



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Town Council

Tuesday, October 27, 2020

6:30 PM

Virtual Meeting via Zoom

To Join the meeting remotely use this link: <https://us02web.zoom.us/j/82469760303> or
you may call 1-646-558-8656 and enter meeting ID: 824 6976 0303.

I. Roll Call of Members.

Present: 6 - David Nadeau, Tim Nangle, Clayton Haskell, Nicholas Kalogerakis, Jarrod Maxfield
and Brett Jones

Absent: 1 - David Douglass

II. Pledge of Allegiance.

Council Chair Maxfield led the Pledge of Allegiance.

III. Minutes to be Approved:

CD 20-183 To approve the Minutes of the October 6, 2020 Council meeting.

Attachments: Minutes-Town Council-10-6-2020

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

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis,
Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

CD 20-186 To approve the Minutes of the October 13, 2020 Council meeting.

Attachments: Minutes-Town Council-10-13-2020

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

In Favor: 5 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis and
Councilor Jones

Excused: 1 - Council Chair Maxfield

Absent: 1 - Councilor Douglass

IV. Public Participation.

*Jim Pross is the Attorney representing Windham RSL who is the applicant whose license
for Adult Use Retail Marijuana was subject of the October 6, 2020 meeting where the*

Council voted to reconsider the vote issuing a point to it for its leasing arrangements with regard to the application process.

When the Council met on October 6 to reconsider its award of a point to my client, frankly it didn't have all the facts, and that is because they did not receive a copy of Jar Co.'s application for a license until October 13. He said the Council was relying on the Manager's October 1 memo to it that there were no deficiencies in Jar Co.'s leasing arrangements.

Mr. Pross said now having the opportunity to review those leasing arrangements in the application there were some deficiencies. There are two key ones which have been outlined in the correspondence appended to the Council agenda today. 1) no lease or subleasing in Jar Co.'s name submitted with the application, only a consent for a future sublease of the premises where Jar Co. intends to use its license. 2) even if that consent can be construed to be a sublease, as the Manager seems to suggest in his October 22nd memo to Mr. Pross, the applicant, Jar Co., can't establish a right title or interest in the property because there is a title restriction contained in the condo declarations, which the deed for the premises at 11 Storm Drive is subject to.

The condo declaration prohibits the use of the property for any immoral or illegal use. This was not something that was brought to anybody's attention prior till his October 15 letter to the Manager, where it is pointed out and the condo declaration and the deeds are attached. It makes it very clear the owner of the property doesn't have the right title or interest sufficient so that it could be leased for its proposed use as a Retail Marijuana location.

Mr. Pross said the Manager's memo of October 22nd tries to explain this away by saying that while they do have permission from the condo association to make that use of the property, despite the declaration, this Council would not allow RSL to submit any additional documentation with regard to its leasing arrangement, despite the fact that information was in possession of the Manager. It was determined that it would be unfair to allow additional information to come in. He said now we have a situation where, potentially, a double standard is being applied, where information about the restrictions to the title interest for the property at 11 Storm Drive have now been made clear and brought to the Council's attention, but the Manager seems content to take it on the word of Jar Co. that it has permission.

Mr. Pross said there are three potential solutions to this problem that he is asking the Council to consider this evening on behalf of his client RSL. 1) The Council can suspend the rules and vote to reconsider the vote that it took on October 6 to take away his clients point for its leasing arrangement, 2) The Council can vote to reconsider the point that it gave to Jar Co. for its leasing arrangement by applying and holding it to the same standards that held his client to on October 6, and 3) The Council can consider awarding an additional license.

There was a dead heat between number 2 and number 3 prior to the Council's vote to reconsider, where RSL and Jar Co. were separated by a mere 34 hundredths of a point. It seems like such a small margin for these two applicants, and they have demonstrated that they can be responsible business owners in the community.

