



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Town Council

Tuesday, August 16, 2022

6:30 PM

Council Chambers & Via Zoom.

To join the meeting remotely, use this link: <https://us02web.zoom.us/j/89564506453>.

You may also call 1-646-558-8656 and enter meeting ID: 895 6450 6453

I. Roll Call of Members.

Councilor Kalogerakis arrived at 7:54 p.m.

Present: 7 - David Nadeau, Nicholas Kalogerakis, Jarrod Maxfield, Mark Morrison, Brett Jones, Ed Ohmott and William Reiner

II. Pledge of Allegiance.

Council Chair Maxfield led the Pledge of Allegiance.

III. Minutes to be Approved:

[CD 22-104](#) To approve the Minutes of the July 12, 2022 Council meeting.

Attachments: [Minutes-Council-7-12-2022 \(2\).pdf](#)

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

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

IV. Adjustments to the Agenda.

Manager Tibbetts said there was a late addition to the agenda for a new Victualer's Permit. Councilor Morrison moved to suspend council rules and add agenda item: 22-150, second by Councilor Jones.

In Favor to suspend Council Rules: 6-0

Absent: Councilor Kalogerakis

V. Public Participation.

Joel Woodward from Duffy Drive was here because of the town's frontage on roads. He said he is an abutter to the Rio Drive project, which started in May of 2020. He has been living with nothing but noise, generators, excavators, dust, etc., it has been a nightmare. The town did not hold Mike Beaulieu to standards, he got away with a lot. There are four houses in there, and the town took the road over in May and was only left with \$150,000 to gravel the road, put in town water, underground power, drainage and pavement. The

\$150,000 is not going to cut it.

He is bringing this up because the town took over the project in May and the town changed all of their standards in order to get this job completed because they allowed four houses to be built. These people have been ready to move in for over a year and a half and they still do not have power, I still listen to generators. Mr. Woodward is 400 feet off of River Road and has zero peace and quiet. He can't open his windows because of all the dust.

In April he paid \$980 for a permit to build a 30 x 50 garage in the corner of his lot that abuts Rio Drive. The day he filled out his permit he had to be 10 feet off of the property line. He had a contractor come and got it all cut back, now he is being told he needs to be 30 feet because that is frontage. He said he also has a frontage in the front of his property because he has a private road. He has two fronts, one in the front and one in the back, how does that work on two sides? His garage needs to be 20 feet off that line, not 30 ft., that is only 10 feet but it makes a big difference. If he had known it had to be 30 feet it would not have gone there.

It is convenient for the town to change code and jump through hoops to make it work for them. He also paid Portland Water District \$8,500 for town water because he was going to get a cross-country line, he lost that but they refunded him.

His point is, there is a double standard in this town. Rio Drive, off of the pin on his property line, the edge of gravel is 14 feet from his property. If he cannot put a building up or anything else because of a road, why is the road allowed to come within 30 feet of his property? It is not right.

VI. Councilors' Comments.

Councilor Reiner spoke about the sidewalk room the RSU down Route 202 to the recreation area. Some of the parents are concerned that the kids have to walk down the shoulder of Route 202. Is there anything in the works for it?

Councilor Maxfield spoke about our Manager Barry Tibbetts winning the 2022 Leadership award from the MTCMA. Those of us who have sat in this room for the last couple of years know that Barry has been a great asset, and he has helped us get a lot of things done. We nominated him and that recognition was extended forth from that group of his peers who also felt he deserved that recognition. There was a community bus and some of us went up to Sugarloaf to watch him receive his award. It was a great time. Congratulations!

VII. PUBLIC HEARINGS.

[22-143](#)

To receive public comment and act on amendments to the Master Fee Schedule, pertaining to marijuana business license fees.

Attachments: [22-143 Cover Sheet.pdf](#)
[Fee Schedule 2022 amendment 08162022.pdf](#)
[Marijuana Education Fees Comparison.pdf](#)

Laura Morris is the director of the Be the Influence Coalition under the Town of Windham. They do youth drug prevention, and they are seeing a time where kids are self-medicating like crazy with lots of different drugs, not just with marijuana. She said they really believe in this fund, they would like to see it maintained, maybe increased, because they need

money, and they need money now for prevention. Laura listed the things they do with the Marijuana License Fee Fund. They need more funding more than ever. She highly suggests that they either keep these funds in place, they need them, and they appreciate them.

