



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Draft

### Town Council

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Tuesday, August 20, 2024

6:00 PM

Council Chambers

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#### I. Roll Call of Members.

Councilor Maxfield arrived at 7:45 p.m.

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

#### II. Pledge of Allegiance.

Council Chair Morrison led the Pledge of Allegiance.

#### III. Minutes to be Approved:

CD 24-151 To approve the Minutes of the July 9, 2024, Executive Session Council Meeting.

Attachments: [Minutes-Council Ex.Session-6-9-2024.pdf](#)

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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

Absent: 1 - Councilor Maxfield

CD 24-153 To approve the Minutes of the July 9, 2024, Council Meeting.

Attachments: [Minutes-Council--7-9-2024.pdf](#)

*Councilor Reiner noted that he had notified the Clerk that in Order 24-074 under his statement that the word "not" in the last sentence was not said by him, and Linda said she would remove the word, which she did.*

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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

Absent: 1 - Councilor Maxfield

#### IV. Adjustments to the Agenda.

#### V. Staff Announcements.

## VI. Public Participation.

*No public participation.*

## VII. Councilors' Comments.

## VIII. PUBLIC HEARINGS.

24-084 To receive comment on proposed amendments to the town's charter pursuant to 30-A M.R.S.A. §2104(1) and summarized below pursuant to 30-A M.R.S.A. §2104(6) and order that language specific to the amendments be placed on the municipal ballot coincident with the State and Federal elections on Tuesday, November 5, 2024 for the purpose of voting on the charter amendments as summarized below:

To amend Article II, Section 3.B to give the Town Council the authority to appoint and remove the Town Clerk on a vote of five members; Article II, Section 12 to remove the requirement that the Town Clerk be a resident of Windham; and Article VII, Sections 1 and 2 to remove the Town Clerk from provisions related to elected officials. These amendments will result in the Town Clerk being an appointed rather than an elected official.

Attachments: [24-084 Cover Sheet.pdf](#)

[Charter Question-Town Clerk amendment \(complete text\).pdf](#)

[Charter Question-Town Clerk amendment \(summary of text\).pdf](#)

[Memo Town Clerk Position.pdf](#)

[Legal Differences Chart re Windham Town Clerk.pdf](#)

[Town Clerk Elected vs Appointed Area Communities Survey.pdf](#)

[Town Clerk's Comments Appt-Elec 2024.pdf](#)

[Town Clerk DRAFT Job Description.pdf](#)

[Organizational Chart 2024 amendment for TC appointed.pdf](#)

[Email\\_Woodbury.pdf](#)

[Email\\_Cummings.pdf](#)

[Email\\_Meehan.pdf](#)

*Council Chair Morrison said there were 6 of the 7 Councilors here tonight, and it had been recommended that they, potentially, postpone the Clerk discussion until Councilor Maxfield arrives so there will be 7 Councilors present. He said he was comfortable moving forward without him here, unless anyone objects. Councilor Kalogerakis said he objected because they had been in the situation where Councilors have not been present in the past and this is not the practice that they have had. If someone is not here, they always vote. Councilor Jones said he thinks there is a difference with someone not being here and not being here for an hour. Councilor Nadeau agreed with Councilor Jones. Councilor Reiner asked to take a poll of the audience to see how many were here to speak to this matter? After a show of hands there were approximately 10 or so people to speak. Councilor Morrison felt where they had close to a dozen folks for this as item*

*number 1 on the agenda, and as much as he'd like to have 7 Councilors present, he thinks they can move forward.*

*Manager Tibbetts summarized what is on the website about this discussion. There is a memo from Linda and the Manager based on their experience in looking at this position and the importance of how this position takes care of a number of technical important aspects for the community, and to make sure there is a continuity of services in the future. Linda has indicated she is going to retire in the near future, and based on that it made sense to have experience to be able to be in this position going forward.*

*The second item in the packet is a chart that the attorney looked over that has three different approaches to the Town Clerk position. One of these three is used in all the counties within the State of Maine, one is it is an elected position, appointed by the Council, or is appointed by the Town Manager. They have related back to the segments in the Charter and State Law and each one of those characteristics of those job responsibilities is how they relate to each one of those assignments. It really covers everything from the qualifications of the job, to being bonded, how the office works and who appoints who, etc.*

*Another document shows all the communities that are larger than 7,000 in population all the way up to the largest, Portland. It shows whether they are elected or appointed, and whether those appointments are from residents from within those communities or not within those communities. Of the 30 larger communities, 27 of them have made the switch from an elected position to an appointed position, and it was done either from a charter change or a charter amendment.*

*This position entails an tremendous amount of state and federal regulations, not only our local ordinances, our local licensing criteria, understanding all the different computer programs that are used daily, all the State licensing with dogs, boats, ATV's, and sharing responsibilities for tax collection and automobile registrations. All of these things represent the diversity of that position, and we feel that having someone who is appointed verses elected, we will have better continuity for the community. Also included is a summary from Linda and why she believes we should be leaning towards the appointed position, a job description for how the appointed position would work and an organizational chart for that position. If this goes to the voters, and where it is a Charter amendment and whether it passes or fails, it would need a 30% voter turnout and with November being a Presidential election, that would not be a problem. The opportunity is here for Windham going forward in the future. The timing is good because Linda will be retiring next year and she would be finishing up her term and once she leaves then it would turn over to be an appointed position.*

*Linda Morrell said she believed for a long time that it should be an appointed position. It is a big job with a lot of responsibility. New things are always coming down the pike. There is a new dog program, a new voter registration program coming and it is never ending. Having this job appointed and being able to put it out to everyone, there are lots of Clerks who are looking to move to a better job. Those folks would have the experience you would need to jump in and get off on good footing verses possibly ending up with somebody who has no experience whatsoever would not be good.*

*Councilor Morrison said to clarify on what is being proposed is that the Clerk will be to the subject of the Town Council, which they will be the over site by the electorate as a whole, and he asked the Manager to clarify.*

*Manager Tibbetts said if the position is appointed, the appointed position would follow all*

*the personnel policy rules and guidelines. The Council would interview and designate who will be appointed, and as issues come up there will be two issues on how you can do this. You can work directly with the person, as you do with the Assessor, or you could ask the Manager to help assist in providing guidance on how you review those. The responsibility falls to the Council.*

*Public Comment:*

*Bill Holmes of Sandbar Road said he is not here in either support or opposition for the position. A year ago there was a question on whether or not there were other positions in the state that required qualifications in order to run for the position. The public asked if it were kept as an elected position could we not insert some sort of qualifications? He sent a memo to the Council that said it is a process in the state that elected positions do carry qualifications. The office of Sheriff, which he has run for previously, does specify that you need a written certification from the Maine Criminal Justice Academy that the person has been a certified law enforcement officer. Also, the Office of District Attorney must be an attorney and in good standing with the Maine State Bar. So, he thinks it can be done.*

*Manager Tibbetts said he did ask the attorney that specific question and he stated that positions that are at the county level, qualifications can be placed in law, but at the local level you do not have the ability to do that. He said he could get it in writing.*

*Justin Whynot was opposed to the change in the Charter to move from the election of the Clerk to an appointment. He feels the people should have the say in part of the governing body on who holds control over the electoral process. It is very important to have the people have their voice in that, not just the Council. The Council is great at this moment, with many great members, but you never know what the future holds. When you put it to the whole body of the town, it ensures that people will be constantly make the better judgment.*

*Clayton Haskell is opposed to the whole amendment and it has been a round-a-bout way of getting here. He thinks it is up to the citizens of the town to figure out a vote or non-vote for the Clerk. It is a substantial system, and it seems that it is more important to have the town's people involved in this. There has been a lot going on in the town that the citizens have not had any input. It has only been between the Council and Manager, which is wrong. On this particular issue, he thinks it is up to the town's people to decide if they want to do it and if they don't, that's fine. There is also the opportunity for Linda to hire somebody that is somewhat qualified to learn the operation so they could be voted in as Town Clerk. Linda had guidance with a couple of people in the office already and that is the way it should be. He hopes the Council votes against this.*

