



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Town Council

Tuesday, July 9, 2019

6:30 PM

Council Chambers

**** PLEASE NOTE THE NEW START TIME. ****

I. Roll Call of Members.

Councilor Nangle arrived at 6:40 and Councilor Muir arrived at 6:45.

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

II. Pledge of Allegiance.

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

III. Executive Session.

19-126 To enter into executive session under 1 M.R.S.A. §405(6)(D) for “discussion of labor contracts and proposals and meetings between a public agency and its negotiators” on the collective bargaining agreement with Gorham and Windham Professional Firefighters Association/IAFF Local 4095 and the Windham Police Association.

Attachments: [19-126 Cover Sheet](#)

A motion was made by Councilor Chapman, second by Councilor Cummings that they go into executive session. The motion carried by the following vote.

In Favor: 5 - Councilor Chapman, Councilor Cummings, Councilor Haskell, Councilor Maxfield & Councilor Nadeau.

Absent: 2 - Councilor Muir and Councilor Nangle.

A motion was made by Councilor Chapman, second by Councilor Nadeau to return from executive session. The motion carried by the following vote.

In Favor: 5 - Councilor Chapman, Councilor Cummings, Councilor Haskell, Councilor Maxfield & Councilor Nadeau.

Absent: 2 - Councilor Muir and Councilor Nangle.

IV. Minutes to be Approved:

CD 19-170 To approve the Council minutes of the June 21, 2019 meeting.

Attachments: [Minutes-Special Town Council-June 21, 2019](#)

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

In Favor: 5 - Councilor Nadeau, Councilor Maxfield, Councilor Chapman, Council Chair Haskell and Vice Chair Cummings

Absent: 2 - Councilor Nangle and Councilor Muir

CD 19-173 To approve the Minutes of the June 25, 2019 Council meeting.

Attachments: [Minutes-Town Council-6-25-2019](#)

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

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

Absent: 1 - Councilor Muir

V. Public Participation.

No public participation.

VI. PUBLIC HEARINGS.

19-119 To receive public comment and act on proposed amendments to Town of Windham Cemetery Ordinance, Chapter 15.

Attachments: [19-119 Cover Sheet](#)

[Cemetery Ordinance - Chapter 15 MARKUP](#)

[Cemetery Ordinance - Chapter 15 CLEAN](#)

There was no public comment.

Don Gerrish spoke briefly and said they made the changes that were brought up at the workshop.

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

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

19-121 To receive public comment and act on proposed amendments to Town of Windham Land Use Ordinance, Chapter 140, Sections 400, related to Accessory Building front setback in C-1 and C-2 Zoning Districts.

Attachments: [19-121 Cover Sheet](#)

[TC packet PB recommend Accessory Bldg Setback 06-18-19](#)

Amanda Lessard Planning Director gave a quick overview.

No comment from the public.

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

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

VII. CONSENT AGENDA.

VIII. UNFINISHED BUSINESS & GENERAL ORDERS.

19-128 To approve a three year collective bargaining agreement for the period July 1, 2019 through June 30, 2021 between the Town of Windham and the Windham Police Association, and to authorize the Town Manager to sign the agreement on behalf of the Town.

Attachments: [19-128 Cover Sheet](#)

[DRAFT Police Contract 2019-2022](#)

Interim Town Manager Gerrish asked that this be postponed until the next regular meeting. There is some clarification to do in the contract and it is not quite ready.

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

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

19-129 To approve a three-year collective bargaining agreement for the period July 1, 2019 through June 30, 2021 between the Town of Windham and the Gorham and Windham Professional Firefighters Association/IAFF Local 4095, and to authorize the Town Manager to sign the agreement on behalf of the Town.

Attachments: [19-129 Cover Sheet](#)

[Gorham Windham Local 4095 Contract Proposal 2019-2021](#)

Interim Town Manager Gerrish reported that this is a three-year contract with our Firefighters and it maintains a good level of pay for our Firefighters & Paramedics. It is a good contract for the Town, and they have agreed to it.

