



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Town Council

Tuesday, April 24, 2018

7:00 PM

Council Chambers

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 18-133 To approve the minutes of the April 10, 2018 Council meeting.

Attachments: [Minutes-Town Council-4-10-2018](#)

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

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

Abstain: 1 - Vice Chair Muir

IV. Public Participation.

Tom Bartell Executive Director of the WEDC - Tom wanted to update the Council on the following three items. He said right at this moment they were hosting the first of two Windham Farmer's Market organizational meetings; one is going on right now at the Library and then a repeat of this meeting on Thursday night at 7:00 at the Library. They are looking for farmers, crafters and food product people to participate in a local farmer's market in North Windham.

Second, he said was the Commercial Kitchen in the potential South Windham Fire Station. They have a group of WEDC members who are looking at it from many angles. The architect on their board is putting together a floor plan, and today Tom met with Allied Engineering at the site to get a scope of work done for the preliminary engineering, cost estimation for utility work and mechanical work that would need to be done in order to convert it, so they can get some costs estimates and go to the Council so it can be discussed going forward. They will be utilizing the CDBG planning grant they received for looking at that building, as well as another building in South Windham.

The WEDC has been coordinating and working with four communities in the Lakes Region i.e. Gray, Raymond, Standish and Windham; they have met together as the Lakes Region Broadband Partnership, and they've come together to plan and research broadband connectivity in the region. He said that started in May of 2015, and they have

been active for three years. He will be presenting them with the findings and the proceedings and he said this came in a Connect Me authority grant for \$15,000, which was used for a technical plan for a backbone of fiber throughout the four communities, as well as a digital inclusion plan; meaning breaking down the barriers for folks to be able to use the internet in a much more productive way. Tom handed out one binder for the town and handed out the executive summary section for the Council. He said they will be scheduling workshops between the four towns.

V. Councilors' Comments.

No Councilor's Comments.

VI. Council Correspondence.

Tony reminded people that there is an Electronic's Recycling Day on May 12 from 9 to 2 at the Windham Mall.

Councilor Chapman said she received a packet from Jeanne Rhein at 184 Chute Road, and she has some questions in regard to waterways. She is involved in the Majestic Woods phase 3 cluster subdivision, and she is concerned because it sits on Colley Wright Brook.

She also noted that she has received numerous emails from folks around Forest Lake and she forwarded as many as she could and thought that other Councilors may have received an email from someone else from Highland Lake in regard to a code concern. She believed there was going to be a meeting between the Manager and Code Director to take care of that.

[CD 18-140](#) Electronic Recycling Event - May 12, 2018

Attachments: [WHUCC sponsored Electronic Recycling Event](#)

[CD 18-120](#) Town Clerk's Monthly Report - March 2018.

Attachments: [Town Clerk's Report-March 2018](#)

[CD 18-129](#) Code Enforcement Monthly Report - March 2018

Attachments: [Code Enforcement Monthly Report - March 2018](#)

[CD 18-130](#)

Assessing & GIS Department March 2018

Attachments: [Assessing & GIS Department March 2018](#)

[CD 18-131](#) Fire-Rescue Department Monthly Report - March 2018

Attachments: [March 2018 Monthly Report](#)

[CD 18-134](#) Investments - February 28, 2018

Attachments: [Investments](#)

CD 18-135 Parks and Recreation Department Monthly Report - March 2018

Attachments: [Parks & Recreation Monthly Report - March 2018](#)
[March April 18](#)

CD 18-136 Social Services Monthly Report - March 2018

Attachments: [Social Services Monthly Report - March 2018](#)

CD 18-137

Windham Police Department Monthly Report- March 2018

Attachments: [Police Dept Monthly Report - March 2018](#)

CD 18-138 Public Works Monthly Report - March 2018

Attachments: [Monthly Report - March 2018](#)
[March 2018 Storm Reports](#)

VII. Town Manager's Report.CD 18-143 Town Manager's Report.

Attachments: [Town Manager's Report 20180420](#)
[Projects & Issues List 20180420](#)
[Projects & Issues Sheets 20180420](#)

Tony Plante said on page 1 of his written report it lists a budget meeting on Thursday, May 17, and there is no budget meeting that day. They are working on following up from last Thursday's meeting and preparing for the next meeting some of the issues and questions that were raised.

