



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Town Council

Tuesday, December 19, 2017

7:00 PM

Council Chambers

Postponed from December 12, 2017.

I. Roll Call of Members.

Present: 7 - Dennis Welch, Tim Nangle, Bob Muir, Jarrod Maxfield, Donna Chapman, Clayton Haskell and Rebecca Cummings

II. Pledge of Allegiance.

Council Chair Chapman led the assembly in the Pledge of Allegiance.

III. Minutes to be Approved:

CD 17-364 To approve the minutes of the November 28, 2017 Council meeting.

Attachments: Minutes-Town Council-11-28-2017

A motion was made by Vice Chair Muir, seconded by Councilor Welch, that the Minutes be approved. The motion carried by the following vote:

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

CD 17-381 To approve the minutes of the December 5, 2017 Council meeting.

Attachments: Minutes-Town Council 12-5-2017

A motion was made by Vice Chair Muir, seconded by Councilor Welch, that the Minutes be approved. The motion carried by the following vote:

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

IV. Public Participation.

There was no public participation.

V. Councilors' Comments.

Councilor Nangle noted that there was another life lost on River Road in the area of Laskey Road. This is a very dangerous area, and he wants to engage the Department of Transportation. Would like to know why they spent six million dollars on a section of road didn't correct the most dangerous piece of road in our town? He feels they need to look at additional safety measures out there.

Councilor Chapman read a short letter that was mailed to her. The woman wanted to say thank you for the wonderful lights that she enjoys when she is traveling through our town. She thanked her for brightening her days. Donna said it wasn't just her, although she did push to take money out of the TIF fund to help decorate, but Tom Bartell and a few others helped to make sure we really have a festive town during the holidays.

Councilor Cummings said she received an email from a constituent regarding a property having possible code violations or concerns on Cottage Road. Tony asked her to forward it along.

Councilor Maxfield wished everyone in town Happy Hanukkah, Merry Christmas, Kwanza, etc. He also echoed what Councilor Nangle said about how dangerous River Road is, and he is sure there is more to come. He received a hand written letter from a constituent a few weeks ago about the "race track" that is also Route 302 up in North Windham. He was an older gentleman who stays with the speed limit and others do not.

Councilor Chapman said the Wreath's Across America at the High School on December 10 was amazing, and it was a fitting tribute. She noted that the school did a wonderful job, and she hopes it becomes an annual event.

Councilor Haskell asked Tony on whether he had received any input on the suggestion he made in regard to 302 and River Road? Tony said he spoke with Chief Schofield about the meeting, and there is a project to redo River Road from Page Road to Route 302, which is a Municipal Partnership Initiative Project, which means we are getting 50% of the money from the state. That does include some reconfiguration of the intersection, but really this is just cleaning it up.

VI. Council Correspondence.

CD 17-365 Windham Public Library Newsletter - December 2017

Attachments: Check It Out - December 2017

CD 17-367 Town Clerk's Monthly Report - November 2017

Attachments: Town Clerk's Report - Nov 2017

CD 17-368 Windham Public Library Monthly Report - November 2017

Attachments: Windham Public Library Monthly Report - November 2017

CD 17-369 Windham Code Enforcement Monthly Report - November 2017

Attachments: Code Enforcement November 2017 Monthly report

CD 17-370 Staff memo regarding proposed changes to the Surface Water Protection Ordinance, Chapter 142 from the Code of the Town of Windham, in order to strengthen water quality protections in the Highland Lake watershed.

Attachments: TC packet surface water protection 12-06-2017

CD 17-380 Fire-Rescue Department Monthly Report - November 2017

Attachments: November 2017 Monthly Report

CD 17-382 Investment Report - November 30, 2017

Attachments: Investment Report

CD 17-383 Assessing & GIS Report for November 2017

Attachments: Assessing & GIS Department - November 2017

VII. Town Manager's Report.

CD 17-371 Town Manager's Report.

Attachments: Town Manager's Report 20171208

Project & Issues List 20171207

Projects & Issues Sheets 20171207

Operations Manager Draft 20171207

171201 RFQ Solicitation WSVMF complete

Tony Plante: They have had their post-election meeting of the Shared Maintenance Facility Joint Project team last Thursday.

The Library renovations are underway; they had their first construction meeting on December 6, and another meeting tomorrow. The movers that were hired to help move Collections out in the trailer and help set up the temporary Children's room in the meeting room went very well. They will be going through the renovation until about the end of March.

Yesterday the Highland Lake Leadership Team had another meeting. They have copies of meetings notes from the previous four meeting, and he said they would get those to the Council. He expects the committee to meet quite frequently over the next few months.

Dennis Brown was chosen as the team Chair person and Kim White and Chantal Scott were chosen as Co-Vice Chairs so if Dennis is away for awhile they can conference him, and they will be able to get team business done.

They have done a little bit of restructuring duties in the Public Works Department to provide better division of the Director's internal and external duties; also providing a clear second in command in the department; which of the three major departments, they did not have in Public Works. They have established a position of Operation's Manager, which is between the Director and the Division Heads. It gives the Division Supervisors a resource when the Department Director is not around.

VIII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Maxfield: They met with two candidates tonight and would like to put their names forward for the next Council meeting. They are Griffin Bourassa for the 3-year Planning Board seat and Barbara Maurais for the Summerfest Organizing Committee.

2. Finance Committee.

No report.

B. Other Committees.

1. Long Range Planning Committee.

Tony Plante: Reported that they had their initial meeting last Wednesday, and heard it was a very enthusiastic meeting, and they are eager to get started. Two main areas of focus are zoning and open space planning.

2. Parks & Recreation Advisory Committee.

Councilor Cummings: Reported that they had a meeting recently and they had sent letters out to people who would like to make donations for Winterfest and the donations are coming in. It will be held on January 6 and will have a beach theme.

3. Public Easement Advisory Committee.

No report.

4. Highland Lake Leadership Team.

Tony Plante: He said he would forward copies of the notes when he has them.

5. Joint Project Team.

Tony Plante: He said a Request For Qualifications for Design Build Teams has been issued. There is a 12-13 page questionnaire that Contractor led Design Build Teams along with their designer counterparts and engineers will need to respond to in order to be prequalified to submit proposals for the Maintenance Facility Project.

Statement of Qualifications are due January 10 and will be reviewed by our Design Team and will be referred to the Joint Project Team with recommendations and will prequalify some number of them. Those will be invited to submit technical proposals, which will be due around the end of February, first part of March. Those will be evaluated for how well those proposals meet the requirements for the technical RFP that goes out.

