for last month's minutes. Mrs. Miranda said any comments from the public should probably be verbatim because we serve the public. You can summarize the agenda, you can summarize the actions, but when the public is addressing us I think it should be verbatim. Mr. Donham said in the past you have been one of the advocates for summary minutes. Mrs. Miranda said I wanted it to be one or the other, you know either you put everybody's comments in or you put nobody's. He does this I'm sure the best he can. Mr. Donham said Lloyd will do whatever you guys want, it is just a matter of typing, and he's got no agenda on it. He will put whatever Council wants in the minutes in the minutes as long as they were stated. Mrs. Miranda said it should be as verbatim as possible, sometimes there's interjections. Mr. Donham said that's why I asked you guys why you voted no is because before the no vote that's when we could have said Mr. Moore contacted me before the meeting and he has these issues and I'd like to amend the agenda to include this in and I would have said that's fine. I mean I don't have any problem with the article, I think it's pretty accurate and it could have been reflected in the minutes. That's how I recommend doing it but whatever Council's pleasure is Lloyd can type up just about anything.

Mr. Moore began his comments as follows: first of all about these Housing Code fees, I want you to understand what I own and what I don't own. I have two structures in this Village, that's it, that would be required to pay Housing Code fees. I don't own a bunch of apartment buildings in town, ok, so I want you to hear that. I'm here to encourage you to table this ordinance and discuss the issues at the Housing Rental License Code Committee Meeting and the Finance Committee Meeting in May on a separate day from your regular meetings unless you want to continue with your meetings after this issue is discussed and myself and a couple of other landlords be welcome by the Mayor and Council to participate. Obviously we can't vote we can only participate by discussing back and forth. I've researched your meeting minutes since January and I'll provide some of my reasons why you should table this ordinance. Mr. Donham asked are some of those reasons not available at this time? (coughing made it difficult to hear) Mr. Moore said it is better that we first try to resolve the issues with this new ordinance. Some background – February 7 Housing Rental License Code Committee Meeting, the minutes reflect the Mayor said we can accumulate enough money through fines, license fees, etc. we can buy them buildings and tear them down and he said the Ordinance now charges \$50 per building \$30 per apartment to inspect, \$30 to re-inspect and that we have increased fees once in thirty years. And he recommends increasing fees this year to \$100 per building and \$40 per apartment and it will bring in \$1350 this year. Next at the April 3rd Housing Rental License Code Meeting I reported that the Ordinance 2007-13 passed on October 16, 2007 for re-inspection fee be added to the code at a fee of \$25, the same as the first inspection of apartments. That ordinance was passed four years and five months ago and the Mayor voted on that ordinance as a Councilman. Next I reported at the April 3rd meeting that another ordinance 2008-6 was passed on May 7, 2008 to increase the fees from \$40 to \$50 per structure and that is a 25% increase. And \$25 apartment fee to \$30 on first inspection and \$30 for a re-inspection up from \$25 and that is a 20% increase. And the ordinance was passed almost four years ago, Mayor Donham's first year as Mayor in 2008. So the claim of thirty years without increasing the fees is far from being correct. Next, also at the February 7th License Code meeting at the Mayor's comment of thirty years without fee increases a Committee member made a motion to draft the ordinance to increase the fees that was suggested by the Mayor. And when the motion didn't receive a second, the Mayor instructed the Solicitor to draft the ordinance language to increase the fees by 100% per structure. These are from the minutes. Mayor Donham put the ordinance on the Minutes of April 26, 2012 Special Council Meeting (Reg Council Mtg held at non-normal date)

agenda for the February 28th Council Meeting for three Council readings without a recommendation of the Housing Rental License Code Committee. At the March 15th Housing Rental License Code Committee Meeting the Mayor said we need to get a pot started to pay Attorney Reitz's legal fees and said we brought in \$9800 last year (2011) and we are projected to spend \$12000 this year (2012) and the Mayor said we need to adopt vacant unit building fees and he wants more dollars per inspection and I don't know whether this is paid into the Housing Rental License. Mr. Donham said it is separate. Mr. Moore continued, Atty. Reitz said twice in his tenure, at the same meeting March 15th, here we went so far and then had to back down because we didn't have the money to go further and expressed to attach \$10,000 to \$15,000 to the cost to condemn. I'm not sure if that's related to the ordinance or not. That raises some concerns. We think, some of the landlords think that they are trying to change the intent of the Housing Rental License Code ordinance. From my recollection we did not use the Housing Rental License Code inspection fees for legal fees to sue landlords for not complying. That would have come from the General Fund, legal fees line item. If I'm wrong, show us. If you are wanting to pass on legal fees for what you have discussed in your meetings you should show us it's legal and show spending records for the past ten years, to show it was paid for out of the Housing Rental License Code Fund. At the March 27th Council Meeting, I and Kelly Meszaros expressed concerns about the Housing Rental License Code fee increases but you have that information already and we discussed that. When Council discusses this ordinance on the third reading and votes tonight, once again I would encourage the Council to table this ordinance and collectively meet with us for the purpose of attempting to resolve both of our issues with yours.

Mr. Donham said thank you Mr. Moore. Does anyone have any questions for Mr. Moore. Ms. Blewitt asked so you would want to meet in May and who are these people who you would like to bring? Mr. Moore said myself for sure and I don't know whether Bob (Edwards) and Kelly (Meszaros) would want to come. Ms. Blewitt asked are there other people who are concerned about this or is that the only people who have concerns? Mr. Moore said I'm sure there are other ...

Mr. Donham said I want to at least address a couple of things, one we talked about several pieces of legislation and two of them aren't related to this. The first is the Re-inspection fee. The Re-inspection fee is separate and completely different from the License Fee. That is for people who failed inspection and somebody needs to come back out, and I agree that was put on about five years ago when I was on Council. That pays the housing inspector to make his trip back out and do the inspection. So that is neither here nor there. The increase, I think in 2008, is the only increase that I can recall ever seeing and that is substantial. That is one I guess, we had increased it once since the 80s at least, but it still doesn't pay for what it costs. The third one in there that is also, you know, that is quoted a few times that isn't up for review or part of the legislation is the vacant building license fee and a lot of what Mr. Moore quoted out of the minutes is in discussion of that and that is a fee that we talked about. Some of the landlords want to have their buildings vacant and not occupied and boarded up and then torn down. In that vein we too have said ok well we want to license that and have separate inspection methods so that whole section of yeh we want to buy buildings with vacant building money and stuff like that is separate from this. That is a different piece of legislation and a different pot of money, and it's a much different rate structure. In the fifth year I think it goes up to \$3000 to \$5000 per year. So it is a different mechanism and a different enforcement tool that we are using, or that we want to use. Ms. Blewitt added for vacant buildings. And Mr. Donham echoed for vacant buildings. But what we are talking about here is increasing inspection fees that weren't increased for twenty years, were increased once I guess in 2008 and haven't been increased since. I don't know of any other bill that I have that is the same as 2008 or 1984, but you guys have seen the Minutes of April 26, 2012 Special Council Meeting (Reg Council Mtg held at non-normal date)

documentation. It is about a 20% negative fund. We are going to take it out of General Fund because we have to inspect it, but remember we set up funds, special revenue funds to be self-sustaining. Water needs to pay for water and can't go in and out. Sewer needs to pay for sewer and can't go in and out. The street department does the same thing. And the housing rental license code was adopted so that the Village is insuring that safe, clean affordable housing is offered to people in our community. And we provide a service of insuring that landlords provide that. We all here know that landlords, the vast majority of them that we have had to deal with, I'm not saying that any of you three fall into that category, but all three of you guys have sat on the other side of this table. Haven't sat on it but you have been up here for quite a few when Sonya was. And you know that a lot of those places that need inspecting wouldn't be upgraded if there wasn't an inspection. And if we didn't enforce it, it wouldn't be done. So we can keep kicking the can down the road and not do it, but we need to increase the fee. And the increase total revenue increase is about 13 to 14%. I know we have talked about this 100% because the structure number is going up from 50 to 100, but remember that our fees are based upon a formula. We don't charge per structure, we charge per structure plus an add-on for units plus re-inspection fees and you know, it has got to be self-sustaining. I'm going to continue to recommend that we pass it. I'd certainly love to meet with anybody at any of these committee meetings, we have them every month, and discuss how we make it better how we fix it what makes it fair, but I never see anybody at those committee meetings. I only see them at the Council Meetings with stall tactics. Any other questions from Council? Mr. Moore said are we going to discuss the budget? Mr. Donham said any other questions from Council? Ms. Blewitt said I have a question that if someone was going to make the recommendation that it be tabled, when would be the appropriate time to do that? Mr. Donham said when we get into that. Ok, then we will move on to the next item on the agenda which is Finance by Scott. But Scott if you wouldn't mind handling the rearrangements that we have, I don't know if you were able to write them down, but we have 11.2. Mr. Garrett said you are in Safety. Mr. Donham said you guys can switch Committee chairs if you want, we have four in safety and then one in utilities and then two in housing rental license code that we will handle right off the bat. At the beginning we moved items 11.2, 11.3, 11.4 and 11.5 up before finance because Mrs. Prem isn't sure if she will make it the entire meeting tonight.