He noted that they are finishing up interviews for the Finance Director this week. They received applications for our Planning Director's position and they are reviewing those now.

Tony talked about his projects and issues lists that he keeps track of for the him and the Council, and he is looking to see if they are useful to the Council? He would like to hear back from them, if they don't find it useful and there is another way he can provide information to them, he will be happy to hear it.

VIII. Committee Reports.**A. Council Subcommittees.**

1. Appointments Committee.

Councilor Maxfield said the committee met with Michael Devoid last week for the Alternate seat on the Planning Board for a 3-year term ending 2-15-2021.

2. Finance Committee.

Councilor Chapman said they are currently working on the budget.

B. Other Committees.

1. Long Range Planning Committee.

Amanda Lessard reported that they have had two meetings in April, and there is a meeting on the May 2. Ben Smith has been put under contract with the town to offer some consulting services to support the Long Range Planning Committee. They are continuing their discussion on zoning district amendments and rural and growth areas in town, and some ordinance tools for discouraging growth in the rural areas.

[CD 18-113](#) Long Range Planning Committee Meeting, March 21, 2018

Attachments: [LRPC Agenda Notes 2018-03-14](#)

2. Parks & Recreation Advisory Committee.

No report.

3. Public Easement Advisory Committee/Roads Policy Task Force.

No report.

4. Highland Lake Leadership Team

Tony Plante said two meetings are being scheduled, one for May and one for June. Attached to the agendas tonight is a copy of the draft minutes of the Highland Lake Leadership Team's Education Outreach Committee's meetings of April 5.

[CD 18-127](#) Highland Lake Leadership Team - Education and Outreach Committee Meeting Minutes

Attachments: [Highland Lake Education and Outreach Committee DRAFT minutes 4-05-2018](#)

5. Shared Maintenance Facility Joint Project Team.

Tony Plante said he attached copies of the agendas and notes of team meetings since they began last February; the most recent one was in April and they will be talking about the project later in tonight's meeting.

[CD 18-142](#) Joint Project Team Agendas and Notes.

Attachments: [JPT Agendas and Notes](#)

6. Windham Economic Development Corporation

Tom Bartell gave an update during public participation on some things.

CD 18-141 Farmers' Market Organization Meetings Announcement.

Attachments: [4-20-18 farmers market](#)

IX. PUBLIC HEARINGS.

CD 18-061 To receive public comment on a proposal to extend the expiration date of the Highland Lake watershed moratorium ordinance.

Attachments: [Cover Sheet CD 18-061](#)

[Moratorium on Highland Lake development Enacted 2070912](#)

[Moratorium on Highland Lake development to Council 20180328 without Emergency Declaration](#)

Tony Plante gave the following time-line of how they got to where they are currently. On September 12, 2017 the Town Council voted to adopt, as an emergency, a moratorium on certain development activities in the Highland Lake Watershed. That moratorium was applicable as of September 5, 2017, the 180 days from September 12 would run out March 11, 2018. On October 10, 2017 the Town Council held a public hearing and vote because the ordinance was initially enacted as an emergency by Charter in order for it to stay in effect. The Council has to hold a public hearing and vote on it again. Emergency Ordinances take effect immediately and do not require a public hearing, which is not the usual way of doing things. The emergency clause in the Charter says "if you are going to exercise that, you subsequently have to hold a public hearing and then vote on it again in order for it to stay in place more than the 60 days."