*Will Colby from Windham read a letter from Rebecca Woodbury. (See Attached)*

*Barb Maurais said she was on the original Charter Commission back in 1973. She knows that the Charter is a living document. She is here to urge the Council to recommend that the Charter Amendment be placed on the November ballot, so that the people of the Town of Windham can have their voices heard, and decide whether this is the avenue that we want to go. She is not comfortable with having the Council say "no, we are not going to put it forth to the voters." She has heard several people say that the voters need to decide. She thinks that this is a prime example of allowing that to happen. When looking at the Clerk position attachment she noticed that every town in Cumberland County with the exception of Falmouth has gone to an appointed position. Appointed means that there are qualifications, it is not that it is a free for all for the Council to*

**From:** Rebecca J. Woodbury <rjwoodbury@windhammaine.us>  
**Sent:** Tuesday, August 20, 2024 2:33 PM  
**To:** TownCouncil <TownCouncil@windhammaine.us>  
**Cc:** becky.jones808@gmail.com  
**Subject:** Please read at 8/20 meeting!

Good afternoon, this is Becky Woodbury, one of Linda's 3 Deputy Clerks. Unfortunately, I will not be able to attend tonight's meeting so I am asking that you please read this Email during public comment, addressing the town clerk's position, I have kept it short and sweet.

Thank you to the councilmen that took the time and efforts to reach out and gather their own information regarding this matter as opposed to just accepting what information is handed to them. Unfortunately, this subject has again, been brought up in such a small timeframe where it's now being rushed and voted on, where there was limited time for questions to be asked and answered. I still stand with the beliefs of having the Town Clerk an elected official and allowing the people to continue having a voice and keeping Windham less Governmentally run. If this was to pass, it would NEVER be undone.

Councilmen, you all took the same Oath of Office, as I did, when Linda deputized myself and the other deputy clerks that serve underneath her, and OUR community. I will continue to honor that oath. Will you?

And just for a reminder of said Oath, here is a copy of it.

"I solemnly swear, that I will support the constitution and will obey the laws of the United States and of the state of Maine. That I will in all respect observe the provisions of the charter and ordinances in the town of Windham and statutes of the State of Maine and faithfully discharge the duties of (official position)"

The people of our community voted for you all into office and in your position it is your duty to PROTECT our Charter and prevent any sort of THREAT that would take the people of our community's rights and voice away.

Please protect our Charter and protect our voices.

Thank you,

*Becky J. Woodbury*

Deputy Town Clerk  
Deputy Registrar of Voters  
Town of Windham  
Windhammaine.us  
207-892-1900

*decide. Please pass this forward so the voters can decide.*

*Beth Hall said she agrees with everyone who has been up to speak and wants her voice heard.*

*Public Hearing Closed at 6:31 p.m.*

*Council Participation:*

*Councilor Jones said we are not here to vote this down or not, we are here to vote on whether we want to move it to the November ballot, so the people of Windham can decide whether they want to support this or not.*

*Councilor Nadeau said in 1973 is when the Charter was created, and in 2000 the Charter was opened and again in 2010 to have the RSU 14 removed from the Charter. For a living document it has not been opened since 2010 and it is 50 years old. In the information that was provided there are 24 appointed and 4 elected Clerks. He thinks this position, as in any other position, i.e. Town Manager, etc., we always interview for them and make sure they have the qualifications. We cannot make qualifications in the Charter, but we can make qualifications if we put out to be hired. He feels this position is too important, and with the election coming up, he cannot see somebody taking care of a Presidential Election if they were not up to speed and qualified. It takes a long time to get there. He is in favor in moving it to the voters, he is not making this decision.*

*Councilor Reiner said there were several letters sent to the town on this matter tonight, and he said they were not included in this agenda documentation or located in town communications. He would like them moved out of town correspondence and to the agenda packet. There were two letters from the outside that were not included.*

*As far as the information provided by the Manager on other towns, he asked if there was a timeline or date so we know when these towns may have switched from an elected to an appointed position? Is this a more recent or prior practice that changed a substantial time ago? The Manager said they did not ask that question, it could be researched.*

*Councilor Reiner said the Manager mentioned that the Town Clerk would follow the policies, which policies, the Personnel Policy or policies where the Council would stipulate it would not just be elections, licensing, etc. but would work the front desk as well, which is not their traditional role for Town Clerk? Manager Tibbets said as an appointed position they would be a full-time employee of the town, and they would follow all rules and regulations within the Personnel Policy, which would include cross-training of services, i.e. excise tax, etc. If the position was elected, the elected position would have the option to say "no I am not going to do that and the deputies I appoint are not going to do that." So, if they are appointed we could develop a job description? He said if we go the appointed route, how would that person, for consideration, be selected and who would be doing that process? Would it go out as a job description, a job offering in the field as we do with other ones, how will the process be worked out? The Manager said we would follow the same procedures that we do for any position. We would post it, advertise it, look at our internal candidates, outside candidates and they would be collated and presented. The H.R. Department would handle it and it would be presented to you as the Board. You would go through those applications, review them and choose which ones you want to interview. If you wanted, you could have the H.R. Director, Assistant Manager or the Manager in the room to assist with questions, and they can help develop questions, but you will ask the questions, and you come down to the final candidate.*

*His final question was elected vs appointed, regardless of elected vs appointed would an appointed Town Clerk be allowed to hire their own staff? The Manager said if the Town Clerk is appointed, then they will follow the governing policies of the H.R. and the existing staff would remain within their positions but would still need to be appointed as Deputies, but if the Town Clerk were to retire after two years, the Deputies would still be able to do those functions of that job as an interim basis by the Council. If the Clerk is elected and the Clerk appoints the Deputies, so if the elected Clerk were to resign tomorrow, those Deputies would cease to do any transactions related to the Deputies duties, it would be frozen until a new Clerk could be elected, was his understanding. The answer to the other questions which was, what happens to the staff that is already in place and are Deputies if a new Clerk comes in, do they remain and can that Clerk choose other folks to do the Deputies work, and the answer is "yes they can". They appoint the Deputies and if they do not want to appoint the staff that is there, he would have to move that staff into other positions within the town. Councilor Reiner said he still feels the Town Clerk should be a resident for the first two years. Some of the larger towns have that in there as well, even if it wasn't an elected position it is a qualification that is in there. He would like to see more of the department heads, through attrition, at least through the first part of their career be residents of the town. He feels it promotes more buy-in into the town. He said they make a lot of decisions that affect the residents directly, and he would like to see that done with the department head as well and carrying that over to town clerk to be changed to a two-year minimum.*

*It also looks like we can waive it if there was no candidates that came up, so it puts some stop gaps in. He is not in favor of it being appointed by the Town Manager. He agrees, in part, with Councilor Jones and Nadeau, in essence, with this going to referendum in the fall, brings it back to the people in a roundabout way. He knew that it had been brought forward two times earlier and failed both times. He would be in agreement with moving it to referendum if the residency requirement was put in. The Manager said he thinks from the appointed position, as the Council, you can do that if it is appointed, but if elected, it is already mandated in there.*

*Councilor Henry said if Linda retires tomorrow are you saying no Town Clerk duties can be fulfilled until the next election? The Manager said they would have the Attorney come in and find a way though it. He understands that once the Town Clerk leaves her position, and she appoints the deputies, the deputies lose their authority to function. Councilor Henry said he is on the fence with his decision, and if it wasn't going to the citizens, he would vote no for sure. Going to the citizens gives him a little bit more comfort level. He said he was not sure we have a problem. He thinks we are trying to fix something that has not happened. Couldn't our deputies be a hired position? Manager Tibbets said if the elected town clerk were to leave, their duties would cease to exist, and whether we would have to have a new election within 30 or 60 days or a bridge that can be made that the attorney can identify. Councilor Henry asked how could we have an election without the Clerk and the Manager said that the Clerk does not run the election, it is run by the Warden and the Warden does the certification. The Clerk sets up the election and does all the preparation for election day.*