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

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

19-131 To approve an application submitted by Kennebec Hospitality LLC d/b/a Microtel Inn & Suites located at 965 Roosevelt Trail for a renewal Special Amusement permit.

Attachments: [19-131 Cover Sheet](#)

[Microtel Inn &Suites renewal Special Amusement](#)

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

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

[19-133](#) To find that the requirements of 28-A M.R.S.A. § 653 have been met and to approve an application submitted by Kennebec Hospitality, LLC d/b/a Microtel Inn & Suites for a renewal Liquor License.

Attachments: [19-133 Cover Sheet](#)

[Microtel Inn & Suites renewal Liquor permit](#)

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

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

[19-132](#) To authorize a release of the mortgage encumbering certain real property located on the southerly side of Angler's Corner Road, said mortgage having been granted by the Windham Economic Development Corporation to the Town of Windham and recorded in the Cumberland County Registry of Deeds in Book 27503, Page 228; and to further authorize the Town Manager to execute the Release of Mortgage in substantially the same form attached hereto as Exhibit A.

Attachments: [19-132 Cover Sheet](#)

[Release of Mortgage and Exhibit A](#)

Tom Bartell Executive Director of the WEDC spoke about allowing the Council to sell the property at Angler's Road. With the release of the mortgage, they will be able to execute the sale of 6 acres of the remaining 7.5 acres. It is his intent to pay off the mortgage and interest with that sale.

Tom also spoke about the release of the Bioinfiltration Basin Easement.

Interim Town Manager Gerrish explained the history. The Council lent \$455,000 to the WEDC to buy the property and to promote it. This money is coming back to the town and can be used for other projects the town may have. This has been a successful project.

There was Councilor comment from Councilor's Maxfield, Nadeau and Chapman.

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

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

[19-134](#) To authorize a release of the Bioinfiltration Basin Easement encumbering certain real property located on the southerly side of Angler's Corner Road, said easement having been granted by the Windham Economic Development Corporation to the Town of Windham as set forth in an

“Easement Agreement” recorded in the Cumberland County Registry of Deeds in Book 32853, Page 231; and to further authorize the Town Manager to accept the release of easement in substantially the same form attached hereto as Exhibit A.

Attachments: [19-134 Cover Sheet](#)

[Release of Bioinfiltration Easement](#)

Amanda Lessard Planning Director gave an update about the water details.

A motion was made by Councilor Nadeau and second by Councilor Chapman to waive the reading and that the Order be approved. The motion carried by the following vote.

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

19-135 To approve an agreement with ReVision Energy for the installation of a solar energy generation project and to authorize the town manager to take any other necessary action related thereto to finalize the agreement.

Attachments: [19-135 Cover Sheet](#)

[Revision Energy Agreement](#)

Interim Town Manager Gerrish spoke about the Solar energy project at our landfill. He said it was a great project.

Councilor Chapman is excited and hopes it will all work out.

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

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

19-136 To authorize the Town Manager to advertise and begin the disposition process for identified tax acquired properties.

Attachments: [19-136 Cover Sheet](#)

[Memo to Council - Tax Acquired Property](#)

[Map of Tax Acquired Properties](#)

[Tax Acquired Property Policy](#)

[Tax Acquired Property Sale List](#)

Public Comment: Elaine Pollock from Windham expressed her concerns on the sealed bid process for the town selling tax acquired properties.

Interim Town Manager Gerrish explained the policy is very clear and has to be a sealed bid. The Council can also accept or reject any of the bids.

Councilor Nangle asked about a reserve. Councilor Maxfield stated he agrees with Mrs. Pollock and will take as much as we can get for properties for the town. Councilor Nadeau asked about appraising properties. Councilor Nangle suggested our Assessor for appraisals. Councilor Chapman is okay with this because we can accept or reject any

of the bids. Councilor Nangle asked about the sale price and taxes due. It is all included, all one price. The Council approves the bids, and it is a public opening of the bids.