On February 27, 2018 the Town Council voted again as an emergency ordinance to extend the expiration date of that moratorium by another 180 days, which would bring it to September 7, 2018. Again, within 60 days the Council has to vote, that is tonight, and this is the public hearing and after the Council holds the public hearing and we get to it on the agenda, we will discuss it and take a vote. It is important to note that the Council really has 3 main options with regard to the Highland Lake Moratorium tonight. One is to let it expire, one is to continue it without modification, and the third is to continue it but with modification. We talked about some potential modifications at the Council meeting of April 3, which would entail a narrowing of the moratorium only to apply to new subdivision and site plan applications or any application which had not received final approval by September 5, 2017; as well as continuing to apply to the construction of new private roads. That is in recognition of the work that the town has done already and one of the findings that would be appropriate for you to make, when we get to the moratorium, is that substantial progress has been made. That is one of the requirements of continuing a moratorium, not only do you have a situation that requires immediate action and a moratorium, but that you are making diligent effort to address the issues that gave rise to the need for the moratorium in the first place.

Since September of 2017 the Town Council has engaged with the Highland Lake Association and the Town of Falmouth in bringing together the Highland Lake Leadership Team, and we just heard a brief report on that. There has been extensive work to review ordinances, to conduct public education and outreach and understanding what the issues are confronting Highland Lake and the Highland Lake Watershed. In addition, the Town Council enacted a series of amendments to the town's Surfacewater Protection ordinance. Namely, that for smaller projects, houses, decks, garages and driveways that

we would institute a point system rather than expecting every little project to be engineered; we put together a point system so that stormwater treatment measures can be incorporated into the design of these projects at the outset and result in better quality of water in the watershed. Secondly, that for any project that falls within the Highland Lake Watershed during construction, they are required to put in two layers of erosion control. These steps have already been taken and really only leaving the matters that relate to subdivision and site plan applications outstanding.

At last night's Planning Board meeting the Planning Board made a recommendation with regard to a series of amendments that are intended to specifically to address subdivisions and site plans since these are based on ordinance changes suggested by the Highland Lake Association. A phosphorus limit of .020 pounds per acre per year, that the practice of cluster subdivisions and allowing density bonuses be discontinued, and that no waiver in exchange for phosphorus be acted. Those were all part of the Planning Boards recommendations and will be coming to the Council. The earliest date I can envision would probably be the second regular meeting in May, which would be May 22. Once we have the formal recommendation from the Planning Board we can work on setting a date for a public hearing, so that is how we got to tonight and the public hearing on the extension of the Highland Lake Moratorium.

Speakers:

Dennis Brown - Pond Villa on Highland Lake: Thanks for giving us this opportunity to speak tonight. As Tony gave a pretty concise, but effective synopsis of what has taken place, the Highland Lake Association supports modifying the moratorium so that small projects can move forward. We think it is essential that it stay in place for sometime longer for subdivisions and commercial projects, and there are several reasons for that. I sent around a document for all you folks to see, and I do not know if you had a chance to look at it, the spreadsheet was really big and I only took the cover sheet, but out of 1178 combination of lakes in towns in the state that the DEP monitors the phosphorous budget for our lake is tied for number two. That is the lowest allowed level going in and it listed the water quality as poor but restorable. So it is essential that we get things right and it is for that reason that I think that the moratorium needs to continue. Some of what I am going to say is going to apply to two of the discussions that you are having tonight, the one on Forest Lake as well. There are six ponds and lakes in Windham listed on the DEP of list of lakes most at risk of new development. Unfortunately, Highland Lake may graduate to impaired over the next few months, at this point six of us and that is why it needs to be on that list.

In going through the process and looking at this, and I raised this at the last HLLT meeting at the end of it, and it is something that I think is really important that we take a look at, and I did speak at the Forest Lake discussion, briefly, on this two or three weeks ago. There are some things that we learned in our whole process that we think is working that really needs to be reviewed, and I think that the town needs to really understand some of these issues before you are ready to drop the moratorium, especially on larger projects. Some of them don't pertain to this but I am just going to run through a quick list here so you have an idea, and many of them relate to the DEP; however, the town depends on the DEP, or the town thinks that the DEP is able to do certain things and they can't right now for whatever reason, and I know they have a lot of openings that they are trying to fill. Highland Lake had been sending up information on the water quality in Highland Lake and unbeknownst to us, because we don't have a lot of money and we were looking for the most effective places to be able to get the samples done, and the University of New Hampshire has a very good lab and do a lot of good work; they have a primary laboratory for all the lakes in New Hampshire so we were using them because I

think it was economic, and it ends up they are not an accredited lab, and even though they have been tested and nailed all the samples they haven't gone through the process, and because they are not credited, the DEP can't enter the information into their data base. They have not had any way of tracking the condition of Highland Lake over the last ten or fifteen years, they kind of lost track of where we were. When they got all the information and used an excel spreadsheet, instead of their data base, that is when they found out and said it was much worse than what we thought.