He said their only legal option is to pursue, in state court, an appeal under the ordinance but they would much prefer to appeal to the Council's good judgment and sense of fairness and ask that they apply and hold Jar Co. to the same standards that his client was held to or alternatively, reconsider the vote from October 6, and as a final option,

consider moving forward by awarding a third license where you have a virtual dead heat between second and third place.

Linda Morrell, Town Clerk said the absentee ballot processing started today in the Council Chambers. There are 8 election clerks that consist of 4 democrats and 4 republicans. They worked from 9 to 3 and will do so the rest of the week. As of today we have had 8,030 request, and of that number we have had returned 6,648 ballots. We still have 1,382 ballots out that we need to get back by 8 pm on election day. We have the electronic signs out along the road asking people to bring their ballots back.

We have also started holding absentee voting in the Town Hall gym this week from 9 am to 3 pm to alleviate all the traffic inside town hall. That has been going really well and the voters seem to like going in there. There is a republican and a democrat election clerk and one of us from the Clerk's office is in there with them at all times. People can also drop their ballots off in the gym or drop it in the new drop box out front. The Clerk's Office will also be open late this Wednesday & Thursday until 6, pending tonight's agenda vote, and until 7 pm on Friday.

V. Councilors' Comments.

Councilor Kalogerakis said he was not in favor of reconsidering any vote, but he is in favor of revisiting this in 3 to 6 months down the road, once they see how things have been operating.

Councilor Maxfield said he agrees with that. He said it is a tough thing for the Council to pick and choose and they go by the best information they have. You do not know what the future will hold and what they can do. He thinks the time to reconsider passed at the last meeting, and it was not brought up.

VI. PUBLIC HEARINGS.

20-153 To receive public comment and act on proposed amendments to Town of Windham Vehicles and Traffic Ordinance, Chapter 227.

Attachments: 20-153 Cover Sheet

Vehicles and Traffic - Chapter 227 PROPOSED Amendments

Vehicles and Traffic - Chapter 227 CLEAN

Chief Schofield said he wanted to bring to the Council's attention the schedule of bridge postings in the ordinance. Since the last meeting he has had some conversations with the Public Works Director, and they went out and checked on some thing's. He said a lot of those old bridges are now replaced with a concrete angled culvert, so those are no longer bridges on Montgomery Road, Brand Road and Swett Road. What is not on there is the bridge that is posted on William Knight Road. He would like to make those modifications to the ordinance tonight, if possible.

Councilor Nadeau moved to amend the ordinance as described by Chief Schofield, second by Councilor Kalogerakis.

Councilor Haskell asked the question - by changing that, how does that affect the ordinance? Chief Schofield said as Doug Fortier described to him, those former bridges that were mentioned in the ordinance have since been replaced with a concrete angled culverts, so they are not even considered bridges anymore, and the weight limit and those restrictions would not apply. They would add the William Knight Road bridge that

is posted at 3 Tons.

Vote on amendment 6-0

Vote on Order as amended 6-0

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

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

VII. CONSENT AGENDA.

VIII. UNFINISHED BUSINESS & GENERAL ORDERS.

20-230 To approve one (1) application submitted by Aaron Milberger d/b/a Cheese the Day for a new Mobile Food Service license.

Attachments: 20-230 Cover Sheet

New Mobile Food-Cheese the Day

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

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

20-233 To approve a new Victualer's permit application submitted by Aaron Milberger d/b/a/ Cheese the Day, located at 91 Tandberg Trail.

Attachments: 20-233 Cover Sheet

New Victualer's permit-Cheese the Day

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

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

20-234 To set the date and time for additional extended hours of the Registrar of Voters as 4:00 to 6:00 p.m. on October 28, 2020 and October 29, 2020.

Attachments: 20-234 Cover Sheet

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

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

20-235 To grant a blanket letter of approval to the Lake Region Eagles #4352 for its application for licenses to conduct Games of Chance at the Lake region Eagles #4352 for the period of January 1, 2021 through December 31, 2021.

