TOWN OF WINSLOW, MAINE
REGULAR COUNCIL MEETING
& PUBLIC HEARING
June 9, 2014
7:00 p.m.

PUBLIC HEARING

1. Ordinance No. 6-2014: An Amendment to Chapter 2 of the Winslow Ordinances, Article 18, Excise Tax.

REGULAR COUNCIL MEETING

1. Roll Call
2. Recite the Pledge of Allegiance
3. Approval of Minutes of Previous Meetings (May 12)
4. Appointments
   - Appoint Patricia Ayer to the KRDA Board for a 2-year term.
   - Reappoint Robert Nadeau to the KSTD Board for a 3-year term.
   - Appointments for the newly formed Agricultural Commission:
     Steve Russell for a 1-year term.
     Elery Keene & Severn Towl for a 2-year term.
     Sally Harwood & Kate Newkirk for a 3-year term.
5. Communications
   a. Legislative Report
   b. Other
6. Reports of Committees and Commission
   a. Town Manager's Report
   b. Department Reports
   c. Finance Committee Report (Treasurer's Warrants)
   d. Financial Report.

TABLED BUSINESS

1. Resolution No. 13-2014: Providing for Approval for an Assignment of the Franchise and the Cable System to Comcast Corporation. (One Reading) Sponsored by Gerald Saint Amand.

UNFINISHED BUSINESS

1. Ordinance No. 6-2014: An Amendment to Chapter 2 of the Winslow Ordinances, Article 18, Excise Tax. (Second Reading) Sponsored by Ray Caron.

2. Order No. 4-2014: Providing for The Expenditure of Funds from the Capital Improvement Fund. (Second Reading) Sponsored by Gerald Saint Amand.

3. Order No. 5-2014: Providing for Authorization for the Town Manager to enter into a Two-Year PSAP Call Handling Agreement with the Somerset County Communications Center. (Second Reading) Sponsored by Gerald Saint Amand.

NEW BUSINESS

1. Resolution No. 15-2014: Providing for Transfer of Funds from the Contingency Account. (One Reading) Sponsored by Gerald Saint Amand.

2. Resolution No. 16-2014: Providing for the Sale of 13 Cushman Road. (One Reading) Sponsored by Gerald Saint Amand.

ADJOURN COUNCIL MEETING

Town Manager's Report to the Town Council

Submitted by:
Michael W. Heavener
June 4, 2014

Town of Winslow - In the heart of Central Maine representing People, Pride and Progress.

Sebasticook River Land

As you may recall there are eight parcels of land along the Sebasticook River in which the owners are unknown. These parcels of land emerged after the dam was removed.

At the March Council meeting the Town Attorney was authorized to do a title search on the property abutting the parcel described in Tax Map 7 Lot 30-1. The purpose of the title search was to determine if the known title could offer any insight into the ownership of the abutting newly emerged parcel of land. The title search was done on the property owned by Kenneth and Mary Ellen Fletcher. Attached to this report is a summary of the Town Attorney's findings.

As you will see, based on the results of the title search, the Town Attorney has identified likely owners of 6 of the 8 parcels of land. We will discuss this matter further at our June 9th Council meeting.

Old Brick Schoolhouse

At an earlier Council meeting I reported that ownership of the Old Brick Schoolhouse on the Cushman Road had reverted back to the heirs of Francis Giddings. At the time I indicated I would be soliciting the help of the Taconnet Falls Genealogy Society to identify who the heirs of Ms. Giddings are. To date I have not been able to identify any heirs.

Therefore, I now intend to hire Genealogy Researcher William Moulton to help me identify an heir.

Library Masonry Wall Blocks

As you know I have contracted with E.S. Coffin Engineers to provide us with an engineering plan to address some of the deteriorated masonry wall blocks at the Library. Attached to this report are some pictures that show the condition of some of the wall blocks. I have not yet received the engineering report and when I do I will share it with the Town Council.

Maine Power Options Agreement

As you may recall our current electricity supply agreement with Maine Power Options will expire on June 30th. Our existing electricity rate is $0.0577 per kWh. Current long term rates are as high as $0.09027 per kWh. Due to the volatility in the market I have signed a 5 month rate agreement for $0.06815. I am hopeful that the rates will stabilize over the next 5 months and we will be able to obtain a reasonable long term rate agreement.