One example - one of the subdivisions that was looked at in town, and a lot of effort went in from all players because there was a misinterpretation of both town and state ordinance relative to manufacturer home parks. It just got missed. I was in a meeting, and I shared this before, you weren't here Jarrod, but we were at a DEP meeting talking about the appeal we had on one of the projects with the project engineer and the DEP, etc, and the engineer that actually reviewed the project was there, and we were talking about some of the details and he shared with us, and he said "I'm the only engineer in Southern Maine that reviews subdivisions, I get 100 a year." I gauged what his age was and figured he probably gets four weeks of vacation, roughly two weeks of holidays, some sick time, he takes coffee breaks, goes to the bathroom, and so he was down to probably 10 hours to look at any one project, and I asked him if he ever goes on site and he said "no, of course not, I never go on site, all I do is spot check these to see if it looks like it is pretty good." That is what we get, and that puts the town in a real dilemma because as we went through this process and we talked with the town, the town was thinking 'well, the DEP is looking at it so we don't have to spend nearly as much time at it because they've got it; they don't got it', it's not happening, and that puts every lake in Windham, at least Southern Maine, in jeopardy of things slipping through. On that same project, because nobody had gone out and looked at it, in some preliminary studies by the environmental scientists on the project, there was a jurisdictional stream that had been identified. When the plans came through one road ran right straight down the middle of that jurisdictional stream. When some folks from Highland Lake were concerned about it and talked to the DEP and they finally went out, they said they were right and the plans had to be changed. How do those things happen?

I don't know what the process is or when the town decides that a third party review should be made, and we asked the question with the town engineer and we asked for a third party review, and at the time I think he was relatively new with the town and wanted to earn his keep and everything, and he said he didn't see the need for it. From what I know know, I strongly disagree. To look at stormwater permits and all the issues concerned with this takes a very broad knowledge. If you go a third party review with a robust definition of scope of work of what you are looking for, it includes a number of different disciplines that no one person is going to have all of it, and I think if we do that right we can really protect the watersheds we have in town. If we try and rely on one person, and we don't do a third party review on the ones that are in trouble, I think we are really missing the boat back to our strategic plan.

The other thing that was really concerning, and Tony, I think you probably have been there, and you Donna, at some of the HLLT meetings we have representatives on the waterside. At this appeal hearing a couple of weeks ago we had somebody from the land side, and both have said they don't talk to each other, so here we have a lake in trouble, and one side is deciding on the stormwater permit from a desk and spot checking the numbers and doesn't even know the condition of the waterbody that this is right adjacent to. It is not something the town is necessarily going to fix, but if you are not aware of what is going on up there and you are trusting that they are taking care of the problem, we are all missing the boat. I've mentioned to some representatives tonight from Forest Lake and I encouraged them, and I encourage the town to work with the DEP as well, to

get them to review these. The sheet that I showed you earlier, we dropped from .027 to .020, it is a 26% drop. I don't know what it might be on some of the other lakes, but it could be significant and could have an impact; when would be the next time anybody would check that. I would encourage the town to work with the different lake associations and to get the DEP to update those numbers.

One project had put in the submittal for the DEP like 2.99 acres of impervious surface. At 3.0 you have to go through a higher level of permitting, so that is 400 square feet, half the size of this room maybe, out of a thirty-eight acre development with the roads and the walkways they have in there, they are required, by code, to have certain minimum widths they have to make, and that should not be a problem, except if you go three inches wider on either walkway or the road you exceed that limit; who is watching that? It just seems to me it is a red flag if you are that close to it, what games are being played, and somebody ought to pay attention and ask some questions about that.