Dave Whitten of Sticky Bud Farms said they submitted their renewal applications and fees and he is assuming that the fees that were proposed are what is being talked about tonight. Lowering the education fees is very much appreciated because the fees are steep. He didn't think they used a lot of those funds, so please keep that in mind for the businesses. He is not against helping the kids.

Lauren Beatrice of Seed Sound Apothecary wanted to reiterate that they did discuss to add education fees into other sources too. The alcohol and the E-cigarettes that are contributing to these problems should contribute as well.

Maggie Terry said she thinks the education fee is great but too high at 40%; when she was on the committee they had 10% in mind. She does not think the burden should be carried totally on the marijuana community. If these other things are a problem as well, then those businesses should pay the fee as well.

Looks like the marijuana fees are discriminating towards the marijuana businesses compared to the fees that the other types of businesses are paying in town; they are outrageous. If the town feels that they are doubling their efforts with the marijuana businesses, the State of Maine is already doing all of that with the Adult Use type businesses. That right there could save some time and work, and she would like the town to consider that for part of the fees and not carry the whole burden on all of the stores.

Andrew Keeley Alternative Essence said it is important the town understands that they are expecting, given the opportunity, to operate as an Adult Use Marijuana Retail Store and there is going to be some compromise there, and they are willing to be held to that higher standard if that is the direction you choose.

Arlie Gordon is a resident and has a medical marijuana card and goes to some of these medical marijuana businesses in town. He agrees with Maggie, Dave and Lauren that the other types of businesses that contribute to the problem should also be responsible for education fees too.

Councilor Ohmott said if we go with lower fees he thinks we should lower the amount of monies to the organizations who wants the monies and maybe have a cap on the amount given because we could run out of money very quickly.

Councilor Morrison said in regard to lowering the fees, he feels what is in front of them tonight is appropriate. He is concerned there will be an impact for the education fees collected. He would be in favor of having other businesses paying education fees as well.

Councilor Maxfield said he is okay with the fee schedule as proposed. As far as he knows, Windham is the only town that ever enacted an education fee, and he agrees, one industry should not be penalized for every other industry. He said they are looking into that.

Councilor Nadeau said he is against it.

A motion was made by Councilor Nadeau, seconded by Vice Chair Morrison, that

the Order be approved. The motion carried by the following vote:

In Favor: 4 - Council Chair Maxfield, Vice Chair Morrison, Councilor Jones and Councilor Reiner

Opposed: 2 - Councilor Nadeau and Councilor Ohmott

Absent: 1 - Councilor Kalogerakis

[22-146](#)

To receive public comment and act on a new application submitted by Joseph Ferri d/b/a Kind & Co. to be located at 8 Heathwood Drive, for a Marijuana Manufacturing Facility.

(Application received in the Clerk's Office on July 21, 2022.)

Attachments: [22-146 Cover Sheet.pdf](#)
[Kind & Co's Council Memo & Addendum.pdf](#)

No public comment.

Councilor Nadeau said Kind & Co. is a Medical Retail Store, and this is separate from that. This application is for Adult Use Manufacturing? Do these two business work together? Who are they selling to? Are they manufacturing for adult use cliental?

Dave Whitten said he believes Kind & Co has an Adult Use Store in Portland, and they may be doing a manufacturing facility here close to home to supply the place in Portland. Just a thought.

Councilor Maxfield said he thinks the applicant should be there at the next meeting.

Councilor Reiner moved to postpone to September 13, 2022, seconded by Councilor Ohmott.

A motion was made by Councilor Reiner, seconded by Councilor Ohmott, that the Order be postponed until September 13, 2022. The motion carried by the following vote:

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

[22-148](#)

To receive public comment and act on an application submitted by Shawn Russell d/b/a Trail N' Ales LLC located at 754 Roosevelt Trail for a new Special Amusement permit.