Part of the work of the Joint Project Team is also going to be reviewing the technical RFP to make sure that we have clearly defined what the facility needs to be and what it needs to do.

6. Windham Economic Development Corporation.

Tom Bartell said they will be having a quarterly board meeting sometime in January. They will be inviting the Council to the meeting, and will be looking at all the projects going on in town, and how they can assist and move projects along. It will be an update for everyone involved in all of the projects. He said they will set up a meeting ahead of time with Councilor Maxfield and Councilor Haskell as representatives from the Council to the WEDC so they can talk about everything going on.

7. Wastewater Management Planning Advisory Committee.

Tony Plante said they are continuing to work on getting revised proposals for hydrogeological services and hope to have something in place within the next couple of weeks.

IX. CONSENT AGENDA.

17-229 To appoint Deborah McAfee to the Human Services Advisory Committee for a term to expire May 15, 2020.

Attachments: Cover Sheet 17-229
Human Services Advisory Committee AMENDED 130423

17-235 To appoint Nick Kalogerakis to the Long Range Planning Committee.

Attachments: Cover Sheet 17-235
Long Range Planning Committee

17-236 To appoint Mike Duffy to the Long Range Planning Committee.

Attachments: Cover Sheet 17-236
Long Range Planning Committee

17-234 To accept Harvest Hill Road as a public way as described in a warranty deed from Sebago Heights, LLC.

Attachments: Cover Sheet 17-234
TC memo SebagoHeights Phase5 PubAccept 11-29-17
Sebago Heights Phase 5 road acceptance request
Sebago Heights Phase 5 FR 2017-11-09
Sebago Heights Phase 5 As-Built 2017_11_20

17-237 To appoint Tom Peterson to the Highland Lake Leadership Team.

Attachments: Cover Sheet 17-237
Highland Lake Leadership Team

17-232 To approve an application for the Windham Veterans Association for a license to conduct beano and games of chance at Dena's Lobster House

and Tavern from January 1, 2018 through December 31, 2018.

Attachments: Cover Sheet 17-232

Windham Veterans-Blanket Letter

17-241

To approve an application for seven (7) coin-operated device licenses submitted by Milton S. Smith d/b/a Smitty's Cinema-Windham LLC.

Attachments: Smitty's Cinema-7 Coin-ops

Tony noted that the Harvest Hill Road probably should not have been put on a Consent Agenda but where they were having a discussion now it was fine.

A motion was made by Councilor Welch, seconded by Councilor Maxfield, that the Order be approved. The motion carried by the following vote:

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

X. UNFINISHED BUSINESS & GENERAL ORDERS.

17-205

To approve amendments to the Surface Water Protection Ordinance strengthening water quality protection in the Highland Lake watershed.

Attachments: Cover Sheet 17-205

Cover Sheet 17-205 11/14/17 agenda

CD 17-322 Cover Sheet - Private Roads Standards & Waivers

10/24/17 agenda

TC packet surface water protection 10-27-2017

TC packet surface water protection 12-06-2017

Tony Plante explained that this had been on the agenda of November 28, and the Council held a public hearing. at that time. and received comment from a number of people in attendance, including a copy of the ordinance marked up with a series of changes from John MacKinnon. (See attached) They took those suggestions that Mr. MacKinnon provided following discussion by the Council, and had staff review them, and in addition to the original memo with the draft and the mark-up of changes Mr. MacKinnon offered, is another staff memo outlining further work that has been done incorporating those changes.

Ben Smith: He said he had not spoken with Mr. MacKinnon, but did get the very detailed mark-up. Walking down through the suggested changes, some of them made very good sense to incorporate and some of them they had highlighted as to the reason why they thought it might make sense to leave them out at this point. (See attached Memo) Councilor Chapman said pertaining to the buffer requirements, New Hampshire makes sure they put plantings that are native to the area so nobody plants anything that is invasive. Ben said they would make sure it was native to the area.

John MacKinnon - Haven Road: He said he appreciated the staffs attention to incorporating these comments, and he respects that they are trying to make it as simple as possible for the homeowner, while at the same time providing some protection. Mr. MacKinnon referred to his Staff Memo (See attached).

Dennis Brown - Pond Villa: He thanked the Council, Tony and staff for the help they

J. MacKinnon

Response to Windham Comments on Second Revision of Surface Water Protection Ordinance (12/19/17)

Staff Memo:

1. Section K, Stormwater Runoff: Why only Highland Lake? Rhetorical question I know but there are other threatened lakes within the Town.
2. Section K, Stormwater Runoff points system, 3rd bullet: Sizing of infiltration system pretreatment is not a difficult task and examples are presented in the DEP BMP Manual. Suggest modifying the existing brochure that was originally created to provide guidance on complying with the ordinance to include sizing for pretreatment.
3. Ditto, 4th bullet: I suggested adding "natural" to "wooded buffer" to emphasize that preserving an existing forest around a site is preferable to clearing and replanting a "manmade vegetated buffer strip".
4. Ditto, last bullet: See comment on pretreatment above. Poor maintenance is the Achilles Heel of BMP performance so a site specific maintenance plan is critical. Guidance for preparing a maintenance plan can be included in a revised brochure.

Updated version of proposed changes to ordinance:

1. K. Stormwater Runoff, 5 a) Credits, a., vi and vii: Delete "wet ponds" and substitute "bioretention areas". Wet ponds are not appropriate for individual house lots and are beyond the design capability of homeowners.
2. b. Deductions ii: Delete "disturbance" and substitute "of a lot".

Town of Windham

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MEMO

DATE: December 5, 2017

TO: Windham Town Council

THROUGH: Tony Plante, Town Manager

FROM: Ben Smith, Planning Director *BWS*

Cc: Chris Hanson, Director of Code Enforcement
Amanda Lessard, Planner
Jon Earle, P.E., Town Engineer

RE: Proposed changes to Surface Water Protection Ordinance related to Highland Lake water quality

Following up on the Town Council discussion at the meeting on November 14, 2017, staff is submitting the proposed changes to the Chapter 142, the Surface Water Protection Ordinance for the Town Council's consideration. These changes incorporate several of the suggestions offered by John MacKinnon on behalf of the Highland Lake Association.

An updated version of the proposed changes to the Surface Water Protection Ordinance is attached. The proposed changes are in red text showing proposed new wording and red strikethrough showing proposed deletions. Please note that these changes are based on the current ordinance and don't specifically show changes from the version of the ordinance the Council reviewed on November 14.