I won't get into this now, we will when you receive the recommendations from the Planning Committee on the fee issue that you can pay in lieu of meeting the phosphorus requirements, but I spoke to one gentleman that I have seen at a number of meetings before, and it was 2010 that he paid the fee for the project that he was going to do, and it is still sitting at Cumberland County. The project goes in and sometime in the future money might be spent to address phosphorus export to the lake in some other location. I will get into a lot more details with you when you get into that discussion.

Another thing that happened on one of these projects is that it is pretty much business as usual. We have what is called permit by rule, if the setback from the stream or wetland is supposed to be 75 feet, you submit an application saying you want to go to 25 feet, doesn't matter that it is on a lake that is trouble or wetland of special significance, a wetland that is immediately connected to a lake, which we have around Highland Lake. Almost an automatic, if you don't hear from the DEP in two weeks, you get your 25 feet, which is what happened on this entire project.

This hasn't come up before and had nothing to do with the project owner directly, but there was an old roadway that went across there out through into Falmouth, and out to what is called the "Island" on Highland Lake, it is not really an island. This road is about 2,000 feet long and goes through this wetland of special significance. They got a permit from the DEP to repair this road, it doesn't sound too bad, they went in there and they excavated a foot deep for all 1,800 feet, and brought in 800 cubic yards of gravel to replace that under a "repair" work permit. Does that make sense to do that right through wetlands associated with a lake that is in trouble? It didn't make any sense to us, and we talked to them about it and they said "it is okay, it is under repair." We sent them photos of the repair; it seems strange to me.

The same project showed their nitrate blooms off their community leach fields going right into these wetlands of special significance and other wetlands on the property. Is this review really going on, that is not part of the DEP review for stormwater, but there were places where stormwater was cascading right over the leach fields. At some point, how does all of this get through? We came with in a hairs breath of approval on that project here in town.

During the process there were some real concerns, and the Planning Board had heard about how much phosphorus was coming off the site now, and how we were going to help the lake by doing the development, and we disagreed with the positions that were there. We'd actually made arrangements and scheduled an engineer, a very respected engineer from the DEP to come in and do his own evaluation. He thought it was going to be much

less than what had been proposed. We were running up to the deadline to appeal the project, as soon as we appealed we were shut off from access to him, and one of the top issues on our appeal could have been resolved, but not until after the appeal was done could we then get him back to do the evaluation.

The other thing that we found and Tony touched on it, and this applies to Forest Lake as well, any lake that has more than one town surrounding it has different ordinances. The DEP has ones that are common, but the towns have different ones and the obvious one, and I respect the rapidity that Windham once recognized that there was no ordinance in town on the Windham side of the lake for individual houses, got that through last December, so I appreciate your reacting as soon as you saw that, but there are others out there that we're working our way through and will finally rise to the surface of getting voted on, both within the ordinance committee of the HLLT, finally the HLLT, and then it will come before this body as we try to square things away.

I think I am going to wrap up because I have taken way over the three minutes, but I think the real key here is this process is broken and I am trying to raise the issue that it is broken, and we need to pay some attention to it. I am happy to work with the town and go through some of these with you, but I think there needs to be a concerted effort, some where at the town, so when somebody comes in where does it start, who touches it, where does it go after that, what do they hand out? There are thousands of little decisions that have to be made by many people through this, and what do you expect the others to do? Are they really doing that? We need some real critical thinking here to make sure we are making the right decisions; before the moratorium goes up and getting the one in on Forest Lake, should follow this same issue. You need the process review, they've done their watershed survey, we need to do ours to find the hot spots, and I really hope that the moratorium, as presented, not on the individual houses but the others last until we at least get some immediate results from the watershed. Third is that the ordinance that has been recommended by the Highland Lake Association, that got preliminary approval or endorsement from the Planning Committee comes before this body and we can get that in place. If we can take care of those three things, then we would support removing the moratorium within the Highland Lake Watershed completely. Thank you.