Attachments: 20-235 Cover Sheet

Lake Region Eagles-Blanket Letter-Games of Chance

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

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

20-236 To authorize the sale of our 2001 E-One Tower Quint (Tower 3) for \$20,000, such proceeds to be applied towards the purchase of a 2000 Ferrara Quint from the Town of Cumberland for approximately \$42,000.

Attachments: 20-236 Cover Sheet

Memo to Council - Fire Truck Replacement

Chief Libby Tower 3 Memo 10-1-2020

Councilor Nangle asked if they are authorizing the purchase of the other truck with this Order, and the Manager said yes, they are authorizing the sale of the 2001 E-One Tower Quint for \$20,000 and at the same time moving to apply those proceeds towards the purchase of a Ferrara Quint from the Town of Cumberland for approximately \$42,000. The Town of Cumberland authorized the sale of that vehicle at their meeting last night.

Councilor Nadeau asked where the remainder of the money will come from, and the Manager stated that he called the Manager in Gorham, who we share the truck with, and they will take \$11,000 from their maintenance budget, and we will take the same from our maintenance budget and along with the \$20,000 from the sale of our truck, it will give us enough to pay for the truck from Cumberland.

Councilor Haskell asked if they had any maintenance on the truck from Cumberland, and Brent Libby said the Cumberland truck is in excellent shape, but there is a small amount of corrosion on the aluminum on the body. Our mechanic put it on the lift and it looks exceptionally well, and he thinks it will be a good truck for the next 5-6 years.

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

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

IX. Council Correspondence.

CD 20-189 Adult-Use Retail License Application CannaRx Attorney Inquiry and Response.

Attachments: Skelton Taintor and Abbott Attny J Pross

Response to Attny J Pross

X. Town Manager's Report.

No report.

XI. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Kalogerakis said they met and they have several people from the Smith's Cemetery who will be on the next agenda, along with one person for the Board of Assessment Review.

2. Finance Committee.

No report.

B. Other Committees.

1. Long Range Planning Committee.

Councilor Nadeau said they met last Wednesday, and looked at the growth area around Town Hall.

2. Parks & Recreation Advisory Committee.

No report.

3. Windham Economic Development Corporation

Councilor Maxfield said they just had their annual meeting at Smitty's. There were a lot of committees who gave a lot of good ideas moving forward. They had a presentation from a company who has been helping them compile information about Windham and where the people are coming from who are moving into Windham.

He said one of the highlights of the WEDC's annual meeting was infrastructure, infrastructure, infrastructure. They have to get things up in North Windham.

4. Highland Lake Leadership Team.

No report.

5. Natural Resources Advisory Committee.

No report.

6. Public Easement Advisory Committee.

Councilor Nadeau said they have sent several letters out, and they have heard back from a couple of them.

7. Public Dirt Road Sub-Committee.

Councilor Maxfield said they have not met.

XII. Discussion Items.

CD 20-185 Residency Restriction for Sex Offenders Ordinance.

Attachments: DRAFT Residency Restrictions for Sex Offenders
MRS 30-A 3014

CD 20-187 Police Station Renovation and Fire Station Addition

Attachments: Memo to Council - Police Renovation and Fire Station Addition
SD SET-2 COMBINED

CD 20-188 Discussion to have the Town Manager and Economic Development Director finalize the proposed details for the South Windham Fire Station redevelopment.

Attachments: Former South Windham Fire Station Redevelopment RFP
Memo to Council - Former South Windham Fire Station

XIII. Agendas & Scheduling.

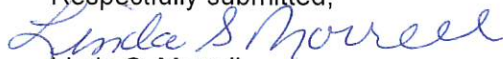
XIV. ADJOURN.

A motion was made by Councilor Jones, seconded by Vice Chair Nangle, that they be adjourned. The motion carried by the following vote at 7:45 p.m.

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

Respectfully submitted,


Linda S. Morrell
Town Clerk, CCM