A summary of Mr. MacKinnon's proposed changes and staff responses to each are as follows:

- Section C, Applicability. Delete Exemption c., so that the ordinance applies to activities regardless of the slope of the land.
 - Staff agrees and change has been made.
- Section K, Stormwater Runoff. Change the staff proposal for K.5 for additional requirements for projects in the Highland Lake watershed that are not subject to site plan or subdivision approval, so that the point-based permitting system would apply town-wide, not just the Highland Lake watershed.
 - Staff recommends keeping changes focused on the Highland Lake watershed at this point and has kept the proposed language as originally drafted.

- Section K, Stormwater Runoff points system.
 - Change Credit ii. to 20 points for total development area of less than 2,000 square feet.
 - Staff is OK with this concept, but recommends changing Mr. MacKinnon's suggested "building and development area" to "impervious area" as shown in the attached proposal.
 - Change all references to separation distance between the bottom of any proposed infiltration structure and the Seasonal High Groundwater Table from 1-foot to 3-feet, per DEP's BMP standards.
 - Change has been made as suggested.
 - Add language throughout to require one year's worth of sediment storage to reduce clogging of infiltration systems.
 - Staff has left this suggestion out because sizing a storage area would likely require hiring an engineer, which defeats the purpose of creating a points based system. Staff feels that long term maintenance of BMPs is a legitimate issue and proposes addressing that through the application process. See final point, below.
 - Add language in Credits viii. – x. to change "wooded buffer strips" and "vegetated buffer strips" to "natural wooded buffer strips" and "manmade vegetated buffer strips."
 - The additional language proposed will not have an impact on how stormwater is treated by the buffers and has been left out of the draft proposal attached.
 - Add a requirement for submission of a BMP maintenance plan along with the sketch plan and application form.
 - As with the requirement for sediment storage, a maintenance plan would likely result in the need for homeowners to hire an engineer or other professional to assist with the application. Staff proposes a change to the Soil and Erosion Permit application so that applicants have to affirmatively sign off on an awareness to maintain all proposed BMPs into the future as a requirement of the permit.

Town of Windham
Surface Water Protection Ordinance
Chapter 142
From the
Code
Of the

Town of Windham
Adopted

8/13/2002

Effective

11/13/2002

Amended
XX/XX/2017

County of Cumberland
State of Maine

SURFACE WATER PROTECTION ORDINANCE

A. PURPOSE

The purposes of this Ordinance are to prevent and minimize surface water pollution due to phosphorus contained in stormwater runoff from developed areas, to promote preventive measures to improve surface runoff water quality and lessen degradation to receiving watersheds and bodies of water within the Town of Windham to prevent and control water pollution caused by soil erosion and sediment transport resulting from soil disturbance associated with building development, to protect and promote safe and healthful conditions for humanity, and to protect fish spawning grounds, aquatic life, bird and other wildlife habitat in the town.

B. AUTHORITY

This Ordinance has been prepared in accordance with the provisions of Title 38 S435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

C. APPLICABILITY

This Ordinance applies to all activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and a permit shall be required and a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

1. Mulching and re-vegetation of disturbed soil.
2. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - a. Projects within the Highland Lake watershed must incorporate double temporary erosion control measures at the perimeter of the project.
3. Permanent stabilization structures such as retaining walls or riprap.
4. Activities which require site plan approval from the Planning Board are to be prepared in accordance with prevailing best management practices as referenced in the current issue of Maine Erosion and Sediment Control Handbook for Construction: Best Management

Exempt from the requirements of this ordinance are the following:

- a. Activities in the Shoreland Zone which are governed by the Shoreland Zone Ordinance.
- b. Permit applications in subdivisions, which have a Planning Board approved soil erosion and sediment control plan.
- c. ~~Activities wherein none of the area of soil disturbance has a slope steeper than two percent, but it shall be the applicant's responsibility to furnish a topographic survey demonstrating such gradual slope.~~

- d. Normal Agriculture as defined in the Shoreland Zoning Ordinance Chapter 199-17
- e. Five Hundred (500) square feet or less of net impervious area (foot print)
- f. The maximum amount of soil area to be disturbed shall be based on the slope of the disturbed area, as outlined in Table I.

Table I

% Ground Slope Range	Amount of Soil Disturbance (sf)
20%	500 sf
10 20%	1000 sf
5 10%	2000 sf
2 5%	4000 sf

D. INTENT

In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site, control stormwater run-off through the construction phase and strategic placement of structures, roads and driveways. The natural features and drainage patterns of the lot should be preserved using careful site design prior to any clearing or construction. The natural flow of water should be identified and undisturbed buffers protected to minimize off site transport by stormwater. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible. The intent of this ordinance is to have a zero off-site impact from any proposed development

E. EXPOSED GROUND AREA

Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time the work was started, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

- a. Where mulch is used, it shall be applied at a rate of a least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
- b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover. (wood chips are acceptable)

- c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

F. SOILS

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state certified professionals. Licensed, Registered or Certified Professional may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other Licensed, Registered or Certified Professionals who have proof of training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analyses of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data, which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist. Soil conditions that are inappropriate or uncorrectable in an environmentally acceptable manner shall be sufficient grounds for denial, even though the proposed use is otherwise permitted in that zone.

G. PARKING AREAS & DRIVEWAYS

Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site. Where runoff can not be retained on-site licensed professionals in this field shall review and certify in writing to assure that the purpose of this ordinance is upheld.

H. ROADWAY DRAINAGE

In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage, which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize, channelized flow of the drainage through the buffer strip.

I. DITCHING

Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow

in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

1. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

ROAD GRADE (%)	SPACING (in feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

2. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.
3. On road sections having slopes greater than eight (8) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle down slope from a line perpendicular to the centerline of the road.
4. On slopes of eight (8) percent or greater, surface materials shall be bituminous pavement, reclaimed asphalt or well compacted gravel. (Minimum compaction 95%)
5. Ditch relief culverts shall be sufficiently sized by a Registered Engineer or professional with expertise in hydrology and open channel flows and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

J. MAINTENANCE AND REPAIR

Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning. When maintenance and/or repair are performed, such performance must be in accordance with Best Management Practice.

1. Duration of plan: for temporary measures
Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction, shall be minimized to reduce the potential for erosion.
2. Duration of plan: for permanent measures
Permanent soil erosion and sedimentation control measures such as, but not limited to, level lipped spreaders, rip-rap installation, vegetated buffers, drainage dips and water turnouts shall be protected with a maintenance agreement.