Attachments: [22-148 Cover Sheet.pdf](#)
[Trails N Ale's Special Amusement.pdf](#)

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

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

VIII. CONSENT AGENDA.**IX. UNFINISHED BUSINESS & GENERAL ORDERS.**[22-119](#)

To approve applications for property tax assistance pursuant to Chapter 209, Article I of the Code of the Town of Windham, "Property Tax Assistance."

Attachments: [22-119 Cover Sheet.pdf](#)
[Manager Memo - Program Results.pdf](#)

Manager Tibbetts said this has been a great program for our seniors, and you can see from the memo that it has steadily increased each year. They had moved some funds forward from last year so they were able to meet the full obligation of the requests for those that qualified.

Councilor Nadeau said it has been a great program, but he also thinks they will have to put some big money in there next year, maybe \$75,000 or more in this budget line.

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

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

[22-142](#)

To set the tax rate for 2022-2023 at \$_____ per thousand dollars of assessed value.

Attachments: [22-142 Cover Sheet.pdf](#)
[CouncilMilRateMemo.pdf](#)

Councilor Jones made a motion to set it at \$11.18, dies for lack of a second.

Councilor Ohmott made a motion to set it at \$11.20, seconded by Councilor Nadeau. Councilor Jones said he cannot support that increase. Councilor Maxfield agreed, and said he could do \$11.19. Councilor Nadeau said the only reason he agrees with \$11.20 is at \$11.18 the overlay is only \$93,000, with \$11.19 the overlay is \$128,000, and at \$11.20 the overlay is \$163,000. If we have a lot abatements, \$95,000 will not leave us much room whatsoever.

Manager Tibbetts said the overlay has traditionally been used to offset rounding and for abatements that may or may not occur. The Assessor, after sending out those letters has had extensive meetings with many residents and with being able to reconcile those values based on what the market was doing and clarified them. They are not anticipating a lot of abatements, and traditionally, when they have had the abatements they have been in the \$40,000 to \$50,000 range. So, the \$11.18 rate is not an unrealistic number for us.

Councilor Morrison said he would be against the \$11.19 but he would be in favor of reintroducing the \$11.18, per the Town Manager's input.

Vote on \$11.20:

In Favor: Councilors Nadeau, Ohmott,

Opposed: Councilors Reiner, Morrison, Maxfield, Jones

Fails

Councilor Morrison moves for \$11.18, seconded by Councilor Jones.

A motion was made by Vice Chair Morrison, seconded by Councilor Jones, to set the tax rate for 2022-2023 at \$11.18 per thousand dollars of assessed value. The motion carried by the following vote:

In Favor: 5 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones and Councilor Reiner

Opposed: 1 - Councilor Ohmott

Absent: 1 - Councilor Kalogerakis

[22-120](#)

To set the dates on which 2022-2023 taxes will be due as October 3, 2022 and April 3, 2023.

Attachments: [22-120 Cover Sheet.pdf](#)

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

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

[22-121](#)

To set the rate of interest that will be charged on overdue taxes for 2022-2023 at four percent (4.00%).

Attachments: [22-121 Cover Sheet.pdf](#)

[Delinquent Tax Rates _ Office of the Maine State Treasurer.pdf](#)

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

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

[22-122](#)

To authorize and direct the Tax Collector/Treasurer, pursuant to Title 36 M.R.S.A. §906, to apply any tax payment received as payment against outstanding or delinquent taxes due in chronological order, beginning with the oldest unpaid obligation, including personal property, provided, however, that no such payment may be applied to any tax obligation for which an abatement application or appeal is pending, unless approved in writing by the taxpayer.

Attachments: [22-122 Cover Sheet.pdf](#)

Manager Tibbetts said this falls under our lien process. Two years ago we had 244 liens,

last year was 120 and this year it is down to 80, so we are doing great in working with our residents for them to be able to pay their taxes.