*Councilor Reiner said as far as residency, the way it is written, it says in Section 12 to remove the requirement that the Town Clerk be a resident of Windham. So, if this passes and it is an appointed position, it's without a residency requirement? If we pass it like that, how do we then, as a Council, dictate that it has to be a resident? Manager Tibbets said it will not be in the Charter, it could be made part of the job decision.*

*Councilor Kalogerakis said towns have been here for over a thousand years, and Linda has been the Clerk for 23 years. Whenever the Clerks came about we were fine. Barb*

*talked about the Charter, Dave told us how many times it was opened. Anytime we opened it, it was never an issue. For some reason we think the public is going to make a very poor decision, and if Bozo the Clown decides to run for Clerk, we are voting him into office, he puts more faith in the people,*

*Linda has been developing people in the department. He keeps hearing "let the people decide" and to him if you let them decide, that should be your position all the time. If you flip flop on that, it is pretty hypocritical. He said this is a non-issue to him, the seven of us are no smarter than the whole population, of having somebody get appointed with experience that is not going to be as committed as she is, and just because they have experience does not tell you who they are. When Linda retires, that department is struggling no matter who you put in there, there is a lot going on. In any position, we don't know what we are doing at first but we have staff that supports us and they are there to help us along. He has faith in the voters and when Linda leaves we will have a few issues there, and no offense to the new clerk, it is a lot to handle. His position is to stay as is.*

*Councilor Morrison said with this position there is a lot of responsibilities, a fair amount of risk in regard to how one gets hired to fill that role. We talk about the integrity of the election, which a lot of folks are concerned about, integrity of the election is overseen by the Warden and deputies are appointed people. It would be consistent to have the Clerk an appointed person with over site by the Council. He is leaning in that direction and there are lots of towns that have an appointed position with Council over site and it is working pretty well and we are no longer a small town, we are on the threshold of becoming a city. He feels comfortable, as a Council, to move this forward for the towns people to make their decision on what they think is best for them.*

**A motion was made by Councilor Nadeau, seconded by Councilor Jones. The Order failed due to a tied vote. The motion carried by the following vote:**

**In Favor:** 3 - Councilor Nadeau, Councilor Jones and Council Chair Morrison

**Opposed:** 3 - Councilor Kalogerakis, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-132** To receive public comment and act on a proposed amendment to the Solid Waste Ordinance, Chapter 192, of the Code of the Town of Windham regarding trash and recyclable collection at multi-family dwellings.

**Attachments:** [24-132 Cover Sheet.pdf](#)

[Memo Burns Trash Collection Update.pdf](#)

[Proposed Solid Waste Ordinance Amendment.pdf](#)

*No public comment.*

*Assistant Manager Burns said as it was discussed at the last meeting, we are changing the existing definition of the Solid Waste Ordinance for Commercial Solid Waste. Currently it reads more than two dwelling units, and the proposal is to change it to read more than four dwelling units, and that brings us into consistency with both our Planning Ordinance and assessing practices. Since 1999 it has read more than two dwelling units, and despite in the field practices of our contractor inadvertently collecting at locations with more than two units. Letters were sent out to those folks letting them know they will not be collecting there any longer.*

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-135** To receive public comment and act on proposed amendments to the Town of Windham Marijuana Business Ordinance, Chapter 128 of the Code of the Town of Windham, to require that an applicant has paid all tax obligations to the Town in order to obtain or maintain a license.

**Attachments:** [24-135 Cover Sheet.pdf](#)

[Proposed Marijuana Ordinance Amendment.pdf](#)

*No public comment.*

*Assistant Manager Burns said this is just ensuring that before any Marijuana Businesses are given a license that they are in good financial standing.*

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-136** To receive public comment and act on proposed amendments to the Sewers Ordinance, Chapter 181 of the Code of the Town of Windham.

**Attachments:** [24-136 Cover Sheet.pdf](#)

[Ch 181 Sewers proposed amendments PWD Draft Bat 2 \(002\).pdf](#)

*No public comment.*

*Manager Tibbetts said there are a couple more changes to be made in talking with Portland Water District and we may want to add into this, so you may want to postpone this to the September 10 meeting. He will make those changes and it can be done all at once.*

**A motion was made by Councilor Nadeau, seconded by Councilor Reiner, that the Order 24-136 be postponed to the September 10, 2024 meeting. The motion carried by the following vote:**

**In Favor:** 6 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-137** To receive public comment and act on a proposed Disbursement Warrant Ordinance, Chapter 46 of the Code of the Town of Windham.

**Attachments:** [24-137 Cover Sheet.pdf](#)

[Disbursement Warrant Ordinance DRAFT.pdf](#)

*No public comment.*

*Assistant Manager Burns said at times it has been very difficult to obtain all signatures required for the approval of the warrant. This would allow either the Chair or the Vice Chair to approve the warrant, specific to the two items described below in item B.*

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

## IX. CONSENT AGENDA.

## X. UNFINISHED BUSINESS & GENERAL ORDERS.

**24-083** To award a contract to Great Falls Builders in the amount of \$650,000, said amount to be paid from account 19100-47430 for design-build services for the construction of a new North Windham Fire Station, the renovation of the existing North Windham Fire Station for its re-use as an economic incubator, the renovation of the current Windham Middle School for its re-use as a community center, and renovations at the Town Hall, subject to budgetary allocations, and to authorize the town manager to execute a contract and to take any other necessary action related thereto.

**Attachments:** [24-083 Cover Sheet.pdf](#)

[Town Manager's Memo Design Build Services.pdf](#)

[Windham Opportunities 4 FINAL Request for Qualifications and Proposals.pdf](#)

*Manager Tibbets said they have discussed the four potential items, and they went through a process to determine a company to work with. They had an eleven member committee that reviewed all the applications and different design teams. They concluded that Great Falls Construction Co. was able to provide what the town was looking for. The end result is we are looking to have preliminary design and construction cost estimates so we would have a number to be able to go back to the voters with, which would be a firm number as opposed to an estimated number.*

*Councilor Nadeau thanked the committee, it was a great committee with a lot of interviews. He would like to see when we put an account number in here, they specify where that account is, and what account it is coming from because he has to dig out his budget manual to see what account it is coming from.*

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-091** To set the tax rate for 2024-2025 at \$11.47 per thousand dollars of

assessed value.

Attachments: [24-091 Cover Sheet.pdf](#)  
[Manager's Memo mil rate.pdf](#)  
[Comparative Mil Rates.pdf](#)  
[24\\_25 Budget Items.pdf](#)

*Manager Tibbetts said this is the result of what the mill rate would be for this coming year based on what the approved budget was from our annual Town Meeting, and what the School Budget was approved and obtaining all the financial numbers for revenues that may be coming from the state and running all of those numbers through the calculation. They kept the contingency to be very similar to where we were last year and it ends up with having the lowest mill rate possible.*

*The breakdown for the median average home is going to place about 32% of the taxes paid, which would be attributed to the town and that increase is \$129 per municipal services. The RSU Education Services increase on the median home would be around \$256.00 and County Services would be roughly \$18. So, you are looking at an increase of around \$406 on the median average home of around \$426,000.*

*The municipal budget increase ends up being 4.394%, the estimated mill rate is being projected at \$11.47, a .25¢ increase over last year. COLA increases were at 4%, paving budget is set at \$1,116,414, that was \$750,000 from monies from the budget and then they carried forward some unapplied bond monies for paving. This budget does add a new position for an Operations Manager in the Public Works Department, another to take the shared Police position for the Social Worker to full-time, and we would add four Fire Fighters and Paramedics to the next year. We had a grant for two of those this year, and we will get a grant next year. It also covers some heating improvements in this building, and money has been set aside for gravel road reconditioning.*