Safety (voted items) by Phil Snyder

Mr. Snyder read Ordinance O-2012-10 **AN ORDINANCE REVISING SECTION 155.05 OF THE CODIFIED ORDINANCES BY ADDING A PARAGRAPH (e)** as a third reading and made a motion to adopt. Mrs. Barrett questioned Mr. Snyder as to where he was (in the agenda). Mr. Snyder replied 11.2 in Safety. Mrs. Miranda said it is exhibit A, it is the Holiday pay. The motion was seconded by Mr. Garrett. Mrs. Miranda said it is a lot of personal holidays to schedule around. Mr. Donham said this doesn't increase anything. Chief Fixler explained that those who are scheduled on the Holiday, they aren't forced to take the Holiday off. They can take it throughout the year with Chief's approval and can take it in four hour increments. Ms. Blewitt said we aren't changing the amount of days they get, correct? They can just move them around. Mrs. Miranda said that's tough to schedule, I mean you said three days notice but, is it at the supervisor's discretion? Chief Fixler said if somebody calls in and says I want to take this tomorrow and I have the personnel to cover it, by all means I'm going to approve it. This is the idea because if they just call off sick the next day, now we are down 8 hours as opposed to us just covering it (for 4 hours off). I think it would be both money saving and help with morale. Mr. Donham said this is just for the police department because they are twenty-four (hours) seven (days per week) and was brought up as a money saving idea as well as a convenience because even though they have a holiday, this would allow us to just schedule people on that day

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and save the time and a half extra that we pay. The roll call vote was taken as follows: Mr. Garrett yes, Mr. Snyder yes, Ms. Blewitt yes, Mrs. Barrett no, Mrs. Miranda no, Mrs. Prem yes so the Ordinance passed.

Mr. Snyder read Ordinance O-2012-14 **AN ORDINANCE REVISING SECTION 155.05 OF THE CODIFIED ORDINANCES BY ADDING A PARAGRAPH (f)** as a third reading and made a motion to adopt. Mr. Garrett seconded the motion. Mr. Donham explained that part-time employees in the Police Department will be paid at a rate of one and a half times their regular rate and it eliminates a benefit that they currently have, so we are swapping one benefit for another which is part-timers get sick time right now and this eliminates sick time for part-timers, but it does pay them one and a half times for working a holiday. The roll call vote was taken: Mr. Garrett yes, Mr. Snyder yes, Ms. Blewitt yes, Mrs. Barrett no, Mrs. Miranda yes, Mrs. Prem yes and the motion passed.

Mr. Snyder read Ordinance O-2012-19 **AN ORDINANCE APPROVING THE RECODIFICATION, EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF WINDHAM, OHIO** and made a motion to suspend the rules which was seconded by Mr. Garrett. The roll call vote was unanimous in favor of the motion. Mr. Snyder then made a motion to adopt Ordinance O-2012-19 which was seconded by Mr. Garrett and passed by unanimous vote.

Mr. Snyder read Resolution R-2012-14 **A RESOLUTION AUTHORIZING THE MAYOR AND THE VILLAGE FISCAL OFFICER TO ENTER INTO A CONTRACT WITH MEDICAL MUTUAL OF OHIO FOR MEDICAL INSURANCE FOR THE TIME PERIOD FROM APRIL 1, 2012 TO MARCH 31, 2013 AND WITH ANTHEM BLUE CROSS BLUE SHIELD FOR VISION AND DENTAL INSURANCE FOR THE TIME PERIOD FROM MARCH 1, 2012 TO FEBRUARY 28, 2013 AND DECLARING AN EMERGENCY** and made a motion to suspend the rules which was seconded by Mr. Garrett and carried by unanimous vote. Mr. Snyder made a motion to adopt Resolution R-2012-14 which was seconded by Mr. Garrett and carried by unanimous vote.

Utilities (voted items) by Rachel Barrett

Mrs. Barrett made a motion to approve the expenditure of \$5500 to Hard Labor Paving to do the drying beds, the committee having recommended bringing this before Council for approval. Mr. Snyder seconded the motion. Mrs. Miranda questioned that we had done the drying beds last time when they were empty. She questioned whether a quote had been obtained and whether it had gone through the right channels. A roll call vote taken with unanimous vote of Council.

Mr. Donham called upon Ms. Blewitt to handle Ordinances O-2012-23, 24 and 25. Mrs. Miranda questioned why when the motion was made to move legislation up then we aren't going onto 12.2 (Ordinance O-2012-21) and 12.3 (Resolution R-2012-15), that's legislation? Mayor Donham said because we added Ordinances O-2012-23, 24 and 25 which fall under Streets and Sidewalks which is item 13 which is above 14 so we are trying to go the order of which the agenda has it. He said Tom (Reitz), I don't know if you wanted to discuss why these were added to the agenda because all of these need a suspension (of the rules) on something we have already passed.

Mr. Reitz explained that Council passed the previous legislation on the Motor Vehicle License Tax last month, not because you were thrilled with the idea, but because you felt it was going to happen in any event and if you didn't pass it the County would go ahead and pass it and the money would go to Portage County as opposed to the Village. So you passed that legislation. Because it is a tax, I recommended that you do not pass it as an emergency so it took effect thirty days later which was yesterday. The Fiscal Officer forwarded it to the State of Ohio Department of Licensure and I got a call from the Chief of their Division about four-forty this afternoon and she said Tom, I got your legislation and I'd like you to review it and do it a little differently and this nice lady sent me a form that she would like to see. So you now have three pieces of legislation before you. The first one is O-2012-23 which is the same as the one you passed last month except under exhibit A where it says sub-paragraph a and sections ii and iii where it says Revised Code Section 4504.171 and Revised Code Section 4504.172 those sections are different and that is the only change from the previous legislation (O-2012-17). This one just stays here with the Village and goes with your other Ordinances. But on Ordinance O-2012-24 and O-2012-25, the first thing I notice is in the title, the word Ordinance is spelled wrong. Sorry, I was hurrying a little bit. But other than that you will see that this parallel the changes in that it is called out Section 4504.171 in Ordinance O-2012-24 and Section 4504.172 in Ordinance O-2012-25. This legislation is identical to the form that this lady from the State sent me this afternoon. So I put it together quick so that you could act on it tonight so that you could get it enacted before anyone else enacts legislation that will tax your citizens and take the money. So that is the reason that you have these three items of legislation tonight. That is also the reason why they weren't on your agenda which you received earlier. I don't type that well. Mr. Snyder said we noticed which was followed by laughter from those assembled.

Mr. Donham said that is why it's here. We do need to read O-2012-23 and then a motion to suspend the rules.

Streets and Sidewalks (voted items) by Deborah Blewitt

Ms. Blewitt read Ordinance O-2012-23 **AN ORDINANCE TO REVISE SECTION 183.02 WITH RESPECT TO MOTOR VEHICLE LICENSE TAX OF THE WINDHAM CODIFIED ORDINANCES** and made a motion to suspend the rules which was seconded by Mrs. Miranda. The roll call vote was taken with a unanimous affirmation of the motion. Ms. Blewitt made a motion to adopt Ordinance O-2012-23 which was seconded by Mr. Snyder which was followed by unanimous vote to affirm the motion.

Ms. Blewitt read Ordinance O-2012-24 **AN ORDINANCE TO LEVY A MUNICIPAL MOTOR VEHICLE LICENSE FEE PURSUANT TO SECTION 4504.171, OHIO REVISED CODE** and made a motion to suspend the rules which was seconded by Mr. Snyder and carried by unanimous vote of Council. Ms. Blewitt made a motion to adopt Ordinance O-2012-24 which was seconded by Mr. Snyder and carried by unanimous vote of Council.

Ms. Blewitt read Ordinance O-2012-25 **AN ORDINANCE TO LEVY A MUNICIPAL MOTOR VEHICLE LICENSE FEE PURSUANT TO SECTION 4504.172, OHIO REVISED CODE** and made a motion to suspend the rules which was seconded by Mr. Snyder and carried by unanimous vote of Council. Ms. Blewitt made a motion to adopt Ordinance O-2012-25 which was seconded by Mr. Snyder and carried by unanimous vote of Council.