K. STORM WATER RUNOFF

1. Construction:

All construction and development shall minimize stormwater runoff from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters. Areas of connected impervious surfaces should be minimized to take full advantage of these features. Where runoff can not be retained on site it shall be reviewed by licensed professionals in this field.

a. Buffers:

Buffers (also know as vegetative filter or filter strips). Within the required setback of the corresponding zone ~~three~~ there shall be a vegetative buffer. Excluded from this requirement are all of the commercial zones. This buffer shall consist of ~~landseaping~~ landscaping, to include but not limited to, grass, trees, shrubs, and wood chips. Within this ~~buffer~~ access to the property can be made for essential services and driveway access.

b. Drainage ways:

Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap

2. Maintenance:

Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

3. Plan Required:

~~When required by this ordinance, the Code Enforcement Officer or the Planning Board, stormwater management plans shall be designed utilizing the most recent approved version of the Cumberland County Soil and Water Conservation Districts and Maine DEP's "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices and the Maine DEP's Stormwater Management for Maine: Best Management Practices. Completed plans, when required above, may be reviewed by the Cumberland County Soil and Water Conservation District, or other qualified professional firm, agency, or organization.~~

4. General:

All activities are expected to employ appropriate stormwater management practices regardless of the zone or district they are located in.

5. Additional requirements for projects in the Highland Lake watershed that are not subject to subdivision or site plan review.

- a) The Code Enforcement Officer shall issue a Stormwater and Phosphorus Management Control Permit if the applicant meets or exceeds fifty (50) points based on the following point schedule. The applicant shall submit a Sketch Plan of the lot showing how each of the following point credits or deductions applies to the

proposed development. The Sketch Plan shall show approximate locations and dimensions of each Stormwater BMP, or other measure.

a. Credits

- i. 10 Points for correcting an existing erosion problem on the project site, as approved by the Code Enforcement Officer.
 1. Installing non-structural BMP (vegetation, loam and seed, mulch, etc.)
 2. Installing a structural BMP (woven geotextile mats and fabric, rip rap, etc.)
 3. Installing sediment control barriers until 1 & 2 have been established.
- ii. 10-20 Points for a building footprint an impervious area of -less than 4,500-2,000 square feet
- iii. 10 Points for a clearing limitation of less than 20% of the lot, or 15,000 square feet, whichever is less; or 20 Points for a clearing limitation of less than 15% of the lot, or 10,000 square feet, whichever is less
- iv. 15 Points for the installation of rock-lined drip edges or other infiltration system to serve no less than 50% of the new impervious area on the site. Test pit information certified by a Licensed Site Evaluator, Certified Soil Scientists (CSS) or Certified Geologist (CG) must show that one foot three feet of separation exists between the Seasonal High Groundwater Table and the bottom of any proposed infiltration structure. Infiltration systems must be sized to accommodate one inch of runoff from contributing impervious areas within the structure (this will include an assumption of 30% void space in washed stone) and designed in accordance with the details following approved engineering practices and techniques as published by the Maine Department of Environmental Best Management Practices (BMPs)
- v. 25 Points for the installation of rock-lined drip edges or other infiltration system to serve no less than 75% of the new impervious building area on the site. Test pit information certified by a Licensed Site Evaluator, Certified Soil Scientists (CSS) or Certified Geologist (CG) must show that one foot three feet of separation exists between the Seasonal High Groundwater Table and the bottom of any proposed infiltration structure. Soil filtration or infiltration systems must be sized to accommodate one inch of runoff from contributing impervious areas within the structure (this will include an assumption of 30% void space in washed stone) and designed in accordance with the details following approved engineering practices and techniques as published by the Maine Department of Environmental Best Management Practices (BMP's)
- vi. 25 Points for the installation of rain gardens, soil filtration system, or wet ponds designed to serve no less than 50% of the total new impervious area on the site. Rain gardens, soil filter, and wet pond systems shall be sized to accommodate one inch of runoff from contributing impervious areas, and designed in accordance with the details following approved engineering practices and techniques as

published by the Maine Department of Environmental Best Management Practices (BMP's)

- vii. 40 Points for the installation of rain gardens, soil filtration systems, or wet ponds designed to serve no less than 75% of the new impervious area on the site. Rain gardens soil filter, and wetpond systems shall be sized to accommodate one inch of runoff from contributing impervious areas, and designed in accordance with the details following approved engineering practices and techniques as published by the Maine Department of Environmental Best Management Practices (BMP's).
- viii. 30 Points for a 50 foot wide (no greater than 15% slope) wooded buffer strip, or a 75 foot wide vegetated buffer (no greater than 8% slope) strip located down gradient and adjacent to the developed area, provided there is no channelization within the buffer; or
- ix. 35 Points for a 75 foot wide (no greater than 15% slope) wooded buffer strip, or a 100 foot wide vegetated buffer (no greater than 15% slope) strip located down gradient and adjacent to the developed area, provided there is no channelization within the buffer; or
- x. 40 Points for a 100 foot wide (no greater than 15% slope) wooded buffer strip, or a 150 foot wide vegetated buffer (no greater than 15% slope) strip located down gradient and adjacent to the developed area, provided there is no channelization within the buffer.

b. Deductions

- i. 5 Points deducted for a new structure footprint exceeding 2000 square feet, and an additional 5 points deducted for each additional 500 square feet of structure footprint.
- ii. 5 Points deducted for clearing more than 50% disturbance.

b) Alternate Means of Calculation. In those cases where the Code Enforcement Officer determines that use of the points system is inadequate to achieve the purposes of storm water and phosphorous management control or is otherwise inappropriate because of particular circumstances of the property, the Code Enforcement Officer may assess conformance with this standard based on the following:

- a. A licensed State of Maine Professional Engineer or Soil Evaluator or Certified Professional Professional in Soil and Erosion Control certifies that the proposed treatment measure matches or exceeds the performance of the treatment measure under the specific point system allowance. It shall be the engineer's responsibility to provide evidence that the measure has been approved by the Maine Department of Environmental Protection or provides other certification into comparable treatment by professional testing results.