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

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

19-127 To authorize the town manager to negotiate and sign a purchase and sale agreement for a 14-acre parcel for a proposed waste water management site and take any other necessary action related thereto to finalize the agreement.

Attachments: [19-127 Cover Sheet](#)

[Town Manager wastewater memo July 1](#)

[Manchester_Aerial](#)

[Manchester-PARCEL C LOT 1 11X17-170228](#)

Tom Bartell Director of the WEDC gave an update on the purchase of land for a proposed wastewater management site. Portland Water District and DEP are both involved in this process. This is a 14-acre site.

Councilor Muir is concerned we only need 5 - 6 acres and was wondering if we could buy less land?

Councilor Nadeau has always supported this piece of land. We are looking at a 100,000 gallon system, 2 acres to be used, expandable to 5 - 6 acres. The Portland Water District would run this.

Councilor Maxfield is all for this but feels that same way Councilor Muir does. He wants to make sure the town gets enough land to use now and in the future.

Councilor Nangle stressed we are only discussing the \$5000.00 to get this locked in so we can start to study it. We can take the next step when we get there.

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

In Favor: 5 - Councilor Nadeau, Councilor Nangle, Councilor Maxfield, Councilor Chapman and Vice Chair Cummings

Opposed: 2 - Councilor Muir and Council Chair Haskell

19-137 To approve an application submitted by Central Maine Power Company to locate one (1) utility pole and cables and wires there on Chute Road, approximately 2,800 feet southwest from Montgomery Road at the starting point of Montgomery Road and Chute Road.

Attachments: [19-137 Cover Sheet](#)

[CMP-Pole Location-Chute Rd](#)

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

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

19-138 To discuss and act on the continuation of the Retail Adult-Use and Medical Marijuana Task Force.

Attachments: [19-138 Cover Sheet](#)

Interim Town Manager Gerrish gave a brief update on the Council's workshop with the Town Attorney. The Council made some tentative decisions on the whole issue of Marijuana options in Windham. The Marijuana Task Force Committee was not disbanded, and Don said he made a decision based on the workshop. The Committee needs to know what the Council wants them to do, and we need to clarify for everyone's purpose tonight.

Public speakers:

Maggie Terry Chair of the Retail Adult-Use and Medical Marijuana Establishments Task Force expressed her concerns that the voices and the people in the cannabis industry are not being heard or considered by our town leadership. She does not believe that all the Councilors are of the same mind.

Joanne Mattiace of Windham owns multiple properties and operates nearly half of dozen businesses in Windham, one being the Legal Leaf. Ms. Mattiace is an attorney is and concerned and confused that the town uses a legal law firm that represents a cannabis company. She asked if this a conflict of interest?

Jonathan Priest of Windham and owner of a small Windham business feels like the situation we are dealing with is one of people being uncomfortable with the idea. He pointed out some facts and said we need some education, respectfully.

David Whitten owner of Sticky Bud Farms said he was discouraged and thought the Committee was disbanded. He put a lot of time into the committee and believes it should continue. Please listen to the people who live and shop in this area.

Larry Eliason of Windham encourages the Council to continue to engage with the Task Force Committee volunteers. He has been a longtime volunteer of the WEDC and what you hope for is to make your town a better place. He doesn't want Windham to miss the boat on a lot of investment, and he asked the Council be impartial, patient, listen and learn.

Joel Peppin co-chair of the Medical Marijuana Committee and Medical Care Giver store front owner. He had the understanding that there were some personal biases that he perceived from the Council against marijuana in general, and with education and facts there is a lot of progress that can be made.

Council Comments:

Councilor Chapman said the Committee was not disbanded, and will get back on track and they will decide. She is not totally against this, and said she tries to listen to both sides.

Councilor Maxfield thinks the Committee should continue. We chose to have a Committee, and we chose the professionals to be on the Committee. He is concerned

and does not understand how you think the Committee could be disbanded without a vote from the Council. The people of Windham and the people of Maine voted for this. The Council and Committee should work together, and said the Council should put this on the ballot in November; the people of Windham can decide.