Mr. Snyder said Good Job, Mrs. Blewitt. Ms. Blewitt said, yea thanks. Mrs. Meszaros said don't feel bad I suffered through all four years and never felt comfortable about it.

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Mr. Donham said the next item is 14.1 which is Ordinance O-2012-9 under Housing Rental License Code.

Housing Rental License Code (voted items) by Jena Miranda

Mrs. Miranda read Ordinance O-2012-9 **AN ORDINANCE ESTABLISHING CHAPTER 1505 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF WINDHAM ENTITLED "FIRE DAMAGED STRUCTURE"** as a third reading. She said is there any discussion. Mr. Donham said we will need a motion first and a second then we can have discussion. Ms. Blewitt made a motion to adopt Ordinance O-2012-9 which was seconded by Mr. Snyder. Mrs. Miranda said is this for the public housing, but it is the whereas says some caused by accident and some caused by arson, so is it strictly to public housing. Mr. Reitz said no, it is to all of the housing in the municipality. Mrs. Miranda said so the idea is to get the proceeds from the insurance, right? Mr. Reitz said yes, in the event of a fire regardless of how the fire started if a structure is destroyed to the point where ... Mrs. Miranda said if my structure, let's make it personal, say my house burned down. Mr. Donham said somebody burned your house down. Mr. Reitz continued and the loss exceeds 60% of the limits of liability you have on your homeowners insurance, your private insurance. Mrs. Miranda repeated it exceeds 60%. Mr. Reitz said in that event of the proceeds, \$2,000 of the proceeds for every \$20,000 of the value that was lost gets deposited with the Village Administrator for the purpose of razing the structure that's not cleaned up. You don't have to deposit the money. It's still your money but the deposit is to make your site safe. This is a procedure that has its ultimate and its beginning authority in the Ohio Revised Code. The Ohio Revised Code puts forth the steps that are involved in this and one of those steps is the Village can play it's hand in it by making sure the money is used to make the property safe if you pass legislation like this in advance. So we can't do a retroactive for some of the structures that have already burned in the Village. But by enacting this we will be in a position to take those insurance proceeds to make the site safe if it happens in the future. Mr. Donham said and the thought process we have the need of it when we talked about it is we have people whose obviously their buildings have either been accidentally or purposely burned and they have taken the insurance money and run. They don't fix it, but they decide it's not worth fixing they would rather have the cash and they go and we don't have the means to force them to use that money to fix it. So this will help because of the basically 10% of the value of the home must be deposited until it's fixed in which case you get it back or you fixed it. Mr. Reitz said if I wasn't a lawyer I would have said that. Mr. Donham asked if there is any further discussion. If not, take the vote. Mrs. Miranda no, Mrs. Barrett yes, Mrs. Prem yes, Ms. Blewitt yes, Mr. Garrett yes, Mr. Snyder yes so the motion is carried and Ordinance O-2012-9 is adopted.

Mrs. Miranda read Ordinance O-2012-13 **AN ORDINANCE AMENDING SECTION 1341.08(c) OF THE CODIFIED ORDINANCES OF THE VILLAGE OF WINDHAM TO INCREASE LICENSING FEES FOR HOUSING LICENSES AND INSPECTION EFFECTIVE JUNE 1, 2012 REPEALING ALL PRIOR OTHER INCONSISTENT ORDINANCES** as a third reading and made a motion to table the legislation. Ms. Blewitt seconded the motion. Mr. Donham recommended that we pass it as we are now at 33% of the way through the year. The \$1800 that we talked about that we needed to balance this fund. Mr. Moore interrupted and was gavelled down and was told by Mr. Donham you are disrupting the meeting and that's a crime. I'll have you removed from the meeting if you disrupt the meeting. Mr. Moore please allow us to have our public meeting, this is discussion for the motion and we are going to have it. This \$1800 shortfall that we have this year, \$600 of that if we pass it
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tonight is still short. We aren't going to be able to pass it similar to what we did last year for those members who were here when we waited six months on the water rate increase we had to almost double the rate increase when we waited. I'm more than happy to listen to other options but this has been 90 days and I've heard three voices say the same thing, I don't want to pay it. And I just don't think not wanting to pay it is an option. So I'm going to recommend that we pass it and I'm going to recommend to anybody who wants to come and make a suggestion to amend it later come and do it but we are behind the eight ball here. Anybody else from Council want the floor? Mrs. Miranda said this says recommended by the Housing Rental License Code Committee by the Village but we did not recommend it. This was not our recommendation. I understand you are recommending it, but this should be changed so that it says the Mayor feels. It is not derogatory. Mr. Donham said if you would like to make that amendment after the ... Mrs. Miranda said for the legislation particularly, I'd like it to be true and accurate. Mrs. Prem said actually I made that motion and I was the one who brought it to Council. Mrs. Miranda said and it got defeated, Sheryl, and the Mayor recommended on his own. Mr. Reitz said the issue before you is the motion to table, so if you decide to table it, you're done. If you decide not to table it then you can continue with the discussion you are having now about whether it should be adjusted. Mr. Donham said I recommend no on the table, is there any further discussion on the table? Mr. Garrett said I don't see any way around it. The only thing that I would say, if there is a contingency that would like to come and address the board, we probably ought to let them have their say. If we can do that in early May then we can still bring in a discussion, table it until then and then we can vote on it at our May meeting. Maybe somebody has a suggestion that we have overlooked. Mr. Donham said I would be more than happy to put that amendment together and amend any code but we are short and what other suggestion do you have other than the property owners don't want to pay it and the money needs to be put into that account. It is what it is you can either use General Fund money or... Mr. Garrett said I don't have any other suggestion, maybe the property owners have some suggestion but the bottom line is that fund has to be self-sufficient but I don't see the harm in hearing people. Again maybe there is a suggestion that we have missed, so if we can do that at the next Housing Committee Meeting and then bring it up at the May Council Meeting and have landlords come to the Housing Committee Meeting. Mr. Donham said and then they will want to table it at the May Council Meeting. Mr. Garrett said no, I think you do it once and then you are ready to vote. Mr. Snyder said I think the thing that everybody needs to not lose sight of is the fact that this department needs to be self-sustaining and if we have to go to the General Fund to fund this because it doesn't pay for itself then we have to take that money from somewhere else and that's dangerous. Mr. Reitz said is that part of whether to table it? Mr. Donham said yes it is because we are several hundred dollars a month in the negative every month that we table it. That's fine but I'm going to have to bring recommendations to Council each month hereafter on where do we take the money from. Street Department? Police Department? Let's just be prepared for that. Any further discussion? The motion is to table until next meeting. Take the vote. Mrs. Miranda yes, Mrs. Barrett yes, Mrs. Prem no, Ms. Blewitt yes, Mr. Garrett yes, Mr. Snyder no so the motion carries 4 – 2 in favor of tabling the Ordinance.

Mayor Donham said the next item would be item 10.1 in Finance and he called upon Scott Garrett.

Finance by Scott Garrett

Mr. Garrett made a motion to approve the Fiscal Officer's expenditures for the month of March 2012 in the amount of \$235,374.57 in checks, direct deposits and charges. Check numbers through 27561 and 27567 through 27688 were paid from the primary checking account during Minutes of April 26, 2012 Special Council Meeting (Reg Council Mtg held at non-normal date)

March 2012 with check numbers 27649 through 27662 voided during the month and direct deposit vouchers E30 through E84 issued during the month. Mr. Snyder seconded the motion with all voting in favor.

Mr. Garrett made a motion for the approval of all funds reconciled bank balance for March 2012 in the amount of \$1,426,411.81 and the following monthly reports distributed to Council for the month ending March 31, 2012: Fund Summary, Appropriation Summary, Revenue Summary, Payment Register, Charge Register, Expenditure Summary, Cash Summary by Fund and the following Year to Date Reports through March 31, 2012: Cash Summary by Fund, Comparison of Budget versus Actual Receipts, Comparison of Disbursements and Encumbrances which was seconded by Mr. Snyder and was supported by unanimous vote of Council.