Natural Gas Pipeline TIF

I am currently working with our TIF Attorney on the NG Pipeline TIF. We are planning to present the TIF proposal at the July 14th Council meeting.

Public Sector Enforcement Program

Over the past few days a Public Sector Enforcement Officer conducted an occupational safety and health inspection of our municipal department. Once I receive the inspection report we will have 60 days to address any deficiencies identified in the report. Attached to this report is an informational pamphlet about the program.

MMA Legislative Policy Committee

Please review the LPC nomination material in the Council packet. Nominations can be made at the June 9th Council meeting.

Newly Emerged Sebasticook River Land

Summary of Town Attorney William Lee's Findings

(*Note: The newly emerged land is referenced by Tax Map and Lot Number*)

Mike, we completed the detailed title search on the Fletcher property and looked at the deeds and some conveyances for other properties in question. Here are some conclusions:

Tax Map 7 Lot 30-1 - Fletcher property. We took the title back to the 1870s. Up until the Bertha Plourde Estate conveyance to the Fletchers, the description always read in part "...bounded on the west by the Sebasticook River...." Then when the property was to be conveyed to the Fletchers a survey was performed and pins were placed. The Fletchers' description uses the pins as references in the description, not a generic reference to the River as in earlier deeds. What is the significance of this change? In Maine real estate, a conveyance to a monument is to the center of the monument. The Sebasticook River is a "monument", and Bertha Plourde owned to the center of the river. The conveyance to the Fletchers referenced pins, which are also monuments. These pins are now located well inland from the river. The residuary devisees of the Bertha Plourde (*Arthur Plourde, Germaine P. Ferland, Robert Plourde, Richard Plourde, Lawrence Plourde, Jeannine P. Breton and Jane Plourde*) appear to be the owners of the land exposed by lowering the river with dam removal.

This land could be taxed to the people listed above, or if the Fletchers can obtain a quitclaim deed from them, it can be taxed to the Fletchers.

Other properties in question. The language used in other deeds varies considerably. In some, it appears the upland owner owns the formerly submerged land; in some it appears the upland owner does not; and in some it is unclear. I will comment on each of them:

Tax Map 4 Lot 123-A – (*Book 1053, page 11*) Conveyance to Winslow. This land adjacent to Mile Brook is described "...easterly by Mile Brook...." Mile Brook is a monument, and the conveyance should go to the middle of Mile Brook and include land now exposed. Winslow likely owns the formerly submerged land.

Tax Map 7 Lot 34-1 – (*Book 5444, page 3*) Conveyance from Van Orman to Gerard and Pauline Hebert. This property makes a conveyance to Mile Brook without pins or feet references. It appears likely that the Heberts own the formerly submerged land and it can be taxed to them.

Tax Map 8 Lot 21-1 Conveyance from Russell to Peter and Kathleen Newkirk (*the book and page is cut-off from my deed copy*). This deed makes reference to "Westerly by the Sebasticook River...." It appears likely that the Newkirks own the formerly submerged land, and it can be taxed to them.