*In the budget they show this as the East Windham Conservation Trail, there is a universal trail being built that they received a grant for and is still shown in the budget. Also in there is the four items that were just approved in the prior article tonight, \$400,000 to expand the Smith Cemetery, adding some solar panels here on town hall, some money added in for some land acquisition at Gambo Road from Portland Water District, and all the prior bonds that had been approved. Those payments are included in this budget and the long-term debt of \$3.7 million in new bond issue. Moody's rated us at AA1 for our rating and Standard & Poor increased us to a AA+ and that helped in our ratings.*

*Councilor Nadeau asked Josh "where do we stand percent wise with residential and with commercial?"*

*Josh Houde Assessor said last summer the company who came in to update the values left the residential values around 94%, so the assessments for the 300 or so residential properties that sold, compared to the sale prices, were a little bit lower. The markets continued to grow this year, so the assessments dropped down to about 87% for residential. Condos were only at 82%. He said residential and condos are currently around 95% now and are closer to market value.*

*Commercial hasn't seen any changes in the past three years, it was not looked at. He said this coming year he will be taking a look at it. They had 8 to 11 sales for commercial and those were very low sales. He did increase the commercial values a little bit this year. The commercial was at 58% based on those sales, they came up about 5%.*

*Speaking to the mill rate he said if he had left the values alone down below 87%, we wouldn't be able to certify at 100% with the State, we have to be at least 91% to do that.*

*Councilor Reiner thanked the committee. He said the Council is only responsible, as shown, for 35% of the total tax bill that everybody receives. A lot of time and hard decisions goes into this and we pay taxes too. He is happy with the budget and what they came up with.*

*Councilor Nadeau mentioned that a lot of people last year applied to have their taxes frozen by the State, and they were. The State reimbursed the town for that money. It was a one shot deal because the State did not have the money to continue the program any longer. Anybody who was in that program last year will see a significant increase because they will see last year's increase and this year's increase. His point would be that if you are struggling at all, come in and talk to the Manager.*

*Councilor Morrison said the Finance Committee did a great job, and we still have strong inflationary pressure, and to keep the budget at approximately 4% and still offer the services that we are providing and to compare that amongst the other towns, we are in pretty good shape.*

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-092** To set the dates on which 2024-2025 taxes will be due as October 1, 2024 and April 1, 2025.

**Attachments:** [24-092 Cover Sheet.pdf](#)

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-093** To set the rate of interest that will be charged on overdue taxes for 2024-2025 at eight and a half percent (8.50%).

**Attachments:** [24-093 Cover Sheet.pdf](#)

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

*Beth Hall asked when will credit cards be allowed to pay for taxes at Town Hall?*

*Manager Tibbetts said with credit card payments there is a 2.65% fee that we have to pay on our end for those taxes to be paid and we would be short that in the long term in our total budget revenues and we would have to budget for that.*

*Councilor Nadeau said if anyone is struggling with their taxes this year, especially those who were over 65 and had their taxes froze the year before and they will get hit with a*

*double whack, that they come in to talk to the Manager. He would like to talk about waiving the interest on that payment. There are a lot of communities who are not using 8.5% and they are waiving that and are going with zero to try and get the funds back in. If you were delinquent over a certain amount of time, he would charge the interest, but if somebody came in and had a problem, he would like it to be 0% as long as they are moving forward to pay their taxes.*

*Town Clerk Linda Morrell said we do accept credit cards to pay for taxes, and this was confirmed with Veronica Meserve, the Deputy Tax Collector.*

*A discussion took place on the percentage rate and whether to lower it, and after much debate it stayed at 8.5%.*

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-094** 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:** [24-094 Cover Sheet.pdf](#)

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-095** 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:** [24-095 Cover Sheet.pdf](#)

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-152** To authorize the transfer of \$6,076 from general contingency account 19910-43100 to the property tax assistance program account

18300-46930.

Attachments: [24-152 Cover Sheet.pdf](#)

[BT memo SR tax assistance program Results 23\\_24.pdf](#)

*Manager Tibbetts said there were 282 applicants who participated in the program. Last year we had 243, and in our budget we had projected that we would be a little bit higher but didn't anticipate the 282. Because we had the additional number come in and had met the qualifications, they should be included with the program to receive the full benefit.*

*The average income of the qualifying recipients is \$38,388, the average tax paid by the qualifying recipients is \$3,467. Of the \$700, which is the full benefit to the applicants, 181 received the full benefit of \$700, while 88 of the applicants received anywhere from \$7 up to \$693 as a reduction. There were 13 people who applied who did not qualify. So, not to leave those other few out of the mix, he thought they could take the funds out of contingency and add it in. Next year when the budget process is done, they will have to reexamine the numbers.*

*If the Council decides not to take the money out of contingency account, they will have to go back in and adjust their payment and they will receive less than the \$700.*

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-096** To approve qualifying applications for property tax assistance pursuant to Chapter 209, Article I of the Code of the Town of Windham, "Property Tax Assistance," to be processed from account 18300-46930.

Attachments: [24-096 Cover Sheet.pdf](#)

[BT memo SR tax assistance program Results 23\\_24.pdf](#)

*Councilor Nadeau said on this program they will have to look at how we take out their maximum income. Most of the people in the program are at \$38,000 living on Social Security and not much else. There have been several applicants making more than that but they have a bunch of deductions. He said they will have to look at how they rate the program and how the deductions are used.*

*Manager Tibbetts said they have looked at the loop hole that is potentially there, and they have a solution for that. Council should see it in early October.*

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-129** To adopt a 90-day extension to the ordinance establishing a moratorium for non-residential uses in shoreland zoning districts, extending the existing

ordinance expiration from September 22, 2024 to December 21, 2024.

Attachments: [24-129 Cover Sheet.pdf](#)

[Moratorium Ordinance Effective 03.26.2024.pdf](#)

*Assistant Manager Bob Burns said this in regards to the proposed marina at the end of Marston Road. They are asking for more time to continue efforts in completing ordinance revisions in this matter.*

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-134** To authorize the Town Manager to sign the necessary documents to convey a parcel of land for the wastewater treatment facility on the southwesterly side of Sposedo Road and any other associated easements associated with the wastewater treatment system to the Portland Water District and take any other action related thereto.

Attachments: [24-134 Cover Sheet.pdf](#)

[Municipal Quitclaim Deed - Town of Windham to PWD 4.9.24 \(002\).pdf](#)

*Assistant Manager Bob Burns said they are looking for approval to allow the town to transfer both the wastewater treatment plant property and several easements to the Portland Water District.*

*Councilor Henry asked if they could see the easements in the future? It is nice to see it visually.*

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

**24-138** To adopt the updated Economic Development Strategic Plan as a policy with the intent of incorporating the revised objectives and strategies as a future amendment to the Comprehensive Plan.

Attachments: [24-138 Cover Sheet.pdf](#)

[ED Strategic Plan.pdf](#)

*Councilor Tibbets said this was presented at one of your earlier meetings. Instead of trying to go through do the Comprehensive Plan update, this was a solution that made more sense to start moving in that direction. Then we can time the Comprehensive Plan changes from this, as with some other amendments in the future, all as one bundle.*

**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, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Henry

**Absent:** 1 - Councilor Maxfield

24-139 To refer proposed miscellaneous amendments to the Code of the Town of Windham Chapter 120 Land Use Ordinance, Article 3 Definitions, Article 4 District Standards, Article 8 Site Plan Review, and Article 9 Subdivision Review to the Planning Board for its review and recommendation.