Mr. Garrett read Ordinance O-2012-8 **AN ORDINANCE TO REVISE AND AMEND SECTION 181.07(b) OF THE VILLAGE INCOME TAX CODE TO ADD FILING REQUIREMENTS** and made a motion to remove it from the table which was seconded by Mr. Snyder. The vote was taken with Mr. Garrett voting yes, Mr. Snyder yes, Ms. Blewitt yes, Mrs. Barrett no, Mrs. Miranda yes and Mrs. Prem yes. Mr. Garrett then made a motion to amend Ordinance O-2012-8 by removing Schedule R and Mayor Donham also said he would recommend removing 2106. He said he knew that wasn't the recommendation of the Income Tax Clerk but it is a form... Mr. Garrett asked which one is that Rob. Mr. Donham said that is the unreimbursed employee expense form. Mrs. Barrett asked if that was for domestic help and was told that was schedule R. Mr. Donham said that is for if you want to make deductions for unreimbursed expenses that you have, you can claim them on that form and if you put a deduction down you would have submit that form to verify it but there is no need to require that form ad nauseam. I don't think it is a general form needs to be on there and I know there were some people concerned and it could affect the passage of the legislation. Mr. Snyder said I agree I never did see any reason for it being on there. Mr. Garrett asked the solicitor how to make the motion to amend. Mr. Reitz said the motion would be to amend by deleting the following phrase R and form 2106 from exhibit A section 181.07 paragraph B3. That's probably what you meant to say, right? Mr. Garrett said absolutely. Mr. Snyder seconded the motion. The roll call vote was taken as follows: Mr. Garrett yes, Mr. Snyder yes, Ms. Blewitt yes, Mrs. Barrett yes, Mrs. Miranda no, Mrs. Prem yes and so the motion to amend passed by 5 – 1. Mr. Garrett then made a motion to adopt as amended which was seconded by Mr. Snyder. The vote was taken resulting in Mr. Garrett yes, Mr. Snyder yes, Ms. Blewitt yes, Mrs. Barrett no, Mrs. Miranda no, Mrs. Prem yes so the motion to adopt as amended passed by a 4 -2 vote.

Mr. Garrett then read Ordinance O-2012-12 **AN ORDINANCE TO REVISE AND AMEND SECTIONS 181.02(t) OF THE VILLAGE OF WINDHAM INCOME TAX CODE TO CHANGE THE DEFINITION OF TAXABLE INCOME AND TO ADD FILING REQUIREMENTS** as a third reading and made a motion to adopt which was seconded by Mr. Snyder. The roll call vote was taken as follows: Mr. Garrett yes, Mr. Snyder yes, Ms. Blewitt yes, Mrs. Barrett no, Mrs. Miranda no, Mrs. Prem yes so the motion carried 4 – 2.

Mr. Garrett read Ordinance O-2012-20 **BEING AN ORDINANCE AUTHORIZING TRANSFERS AND APPROPRIATIONS FOR THE VILLAGE OF WINDHAM AS SET FORTH BELOW AND DECLARING AN EMERGENCY** and made a motion to suspend the rules which was seconded by Mr. Snyder and carried by unanimous vote. Mr. Garrett then made a motion to adopt Ordinance O-2012-20 which was seconded by Mr. Snyder and carried by unanimous vote.

Mr. Garrett read Resolution R-2012-13 **A RESOLUTION AUTHORIZING THE VILLAGE FISCAL OFFICER OF THE VILLAGE OF WINDHAM TO CREATE A THEN AND NOW PURCHASE ORDER(S) TO PAY MEDICAL MUTUAL, COSE / MEDICAL MUTUAL AND DECLARING AN EMERGENCY** and asked if that was a duplicate. The Clerk of Council said one was for premiums and the other was for deductible payments. Mr. Garrett then made a motion to suspend the rules which was seconded by Mr. Snyder. Mrs. Miranda asked if this was the usual and customary, I mean I realize it is because it is of the timing but it wouldn't fall under needing Council's approval. Mr. Billman explained that if everybody were enrolled and there were no Cobras and you had no other surprises you could write a purchase order for the exact amount if I knew what it was and the same for the deductibles if I knew what it was in advance I'd probably play the lottery. The roll call vote was taken and carried by unanimous vote. Mr. Garrett then made a motion to adopt which was seconded by Mr. Snyder and carried by unanimous vote.

Safety, Personnel and Rules (SPR) by Phil Snyder

Mr. Snyder said that Ordinance O-2011-42 relating to the Village of Windham Employee Handbook should remain on the table as the committee is still working on it.

The legislation for the Global Fleet Fuel Card was unavailable so no action was taken.

Utilities by Rachel Barrett

Mrs. Barrett read Ordinance O-2012-21 **AN ORDINANCE TO ENACT SECTION 927.05 WATER METER REPLACEMENT FEE** as a first reading.

Mrs. Barrett read Resolution R-2012-15 **A RESOLUTION ESTABLISHING A NEW FUND TO BE KNOWN AS THE WATER METER REPLACEMENT FUND FOR THE VILLAGE OF WINDHAM AND DECLARING AN EMERGENCY** and made a motion to suspend the rules which was seconded by Mr. Garrett and carried by a 5 – 1 vote with Mrs. Miranda being the sole no vote. Mrs. Barrett then made a motion to adopt Resolution R-2012-15 which was seconded by Mr. Snyder and carried by a 5 – 1 vote with Mrs. Miranda again being the only no vote.

Streets and Sidewalks by Deborah Blewitt Ms. Blewitt read Ordinance O-2012-18 **AN ORDINANCE TO REVISE SECTION 943.08 WITH RESPECT TO REFUSE COLLECTION OF THE WINDHAM CODIFIED ORDINANCES** as a second reading.

Village Building and Properties by Sheryl Prem Mrs. Prem said she had nothing at this time.

Parks and Recreation by Phil Snyder Mr. Snyder said we were unable to have a Parks and Recreation Meeting because of lack of attendance.

Mr. Snyder then read Ordinance O-2012-22 **AN ORDINANCE TO REVISE AND AMEND SECTIONS 121.01(1)(2) WITH RESPECT TO THE WINDHAM VILLAGE PARK BOARD IN THE WINDHAM CODIFIED ORDINANCES** as a first reading.

Planning and Zoning by Phil Snyder Mr. Snyder said he has nothing at this time.

Solicitor's Report by Tom Reitz Mr. Reitz said I don't often have a report and tonight I have a matter I need to bring to your attention. You are probably aware that the Village is just about to conclude your audit for the year 2011 and the State Auditor has indicated that the practices followed by the Village this last year in 2011 which was also the practices followed in 2010 as to allocating a proportional amount of Village Council members' salary partly from the general fund, partly from the water fund and partly from the sewer fund and then a different proportion of those costs are proportioned with respect to the Mayor. The state auditor has indicated that their belief that they think this practice is a problem and they have indicated that they would like to give you a chance to reverse that transaction in advance of them issuing your audit report. I received direction from you in the form of legislation not once, but twice that this is something that you want to do. Specifically you passed Ordinance O-2011-11 where you indicate 50% of the gross pay of the Council should be paid from the general fund, 25% from the water fund and 25% from the sewer fund. You asked me before you passed that legislation whether it was appropriate. I told you I believe that it is. And I base that on a written opinion of the Ohio Attorney General. It is pretty old. It is from 1952. It says in part I conclude, and this is the Attorney General speaking, I conclude therefore that in the absence of any constitutional limitations municipalities acting reasonably and in good faith are quite free to determine for themselves the elements of cost that enter into the operation of their utilities to apply the revenues arising from such operation in payment of such costs. I think that is directly on point. In another paragraph the Attorney General opined once again in writing, such apportionment must be determined by the municipal authorities in the exercise of a sound discretion. So now do I think that your proposed course of action is authorized by the opinion of the Ohio Attorney General. I think that you have done an appropriate step toward memorializing it in the passage of your legislation last year and then you have gone ahead and passed another piece for this year with a slightly different allocation. And so, in light of the Auditor's inquiry to you, some type of response must be made. And I would suggest to you that you have a number of options available to you. I suppose one of the options is not much of an option, it is just ignoring and not responding at all.

Mrs. Miranda said it is a citation, isn't it? Mr. Reitz said then you are going to get a citation. Mrs. Miranda said I thought we did get one for last year. And based on this statement we are facing the same thing this year if we don't comply. We got something from the Auditor a couple of weeks ago. Mr. Reitz said if it is something from a couple of weeks ago, then it is something that I have. Mrs. Miranda said I'm pretty sure that it said it is a violation and they want compliance. Mr. Reitz said there is no citation in your most recent audit which is from 2010. But they did bring the issue up last year, so you will get a finding of non-compliance. This may just be a change in terms. If you do nothing that is what will happen.

I would suggest a second option to you is exactly the opposite of that, which is to reverse it and do what the Auditor is suggesting you should do. That of course is as a practical matter. You can't do that if you don't have the funds. So there is a third possibility, you say to me write a letter to the Auditor because there are really two things going on. I think your conduct so far is authorized under the law and I think sending a copy of the opinion to the Auditor and asking to open up a dialogue might be appropriate. They are going to say we don't agree with you and I am going to say the Attorney General disagrees with you. And they are going to say that's old and I'm going to say ok. But lets put together a joint letter or at least propose to the Auditor a joint letter from you and from the Auditor to the Ohio Attorney General and say we have this disagreement. The Board says it's this way, the Auditor says it's that way, what do you say. That is one possibility. It certainly shows a much better good faith type argument. Because if you antagonize somebody who is going to be poking through your books for the next couple of

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years, there is nothing advantageous to you about that. So that is a third possibility for you. A fourth one is you charge me with writing in the letter that says the Ohio Attorney General says they are allowed to do this go pound salt.