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

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

[22-123](#)

To authorize and direct the Tax Collector/Treasurer, pursuant to Title 36 M.R.S.A. §506, to accept prepaid property taxes at any time and to establish an interest rate of 0% on such payments.

Attachments: [22-123 Cover Sheet.pdf](#)

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

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

[22-137](#)

To approve the ballot for the election of vice president and executive committee of the Maine Municipal Association, and to further authorize the Town Manager to take any other necessary action related thereto to finalize the action.

Attachments: [22-137 Cover Sheet.pdf](#)

[MMA Annual Election - VP and Executive Committee](#)

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

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

[22-139](#)

To accept the public easements for Johnson Road, Percy Hawkes Road, Buckfield Drive, Sabbady Point Road, Pride Lane, Outlet Cove Road, Mineral Spring Road and Wintergreen Circle, identified by the Town as Designated Private Ways, that have met the criteria set forth by private and special law L.D. 1975, for the purpose of the Town's continued winter maintenance services on the defined public easement area.

Attachments: [22-139 Cover Sheet.pdf](#)
[Buckfield Drive Easements.pdf](#)
[Johnson Road Easements.pdf](#)
[Percy Hawkes Road Easement.pdf](#)
[Sabbady Point Rd Outlet Cove Rd Pride Ln.pdf](#)
[Mineral Spring Rd Wintergreen Cir Easement.pdf](#)

Manager Tibbetts said we still have quite a few more roads to go but we are making great progress and Tammy is doing a fabulous job of coordinating this.

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

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

[22-140](#) To appoint Erica Bell-Watkins to the Natural Resources Advisory Committee, for three-year term to expire August 15, 2025, and the Branding and Wayfinding Signage Committee.

Attachments: [22-140 Cover Sheet.pdf](#)
[Branding & Wayfinding Signage Committee.pdf](#)
[Natural Resources Advisory Committee AMENDED20210615.pdf](#)

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

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

[22-145](#) To authorize the addition of various assigned fund balance amounts to the fiscal 2022-2023 budget accounts.

Attachments: [22-145 Cover Sheet.pdf](#)
[Assigned Fund Balance FY22.pdf](#)

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

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

22-150 To approve a new Victualer's permit application submitted by 3 Reasons LLC, Derek Footman d/b/a Duck Pond Variety 2 at 463 River Road.

Attachments: [22-150 Cover Sheet.pdf](#)
[Victualer's-new Duck Pond Variety 2.pdf](#)

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

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

22-149

To refer proposed amendments to the Land Use Ordinance, Chapter 120 of the Code of the Town of Windham, related to public buildings to the Planning Board for review and recommendation.

Attachments: [22-149 Cover Sheet.pdf](#)
[Public Building amendment Aug 2022.pdf](#)

Amanda Lessard Planning Director said the need for this amendment arose in the town's work to pursue our sewer system in North Windham. They are finding that there is a challenge in the compliance with the Land Use Ordinance to site both the disposal fields and the treatment plant given setback and buffer requirements in the district that those properties are located. (See attachment)

Councilor Reiner said what is proposed tonight is common in many other municipalities, and was on the record at one time and left and now we are putting it back. Amanda said this similar language existed in the language in the 1980s.

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

In Favor: 6 - Councilor Nadeau, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Absent: 1 - Councilor Kalogerakis

X. Council Correspondence.

CD 22-105 Letter from Maine Attorney General's Office.

Attachments: [National Opioid Settlement Distributions.pdf](#)

XI. Town Manager's Report.

Manager Tibbetts said the Cumberland County Soil & Water Conservation project that we are doing has the parking lot about 60% done.

We have closed on the So. Windham Fire Station with Great Falls and have signed all the documents.

They submitted the grant for the East Windham Conservation Project for additional funds from Land and Conservation for improvements for that project. We will not know on that until December or later. We are still moving forward with that project to have the appraisal redone, the survey work done and are hoping to do a closing in November based on the approvals by the voters.

The North Windham Sewer Project is into the next phase, and they are looking at interviewing engineers and construction management companies for that project. They

will make the selection with the Portland Water District and will be back to the Council in September with a new agreement with PWD on how to keep the project moving forward.