L. CONDITIONS OF PERMITS

Permits granted under this section may be made subject to additional conditions or restrictions to ensure conformity with the purposes and provisions of this chapter. Each application for a building permit shall be accompanied by the building permit fee set by the Town. Each application to the Code Enforcement Officer for a permit to erect a new building or structure or to enlarge or to move an existing one shall be

accompanied by a site plan showing the measurements of the lot and of all buildings, driveways, yards and parking spaces, drainage ways, storm drains, streams existing and proposed, the intended use of land and buildings shall be indicated clearly. Additional measures may be required in order to comply with this ordinance, such as, such as drainage ways and easements, soil erosion control measures, and all features to be installed for compliance with this Ordinance. Any other application for a building permit and any application for a permit shall be accompanied by a description of the intended use or use of the land and buildings and such further details as the Code Enforcement Officer may require for a clear understanding of the case.

M. APPEALS

1. Appointment:

There is hereby created a Board of Appeals of the Town of Windham created pursuant to the authority of Title 30-A M.R.S.A. S2691. The members of the Board shall be residents of the town. In accordance with the statutes, the following statutes shall apply:

- a. The Board shall consist of five (5) members. In addition, said Board shall have one (1) alternate member, who shall have all the rights of a full member, except that said alternate may vote only in the absence of a full member.
- b. The term of office of members shall be three (3) years, except that initial appointments of members shall be made for one (1) two (2) and three (3) years respectively.
- c. A municipal official or his spouse shall not be a member of the Board.
- d. When there is a vacancy, the municipal officers shall appoint a person to serve for the unexpired term.
- e. The Board shall elect a Chair and Vice Chair from its own membership.
- f. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.
- g. A member of the Board may be dismissed for cause by the municipal officers before the expiration of his term.
- h. A Secretary to the Board shall be appointed by the appropriate town officials.

2. Jurisdiction and Authority:

In addition to the power granted by Title 30-A M.R.S.A. S2691, the Board Appeals shall have the following jurisdiction and authority.

- a. Subject to the provisions of this chapter, to hear and decide appeals from orders, decisions, determinations or interpretations made by the Code Enforcement Officer.
- b. Subject to the provisions of this chapter, to hear and grant or deny application for variances from the terms of the Surface Water Protection Ordinance. A variance can only be granted where undue hardship is proven. "Undue hardship" is defined to mean:
 - i. That the land in question cannot yield a reasonable return unless the variance is granted.

- ii. That the need for a variance is because of unique circumstances of the property such as location of existing structures, topographical features, etc.) and not to the general conditions of the neighborhood.
 - iii. That the granting of a variance will not change the essential character of The locality; and
 - iv. That the hardship is not the result of action taken by the applicant or a prior owner.
- c. Permitted variances run with the land and thus pass from one owner to the next.
- d. Attention be given to the following wherever applicable:
- i. Location, character and natural features.
 - ii. Fencing and screening.
 - iii. Landscaping, topography and natural drainage.
 - iv. Vehicular access, circulation and parking.
 - v. Pedestrian circulation.
 - vi. Signs and lighting.
 - vii. All factors which affect health, welfare and safety.
3. In granting appeals under this section, the Board of Appeals may impose such conditions as it deems necessary in furtherance of the intent and purpose of this chapter.

N. PROCEDURE

1. Meetings:

The Board of appeals shall meet twice each month as called by the Chair. A quorum of the Board necessary to conduct an official Board meeting shall consist of at least three (3) members. A majority vote of the quorum is required for the passage or denial of any appeal.

2. Minutes:

~~The Secretary shall record a permanent record of all Board meetings. All meeting minutes and all correspondence of the Board shall be maintained in the Town Office. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceeding, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefor, upon all the material issued of fact, law or discretion~~

presented and the appropriate order, relief or denial thereof. Notice of any decisions shall be mailed or hand delivered to the petitioner, his representative or his agent and the Department of Environmental Protection.

3. Public Hearing:

For all appeals, the Board shall hold a public hearing as prescribed herein. At least seven (7) days before the hearing, the Code Enforcement Officer or his assistant shall notify by mail the owners of properties abutting the property for which the appeal or application is made. Failure to receive this notice shall not invalidate the proceedings herein prescribed. The owners of properties shall be considered to be the parties listed by the Assessor as those against whom those taxes are assessed. Notice of the hearing shall also be placed at least twice in a newspaper of general circulation at least seven (7) days prior to the hearing. The Code Enforcement Officer or his assistant may attend all hearings and present to the Board all plans, photographs or other factual materials which are appropriate to an understanding of the case.

4. Appeals:

Any person and any municipal official or board of officials aggrieved by a decision of the Code Enforcement Officer or who wishes to request a variance from the Surface Water Protection Ordinance or who wishes a use permit may file an application with the Board of Appeals. An appeal of a decision made by the Code Enforcement Officer must be filed within thirty (30) days of the date of the decision. Application materials submitted to the Board must include a completed application form, including a location and site plan if appropriate, and a fee of two hundred dollars (\$200.00, which must be submitted to the Code Enforcement Officer at the time the appeal request is submitted). All application materials must be submitted for the Board's review at least fourteen (14) days prior to the Board meeting at which the applicant wishes to be heard. All meetings of the Board are public hearings. At the public hearing, the applicant or his representative must appear before the Board to present the proposal and to answer questions. Other interested parties, such as adjacent property owners, will also be permitted to speak for or against the appeal. Written notice of the decision of the Board shall be sent to the appellant within seven (7) days of the date of the decision. Any aggrieved party may appeal from the decision of the Board to the Superior Court within forty-five (45) days of the decision date.

5. Decision:

After a decision has been made by the Board of Appeals, a new appeal of similar import shall not be entertained by the Board until one (1) year shall have elapsed from the date of said decision, except that the Board may entertain a new appeal if the Board believes that, owing to a mistake of law or misunderstanding of fact, an injustice was done or it finds that a change has taken place in some essential aspect of the case sufficient to warrant a reconsideration of the appeal.

6. Reconsideration:

In accordance with Title 30-A M.R.S.A. §2691-3-F, the Board may reconsider any decision reached under this section within thirty (30) days of its prior decision. A vote

to reconsider and the action taken on that reconsideration must occur and be completed within thirty (30) days of the date of the vote on the original decision. The Board may conduct additional hearings and receive additional evidence and testimony as provided in this section.

7. Expiration date:

The right of any variance from the terms of this chapter granted by the Board of Appeals shall expire if the work or change permitted under the variance is not begun within six (6) months or substantially completed within eighteen (18) months of the date of the vote by the Board.

O. ENFORCEMENT

1. Nuisances:

Any violation of this Ordinance shall be deemed to be a nuisance.