Mr. Donham said I'm in favor of that. Mr. Reitz said that's really the first issue that the Auditor is raising and frankly I think you are in a strong position on that one because you've got good legal authority that says what you are doing is right. But there is a secondary issue that I think is really the one that is more important than that and that is how good are your records in showing that your proportion, the allocation that you made is actually reflective of the time you have spent. And that one is really, in lawyers terms, what I started to talk to you about in the first place. That meets the standards of the law, that's not a problem, but the second one is a question of fact. How good is your evidence that the apportionment is a good one. You know at least your initial legwork on that you should not pay me to do that. You should have your staff, I'm not saying which one because I don't rightly know, but somehow you as a group need to justify that your apportionment is appropriate. Here are some things that I would offer for your consideration. You have somebody go through all of your minutes and I'm talking about Committee Meeting Minutes as well as Council Meeting Minutes showing what the discussions were, what were the views of the Council. There is a fair amount of case law that says you, as the Council, are the people who are best positioned to decide how you are spending your time and how you are running the Village. And in the event there is a judgment call, you carry more weight than the Auditor does. So it doesn't mean you can do anything you want, but if it is a close call you should win that.

Mrs. Miranda said wouldn't you recommend the time sheets that we did last year when Lloyd handed them out with the proof of attendance? Mr. Reitz said I think that is good evidence. I don't think it is necessarily the only evidence. But absolutely I think that is one of reasons why I think... Mrs. Miranda said we did it, that's right. So is this is a good time for discussing this or do you want pose a solution? You know we are trying to establish the water meter fund on the back of the legislation for the Fiscal Officer and I think that is a good solution for this. You know, to just eliminate the lawyer and, you know, the cost, the money that it is going to cost us to battle this when a simple request from our Fiscal Officer could get us into compliance and sooth that Auditor. Mr. Donham asked what would that request you are proposing be? Mrs. Miranda said I propose whatever it is we need to do I think that Lloyd could do just by a request for fund approval if that's what we.. We are taking the rents from these utilities and water. Mrs. Barrett said I don't mean to interrupt here, but this isn't on the rents. This is on the salaries, the way he is dividing the salaries. Mrs. Miranda said isn't concurrent with the rents... Mr. Reitz said no, that is a separate issue. Mrs. Miranda said so it's going to be another battle, a second battle. Mr. Reitz said I don't think so because when you were talking about that I called Desiree Forbes who is an attorney who works for the State Auditor's Office and, although she wasn't really thrilled with what we were talking about, when I gave her the legal authority that I had she didn't have any...

Mrs. Miranda said you gave her the case... Mr. Reitz said I gave her this and I also gave her some other cases, and she said the way to do that is to establishing how you are determining the rents. The Mayor went through some calculations on that. I frankly don't claim to have the format to do that but I trust him. So that's fine. I think that is a separate issue. Mrs. Miranda said I just thought the page from the back of this would give us ... Mr. Donham said I think ... Mr. Reitz said when you were suggesting adding another dollar to each bill (utility bill) that's going to get you ... Mrs. Miranda said that's not my suggestion, I'm not saying add another dollar how you guys want to do that with this water replacement you just basically just set up a fund and said he is asking for approval from the Auditor so we could do that same sort of thing.

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They want a document that says we are all onboard that we all absolutely feel that this is accurate. Mr. Donham said but we did that in the form of an Ordinance. Mrs. Miranda said yes, just recently. Mr. Donham said we passed one in 2011 under the old Council. Mrs. Miranda said we were 1/3, 1/3, 1/3. Mr. Donham said no it was 50%, 25%, 25% and that's the audit where they said no you can't do it, but that's how Mr. Rance explained to the Finance Chair, at the time Ms. Rininger that's what we need. So we complied with that and now they are saying well we don't like it. Mrs. Miranda said you've got to give them more documentation. Mr. Donham said ultimately we need a final conclusion on it. Mr. Reitz said it is kind of curious because that is what the Auditor said last year and this year his requirements are a little different. Mr. Donham said that Ordinance passed 6 – 0. Mrs. Miranda said from our Fiscal Officer, do you see a way or can we ask the Fiscal Officer? Mr. Donham said go ahead. Mrs. Miranda said do you think that you could reverse any of this citation or potential citation. Could you ease his mind by doing something without having to fight. Mr. Garrett said I don't think we need to fight, I think we need to send him a letter. Mr. Donham said Lloyd has two options, Lloyd can either make fund adjustments that we authorize or not. Those are Lloyd's only two options. The fund adjustments don't need to be made. It's a matter of how do we want to explain to the Auditor about making those fund adjustments, we can either do it in a way that I think we should do it which is tell Ed we did it the right way, if you don't like it, tough. Or we could do it the way Mr. Reitz explained it which is a little bit more expensive on the front end but probably cheaper on the back end which is to say we disagree on this. Here is our legal documents, let's get a final conclusion from the Attorney General and we will wait until we get that conclusion and we will either make or not make those adjustments at that time. And if the Attorney General says you have to make them, of course we have to make them. But I think that has far reaching consequences for other communities too including major metropolitan areas that would ask the State to pass legislation. Mrs. Barrett asked why can't we just have Tom (Reitz) write a letter to the Attorney General? Mr. Donham said I agree they are not being fair, they are not being diplomatic. Mrs. Barrett said you are requesting for the last two years now and we have tried to comply with them and it appears that they may have already made up their mind and they are going to stick with it until they get what they want. Mr. Donham said every year it's a moving target. Mrs. Barrett said and we are hard headed enough, some of us, that we are going to stick with the way some here wants to see it. Mr. Donham with the way the law allows. Mr. Reitz said I like making an overture to the Auditor first because if they come back as hard-nosed, you can be sure that that will be included in our request to the Attorney General. Hey we are trying to do it the right way. The Auditor is just being kind of difficult. Mrs. Miranda said I would just rather see conformity. I do not like battles. Mrs. Barrett said I think we should take a hard-nosed stand here and get it over with. Mr. Reitz said you tell me what you would like. Mr. Donham asked what is Council's stand here. Tom convinced me that we should be more diplomatic about it but I'd just as soon tell Ed Rance... Mr. Garrett said I like option three, the letter going to the Auditor saying the Attorney General's opinion and unless he has some more recent opinion by the Attorney General that goes a different direction. Mr. Snyder said I think we should tell them to pound salt, I'm really tired of Ed Rance trying to tell us how to run our Village. I am really, really tired of Ed Rance trying to tell US how to run our Village and that's exactly what he does. Mr. Garrett said yeh, but we are stuck with him for a few more years. Mr. Snyder said well that's a problem and I have been on Council now for a while and it has always been that way. I mean for God's sakes the man, it's always something. Mrs. Miranda said I just think conformity is good. Mr. Snyder said if we knew what conformity was, Jena. Mrs. Miranda said yeh I guess that is the problem. Mr. Snyder said we gave him what he wanted last year, we gave him wanted last year but now this year it isn't any good. Mr. Donham said I have no reason to believe that we are not conforming, I don't know how to get conforming because they just say you can't do it. We know that's not accurate. Mrs. Miranda said we have to justify it. Mr.