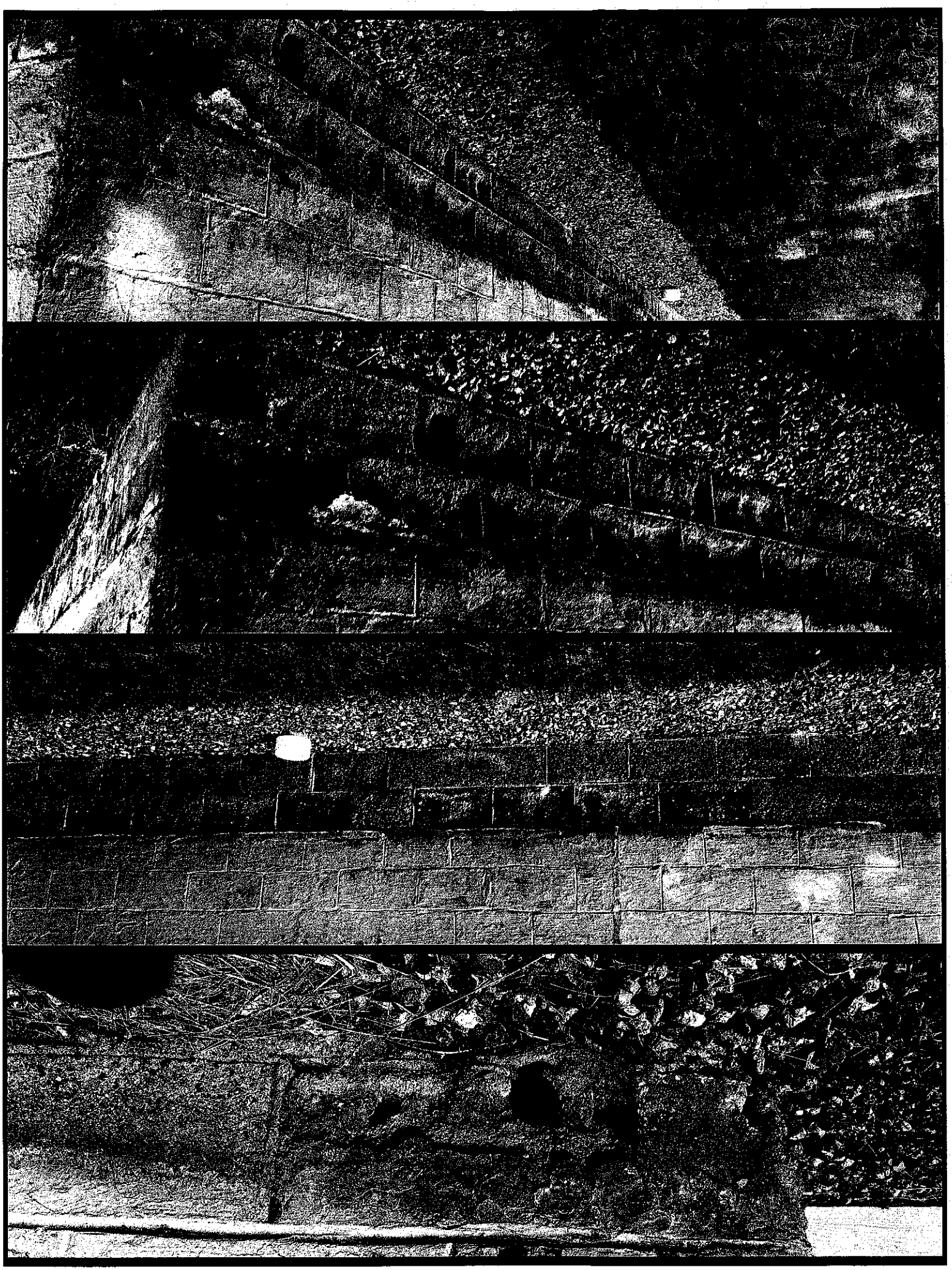
Tax Map 7 Lot 29-B – (*Book 8000, page 287*) Conveyance from Pellerin to Michael and Joy Sawyer. This property is done by feet to pins on the bank of the Sebasticook. The use of pins and a reference to the edge of the river likely means that some predecessor in interest to the Sawyers owns the formerly submerged land.

Tax Map 8 Lot 23-B – (*Book 5752, page 291*) Conveyance from Audet to Allison Anne Audet is problematic. It uses pins and feet measurements but then states the border is the Sebasticook River and a bay leading into the river. It can be argued that Allison Anne Audet owns the formerly submerged land because the use of "river" and "bay" means to the center of each.

Tax Map 7 Lot 29 - Conveyance from Peter Laliberte to Donna S. Laliberte (the book and page is cut-off from my deed copy) is problematic. It references the conveyance being to the "shore", which certainly is not the center; however, it also includes "...any property northerly of the previously described line to the river...." A reference to "river" which is a monument, can allow an argument to be made that Donna Laliberte owns the formerly submerged property.

Tax Map 7 Lot 34-A – No summary provided

Conclusion: Additional title work needs to be completed for **Tax Map 7 Lot 29-B** and **Tax Map 7 Lot 34-A**.



Important Time Frames & Options

There are several timelines that must be met.