2. Code Enforcement Officer.

- a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provisions of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indication the nature of the violation and ordering the action necessary to such violation, indication the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.
- b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance
- c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocations actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

3. Legal Actions.

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement

Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in:

- a. bad faith, or unless the removal of the structure or use will result in a threat or
- d. hazard to public health and safety or will result in substantial environmental damage.

4. Fines.

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A M.R.S.A. §4452. Current penalties include fines of not less than \$100.00 nor more than \$2500.00 per violation for each day that the violation continues.

Town of Windham
Surface Water Protection Ordinance
Chapter 142
From the
Code

Of the

Town of Windham
Adopted

8/13/2002

Effective

11/13/2002

Amended
XXXX/2017

County of Cumberland
State of Maine

J. MacKinnon
MARK-UP

SURFACE WATER PROTECTION ORDINANCE

A. PURPOSE

The purposes of this Ordinance are to prevent and minimize surface water pollution due to phosphorus contained in stormwater runoff from developed areas, to promote preventive measures to improve surface runoff water quality and lessen degradation to receiving watersheds and bodies of water within the Town of Windham to prevent and control water pollution caused by soil erosion and sediment transport resulting from soil disturbance associated with building development, to protect and promote safe and healthful conditions for humanity, and to protect fish spawning grounds, aquatic life, bird and other wildlife habitat in the town.

B. AUTHORITY

This Ordinance has been prepared in accordance with the provisions of Title 38 S435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

C. APPLICABILITY

This Ordinance applies to all activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and a permit shall be required and a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

1. Mulching and re-vegetation of disturbed soil.
2. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - a. Projects within the Highland Lake watershed must incorporate double temporary erosion control measures at the perimeter of the project.
3. Permanent stabilization structures such as retaining walls or riprap.
4. Activities which require site plan approval from the Planning Board are to be prepared in accordance with prevailing best management practices as referenced in the current issue of Maine Erosion and Sediment Control Handbook for Construction: Best Management

Exempt from the requirements of this ordinance are the following:

- a. Activities in the Shoreland Zone which are governed by the Shoreland Zone Ordinance.
- b. Permit applications in subdivisions, which have a Planning Board approved soil erosion and sediment control plan.
- c. Activities wherein none of the area of soil disturbance has a slope steeper than two percent, but it shall be the applicant's responsibility to furnish a topographic survey demonstrating such gradual slope.

K. STORM WATER RUNOFF

1. Construction:

All construction and development shall minimize stormwater runoff from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters. Areas of connected impervious surfaces should be minimized to take full advantage of these features. Where runoff can not be retained on site it shall be reviewed by licensed professionals in this field.

a. Buffers:

Buffers (also know as vegetative filter or filter strips). Within the required setback of the corresponding zone ~~three~~ ^{THERE} shall be a vegetative buffer. Excluded from this requirement are all of the commercial zones. This buffer shall consist of landscaping, to include but not limited to, grass, trees, shrubs, and wood chips. Within this buffer access to the property can be made for essential services and driveway access.

b. Drainage ways:

Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap

2. Maintenance:

Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

3. Plan Required:

When required by this ordinance, the Code Enforcement Officer or the Planning Board, stormwater management plans shall be designed utilizing the most recent approved version of the Cumberland County Soil and Water Conservation Districts and Maine DEP's "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices and the Maine DEP's Stormwater Management for Maine: Best Management Practices. Completed plans, when required above, may be reviewed by the Cumberland County Soil and Water Conservation District, or other qualified professional firm, agency, or organization..

4. General:

All activities are expected to employ appropriate stormwater management practices regardless of the zone or district they are located in.

5. Additional requirements for projects in the Highland Lake watershed that are not subject to subdivision or site plan review.

- a) The Code Enforcement Officer shall issue a Stormwater and Phosphorus Management Control Permit if the applicant meets or exceeds fifty (50) points based on the following point schedule. The applicant shall submit a Sketch Plan of the lot showing how each of the following point credits or deductions applies to the

proposed development. The Sketch Plan shall show approximate locations and dimensions of each Stormwater BMP, or other measure.

a. Credits

1. 10 Points for correcting an existing erosion problem on the project site, as approved by the Code Enforcement Officer.

- 1. Installing non-structural BMP (vegetation, loam and seed, mulch, etc.)
- 2. Installing a structural BMP (woven geotextile mats and fabric, rip rap, etc.)
- 3. Installing sediment control barriers until 1 & 2 have been established.

ii. ~~10~~ ²⁰ Points for a building footprint less than ~~1,500~~ ^{2,000} square feet

iii. 10 Points for a clearing limitation of less than 20% of the lot, or 15,000 square feet, whichever is less; or 20 Points for a clearing limitation of less than 15% of the lot, or 10,000 square feet, whichever is less

iv. 15 Points for the installation of rock-lined drip edges or other infiltration system to serve no less than 50% of the new impervious area on the site. Test pit information certified by a Licensed Site Evaluator, Certified Soil Scientists (CSS) or Certified Geologist (CG) must show that one-foot of separation exists between the Seasonal High Groundwater Table and the bottom of any proposed infiltration structure. Infiltration systems must be sized to accommodate one inch of runoff from contributing impervious areas within the structure (this will include an assumption of 30% void space in washed stone) and designed in accordance with the details following approved engineering practices and techniques as published by the Maine Department of Environmental Best Management Practices (BMP's)

AT LEAST 3 FEET

PRETREATMENT PRACTICES SIZED TO HOLD ONE-YEAR'S WORTH OF SEDIMENT SHALL BE PROVIDED TO REDUCE CLOGGING OF INFILTRATION SYSTEMS.

v. 25 Points for the installation of rock-lined drip edges or other infiltration system to serve no less than 75% of the new impervious building area on the site. Test pit information certified by a Licensed Site Evaluator, Certified Soil Scientists (CSS) or Certified Geologist (CG) must show that one-foot of separation exists between the Seasonal High Groundwater Table and the bottom of any proposed infiltration structure. Soil filtration or infiltration systems must be sized to accommodate one inch of runoff from contributing impervious areas within the structure (this will include an assumption of 30% void space in washed stone) and designed in accordance with the details following approved engineering practices and techniques as published by the Maine Department of Environmental Best Management Practices (BMP's)

AT LEAST 3 FEET

vi. 25 Points for the installation of rain gardening soil filtration system, or wet pond design to serve no less than 50% of the total new impervious area on the site. Rain gardens, soil filter, and wet pond systems shall be sized to accommodate one inch of runoff from contributing impervious areas, and designed in accordance with the details following approved engineering practices and techniques as published by the Maine Department of Environmental Best Management Practices (BMP's)

BIORETENTION AREA

BIORETENTION

PRETREATMENT PRACTICES... TO REDUCE CLOGGING OF THESE SYSTEMS.