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Donham said we passed a resolution or we passed an ordinance, from my standpoint it's easy, I'm one person. I keep a log of my monthly hours and I'll send it in. You can't really argue with that. But Council's pay is six different people who all spend their time six different ways. Unless you come up with a pot you have to come up with some aggregate amount. So Council is best to decide that through Ordinance and that's what we have done. Mrs. Miranda asked if she could pose a question. This recent legislation we had where a person charged administrative fees and Lloyd had to, you know, iron out that hours' wage. Now he charged administrative, now is that, I mean that's administrative there is nothing more clear than that. If you paid the guy the administrative hour, you pay us administrative hours. How are you going keep, is there a separate issue... Mr. Donham said you get paid a monthly salary and what we did, I mean each person here could submit every month how many hours they spent but nobody does that. Mrs. Miranda said that's what we did last year. Mr. Donham said I think Lloyd got one response. Mrs. Miranda said I did. Mr. Donham said other than Tom's very detailed quarter-hour billing. Mrs. Miranda said sure, how much time... Mr. Donham said let's be honest here when we are doing this discussion, I mean we are discussing right now, we are trying to have this discussion, I'm not taking notes on how many minutes of this discussion that I am talking about which now probably seems to be about twenty minutes you know so I am not writing down .33 hours, but that is how our time is spent. So we make a projection at the beginning of the year based upon the previous year. Last time we did about this. What Tom has said we can go through minutes and we can have our staff say after reviewing these minutes here is what we have found to be customary. And that is a little bit more evidence toward what we do. But ultimately I don't think that is going to be enough. I think that either the Auditor is going to back down as Tom said we can do it and if you don't like it tough, do something about it or the Attorney General opines on it and says they can do it now knock it off. Mr. Garrett said which way are we going here. Mr. Donham said do you want to have Tom write the letter and see what their response is? Mr. Snyder said yes. Mrs. Blewitt said yes. Mr. Reitz said the pound salt letter? Mr. Donham said I don't know that it needs to say pound salt, but to outline our position on it – why we think we are in compliance and if they have some other evidence we will consider it and we can get a phone call from Desiree. This is our third year doing it and the first year we appeased the auditor, we said you know what ok this year we'll just pay it even though we don't have to, but next year we'll pass an ordinance and then we did that. And then again this year we did the same thing. Mr. Reitz said at your suggestion. Mr. Donham said yes at your suggestion. Mr. Reitz said and in advance of doing that the Council collectively and individually made a judgment based upon their attendance at various Committee Meetings what the proportional amount should be. We passed this legislation, it was unanimous and we felt we had complied with your direction at that time. The reason we felt that was right was the Ohio Attorney General says and we provide the quote from the OAG. Now you are telling us you are considering issuing a citation. We are disappointed, we are frustrated because we believe we have done all that you have asked us to do and we also believe we have followed the direction of the Ohio Attorney General. Mr. Garrett said well stated. Mr. Donham said it sounds like you have a good handle on what Council expects. I have one... Mr. Reitz said before we move off of that. Mrs. Barrett said do you need a motion for that? Mr. Reitz said I would appreciate a motion and I wanted to let you know that based on the calendar that turned out tonight that Utilities is next Tuesday so I can draft this before the Utilities Meeting to let you look at it before it goes out if that is what you would like, because I want your comfort level to be high on this. Mrs. Barrett said I make a motion for Tom (Reitz) to draft a letter to send to the State Auditor and Mr. Garrett seconded the motion. Mr. Reitz included setting forth the position that we believe we are in compliance. Mr. Garrett said yes for option three. Mrs. Blewitt said tell me again what this needs adjusted prior to next meeting. Mr. Donham said we will get to that. The roll call vote was taken as follows:

Mrs. Barrett yes, Ms. Blewitt yes, Mr. Garrett yes, Mrs. Miranda yes, Mrs. Prem yes, Mr. Snyder yes.

Mr. Donham said he had one more item before guest recognition that I will ask Council for a motion on afterwards. We had two permits sent to our office from, liquor permits, one from Jim's Fuel and Deli and the other from the Windham Tavern. We have went ahead and discussed this at Committee level. Lloyd has sent back the one for Jim's Fuel and Deli for the beer sales. The one with the Windham Tavern, the Police Chief gets sent a separate documented letter on that whether he objects to the transfer taking place and he also has to submit criminal background. He has done that and he has also checked that he does know of reasons why the permit should not be transferred. I think at committee level also it was also recommended that we request a hearing to discuss the transfer. That is due May 7th so I am going to ask Council, it does need to come from the legislative authority requesting that hearing, so I'm going to ask for a motion vote to have a hearing to discuss the transfer of the liquor permit from the previous owners of the Windham Tavern to Mike and Ellie Strausbaugh who are quasi operators. The hearing wouldn't be on that day, we need to mail it back in by then. Mr. Snyder said I will make that motion. Mr. Donham said we don't know when the hearing will be yet. We are just going to request the hearing and it needs to be mailed out before the 7th of May. The meeting may be in two months and it may be in two weeks. Ms. Blewitt seconded the motion. The roll call vote was taken: Mrs. Barrett yes, Ms. Blewitt yes, Mr. Garrett yes, Mrs. Miranda yes, Mrs. Prem yes, Mr. Snyder yes. Motion carried.

Mrs. Barrett had a question and asked why would the permit have the license renewed on Olson, it is my understanding it is not going to transfer, why wouldn't the gentleman who is taking it over apply for his license which I believe he has. Mr. Donham said and that is what we approved. We didn't approve, we just didn't object to the transfer. Chief Fixler said the churches right by there also got the same letter and the liquor board is waiting for their response. Mr. Donham said I know one and I spoke to that gentleman today he called me because he did have a snag. You run a good business and he is waiting to get his beer sales because obviously with a convenience store, that's important. And the Catholic Church they just forgot to sign theirs, so he got it signed and sent out today. He said one of the clerks he spoke to at the Nazarene really read him the riot act and gave him heck so I'm going to call the pastor there and see what is going on and we might have to talk to that gentleman. I'm not sure what would happen with the Liquor Board if they did not sign it. They are a good business and I would hate to see them not be able to transfer that because of the Nazarene's objection to the beer sales. I'm not sure what happens when churches do that. Mr. Reitz said the objection doesn't mean the transfer is going to be turned down, an objection simply brings concerns to the attention of the Liquor Commission who considers it. It doesn't mean that it will be turned down. Mrs. Prem said it is merely a conscientious objection, not that they want to have a hearing. Mr. Donham said the Catholics are ok with it, the Protestants are holding out. I just wanted to make everybody aware that I don't know when that will be transferred even though we have done our stuff and sent it in. Any other business before we go to guest recognition.

Chief Fixler spoke about Jodi Woolf and her involvement with the High School Drama Club. He handed out fliers promoting the upcoming performance on May 6th at 3:00 PM. Also he spoke about the blessing of the bikes which will take place this Sunday afternoon at St. Michaels Church.

Guest Recognition

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Mr. Moore asked about which liquor licenses. You have the Tavern and you have that new business. Chief Fixler explained yes it's called Gas & Food Mini Mart. Mr. Moore asked which one of those are being transferred, the existing licenses. Chief Fixler said the existing licenses were requested to be transferred. Mr. Moore asked if this was for both places. Chief Fixler answered yes. Mr. Moore asked if there were requests for additional licenses. Chief Fixler said it was for beer and wine license for carryout. Mr. Moore asked if Strausbaugh had applied for their license when they took over. Mr. Donham said that they never, they never, they kind of ran a quasi-deal there, that's why I say a quasi-ownership because they have been operating under Bob and Peggy's license this entire time. And the Chief (Fixler) called them as a courtesy on something else and asked Ellie if their transfer had come through and we are waiting for that and kind precipitated all of this and they realized, yes they do have to transfer it. So they have never transferred it, they have just kind of been operating illegally basically. So Liquor Control gave them... Mr. Reitz interrupted to say not necessarily illegally, there are agreements where you can use someone else's license on an interim basis for as much as up to three years to see whether the business takes off. Mr. Donham said Liquor Control seemed to think that that criteria... Mr. Reitz said it's really risky if you own the license because your license is in jeopardy for anything that is in violation. Mr. Donham said whatever deal they had, they must not have gotten everything they needed to get done to satisfy Liquor Control because they gave them a week to transfer the license. Ms. Blewitt asked if that was from when they went in? Mr. Donham said no from when Liquor Control notified them, ok we understand you are operating, you have seven days to apply for a permit to get it transferred. Ms. Blewitt said ok they did apply. Mr. Donham said they applied and now we are requesting a hearing. Ms. Blewitt said we are requesting a hearing? Mr. Donham said yes, and the Chief (of Police) has also sent his form in. Ms. Blewitt said they also got a visit, correct, from the Liquor Board, is that...? Mr. Garrett said the State Liquor Inspectors did pay them a visit, one that they know of. Mr. Moore questioned the hearing and was told by Chief Fixler that it was only for the Windham Tavern and it is our responsibility as a police department to furnish them with reports of any problems they have had. Also if we know of anything of a criminal nature that either of the applicants has been involved in. The easiest way is through Courtview, it is our way of assisting Liquor Control in determining if this license should be transferred. That is why a hearing is being requested at Portage County. Mr. Moore inquired if Council had to approve any of this. Mr. Reitz said they just passed a motion so that the objection requesting a hearing would be sent to Columbus. Then Columbus will schedule a hearing and will send a representative who will note everything that you are apprehensive about. Mr. Donham asked if Ms. Bly had a comment.