Rich Murk: Madam Chairman, members of the Council you have heard me speak many times since September, I won't take much time. I just want to let you know that, I too, endorse the idea of the moratorium with modifications. I think the town has a long way to go, I think you have come a long way already, but I think having the modifications will get more support as you take the time to develop information you need to make decisions, and as you spend time educating the public on the resource issue. I just wanted to say that, and thank you for considering the modifications.

David Garfield from West Cumberland - I am hearing a lot of talk about the modifications, and they are based on proposals from the Planning Board. I'd like to recommend that the modifications not be done until after the Planning Board proposals are worked on. It just seems wrong to loosen the rules on the moratorium before you've done the fixes for the moratorium. Thank you.

Public Hearing closed.

X. CONSENT AGENDA.

18-071

To approve a liquor license application submitted by the Riding to the Top Therapeutic Riding Center for a fund-raising event to be held on October

13, 2018.

Attachments: [Riding To The Top Lic-Civic Organization](#)

[18-073](#) To find that the requirements of 28-A M.R.S.A. § 653 have been met and to approve an application submitted by Rustler's Windham, Inc. d/b/a Rustler's Steakhouse for a renewal liquor license.

Attachments: [Cover Sheet 18-073](#)

[Rustler's Steakhouse Liq Lic Renewal](#)

[18-074](#) To approve an application submitted by Haley & Mark Moon d/b/a Rustler's Steakhouse located at 754 Roosevelt Trail for a renewal special amusement permit.

Attachments: [Cover Sheet 18-074](#)

[Rustler's Steakhouse Special Amuse Renewal](#)

[18-075](#) To find that the requirements of 28-A M.R.S.A. § 653 have been met and to approve an application submitted by Franco's Bistro, Inc. d/b/a Franco's Bistro for a renewal liquor license.

Attachments: [Cover Sheet 18-075](#)

[Franco's Bistro Liq Lic Renewal](#)

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

XI. UNFINISHED BUSINESS & GENERAL ORDERS.

[18-068](#) To award a contract for construction of the shared maintenance facility to Great Falls Construction of Gorham, Maine in the amount of \$8,032,327.00, said amount to be paid from the proceeds of general obligation bonds to be issued, and to authorize the town manager to execute a contract with Great Falls Construction and to take any other necessary action related thereto.

Attachments: [Cover Sheet 18-068](#)

[180408R WSVMF Recommendation letter Final](#)

[RFP Submission Requirements](#)

[Benchmark Bid Form](#)

[Project Budget 20170907 UPDATE 20180406](#)

Councilor Muir asked if they were going to do anything as far as the bid process was concerned, and Councilor Chapman said that she doubled checked and it was looked into and they are all set.

Councilor Chapman said they have had issues with bids, and there were questions with this one, and she wanted to be clear and transparent, and she asked in a the bid process was this a hard bid or a soft bid and why wasn't the drawing stamped and put out there as that building, because it was pretty much complete and then bid out mechanical?

Tony Plante said he thought that was a good question for Bill Faucher with Allied Engineering. He told Councilor Chapman that what she was referring to has to do with the method of project delivery. He said what they are most familiar with is design, bid, build where you'd design the entire building, you put together a complete set of finished plans, spec book and you put that all out to bid. This uses a project method called design build, where as the owner and the owner's design team take the project to a certain level of completion, put out an RFP that describes teams of contractors and design professionals what it is we are looking for, and gets them to look at potential alternative ways of dealing with that, so they actually finish the plans under the guidance of the owners design team and put together a proposal that describes how they are going to achieve delivering what we've asked for and what price they will do it for.

Bill Faucher - Allied Engineering: There are three different types of bidding processes that are typically used around here. Design, bid and build where the engineers and architects create a set of documents that are sealed and are put out to bid, and the contractors give you a hard value of what that cost is to associate the construction of that design. He said that is not what they did. He said there were two others, construction management where the owner hires an engineering and an architectural team, they also, at the same time, interview and hire a contractor, and collectively, these folks put together a plan set that is sealed by the team and you get a hard number early, and everybody works towards getting that value so you have a guaranteed maximum price of what that contract is going to be, that is the second type. The third type, which they chose, was to come up with a base schematic design that met the needs of the project. They interviewed the folks who would be involved in the project, they interviewed the users, the team, and what they wanted to get out of it. What they ended up developing was a package that is called a Performance Package. In that package it gives the minimums of what they are looking for.