BIORETENTION AREA

vii. 40 Points for the installation of rain gardens, soil filtration system, or wetpond design to serve no less than 75% of the new impervious area on the site. Rain gardens, soil filter, and wetpond systems shall be sized to accommodate one inch of runoff from contributing impervious areas, and designed in accordance with the details following approved engineering practices and techniques as published by the Maine Department of Environmental Best Management Practices (BMP's).

viii. 30 Points for a 50 foot wide (no greater than 15% slope) wooded buffer strip, or a 75 foot wide vegetated buffer (no greater than 8% slope) strip located down gradient and adjacent to the developed area, provided there is no channelization within the buffer; or

ix. 35 Points for a 75 foot wide (no greater than 15% slope) wooded buffer strip, or a 100 foot wide vegetated buffer (no greater than 15% slope) strip located down gradient and adjacent to the developed area, provided there is no channelization within the buffer; or

x. 40 Points for a 100 foot wide (no greater than 15% slope) wooded buffer strip, or a 150 foot wide vegetated buffer (no greater than 15% slope) strip located down gradient and adjacent to the developed area, provided there is no channelization within the buffer.

b. Deductions

i. 5 Points deducted for a new structure footprint exceeding 2000 square feet, and an additional 5 points deducted for each additional 500 square feet of structure footprint.

ii. 5 Points deducted for clearing more than 50% disturbance.

c. A BMP MAINTENANCE PLAN SHALL BE SUBMITTED ALONG WITH THE

b) Alternate Means of Calculation. In those cases where the Code Enforcement Officer determines that use of the points system is inadequate to achieve the purposes of storm water and phosphorous management control or is otherwise inappropriate because of particular circumstances of the property, the Code Enforcement Officer may assess conformance with this standard based on the following:

a. A licensed State of Maine Professional Engineer or Soil Evaluator or Certified Professional in Soil and Erosion Control certifies that the proposed treatment measure matches or exceeds the performance of the treatment measure under the specific point system allowance. It shall be the engineer's responsibility to provide evidence that the measure has been approved by the Maine Department of Environmental Protection or provides other certification into comparable treatment by professional testing results.

correct spelling

OF THE LOT??

SKETCH PLAN

L. CONDITIONS OF PERMITS

Permits granted under this section may be made subject to additional conditions or restrictions to ensure conformity with the purposes and provisions of this chapter. Each application for a building permit shall be accompanied by the building permit fee set by the Town. Each application to the Code Enforcement Officer for a permit to erect a new building or structure or to enlarge or to move an existing one shall be accompanied by a site plan showing the measurements of the lot and of all buildings, driveways, yards and parking spaces, drainage ways, storm drains, streams existing

have provided them this past year. The reception they have gotten has been outstanding.

In terms of what John said in applying this to not just the lakes but the whole town, he thinks that will simplify things a lot as you are dealing with the other lakes in town. As was said in the recent meeting, there are no circumstances where added phosphorus helps the lake. With that in mind and the concerns they have with all the all the lakes, the phosphorous feeds it. He said he really liked the approach town staff took to help the land owners, and for the most part, these are not expensive fixes.

Rich Murk owns two lots in the Highland Lake Watershed, and he came because at the time the moratorium was put in place he had two lots sold, and now he lost one of the buyers and the other buyer is waivering.

He said the changes they were thinking about making tonight were good, and appreciate what they are going through, but he feels a little bit harmed by it, but understood it was part of the process. He asked are there more changes they expect to make to the ordinance before the moratorium is done in March, or would they consider either ending the moratorium earlier or modifying it?

He said his two lots have been through complete Windham Planning Board approvals in 2010. They went through Cumberland County Soil & Water Conservation District Review, a Gorrill Palmer Review on behalf of the Town of Windham as part of the approval process, and they went through DEP review and a license was issued.

He knows he cannot clear more than 12,000 sq. ft. on any lot for any reason, including the driveway, septic system, well and building. He asked if they could they modify the moratorium to allow lots that have gone through that kind of review and will continued to be reviewed by the CEO's as they come out to check the work when it is done. It would be wonderful if they could modify the moratorium at the first meeting in January to allow lots that have gone through that kind of review to move forward.

Councilor Maxfield asked how often did the DEP update the list? Tony replied it was every two years. Councilor Maxfield said he would like to see a core of these things eventually be applied to all water bodies. He agrees that they should start with Highland Lake but would support, sooner than later, taking the core items, things that makes the most sense and applying them to the other watersheds.

He said they've done the moratorium, they've put together a team, and they have got step one from staff; he still thinks septic systems, especially around the lakes, are an issue and he would like to see it part of the leadership team that they address that.

Councilor Muir said he would like to get a sense of where the Councilors are with the additional suggestions that Mr. MacKinnon brought up. He thinks they are reasonable, it does not seem as though it would cost an awful lot to implement them, perhaps come up with some kind of a manual.

Councilor Haskell said he had no problem with adding what Mr. MacKinnon presented, his only question was about the gentleman who had the two lots for sale. He is hearing that this will take a long time to resolve, so he will be stuck with two lots that have already been approved by many departments. He thinks it is unfair to him, especially, having been approved.

Councilor Chapman said those lots were from 2010 and she thought after five years they

had to update the plan? Ben Smith said that was in an approved subdivision. She said that if this has created a hardship, they have told people to go in and meet with the Code Officer, as they have been trying to work some of these situations out.

Tony said the only thing they have done is with soil disturbance, where somebody has already started construction. In that case, their feeling has been that it is better to have the site built and finished than to leave it bare. Mr. Murks are individual lots that are in an approved subdivision, and that except for these two lots is complete. These two lots are still in Mr. Murks ownership and he is looking to sell them. These lots, from a surface water protection perspective, are fine the way they are.

The moratorium ordinance would not allow a soil disturbance of more than 500 sq. ft. If he had sold them, and the people who had bought them or he had got building permits and begun construction before the moratorium began, then it would be better to get them finished and buttoned up, but that is not where they are. The current moratorium runs out in early March, and under state law the Council can renew it for additional periods of up to 180 days at a time, but there are certain conditions that have to be met.