Councilor Nangle expressed his concerns with complaints about the smell, crime, kids getting access, about it being a gateway drug and they don't want their names public. How does the wellness connection benefit from our ordinances? Our ordinances would apply to any and every business in Windham. We don't have a lot of information on how recreational retail works out, and we have opted into everything else. We did not disband the Committee.

Vice Chair Cummings echoed a few things other Councilors said. The Council did not vote to disband the Committee. She delivered the letter requesting the Committee be formed. She respects the fact the vote happened, and the voters passed it. She wants people to understand that the Council represents the other half as well, and they are trying to balance what the majority passed with the rights and concerns of those who are against it.

Councilor Muir said the referendum idea might not be a bad idea, and there are people who do not agree with the vote, it was very close, and we get calls from those people.

Councilor Nadeau agreed that the Council worked on the check-list. He presented the check list six or seven months ago to the Town Manager and the Committee. At that time he tried to bring it forward and it was brought forward a lot later. The Committee only has one goal and it was to opt in. The only thing the Council is opting out of is a Retail Store. He is fine with the Council finally doing what they should be doing and not misguiding the Committee.

Council Chair Haskell agrees with about everything said. We did not vote to disband the Committee, and we did not opt into the retail side of this. We are looking at it with a plan we put together the other night, and he thinks the Committee should keep going. He was not happy with all the emails that were circulating saying different things, and it changed his mind immensely on everything.

Interim Town Manager Gerrish said if the Council is not disbanding the Committee, it will continue. They met today with staff and they spoke with the attorney. They are going to be drafting, and are going to use other communities, so we do not have to reinvent the wheel. They hope to have something within the month of a recommendation to send to the Committee. By taking no action, the Committee stays, and we will move forward.

IX. Discussion Items.

X. Council Correspondence.

No Council Correspondence.

[CD 19-175](#) Windham Public Library Newsletter.

Attachments: [Check It Out July 19](#)

[CD 19-178](#) Town Clerk's Report for June 2019.

Attachments: [Town Clerks monthly report for June 2019](#)

XI. Town Manager's Report.

Interim Manager Gerrish said the candidate the Council made an offer to for the new Town Manager has declined our offer.

There has been an issue with Dundee Park. We have lost some lifeguards, they went to higher paying jobs. The State is paying a lot more money than we are. We are going to have to reduce our time that we are open. The new hours are going to be from 10 to 6, and there may be times where there are no lifeguards.

XII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

No report.

2. Finance Committee.

No report.

B. Other Committees.

1. Long Range Planning Committee.

Councilor Haskell said there is a meeting tomorrow night at the High School at 6:30.

2. Parks & Recreation Advisory Committee.

Councilor Cummings said she missed the meeting and to please check Facebook or the Parks & Rec website for details. The concert series at Dundee Park starts tomorrow July 10th from 6:30 to 8:00, and it is free admission after 5:00.

3. Windham Economic Development Corporation.

4. Highland Lake Leadership Team.

No report.

5. Private Roads ad hoc Committee.

Councilor Nangle said they are waiting on Planning to come back with some of the clarification they heard last week.

6. Natural Resources Advisory Committee.

Councilor Chapman said she and Gretchen did some water quality testing, and it was quite interesting.

7. Retail Adult-Use & Medical Marijuana Task Force.

XIII. Councilors' Comments.

Councilors expressed their concerns on recycling problems and problems with the Silver Bullets. Some of the public are not following the rules.

XIV. Agendas & Scheduling.

[CD 19-176](#) Future Items Report.

Attachments: [Future Items](#)

XV. ADJOURN.

A motion was made by Councilor Maxfield, seconded by Councilor Nangle, that they be adjourned. The motion carried by the following vote:

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

Respectfully submitted,

Judith H. Vance
Deputy Clerk, CCM