They solicited design build teams, which were led by the contractor and the contractor teams with an architect, an engineer, mechanical and structural on their team, and developed a package that is part of the hard bid. He said they were very specific about what was required. Their packet was supposed to be reviewed based on what that was, and we were going to evaluate each of them and based on that evaluation, make the determination whether or not to interview; they had four but lost two of them. The process was then simplified because the second bidder didn't have a qualified bid. Councilor Chapman asked if it was common to get just one bid, and he said it was in this environment because there is a lot of work out there.

Councilor Chapman asked if he interviewed the final prospect, and Bill Faucher said they did interview, but they did not do a formal interview. They reviewed the bid package that was provided, they internally looked at each of the sections and made sure they complied with what they were looking for and met the performance specifications that they provided; they solicited questions of that vendor, in this case Great Falls, and had return documentation in the process of evaluating that document.

Councilor Chapman said she was concerned with the fact that the one who they are going to award this to had a project they could not complete and it put that project behind, because there were not enough employees to build the project due to them working on

other projects. Mr. Faucher said he could not speak to that. She asked if there was something in this contract that would prevent that from happening with our project? Mr. Faucher said there is a liquidated damage clause in the contract, and to the regard of the contractor, Allied has done a lot of work with Great Falls and time lines have been met.

John Smith from Great Falls said they did not bow out of that South Portland project and finished that project on time and on budget. He said they did have a subcontractor that was not performing, and they did what they needed to do as construction managers for the project to put things back on track. He said that was not accurate information.

Councilor Chapman said she will verify the claims she had heard about the projects.

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

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

Opposed: 1 - Councilor Haskell

18-031

To find that the requirements of 28-A M.R.S.A. §605 have been met to approve an application submitted by Windham Billiards located at 824 Roosevelt Trail Suite 9/10, moving to 770 Roosevelt Trail for an on premise transfer of a liquor license by a current licensee.

Attachments: [Cover Sheet 18-031](#)

[Windham Billiards On Premise Transfer](#)

The Clerk requested that they be postponed to May 8, 2018, as they were still not ready.

A motion was made by Council Chair Chapman, seconded by Councilor Cummings, that the Order be postponed to May 8, 2018. 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

18-033

To adopt an ordinance extending a moratorium on certain development activities in the Highland Lake watershed.

Attachments: [Cover Sheet 18-033](#)

[Moratorium on Highland Lake development Enacted 2070912](#)

[Moratorium on Highland Lake development to Council 20180328 without Emergency Declaration](#)

[Moratorium on Highland Lake Development Extended 20180424](#)

Attorney Jim Katsiaficas said that in order to extend a moratorium ordinance that state law requires that the Council make a finding, and that finding has to be that the problem that gave rise to the moratorium ordinance still exists, and that the town is making reasonable efforts to address it. Attorney Katsiaficas read this draft finding that the Council could adopt: Based upon the statements of Town Manager Anthony Plante made at that April 24, 2018 meeting the Windham Town Council finds that the problem giving rise to the need for the moratorium ordinance still exists in that the town's code, zoning, land use and planning ordinances require amendments to address the effects of site plan, subdivision and private roadway development on Highland Lake's water quality and clarity, and also finds that the town is making reasonable progress in alleviating the

problem and is conducting study, review and development of recommended ordinance changes that will require at least an additional 180 days to complete and enact.

Councilor Muir moved to adopt the Finding of Fact, seconded by Councilor Welch.

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

Opposed: 1- Councilor Haskell

Councilor Welch moved to amend the moratorium to include the changes that were discussed at the Council meeting of April 3, 2018 i.e. the narrowing of the moratorium so it only applies to subdivision and site plan applications that did not receive final approval by September 5, 2017, seconded by Councilor Muir.