They have also signed documentation with MDOT on the North Windham Mobility Moves Project to do the PDR. They had set aside \$600,000 in the budget last year to do that. They will share that costs with MDOT, and they had our initial conversation today with MDOT about the first steps in moving the project forward.

They have signed the agreements for the extensions from Boody's to Shaw's and from Shaw's to Franklin. They have converted those projects to the Local Project Administrator.

We received notice from the National Opiate Settlement and our share is \$2,700. This was based on statistics from 2006 to 2016.

Tax acquired parcels - there is a number of those where some relate to secondary homes, vacant land and a couple different condos. They have reached back out to them to give everyone that last chance to get a hold of the town. The plan is to have it wrapped up by the first meeting in November.

After Labor Day Boody's Corner will have the ruts fixed.

Doug Fortier will do some paving in September at Dundee, and some additional shim coats by Tractor Supply and Hall Road. this fall.

Councilor Maxfield asked what is done with the opiate money, can we put it in the Education Fee? Everyone agreed.

Manager Tibbetts said the \$20,000 fee that the State set aside for municipalities that allow licensees for marijuana; we've done the three-year look back, which is the allowable time frame, and we have spent over \$34,000 just in legal costs on marijuana, and we will submit all of that to see if we can get at least \$20,000 of that back.

XII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Ohmott said they met with three new applicants. He would recommend everyone of them to move forward on.

2. Finance Committee.

No report.

3. Ordinance Committee.

No report.

B. Other Committees.

1. Long Range Planning Committee.

Councilor Nadeau said they will meet tomorrow morning.

2. Parks & Recreation Advisory Committee

Councilor Reiner could not attend the meeting but the summer camps are wrapping up, and the bonus camps are still going on. The playground at Lowell has gone in, and the one here at town hall will have some work done. Next will be the Holiday Light Parade.

3. Windham Economic Development Corporation.

No report.

4. Highland Lake Leadership Team.

Councilor Maxfield said he ran into Dennis Brown and asked him about the bloom. Dennis said the phosphorous bloom was short-lived, not large and came and went in less than two weeks.

5. Natural Resources Advisory Committee.

Councilor Jones said there is a meeting tomorrow afternoon at 4:30.

6. Public Easement Advisory Committee.

Councilor Jones said they are done for the year.

XIII. Discussion Items.

[CD 22-102](#) Water Quality Monitoring Plan. (FB Environmental)

Attachments: [WindhamStreams_MonitoringPlan_Final.pdf](#)
[FBE_Windham_June2022_WaterQualitySampling_final.pdf](#)

[CD 22-103](#) Land Use Ordinance - Proposed Amendments from LRPC.

Attachments: [LRPC TC Presentation_08-16-2022.pdf](#)
[TC memo_LRPC Amendments_08-11-2022.pdf](#)
[WC_VR_draft_REVISED.pdf](#)
[WindhamCenter_ProposedMap_04-2021.pdf](#)
[WindhamCenter_ProposedZoningChangesMap_04-2021.pdf](#)
[Affordable Housing_REVISED.pdf](#)
[Multifamily Development standards_Aug 2022.pdf](#)
[TC packet_PB recommend_Windham Center_09-10-21.pdf](#)
[TC packet_PB recommend_AffordableHousing_09-22-21.pdf](#)
[Maine 130 - HP 1489 item 9.pdf](#)
[Zoning Standards_WC_VR_2022.pdf](#)
[Zoning District Uses Table_WC_1-5-21.pdf](#)

[CD 22-101](#) Marijuana Businesses - Medical and Retail Licenses.

Attachments: [CH 128 Marijuana Businesses.pdf](#)

[CD 22-106](#) Bonding Status.

[CD 22-107](#) Rio Drive Update.

XIV. Agendas & Scheduling.

XV. ADJOURN.

A motion was made by Vice Chair Morrison, seconded by Councilor Kalogerakis, that they be adjourned. The motion carried by the following vote at 9:55.

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Respectfully submitted,

Linda S. Morrell
Town Clerk, CCM