- If you do not agree with the citation and/or penalty, you have 15 working days from the date you receive the citation to appeal in writing.
- If you do not agree with the penalty, you have 15 working days from the date you receive the citation to request a discussion with the Public Sector Enforcement Supervisor or Director of the Workplace Safety and Health Division.
- If you agree to the citation and penalty: (1) promptly notify the Director of the Bureau of Labor Standards by letter that you have taken appropriate corrective action within the time set forth in the citation and (2) pay any penalties.
- If you agree that a cited violation does exist, but you have a valid reason to extend the abatement date(s), you may submit a written request for extension to the Bureau Director prior to the passing of the original abatement date
- Abatement notification must be sent within 10 days after the abatement date.

If notification to this office is beyond the 15 working day requirement, the Citation Notice becomes final and penalties shall be paid within 30 days of the Final Notice.

The Appeal Process

You are encouraged to file an appeal if you believe the violation(s) are not valid.

The request must be in writing even if you orally stated your disagreement with the violation(s). The Notice of Intent to Appeal must clearly state what is being contested. In addition, the letter must also state whether all the violations or just specific violations, are being appealed.

An appeal of any item or items suspends your legal obligation to abate and pay until the item appealed has been administratively resolved. If only some of the violations are appealed, the remaining shall be abated within the prescribed time frame.

The appeal will take place at the Bureau of Labor Standards. This meeting is presided over by a Hearings Officer. The Board of Occupational Safety and Health will hear the issues and present their findings.

It is important to bring all documentation pertaining to the violation(s) to the Appeal.

Your appeal must be made in good faith. An appeal filed solely to avoid your responsibilities for abatement or payment of penalties will not be

Bureau of Labor Standards
Workplace Safety and Health Division
45 State House Station
Augusta, Maine 04333-0045
Phone: 207-623-7900
Fax: 207-623-7938
TTY: 1-800-794-1110

The Maine Department of Labor provides equal opportunity in employment and programs. Auxiliary aids and services are available to individuals with disabilities upon request.

Employer Rights & Responsibilities

after a Public Sector Enforcement Inspection

MAINE
DEPARTMENT OF
LABOR
Labor Standards

Safety is NO Accident!

Introduction

The Public Sector Enforcement Program of the Maine Department of Labor, Bureau of Labor Standards enforces occupational safety and health regulations in public sector workplaces.

Under State law (Title 26, M.R.S.A. § 44) a Public Sector Enforcement Officer (PSEO) may enter your workplace to examine conditions that may affect the safety and health of employees. If the PSEO finds conditions that may be in violation, the findings may result in a violation and penalty. You will receive a Citation that describes the violation(s) and the Notification of Penalty if penalties are assessed.

This pamphlet contains important information regarding your rights and responsibilities under the law, including the actions you may take if you receive a citation. Use this information to guide your discussion during the closing conference with the PSEO. For each apparent violation found during the inspection, the PSEO will discuss the following with you:

- The nature of the violation;
- Abatement measures you may take to correct the condition in violation;
- Abatement dates you will be required to meet;
- Possible issuance of penalties by the Director of the Bureau of Labor Standards.

Public Sector Enforcement staff are available from 8:00 a.m. to 5:00 p.m. Monday through Friday at (207) 623-7900 to answer any questions you may have. TTY: 1-800-794-1110

Posting Requirements

If you receive a Citation and/or Notification of Penalty, you must post it (or a copy of it) at or near the place where the violation occurred to make employees aware of the hazards to which they may be exposed. It must remain posted for 15 work days or until the violation is corrected, whichever is longer. (Saturdays, Sundays, and Federal holidays do not count as working days.) You must comply with this posting requirement even if you appeal the citation and/or penalty.

A copy of the filed appeal must also be posted.

Employer Options

An employer who has been cited may take one of the following courses of action:

1. If you agree with the citation and/or penalty, you shall correct the condition by the date set in the citation and pay the penalty, if penalty is assessed (contact the Bureau Director in writing within 15 working days); or
2. If you do not agree with the citation and/or penalty, you have 15 working days from the date you receive the citation to appeal to the Bureau Director, in writing, for part or all of the following:
   - Violation;
   - Penalty, and/or
   - Abatement date.
3. If you agree with the citation but not the penalty, you have 15 working days from the date you receive the citation to request a discussion with the Public Sector Enforcement Supervisor or Director of the Bureau's Workplace Safety and Health Division.