Tony said the briefing on the science that we know today will probably be sometime in January or February. The public forum on the science that we know today, and what some of the options are will be in March. As far as additional science that needs to be done to understand what the dynamics actually are in Highland Lake, and what is causing this particular bloom for the last four years; they've got to go through the seasonal cycle with the lake and do monitoring testing and that won't be done until about this time next year.

Councilor Maxfield said the Council should be thinking sooner rather than later on whether they would they be prepared to extend the moratorium, and if not, do they even let it go to March? If they vote on these, they are putting in best practices now and that is probably all they will get done between now and then.

Councilor Nangle said he would like to see the leadership team come back with recommendations on how to resolve this problem if the report is bad. What kinds of things will they need to do so they can start planning for them.

Chris Hanson said what was before them tonight is this amendment for the point system. He said this was designed for small projects; it is not designed for subdivisions, site plan review, road extensions and that type of stormwater. If this was to pass, it takes 30 days to go into effect, and by that time they will probably have the report out. He thinks if they adopt this and use the next month to look at the science, and maybe modify the moratorium to exclude single family development on lots like what Mr. Murk has, then we will have addressed a small piece of it.

Councilor Muir: Moved to amend Order 17-205 to include John MacKinnon's recommendations for Highland Lake, seconded by Councilor Cummings.

Councilor Maxfield has a hard time adding these amendment as is, because he does appreciate all the work Mr. MacKinnon did, but he feels at this point staff, as they went through it, took into consideration the points he made and incorporated where they felt they made sense. The other points can be considered in the step two discussions as they add them. He thinks with what is written up will get them going and will build a foundation, and as they go deeper into the other things they will have better options.

Councilor Muir asked John as far as the watershed is concerned with someone not living

right on the lake but away, what are you rating the importance of these things as?

John MacKinnon said he thinks it has to apply to the entire watershed, whether or not you are right on the shore doesn't necessarily mean you are contributing to it, it could be somebody in the upper watershed that is discharging into a stream that leads to the lake and they should have the same kinds of standard as the people living right on the lake. He thinks this can be done by giving guidance to people in the brochure.

Ben Smith said that in the handout that Mr. MacKinnon passed out dated 12/19/17 that has two points at the bottom that strike him as very sensible corrections to the ordinance, and regarding the four points at the top, number 2 & number 4 Mr. MacKinnon said could be addressed through a brochure, and the question that had to do with number 1 he thinks he heard the Council say this should only apply to Highland Lake, so that leaves number 3, which is the difference between the types of buffers.

Vote on amendment:

In Favor: 2- Councilor Muir, Councilor Haskell

Opposed: 5- Councilor Chapman, Councilor Cummings, Councilor Maxfield, Councilor Nangle and Councilor Welch.

Amendment Fails.

Councilor Welch: Moved to amend Order 17-205 by adding number 3 and numbers 1 & 2 at the bottom under the "updated version of proposed changes to the ordinance", seconded by Councilor Maxfield.

In Favor: 6: Councilor Chapman, Councilor Cummings, Councilor Maxfield, Councilor Muir, Councilor Nangle and Councilor Welch.

Abstained: 1: Councilor Haskell

Passed

Vote on Order as amended.

In Favor: 6 - Councilor Welch, Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman and Councilor Cummings

Opposed: 1 - Councilor Haskell

17-223 To appoint a council representative to the Wastewater Management Planning Advisory Committee.

Attachments: Cover Sheef 17-223

Wastewater Management Planning Advisory Committee Charge
20131219

A motion was made by Councilor Nangle, seconded by Vice Chair Muir, that they appoint Jarrod Maxfield. The motion carried by the following vote:

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

17-228 To cancel the Council meeting of December 26, 2017.

Attachments: Cover Sheet 17-228

Council Rules

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

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

17-238

To approve an amendment to the promissory note from the Windham Economic Development Corporation as approved by Council order 09-186 on December 22, 2009 and amended by Council order 16-219 on December 13, 2016 for property located at the intersection of Anglers Road and Route 302, and to authorize the town manager to sign the amendment on behalf of the town and to take any other necessary action related thereto.

Attachments: Cover Sheet 17-238

WEDC Town Council Anglers Road Update - 11.27.17

Amendment to Promissory Note (WEDC Town) 12.8.17

A motion was made by Councilor Welch, seconded by Councilor Maxfield, that the Order be approved. The motion carried by the following vote:

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

17-239

To appoint Clayton Haskell as one of the two (2) Council representatives to the Shared Maintenance Facility Joint Project Team.

Attachments: Cover Sheet 17-239

Joint Project Team Memo 20170120

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

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

17-240

To appoint Dennis Welch to fill a vacancy for Senate District 26 representative to the Maine Municipal Association's Legislative Policy Committee.

Attachments: 16-123 Cover Sheet

Ballots for Election to MMA Legislative Policy Committee memo

Legislative Policy Committee Ballot

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

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

17-242 To approve a Victualer's permit application submitted by James & Kelley Savoie d/b/a Kelley's Sebago Diner, located at 862 Roosevelt Trail.

Attachments: Kelley's Sebago Diner-Victualers

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

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

17-244 To proclaim December 25, 2017 to be "#Fight Like a Cyr Day."

Attachments: Cover Sheet 17-244

Proclamation 17-073 for Windham Volunteer Month 20170401

Councilor Muir moved to suspend Council Rules to add an agenda item, seconded by Councilor Welch.

In Favor: 7- Councilor Chapman, Councilor Cummings, Councilor Haskell, Councilor Maxfield, Councilor Muir, Councilor Nangle and Councilor Welch.

Councilor Nangle explained that Nolan Cyr is an eleven year old resident of Windham and he was diagnosed with Osteosarcoma back in April. A lot of people have watched him go through his treatments, and he returned home on December 14th cancer free. He thought it would be fitting to proclaim Christmas Day "Fight Like a Cyr" Day in Windham. Councilor Nangle read the Proclamation. (See attached)

A motion was made by Vice Chair Muir, seconded by Councilor Welch, that the Proclamation be approved. The motion carried by the following vote:

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

XI. Agendas & Scheduling.

CD 17-372 Agenda Items Reports.

Attachments: Agenda Items Report 20171207

Project & Issues List 20171207

Projects & Issues Sheets 20171207

There was discussion of agendas and scheduling.

XII. ADJOURN.

A motion was made by Councilor Welch, seconded by Vice Chair Muir, that they be adjourned. The motion carried by the following vote at 8:53 p.m.

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

Respectfully submitted,

Linda S. Morrell

Linda S. Morrell

Town Clerk, CCM