Attachments: [24-139 Cover Sheet.pdf](#)

[24-24 TC MEMO MiscLUO 0813624.pdf](#)

[24-24 LUO Miscellaneous Amendments](#)

[ARTICLE 3 DEFINITIONS 081324.pdf](#)

[24-24 LUO Misc Amendments ARTICLE 4 ZONING DISTICTS 081324.pdf](#)

[24-24 LUO Misc Amend Article 8 SiteWork 082024](#)

[24-24 Misc Amendments Article 9 Violations & Penalties 082024](#)

*Councilor Maxfield arrived at 7:45 p.m.*

*Assistant Manager Bob Burns introduced Steve Poulio, and he said these are changes that came out of the last Ordinance committee meeting. There are some smaller changes, some house keeping items, but then there are more substantive items that Steve is prepared to discuss.*

*Steve Poulio Planning Director said these are proposed miscellaneous amendments to the Code of Ordinances and talking about Article 3 Definitions, Article 4 Zoning Districts Standards, Article 8 SiteWork and Article 9 Violations and Penalties. He said the purpose of the amendments is to provide some consistency with terminology between the Land Use definitions and our Performance Standards.*

*He, Barry & Bob met with the Ordinance Committee on August 1 to have the committee recommend changes to the Planning Board and to send it to the Council for adoption. (See Attachments) Steve said they also consulted with the Town Attorney to review these suggested changes to make sure they were compliant with our ordinances.*

*Councilor Reiner said for clarification on Articles 8 & 9 about a year ago, there was a project going in and there was clearing of trees before it got to the Planning Board. Do the changes in Article 8 & 9 prevent that from happening in the future? Steve said that is exactly what this does. There is a little consistency of what the Code allows for removing trees on your property, and it does not show up in our subdivision review. It forces the Planning Dept. to require the applicant to resurvey the property, because most likely, the Planning Board has already done a site walk and have already seen the trees and compare it to the presentation that they are receiving to review the application, which shows a limitation of tree clearing.*

*Councilor Kalogerakis asked what does violations and penalties mean when there has been a violation? Steve said if there is a notice of violation issued by the Code Director that prevents the applicant being reviewed by the Planning Board, they will not take their request in front of them until the violations is cured some how.*

**A motion was made by Councilor Nadeau, seconded by Councilor Reiner, that**



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**Planning Department**  
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## TOWN COUNCIL MEMO

DATE: August 13, 2024

TO: Windham Town Council  
 FROM: Steve Puleo, Planning Director  
 Cc: Barry Tibbitts, Town Manager,  
 Bob Burns, Assistant Town Manager  
 RE: #24-24 - Miscellaneous Amendment to Code of the Town of Windham Chapter 120 Land Use  
 Ordinance, Article 3 Definitions, Article 4 District Standards, Article 8 Site Plan Review, and  
 Article 9 Subdivision Review.

Town Council Meeting – August 20, 2024

### Overview

At their meeting on [August 1, 2024](#), the Town Council Ordinance Committee referred the attached Land Use Ordinance amendments be forwarded to the Board for review and recommendation as required by [§ 120-107](#) of the Land Use Ordinance. The proposed amendments to the Land Use Ordinance Article 3 Definitions, Article 4 District Standards, Article 8 Site Plan Review, and Article 9 Subdivision Review will be reviewed by the Town Attorney at staff's request to improve the interpretation and administration of various sections of the ordinance. Although, the Town Council Ordinance Committee unanimously recommended the following amendments.

### Summary of the Proposed Chapter 120 Land Use Ordinance Changes

The staff is developing a proposal for various land use ordinances in Chapter 120. However, these ordinances conflict with other provisions of the land ordinance, making it difficult for staff to determine which to apply and which is more restrictive.

- Amending the following performance standards will help to:
  - Clarify the subdivision type and review with consistent definition and performance standards.
  - Assist staff by removing any conflicting or unclear ordinance language.

### Summary of the Proposed Chapter 120 Land Use Ordinance Amendment and related Chapters

#### Article 3 Definitions (Proposed previous LUO amendments from the Council Ordinance Committee April 9, 2024 Meeting):

- Correct errors/omission from previous amendments. Change [Cluster Subdivision](#) definition to Conservation Subdivision.
- Correct [Open Space](#) definition.

**Article 4 District Standards (Proposed previous LUO amendments from the Council Ordinance Committee August 1, 2024 Meeting):**

- §120-414B. Enterprise Development (ED) District. Amending zoning district by adding recreational uses as permitted uses.

**Article 8 Site Plan (Proposed previous LUO amendments from the Council Ordinance Committee August 1, 2024 Meeting):**

- §120-810 Fees. The proposed amendment to §120-810H will required site preparation to include the any land use activities, site preparation, or excavation on the site to be consistent with §120-915E and all fees assessed hereunder have been paid in full.

**Article 9 Site Plan (Proposed previous LUO amendments from the Council Ordinance Committee August 1, 2024 Meeting):**

- §120-915 Violation and penalties. The proposed amendment to §120-915E will make commencement of construction, any land use activities, site preparation, or excavation for a subdivision plan in review consistent to Site Plan standards on a site prior to the Planning Board approval.

**Zoning Amendment Process**

There are no specific standards in the Town ordinance by which to judge the proposed zoning change, but State statute requires all proposed zoning to be consistent with the goals and objectives of the Comprehensive Plan.

**Planning Board Review and Recommendation**

The Planning Board must hold a public hearing prior to making a recommendation on this item to the Town Council. The Town Council will need to review the Planning Board recommendation, conduct another public hearing, and vote on the proposed changes to the Land Use Ordinance for the changes to be officially approved. A Planning Board public hearing is scheduled for the August 26, 2024 meeting. After the public hearing and discussion by the Board, the Planning Board may vote on a recommendation to the Town Council

**Next Steps:** Requesting the Town Council to **direct** the Planning Board to hold a public hearing for the proposed miscellaneous amendments to the Land Use Ordinance Windham Chapter 120 Land Use Ordinance, Article 3 Definitions, Article 4 District Standards, Article 8 Site Plan Review, and Article 9 Subdivision Review and **provide a recommendation for Council consideration**.

## ARTICLE 3 Definitions

### § 120-301. Definitions.

In this chapter, the following terms shall have the following meaning unless a contrary meaning is required by the text or is specifically prescribed. In addition to the following definitions, performance standards regulating specified land uses should be reviewed in the district standards for each zoning district (Article 4) and the performance standards (Article 5) that apply to all zoning districts in the Town.

•••

**CLUSTER CONSERVATION'S** SUBDIVISION — A form of development that permits a reduction in lot area and bulk requirements, and the remaining land area is devoted to open space, active recreation, preservation of environmentally sensitive areas, or agriculture. (See Article 4, Zoning Districts, and Article 9, Subdivision Review.)<sup>2</sup>**[Amended 12-16-2014 by Order 14-491]**

**Commented [SJP1]:** The proposal is to correct the term of the definition from "Cluster subdivision" to "Conservation Subdivision" to be consistent with Section 120-911K Conservation Subdivision performance standards

1. **Editor's Note:** The definition of "collector street" which immediately followed this definition was repealed 10-10-2017 by Order 17-161.

•••

OPEN SPACE — Land set aside for permanent protection from development within a **cluster conservation** subdivision. Open space uses may include passive and/or active use, including play fields and playgrounds, for preservation of environmentally sensitive areas, agriculture, forestry, or buffers.**[Amended 1-15-2019 by Order 18-257]**

**Commented [SJP2]:** Same as above.

**Article 4**  
**Zoning Districts**

**§ 120-414 Enterprise Development District (ED).**

- A. Intent. The intent of this district is to provide a unique area within the Town of Windham to allow manufacturing, processing, treatment, warehousing, storage, research and distribution with safe, well-regulated vehicle access located off a major street which can conform to the performance standards set forth in this section and in all other applicable ordinances of the Town of Windham.
- B. Permitted uses. The following uses, as they are defined in [Article 3](#), shall be permitted in the Enterprise Development District as a matter of right. Refer to [Article 5](#), Performance Standards, or Subsection F, District standards, for additional use information. [Amended 10-14-2014 by Order 14-387; 5-26-2020 by Order 20-048; 8-15-2023 by Order No. 23-150; 3-12-2024 by Order No. 24-033]

Auction house

Automobile auction facility

Automobile repair services

Building, accessory

Business and professional office

Contractor services

Contractor storage yard

Construction services, heavy,  
major

Construction services, heavy,  
minor

Convention center

Distribution facility

Forestry

Hotel

Industry, heavy

Industry, light

2.