Correspondence should be sent to:

Director, Bureau of Labor Standards
Maine Department of Labor
45 State House Station
Augusta, Maine 04333-0045
or
FAX to (207) 623-7938

If you agree with the citation and penalty: (1) promptly notify the Director of the Bureau of Labor Standards by letter that you have taken appropriate corrective action within the time set forth in the citation and (2) pay any penalties.

The notification you send, called an Abatement Verification, must explain what you did to correct the violation and when you did it. You may be required to send documentation of abatement such as photos, invoices, etc. *A sample letter will be enclosed with your citation letter.*

If you agree that a cited violation does exist, but you have a valid reason to request an extension of abatement date(s), you may submit a written request for extension to the Bureau Director.

When the Bureau Director issues an extension for abatement time, you must ensure that employees are adequately protected during this time.

Penalty Discussion: The purpose of the discussion is to determine a recommended final penalty. You will be meeting with the Public Sector Enforcement Supervisor or the Director of the Workplace Safety and Health Division. You will receive notice when the discussion is scheduled and where it will be held once we receive the abatement certification(s).

You should be able to describe the manner in which the violation(s) were corrected and the amount spent to correct the violation(s). Such documentation may include work orders, purchase orders, copies of written programs, photos, etc. Without this documentation, the discussion will be limited and the proposed penalty may become final.

This discussion is nonbinding by either organization. The Bureau Director will issue a final order within 10 working days. If you do not agree with the discussion results, you may still request an Appeal.

Note: The request for Appeal or Discussion must be received at the Bureau of Labor Standards no later than 15 working days from the date you received and signed for the Citation notification. If it is received late, we cannot honor your request.

TOWN OF WINSLOW, MAINE

(207) 872-2776 Phone
(207) 872-1999 Fax

www.winslow-me.gov

114 Benton Avenue
Winslow, ME 04901

TOWN COUNCIL **RESOLUTION NO. 15-2014**

A RESOLUTION

Providing for: Transfer of Funds from the Contingency Account.

BE IT RESOLVED by the Town Council of the Town of Winslow, as follows:

WHEREAS, the PD Animal Control and the FD Vacation & Holiday Accounts are overdrawn; and

WHEREAS, the following Capital Accounts are overdrawn: Municipal Building, Library Building and PW Equipment; now, therefore

BE IT RESOLVED that the Town Manager is hereby authorized to transfer $42,346 *($10,000 for PD Animal Control, $10,000 for FD Vacation & Holiday, $13,000 for Municipal Bldg., $1,300 for Library Bldg. and $8,046 for PW Equipment*) from the contingency account to cover the overages in the accounts described above.

SPONSORED BY: Gerald Saint Amand

IN THE TOWN COUNCIL

_____, 2014 One Reading, _____ _____
adopted rejected

_____
Town Clerk

APPROVED: _____, 2014

CHAIRMAN: _____

_____ _____

_____ _____

_____ _____

TOWN OF WINSLOW, MAINE

(207) 872-2776 Phone
(207) 872-1999 Fax

www.winslow-me.gov

114 Benton Avenue
Winslow, ME 04901

TOWN COUNCIL **RESOLUTION NO. 16-2014**

A RESOLUTION

Providing for: The Sale of 13 Cushman Road.

BE IT RESOLVED by the Town Council of the Town of Winslow, as follows:

WHEREAS, the Town of Winslow has acquired property on Tax Map 15 Lot No. 2 (*13 Cushman Road*) and has determined that the Town has no use for the property; and

WHEREAS, the Town Manager was authorized (*Order No. 1-2014*) to place an advertisement in a newspaper of local circulation requesting bids (*see attached*) on said property with a deadline for bidding being of June 4, 2014; now, therefore

BE IT RESOLVED that the Town Manager is hereby authorized to sell the property as described on Tax Map 15 Lot No. 2 to Bidder _____ and to issue the bidder a quit claim deed for the property.

SPONSORED BY: Gerald Saint Amand

IN THE TOWN COUNCIL

_____, 2014 One Reading, _____ _____
adopted rejected

_____
Town Clerk

APPROVED: _____, 2014

CHAIRMAN: _____

_____ _____

_____ _____

_____ _____