Denise Bly said I guess, but I don't want to guess so I'll just state this, we're not exactly in favor of any license there, because there have been plenty of deficiencies is that what we are saying? Mr. Garrett said as long as they comply with the law. Ms. Bly questioned, so there have been some issues where they have not complied with the law? Chief Fixler said there have been calls and that is what they are asking about police response there. Ms. Bly said did I understand you to say the owners have some criminal background issues. Chief Fixler said we supplied what is on Courtview.

Mr. Moore questioned the status of the web site to which Mr. Donham inquired of Mr. Billman. The Fiscal Officer said I don't know anything about it, you said that Gordon (Fischer) was going to take care of it. Mr. Donham said we haven't approved a contract with Gordon yet. Mr. Donham then asked if there was something specific or is it just behind? We don't have his contract completely done. Basically Lori runs them as you know, Lori manages the website and updates it regularly. We are transferring it over to Gordon Fischer in an IT contract to build it a

little bit differently be a little bit more user friendly. I'll check on where we are at with that, but I don't have an update. I don't know if anybody else does.

Mr. Moore then asked if you are going to have an annual report to Council. Mr. Donham said last years was submitted. We have one every year. Mr. Moore asked if he had one yet for the Council? Mr. Donham said no, we don't have our audit. I use the audit to put the final numbers together. Usually it comes out about July. See this letter we talked about with the audit now; we will have a meeting real soon usually in May or June we have our meeting with the Auditor to give us our final audited numbers and then I use that to give our financial status as part of the Mayor's report. I use the audited numbers, that's just a preference of mine.

Mr. Moore said a question I would like to raise, this is the second time this year I have seen a motion being tabled and then having discussion afterwards. From my knowledge of Council Rules there should be no discussion after a motion is tabled. Mr. Reitz said that's not entirely correct. The discussion when a motion is being tabled should be directed only toward whether the tabling should take place or not. No other discussion and you did stretch that. Mrs. Miranda said (it) got out of hand a little bit there. Mr. Reitz said but I was keeping my fingers away from handling this. Mr. Donham said trying to keep everybody on point of staying on the discussion of whether or not you should table, and just as a reminder when Council is discussing a motion, that is not a public comment period. Evidence for discussion is given when we have it now or when we have a request or we have three hours of public evidence given at the Committee level. So that's when we can do that. When I'm up here, Committees run however they want, but during Council Meeting we can't have an open dialogue where we have people in the audience commenting, people on Council commenting ad nauseam. I mean we aren't going to do that at the Council Meeting. At the Committee level, I don't have any issue with it. It (the Committee Meeting) isn't my meeting, I'm just there for input.

Mr. Moore said if you want to steer it away from tabling it, you should have that before the motion is made. It is clear that I was asking you guys to table the motion and both times I have seen it this year, it was steering the Council away from tabling the motion. Mr. Donham said that's what the discussion portion is for is to... Mrs. Miranda but you... Mr. Donham said well no, you have to make a motion and a second before you can discuss the validity of a motion, so when you have a table, you have a motion and a second and then all seven of us will try to get our points onto the table so we can make an informed decision on whether we should vote yes or no and that includes mine. So yes, I try to steer people the way I want them to vote, that's what I do here. Mr. Moore said I'll get all of you a copy of Roberts Rules (of Order) and you can determine with your Solicitor's help whatever, because I think it's wrong. Mrs. Miranda said it's true that you were steering us to not table it. I said we are going to motion to table it and then you started saying, 'I'm saying we're not' and bang bang bang bang bang. Mr. Donham said then we had a second. Mr. Garrett each person said what they felt as I recall. Mr. Donham said I gave my opinion, other members of Council that wanted to speak. Mrs. Miranda but we shouldn't have talked about it right? Mr. Donham said but it wasn't tabled. Mrs. Miranda said at that point, you got a second. Mr. Donham said and then you had discussion. Mr. Garrett said to be honest, if we wouldn't have talked about it, it wouldn't have went. Because I would have voted the other way, so it was a good thing there was conversation because it was tabled then. Mrs. Miranda said I totally agree. Ms. Blewitt said it was discussions as to the tabling. Mr. Garrett said yes, my discussion was on the tabling and Rob's discussion was on the tabling. Ms. Blewitt said I can't remember what my question was, that was earlier. Donham said just for procedural just so everybody understands my understanding of it and I would recommend everybody go and get a copy of it (Roberts Rules of Order), I know Sheryl has a copy of it and I Minutes of April 26, 2012 Special Council Meeting (Reg Council Mtg held at non-normal date)

have a copy of it. Every motion and second is discussable. Every motion and second is discussable. There is a hierarchy but you can discuss the validity of everything you are about to vote on. At no point in this meeting is there a motion and second given where you cannot discuss. The only call to question can be is a point of order, you call to question that to the chairperson whether or not enough discussion has taken place, then the chairperson makes that determination and call the roll. That's when discussion can be ended. Ms. Blewitt asked what is the name of that book? Mrs. Prem said it's called Roberts Rules. Mr. Donham said we have Council Rules that are in our Codified Ordinance which govern, and then in our Codified Rules it says anything not covered in our rules please refer to Roberts Rules of Order latest edition. Ms. Blewitt asked is it online? Mrs. Prem said you can get Roberts Rules for Dummies online and it explains it really, really simply. Mr. Donham said, jokingly, are you telling me that? Ms. Blewitt said I need the one for dummies. Mr. Donham said until I've been shown otherwise, that's how I intend to run the meeting, and if Roberts Rules for some reason has a motion and second procedure that is not discussable, I'd recommend changing that in our Rules because I don't think you guys ever want to vote on something you can't discuss. Mrs. Miranda said when you say I make the motion that it is not open for discussion at that point. Mr. Donham said when you make the second, then you have something to discuss. Mrs. Prem said actually each person, you should be able to say once but only once. Mr. Donham said I try to give every as much time as is necessary just so everybody feels comfortable. Mr. Moore said all the talking is before the motion is made, but once the motion is made you should vote on it. Mr. Donham said that's inaccurate you do not discuss before a motion. Mr. Moore said that's your opinion. We'll read about it online. Mr. Donham said we don't have open discussion, you need an action item. We don't have a spot here for open discussion. Mr. Moore said you can twist it any way you want to, you won't convince me. Mr. Donham said that's fine, when you are up here then you'll get that call. Mr. Moore said maybe you'll convince somebody else. Mr. Donham said do you have anything further? Mr. Moore said yes, I do. When are you going to set up the meeting to discuss this (Housing Rental License)? Mrs. Miranda said I'm for it. Mr. Donham said you can set up the Housing with Jena and the Finance with Mr. Garrett. Those would be the two people to schedule. Mrs. Miranda asked could we meet on the same night like the 9th rather than the 1st? Mr. Garrett said actually that Finance is going to be on the 7th rather than the 9th. Mrs. Miranda said that would give us the week to prepare agendas. Ms. Blewitt asked just the Finance and Mr. Donham said Finance, Safety Personnel Rules. Mr. Garrett said will be switched to the 7th. Mrs. Miranda asked if the License and Code meet with you that night and discuss it. Mr. Donham said I don't think the other Committees could. I'm going to be here every night, I don't think you could squeeze Planning, Zoning, Utilities. Mrs. Miranda said I'm just asking about the Housing Code. Mr. Donham said that's up to you, if you want to move your meeting you can move it whenever you want. Mrs. Miranda asked if Phil and Sheryl would be available. They both said they would be available. Mrs. Prem asked if we are going to do that first. Mr. Donham said I think we will just have the Finance Meeting, because the Finance starts at 6:00PM. So have the Housing Rental License Code Committee there available with the Finance to partake in that discussion. Mrs. Prem asked if it would be at 5:30PM. Mr. Donham said no, I'd just have it at the beginning. Mrs. Miranda said yes, I'd like it at 5:30 get ours at least on the table and discuss it. Mr. Donham said I won't be here at 5:30. Mrs. Miranda said I think the Solicitor asked that we have our agenda at least a week in advance or something. Mr. Snyder said I can't be here until 6:00. Mr. Garrett said I think we will just set a time limit for each one not to exceed an hour. In that way you are looking at a maximum three hour meeting. That's long enough. Mr. Donham said another change on the calendar. Ms. Blewitt said I'm just wondering why we have so many changes. Mr. Donham said somebody couldn't make the 9th. Mr. Snyder said I'm on vacation. Ms. Blewitt said oh, you're on vacation. Mr. Snyder said I'll be out of town. Ms. Blewitt said should I tell you in advance when I'm going to be on vacation? Mr. Snyder said if

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possible, yes. Ms. Blewitt said I've already got mine scheduled at work so I'll let you know and that way. Mr. Snyder said absolutely, we try to accommodate everybody.