Marijuana cultivation facility

Marijuana manufacturing facility

Marijuana registered dispensary

Marijuana testing facility

Mineral extraction

Motel

Public utility facility

Retail sales, accessory

Recreation Facility, Indoor

Recreation Facility, Outdoor

Recreation, Passive

Small engine repair

Solar energy system – roof-mounted, small, medium, and large scale

Solar energy system – ground-mounted, small scale

Solar energy system – ground-mounted, medium scale

Solar energy system – ground-mounted, large scale

Use, accessory

Warehousing, private

Warehousing, public

Wireless telecommunications tower and facility

C. Conditional uses. The following uses, as defined in Article 3, shall be allowed as a conditional use in accordance with § 120-516. Refer to Article 5, Performance Standards, or Subsection F, District standards, for additional use information:

**Commented [SJP1]:** The Town's ED plan envisions it as a well-known recreational destination in Maine. The parcels in the ED district are unique and have the potential to host a variety of recreational activities. The permitted uses should include all three (3) recreational activities defined in Article 3 as to promote recreational development in that zoning district.

3.

- (1) Automobile storage lot. [Added 7-8-2014 by Order 14-164]
- (2) Shipping container.

D. Prohibited uses. Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

E. Dimensional standards. The following dimensional standards shall apply in the Enterprise Development District:

- (1) Minimum lot size: none
- (2) Minimum frontage: 100 feet.
- (3) Minimum front setback: 40 feet.
- (a) Minimum buffer along streets: see § 120-511, Buffer yard. [Amended 8-15-2023 by Order No. 23-149]
- (4) Minimum side setback: greater of 30 feet or 50% of building height.
- (5) Minimum rear setback: greater of 30 feet or 50% of building height.
- (6) Maximum building height: 40 feet.
- (a) Maximum building height exemption: See district standards.
- (7) Maximum building coverage: 50%.
- (8) Maximum impervious area: 75%.

F. District standards. In addition to Article 5, Performance Standards, these standards shall apply to the following uses in the Enterprise Development District:

- (1) Access management.
  - (a) Any parcel of land which is divided or developed may be required by the Town to provide one or more sixty-foot rights-of-way to abutting land in the Enterprise Development Zone.
  - (b) An Enterprise Development District may have one or more dead-end access streets from an existing public right-of-way. If two or more entrances to an Enterprise Development District are proposed, such entrances shall be separated by at least 1,000 linear feet, unless waived by the Planning Board.
  - (c) The Town may require that one or more turning lanes be provided on the public right-of-way from which the Enterprise District is accessed. The need for these lanes will be based on proposed traffic volumes and conditions.
  - (d) Access to all lots within an Enterprise Development District shall be limited to the district's interior road system.
- (2) Convention center. Convention centers shall only be permitted as an accessory use to a hotel

or motel.

- (3) Buffers and screening. [Amended 10-14-2014 by Order 14-387; 8-15-2023 by Order No. 23-149]
  - (a) Residential district boundary buffer. See [§ 120-511](#), Buffer yard, in Article 5, Performance Standards, for requirements.
  - (b) Commercial district boundary buffer. See [§ 120-511](#), Buffer yard, in Article 5, Performance Standards, for requirements.
  - (c) Screening of outdoor storage. Outdoor storage shall be completely screened from adjoining properties by means of evergreen trees at least six feet in height at time of planting.
    - [1] Automobile auction facility. Opaque fencing six feet in height shall enclose any outdoor storage area in lieu of evergreen trees.
  - (d) Screening of lighting. See Subsection F(7)(e) below.
- (4) Industry, heavy. In accordance with the conditional use standards in Article 5, the appropriate review authority may approve the manufacturing or use of hazardous material, as defined in Article 3. (See Article 3 for definition of "manufacturing, hazardous.")
- (5) Maximum building height exemption. Buildings over 40 feet high shall be allowed if approved by the Board of Appeals. The Board of Appeals shall use the conditional use standards in [§ 120-516](#) to make its findings on the application.
- (6) Parking lot setback. Parking lots shall maintain a thirty-foot setback from all property lines.
- (7) Performance standards.
  - (a) Air pollution. All uses shall comply with minimum federal, state and local air pollution requirements.
    - [1] Applicants shall submit information demonstrating compliance with any applicable federal, state or local requirements. If the application does not require subdivision or site plan review, the information shall be submitted to the Code Enforcement Officer for approval before a building permit is issued.
    - [2] The maximum permitted density of smoke, dust and other particulate emissions during normal operations of any activity shall not exceed the maximum allowable under the regulations of the Maine Department of Environmental Protection. In case of doubt, the Code Enforcement Officer may employ such independent, recognized consultants as necessary, at the expense of the applicant, to assure compliance with performance standards and all other requirements of this chapter related to the public health, safety and welfare and the abatement of nuisances.
  - (b) Electromagnetic interference. No use, activity or process shall be conducted which produces electromagnetic interference in the transmission or reception of electrical impulses beyond any lot lines, including radio and television. In all cases, federal, state and local requirements shall be met. Violations of this standard shall be considered a public

nuisance.

(c) Fire protection.

- [1] All buildings or structures shall be connected to the public water supply and have a sprinkler system or a fire suppression system installed when required by the Town of Windham Building Code.
- [2] Storage, utilization, or manufacture of solid materials or products, including free burning and intense burning, is permitted, provided that said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible walls and protected throughout by an automatic fire-extinguishing system.
- [3] The storage, utilization, or manufacture of flammable liquids, or materials which produce flammable or explosive vapors or gases, shall be permitted in accordance with the most current edition of the National Fire Protection Association Standards for Flammable and Combustible Liquids (NFPA 30) or the most current edition of the NFPA 1 Fire Code. The most restrictive standards shall apply. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- [4] Any change in use or occupancy shall require a review and approval by the Code Enforcement Officer and the Fire-Rescue Chief.
- [5] Tanks or other underground storage facilities abandoned or not in use for a period exceeding one year shall be removed or otherwise assured safe conditions are present. In all cases, applicable federal, state and local regulations shall prevail.

(d) Groundwater and surface water protection.

- [1] Water pollution. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that run off, seep, percolate, or wash into surface waters or groundwater so as to contaminate, pollute or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant or aquatic life.
- [a] All provisions of 38 M.R.S.A. Chapter 3, Protection and Improvements of Waters, and such rules and regulations adopted by the Maine Board of Environmental Protection pursuant to the referenced statute shall apply. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]
- [b] No development or use shall result in the existing groundwater quality becoming inferior to the physical, biological, chemical and/or radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 M.R.S.A. § 2601 et seq. If the existing groundwater quality is inferior to the State Drinking Water Regulations, the developer or landowner will not degrade the water quality any further.
- [c] Representatives of the municipality or the Maine Department of Environmental

Protection may enter the premises for the purpose of gauging, sampling and testing any wastewater systems which may enter into watercourses.