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

Opposed: 1- Councilor Haskell

Vote on Order 18-033 as amended.

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

Opposed: 1- Councilor Haskell

Councilor Maxfield thanked Dennis Brown for his presentation. One thing that struck him is the town also needs the Highland Lake folks because DEP is doing everything poorly. He asks them to hit up our state legislatures.

Councilor Chapman said the DEP is two years behind in their data.

Councilor Nangle said they are probably behind because of staffing cuts. There is basically a band on hiring and replacing employees at that level, and we will probably see a new administration in November.

He thinks it is a good idea that they allow the individual home builders to start building their homes and getting things going. He feels they should rescind this moratorium soon as they have the ordinance language in effect so they can start allowing those types of developments, providing they meet all the requirements.

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

Opposed: 1 - Councilor Haskell

18-048 To approve an agreement with Cumberland County for the provision of public safety communications services from July 1, 2017 through June 30, 2020.

Attachments: [Cover Sheet 18-048](#)

[CCRCC Contract 2017-2020](#)

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

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

Opposed: 1 - Vice Chair Muir

18-077 To adopt an emergency ordinance establishing a moratorium on new mineral extraction operations.

Attachments: [Cover Sheet 18-077](#)

[Mineral Extraction Moratorium Adopted 20180424](#)

Kevin Clark said this was not just another liquor license that they are dealing with, this moratorium can help improve the water quality around the lake, and stop mineral extraction that will have long lasting effects on this community that they will have to pass down to future generations.

Mike Manning wanted to thank the Council, he said they have been through a lot over the last few years and he sees a lot of change in the town as a whole, and most of it is people coming out to these meetings. People are actually paying attention now and attention is being paid because leadership cares. When leadership takes action, whether it is for or against in what you believe in, it empowers people that their vote counts.

Councilor Cummings said she appreciates everyone coming out to show their support, and reminds people that if they see something, they need to say something to someone.

Councilor Nangle said he supports this and he has since day one. He also thinks they need to decide how they are going to review these ordinances and maybe involve some members of the public as well.

Councilor Maxfield said he would be voting for this, and he hopes they use the next six months to fix the holes in these ordinances. In regard to Highland Lake, they are trying to find a way for everyone to coexist and do everything together. The more he looks at some of the neighborhoods in town and the proposed types of projects, he doesn't see an ordinance or compromise, he thinks that there are some things that do not belong in some of these neighborhoods and he thinks the ordinances they come up with need to reflect that.

Councilor Muir said they need to look at the ordinances, they have been on the books for a long time, and things have changed in town. He hopes they can get it done in this first period of time. He appreciated everyone coming out and sticking with them.

Councilor Chapman said when they first discussed this they thought it would be just in the impaired watersheds only, but this is actually going to be town wide with no mineral extraction, and they will probably be taking some heat. The town is growing, things have changed, and she asks that they are given a chance to look at it and understand where they want this. Anyone wanting to be on these committees should let them know.

Councilor Nangle wanted to confirm that this does not affect the sixteen existing gravel

pits in town, as they are currently permitted, this only affects new mineral extraction.

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

Opposed: 1 - Councilor Haskell

XII. Discussion Items.

XIII. Agendas & Scheduling.

[CD 18-145](#) Agenda Items Reports.

[Attachments:](#) [Agenda Items Scheduled 20180420](#)
[Agenda Items to be Scheduled 20180420](#)
[Projects & Issues List 20180420](#)
[Projects & Issues Sheets 20180420](#)

Discussion about setting up a training for the Planning Board, and to invite the other boards to meet with Kristin Collins.

To meet with state highway employees to get some updates on Route 302 going into Raymond, the bad corner on River Road, and the work done on River Road and work to be done on River Road.

To discuss a letter Councilor Chapman received.

XIV. ADJOURN.

A motion was made by Councilor Nangle, seconded by Councilor Welch, that they be adjourned. The motion carried by the following vote at 8:43 p.m.:

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

Abstain: 1 - Councilor Haskell

Respectfully submitted,

Linda S. Morrell
Town Clerk, CCM