Mr. Donham asked if there were any other questions. Mrs. Bly said I would like to ask a question. Because I attend a lot of meetings and this one in particular is the one that gets jumped around from month to month and if Lloyd didn't call me and tell me when they are, I wouldn't know. And if you are doing that how do the people in the Village know when they are? He doesn't call everybody in the Village. And I'm not saying you are doing anything wrong because it's not technically illegal. However, it looks like you're doing something you don't want people to know about because you keep changing your meetings and we never know when they are. Some of us have otherwise besides Council Meetings and when it is Thursday one month, Tuesday one month and the summer is coming it's baseball I already know it's not going to be on those nights. How does your public know that? Mr. Donham said my suggestion... Mr. Snyder said we publish a calendar the first of the month and we keep it posted. Mrs. Bly said the website is not up to date so don't tell me to go to the website. Mr. Donham said the calendar is, the April calendar is up. It is up every month, that's how I find out if meetings have been moved, so our calendar is up to date on the website. We try to follow, you know get a procedure as we can as far as putting out notice and people that are interested we directly notify them if they put it on. I mean most people here, we're not legislators. All of us have evening things that go on so, like you said this summer baseball is up, I'm a coach. I guarantee I'm going to have a couple meeting rearranged because of me this summer. I don't know what they are yet, the schedule isn't out but over the past four years that's the way it goes. I'm a dad first and a mayor second. We are going to rearrange a few of my meetings. Phil is on vacation. Debbie is going to be on vacation. We will try to get anybody who wants it notified. We try to stick to the dates as strictly as possible. Mrs. Miranda said there are rules. We have to meet you know. When there is a change we get twenty-four hours notice. The public is supposed to get have... Mrs. Bly said out of all of the meetings, this one is changed all the time. I mean last year there were nine changes in twelve months. Mr. Reitz said you mean the Council Meeting. Mrs. Bly said yes. Mr. Reitz said that's a very legitimate complaint. You know I'm your solicitor and I struggle with this. Mr. Donham said you haven't proposed a solution yet and neither have my six colleagues. Mr. Reitz said that's not true Mr. Mayor. I have proposed rules of notice I carry them with me every time and I've handed them out before. Mr. Donham said yes, but those notices have all been enacted. Mr. Reitz said I'm not saying you're not following the statute. I do believe you are following the statue, the letter of the statue. Mrs. Bly said and that's really what I'm addressing because this meeting was moved to Thursday night however it's also School Board night. Mr. Donham said if there is a better way, I'd love to have more people. I mean I'd love to have better notice. Mr. Reitz said this is the only municipality where I work with which gets changed all the time. If a Council Member can't make it somewhere else, they hold the meeting without him. Mrs. Bly said that's pretty much how it works everywhere else. Mr. Reitz said you move a meeting if you don't have a quorum, other than that be there. Mrs. Miranda said yeh it's our jobs to be here. If you are not you are risking your term. You know if you miss two meetings, you're out. Mr. Reitz said unexcused. Mrs. Miranda said yes unexcused absence that's the rule. Mr. Donham said two consecutive. Mrs. Miranda said you can have the Mayor's approval or the President's approval but... Mr. Reitz said I don't know about the consecutive part, but typically it is just a matter of telling your colleagues in advance, I have a conflict and can't make it, and then a motion is passed excusing you. Mr. Donham said I think our code says two consecutive unexcused absences then Council may bring charges to remove but we have all talked about what that complies and I don't think anybody here believes that that's legal. Ms. Blewitt said how do you get an excused absence, my mom has to give me a note. I honestly think that that might be something we need to look at. I mean like if you can't make it, you can't

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make it, but we need to go on with the meeting. Mr. Donham said I'm ok with that for a Committee Meeting. Ms. Blewitt said it's changed ever since I've been here and I've only been here a couple of months but I know... Mr. Donham said your Committee Meetings, if you guys want to set them in stone, then set them in stone. But I think the complaint is with this meeting. And I can tell you if it's the fourth Tuesday and I've got a ball game, I'm going to reschedule the meeting. Because I want to be here at the meeting to be Mayor and I also want to be at my son's ballgame, and I don't miss, I have never missed a meeting and I don't plan on missing a meeting and it's worked so far. If there is a suggestion on how we get better notice... Mr. Snyder said we have tried to accommodate if they have some kind of a conflict. Ms. Blewitt said I think the point she makes is how does the public know we are here, and they have a right to know that. Those are the people who put us here. Mrs. Bly said when I set my calendar I have certain dates that are blocked out. The fourth Tuesday is Windham Council. The fourth Thursday is Windham School Board. The second is the Fire Board. Wednesday is Nelson's meetings. Streetsboro is on Monday and honestly I can't always accommodate the change, and I know that's not a big issue to you but I wonder how often the public's got set aside, I want to know what is going on this is the day and then all of a sudden now it's Thursday. All of the other meeting I go to do not change. Rarely they have special meetings if they can't get something done, but I shouldn't say that School Board has changed twice in five years. But for the most part, I can count on them being there on those nights. And I think the public should be able to count on you. They are paying your salaries. They should be able to know when you are meeting, especially the one that votes on legislation. Mr. Donham said I agree the people should know, but I'm also not in favor of a take it or leave it we're setting it at this date hell or high water if Jena could make it or I could make it or Scott could make it. I know Scott's missed a few but we try to accommodate Scott's crazy schedule, Jena works nights, I have a coaching schedule. Mrs. Miranda said I always say don't worry about me. I get what you are saying. Mr. Donham said we have rearranged a few things. I don't think you would have an easy time recruiting a lot of people to be up here if you were going to say leave the families issues at home. You are a Windham Council person, that's it. Ms. Blewitt said I don't think what we're saying here, Rob. I just think... Mr. Snyder said this is the first time it's ever come up. Mrs. Bly said actually I brought it up a few times to different Council members over the years. Mrs. Miranda said we ourselves have said come on let's get this right. Mr. Donham said it's frustrating for us, like I said if you want to do that for Committees... Mrs. Bly said I was saying it gives the appearance to the public that things are being done on the sly or not letting the public be informed. And I know they are posted, but and I know it is the public's responsibility to a degree to see those. Not all of the people are out all of the time, and when you only have to have it posted twenty-four hours in advance it doesn't give people a lot of time to change their schedules. It just gives the appearance that you are not working for the public. Mr. Donham said I haven't experienced that but I see where you are going with it. Nobody that I have talked to, and we went through an election six months ago and I talked with just about every household threw up that they thought that Council or myself was trying to be sneaky or weren't forthcoming or anything like that. Seventy percent of the public reelected me and I was happy with it. I would like to accommodate you or other people that think the meetings need to be more ridged, but I think our notices we are doing what we can. If we had a sign out front we would put it out there. The best we can do is the best we can do. We do the website, we do the bank, we do Sparkle and sometimes you got to change the meetings. I'd like to have everybody here. I think everybody is valuable. Mrs. Miranda said we want to do Economic Development and we want their input. Mr. Donham said this is the first Council Meeting we moved this year, right? We generally try to keep it except for summer. Are there any suggestions? Mrs. Bly said last year from January to May the time was changed and some of the dates were changed. Mr. Donham said we will do our best to keep them as ridged as we can. I certainly know some will

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be moved; we will try to give it well in advance more than a day, you know a month, two months something like that. Mr. Snyder said I'm sorry I'm going on vacation. Ms. Blewitt said that's fine. I think it is a courtesy to let people know in advance. The calendar was printed, correct, and who prints the calendar? Mr. Donham said Lloyd. Ms. Blewitt said by whose authority? I'm not going to fight about it and argue about it. I don't think it needs to be a bad thing. It is a good legitimate thing if we say we are going to be here on this day then let's be here. Mrs. Prem said this meeting that we are going to be having with the Rental people. Ms. Blewitt said landlords. Mrs. Prem asked if Mrs. Miranda is going to be running the meeting. Mrs. Miranda said I don't know. Mrs. Prem said if the same three people are going to be going over the same thing for forty-five minutes, I'd just like you to do a little better with this. Mrs. Miranda said Scott himself said he wanted an hour. Mr. Garrett said I don't think it should go beyond an hour. Mrs. Miranda said I don't see that happening. Mrs. Prem said I know last time it got a little much. Once you say your peace, how many times do you have to say it. Mrs. Miranda said everybody has the right. Mrs. Prem said everybody should, but not ten times.

Mrs. Barrett made a motion for adjournment which was seconded by Mrs. Miranda and carried unanimously at 9:26 PM.

Respectfully submitted,

Attest,

Lloyd C. Billman, Clerk of Council

Robert W. Donham II, Mayor

**** NOTE: THESE MINUTES ARE NOT VERBATIM ****

All Council & Committee Meetings will be held in Windham Council Chambers, unless otherwise noted.