- [d] No development or use of land shall lower the groundwater table more than 10 feet.
- [2] Subsurface wastewater disposal. The Enterprise Development District has been determined by the Town of Windham to be particularly sensitive to the discharge of pollutants from on-site subsurface sewage disposal systems and is therefore designated as a groundwater sensitive area. When the sewage contains effluent other than usual bathroom and/or on-premises food preparation water, the Town of Windham may require a pretreatment system for the effluent before its entry into any subsurface sewage disposal system.
  - [a] The Town may hire a third-party consultant to review any subsurface wastewater disposal applications. The costs for this review shall be the responsibility of the applicant.
  - [b] The Town of Windham may require groundwater monitoring of the project at the owner's expense.
- (e) Lighting.
  - [1] No light shall be placed in view of any public roadway or street so that its beams or rays are directed at any portion of the roadway when the light is of such brilliance and so positioned as to impair the vision of the driver of any motor vehicle upon said roadway.
  - [2] Lighting with a lumen output equal to or greater than a 200-watt mercury light shall not be directed towards the sky or adjacent residential properties.
  - [3] No rotating or flashing lights or signals, except safety signaling devices as required by law, are permitted.
  - [4] Adequate buffers using either the natural landscape or artificial screening are required to prevent unnecessary light from being directed beyond any lot lines onto adjacent residential properties.
- (f) Noise. Noise is required to be muffled so as not to be objectionable due to emission, beat frequency or shrillness. The average dBA count resulting from any activity shall not exceed at any point on or beyond any lot line 60 dBA during the day and 50 dBA at night. The average dBA count for any activity shall be computed based on samples taken at intervals over a twenty-four-hour period.
  - [1] During the peak activity of 60 minutes in a twenty-four-hour period, a noise may not exceed these average dBA counts by more than 10 dBA.
  - [2] Temporary activities that are unable to meet these requirements shall require a special permit from the Code Enforcement Officer. The noise standards shall not apply to the temporary use of such machinery as chain saws, lawn mowers and snowmobiles.

(g) Odors. The emission of odorous or toxic matter in such quantities as to be readily detectable at any point along any lot lines so as to produce a public nuisance or hazard is prohibited.

- [1] Such activities shall comply with applicable minimum federal, state and local requirements.
- [2] Detailed plans shall be submitted to the Code Enforcement Officer for approval before a permit is granted.
- [3] Violations of this standard shall be considered a public nuisance.

(h) Vibrations. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond any lot line.

(8) Street and road design. All streets in the Enterprise Development District shall be designed and constructed to meet the industrial road standards set forth in Article 9, Subdivision Review.

(9) Utilities. All utilities, including telephone and electrical services, shall be placed underground. If the development is being reviewed by the Planning Board as either a site plan or subdivision, the applicant may request a waiver under the applicable waiver standards of either Article 8, Site Plan Review, or Article 9, Subdivision Review.

(10) Marijuana cultivation facility. Cultivation facilities may be of the following types: Tier 1, Tier 2, Tier 3, and Tier 4. (See Article 3, Definitions.) [Added 5-26-2020 by Order 20-048]

(11) Marijuana registered dispensary. [Added 3-12-2024 by Order No. 24-033]

- (a) In the Enterprise Development District, a marijuana registered dispensary engaging in the cultivation of marijuana shall be limited to cultivating not more than 20,000 square feet of plant canopy on site.
- (b) In the Enterprise Development District, this use shall not involve the sale, transfer, supply or dispensing of marijuana to any qualifying patient or other person on site, notwithstanding the definition of "marijuana registered dispensary" in Article 3. (See Article 3, Definitions.)

## Article 8

### Site Plan Review

#### **§ 120-801 Purpose.**

The site plan review provisions set forth in this article are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that nonresidential and multifamily construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

H. Section 120-810C shall be administered by the Planning Director or other Town employee responsible for administering the ordinance under which review is sought. No building permit, commencement of any construction or site preparation, including but not limited land preparation such as tree clearing, grubbing, grading, and filling; installation of streets and walkways; any excavation of any kind (exempt for test-pits), or construction of buildings or certificate of occupancy may be issued or released until all fees assessed hereunder have been paid in full.

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Commented [SP1]: The site preparation in Site Plan standard is different than the commencement of construction in Subdivision. Allowing tree cutting before final Planning Board approval of the subdivision. Site Plan standard the requirement of all fees assessed be paid before site preparation.

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Commented [SP2]: This language is consistent with the commencement of construction in subdivision Section 120-915E, Commencement of Site Work.

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## Article 9 Subdivision Review

### **§ 120-901 Purpose.**

[Amended 5-23-2023 by Order No. 23-092]

The purpose of these standards shall be to assure the comfort, convenience, safety, health and welfare of the people; to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Windham, Maine, the Planning Board shall evaluate the proposed subdivision, using the following criteria. The subdivision provisions set forth in these regulations are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that residential and nonresidential construction is designed and developed in a manner that assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

### **§ 120-915 Violations and penalties.**

E. Commencement of site work. Not only is creating a subdivision without Board approval a violation of law, but so also within such a subdivision is ~~grading, including but not limited land preparation such as tree clearing, grubbing, grading, and filling; installation of streets and walkways; any excavation of any kind (exempt for test-pits) or construction of roads, grading of land or lots,~~ or construction of buildings until such time as a final plan of such subdivision has been duly prepared, submitted, approved and endorsed as provided in these standards, and until the original copy of the final plan so approved and endorsed has been duly recorded in the Cumberland County Registry of Deeds in accordance with § 120-912.

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

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

**24-140** To authorize the disbursement of \$4,149 from the Federal Opioid Distribution Fund (1000-4008) for the purchase of LockMed Guardian, designed to safeguard prescription medication.

**Attachments:** [24-140 Cover Sheet.pdf](#)

[Opioid Monies Distribution Meeting Notes.pdf](#)

[Opioid Monies Distribution LockMed 61024-Wind.pdf](#)

*Manager Tibbets said the opiate settlement monies, which have been awarded and distributed by a prorated formula through the State of Maine and our share of that is roughly \$22,000. The goal of the opiate funds is to help prevent further addiction or ways to safeguard prescriptions and assist residents. He said there were two applications and the committee only supported this one.*

**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:** 7 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner, Councilor Henry and Councilor Maxfield

**24-144** 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:** [24-144 Cover Sheet.pdf](#)

[MMA Annual Executive Committee Election Memo.pdf](#)

[Candidate Bios.pdf](#)

[MMA Ballot.pdf](#)

*Assistant Manager Bob Burns read through the ballot for the public. Council was in favor of the ballot as presented.*

**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:** 7 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner, Councilor Henry and Councilor Maxfield

**24-145** To accept the public turnaround easements for Hemlock Drive, a street identified by the Town as a Designated Private Way that has met the criteria set forth by private and special law L.D. 1975, for the purpose of the Town's continued winter maintenance services.

**Attachments:** [24-145 Cover Sheet.pdf](#)

[Hemlock Drive Keeley Turnaround Easement.pdf](#)

[Hemlock Drive Pike Turnaround Easement.pdf](#)

*Assistant Manager Bob Burns said that this is a process of the public easements roads*

who have needed turnarounds and easements to be acquired and to be constructed as well. Mark Arienti has met with the folks there and has obtained the two easements and things are moving ahead.

**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:** 7 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner, Councilor Henry and Councilor Maxfield

24-146 To approve a new Victualer's License application submitted by Andrew Hager & Hannah Buoye d/b/a Waxwing Bakery.

Attachments: [24-146 Cover Sheet.pdf](#)

[Waxwing Bakery new Victuler's.pdf](#)

*The owners said they would love support in getting them going.*

**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:** 7 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner, Councilor Henry and Councilor Maxfield

24-150 To adopt proposed amendments to the Town's Purchasing Policy.

Attachments: [24-150 Cover Sheet.pdf](#)

[Purchasing Policy DRAFT Amendments 2024 0806.pdf](#)

*Manager Tibbetts said they added in a line to make sure they comply with state and federal bidding requirements, which in many respects supersede our policy here. We increased some of the basic amounts for purchase limits and competitive purchasing. They increased the professional services line and also they added in exceptions to the policy and/or to add in a yearly adjustment by CPI on the actual purchase limits and competitive purchasing limits as well.*

*The limit is currently \$1,000 and they would move that to \$2,500 so department heads can go out and purchase items. They would still be looking for bids but would be able to do that and based on oral conversations with their best research. From \$2,500 to \$10,000 you can call three different vendors to get the best price. For over \$10,000 it was written purchase orders only but they have into that category from \$10,000 up to \$100,000 for verbal quotes. Prior to this, if they were buying a pickup truck, they would get three written quotes from an RFP. It is hard to get some vendors to even participate, but if they can do three verbal's by calling, we are still finding the lowest bids and it helps us be more efficient. In the competitive purchasing they basically did the same ranges. Professional services was upped to \$50,000 from \$25,000, the other two items dealt with says they can go outside the policy if they need to, but they have to report back to the Finance Committee as to why they went outside the policy. They added in the CPI adjustment to those numbers.*

*Councilor Reiner asked about Section 5, item 3 for the over \$10,000. Was there never a cap on it before? Barry said it was anything over \$10,000. Councilor Reiner asked if the cap was too low? Barry said they can make it work as written.*

**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:** 7 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner, Councilor Henry and Councilor Maxfield

**24-151** To award a bid for the purchase of a budgeted 2024 14-passenger bus with wheelchair lift at cost of \$107,100 to be applied to account 19100-47430.

**Attachments:** [24-151 Cover Sheet.pdf](#)

[O'Connor Transit Van Bid.pdf](#)

[Transit Van Quote Summary Sheet.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:** 7 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner, Councilor Henry and Councilor Maxfield

## XI. Council Correspondence.

**CD 24-148** Substance Prevention Grant Recipient Reports.

**Attachments:** [WMS Boys to Men Substance Prevention Grant.pdf](#)

**CD 24-149** FOAA Status Report.

**Attachments:** [NAPC Bid Results Response Universal Trail 7.15.24.pdf](#)

[SmartProcure Requested Records 7.16.2024.pdf](#)

[R Cummings Election Integrity GA Fraud 7.16.2024.pdf](#)

**CD 24-150** Watershed Protection Grant Program - Thank you.

**Attachments:** [Little Sebago Lake Association Letter.pdf](#)

**CD 24-154** Growth Permit Status.

**Attachments:** [Growth Permit Stats through 7.25.2024.pdf](#)

**CD 24-156** Sebago Lakes Region Fuller Center For Housing Event and Update.

**Attachments:** [5th Anniversary Gala Celebration Auction.pdf](#)

[Fuller Center Work Review.pdf](#)

**CD 24-157** Emailed Council Correspondence.

Attachments: [Emailed Comments to Town Council D Meehan Charter Amendment.pdf](#)  
[Emailed Comments to Town Council J Whynot Charter Amendment.pdf](#)  
[Emailed Message to TownCouncil Hola.pdf](#)  
[Emailed Comments to Town Council W Andrew Crossridge Roads.pdf](#)  
[Emailed Letter to Town Council Crossridge CR Letter.pdf](#)

CD 24-158 Public Outreach - New Trash Collection Service.

Attachments: [North Windham Initial Mailer.pdf](#)  
[Trash Removal Commercial Property Letter.pdf](#)

CD 24-159 Cumberland County - District #2 Notice of Caucus - Finance Committee Appointments.

Attachments: [September 9, 2024 Meeting Notice.pdf](#)

CD 24-160 Quarterly Department Report.

Attachments: [Quarterly Report from the Town Clerk.pdf](#)

CD 24-162 Southern Maine Agency on Aging Correspondence.

Attachments: [SMAA Newsletter and Luncheon Invitation.pdf](#)

CD 24-165 Dundee Hydroelectric Project on Presumpscot River - Dundee Park.

Attachments: [Dundee Pond PR Statement 20240731vFinal.pdf](#)

CD 24-169 Credit Opinions - August 2024.

Attachments: [Moody's Credit Opinion-Town-of-Windham-ME-Update-to-08Aug2024-PBM\\_1417835.pdf](#)  
[S&P Global Ratings Letter\(STDLONG1812375\) Doc.pdf](#)  
[S&P Global Ratings Letter\(STDLONG40357865\) Doc.pdf](#)  
[S&P Report for Windham, Maine \(Aug-7-2024\).pdf](#)  
[Moors & Cabot Bid Results.pdf](#)

CD 24-171 Preliminary 2025 State Valuation.

Attachments: [Preliminary 2025 State Valuation.pdf](#)

## XII. Town Manager's Report.

*Manager Tibbets reported that the town was upgraded in our bond rating. Our current bond rate for the \$10 million dollars is 3.14%, which is fabulous. Police positions are totally full and we have 30 out of the 31 positions filled, and we have three applicants for*

*the position. In Public Works we have the opening for the Operations Manager and one truck driver that we have a couple applications for.*

### **XIII. Committee Reports.**

#### **A. Council Subcommittees.**

##### **1. Appointments Committee.**

*Councilor Reiner said the committee met tonight and they had four applicants. Two of the applicants are reappointments to current positions and both are in good standing. That is Marge Govoni to the Human Services Advisory Committee for a 3-year term, and Kayla Desmond to the Parks & Rec Advisory Committee for a 3-year term. We would move them forward to September 10 for acceptance.*

*The two other interviews were both for the Human Services Advisory Committee, both 3-year terms, and they are Christina Faye and Joyce Onafowokan. Both are very qualified and assets to the committee. They asked that they be approved on September 10.*

##### **2. Finance Committee.**

*Councilor Nadeau said they met and a lot of it has been presented to the Council this evening. They had a budget summary, the carry forward, the static impact fees, undesignated fund balance, tax rate base was presented, overlay options, budget 2025, bond issue update and our purchasing policy.*

##### **3. Ordinance Committee.**

*Councilor Nadeau had a meeting on Solid Waste, Land Use issues and they looked at the growth ordinance, and several of them have been in front of the Council this evening.*

#### **B. Other Committees.**

##### **1. Long Range Planning Committee.**

*No report.*

##### **2. Parks & Recreation Advisory Committee**

*No report.*

##### **3. Windham Economic Development Corporation.**

*No report.*

##### **4. Highland Lake Leadership Team.**

*No report.*

##### **5. Natural Resources Advisory Committee.**

*No report.*

6. Greater Portland Council of Governments (GPCOG).

*No report.*

7. ecomaine.

*No report.*

#### **XIV. Discussion Items.**

**\*Note: Minutes are not taken on Discussion Items.**

CD 24-026 New Cell Tower - Public Safety Building Tower Replacement.

**Attachments:** [Windham W ME LE Rev0 090723.pdf](#)  
[Windham W ME - Tower Lease DRAFT \(002\).pdf](#)

CD 24-106 Branding & Wayfinding Signage Advisory Committee Update.

**Attachments:** [WindhamWelcome2024-GJP1 copy.pdf](#)

CD 24-126 Trash Program Update.

CD 24-155 Little Falls Master Plan Update.

**Attachments:** [TC memo SWLF Mater Plan Implem Update 081324.pdf](#)  
[SWLF MasterPlan Zoning Recommendations.pdf](#)  
[NSP VillageProgressMemo May2024.pdf](#)  
[Village Zoning Language Draft 07-03-2024.pdf](#)  
[2023-04-24-VILLAGES MASTER PLAN.pdf](#)

CD 24-161 Growth Permit Ordinance - Growth Permit Ratios.

**Attachments:** [24.08.08 OUTLINE Proposed Amendments to GMO.pdf](#)  
[Memo Growth Ordinance.pdf](#)  
[Housing Permit History.pdf](#)  
[Windham Growth 1 3 2024 bat.pdf](#)

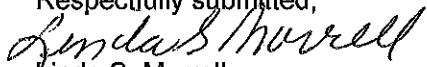
#### **XV. Agendas & Scheduling.**

#### **XVI. ADJOURN.**

A motion was made by Councilor Reiner, seconded by Councilor Kalogerakis, that they be adjourned. The motion carried by the following vote at 9:15 p.m.

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

Respectfully submitted,



Linda S. Morrell

Town Clerk, CCM