



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Town Council

Tuesday, November 26, 2019

6:00 PM

Council Chambers

****Please note earlier start time.****

Council will receive a legal briefing followed by a Special Presentation and FOAA Training prior to regular business items.

I. Roll Call of Members.

Present: 7 - David Nadeau, Tim Nangle, Clayton Haskell, Rebecca Cummings, David Douglass and Nicholas Kalogerakis, Jarrod Maxfield.

II. Pledge of Allegiance.

Council Chair led the Pledge of Allegiance.

III. Executive Session.

19-219

To enter into executive session under 1 M.R.S.A. §405(6)(E) for the purpose of consulting with the town attorney.

Attachments: 19-219 Cover Sheet

A motion was made by Councilor Kalogerakis, second by Councilor Douglass to enter into executive session.

In Favor: 7-0 at 6:02 p.m.

While the Council was still in executive session, Senator Bill Diamond, Representatives Mark Bryant and Patrick Corey decided not to keep the folks waiting who were there for a special presentation.

They first called up Rita Bernier, former Town Clerk, Deputy Clerk, School Bus Driver for the Town of Windham for well over 40 years. They went to the Legislature and told them they had a special person and the Legislature voted unanimously for this Legislative recognition. Patrick Corey read the Sentiment.

Karen Rumo was also recognized. Senator Diamond said he had known Karen most of her life. Karen has been working in her field for 33 years. Karen received the Caregiver of the Year award in 2019. She is a psychiatric technician at Spring Harbor Hospital and is very well appreciated there. Bill read Karen's Sentiment from the Legislature.

A motion was made by Councilor Douglass, second by Councilor Nangle to return from executive session.

In Favor: 6 at 6:55 p.m.

Absent from vote: 1 (Councilor Kalogerakis)

Special Presentation

IV. Discussion Items.

CD 19-266 Council FOAA Training and Orientation.

Attorneys Stephen Langsdorf and Kristin Collins ran the FOAA session for the Council. Stephen said this was a presentation that they put together about what the Councilors need to know about public records and open meetings.

V. Minutes to be Approved:

CD 19-272 To approve the Minutes of the November 7, 2019 Council meeting.

Attachments: Minutes-Town Council-11-7-2019(1)

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

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Cummings, Councilor Douglass and Councilor Kalogerakis, Jarrod Maxfield.

CD 19-274 To approve the Minutes of the November 12, 2019 Council meeting.

Attachments: Minutes-Town Council-11-12-2019

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

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Cummings, Councilor Douglass and Councilor Kalogerakis, Jarrod Maxfield.

VI. Public Participation.

Elaine Pollock of Gentle Breeze spoke on the following things...

In regard to the tax acquired properties she suggest some of the money go to the Elderly Tax Relief Program. It was not fully funded this year, and she suggested that some of that money go towards all of the people who qualified up to the \$500 rather than the reduced rate.

Disappointed that the properties were only advertised locally and only once in the Portland paper. Would like it advertised more broadly the next time, i.e. Westbrook, South Portland, Scarborough, Falmouth, etc. Should not be limited just to our geographic area.

She suggested that the property off of Falmouth Road that goes up towards Little Duck Pond and that no one bid on would make an excellent preserve for the Town of Windham, and for the tax dollars owed it might be an excellent exchange. She said it would be great for hiking, snow shoeing, etc.

Elaine noted and thanked the Council for working well together, it is much appreciated. One Council member decided to grandstand a little bit at the last workshop, and she feels we don't need that on this Council. There is enough room for everyone and everyone's ideas.

Regarding Retail Canibus - If we have eight shops that are currently medical, how about 4 medical and 4 retail; and no new ones allowed? That business community can decide who can stay medical and who goes retail. She thinks letting them sort out who does what would work. Elaine said they have been good community members and their entrepreneur spirit is amazing.

VII. Councilors' Comments.

Councilor Cummings thanked those residents who emailed or called her regarding growth. She hears you and will address your issue.

Councilor Maxfield echoed what Councilor Cummings said. He also would like to briefly apologized for that workshop, he made a mistake, as Chair, with the people who came out to comment on the cemetery and canibus Issue. He did not realize the agenda did say the public comment, traditionally they do not allow public comment at workshops; he did not try to silence anybody. He apologized.

VIII. PUBLIC HEARINGS.

IX. CONSENT AGENDA.

X. UNFINISHED BUSINESS & GENERAL ORDERS.

19-203

To authorize the release of the Franklin Plummer Reservoir easement encumbering certain real property set forth in a "Warranty Deed" recorded in the Cumberland County Registry of Deeds in Book 1543, Page 29; and to further authorize the Town Manager to take any other necessary action related thereto to finalize the action.

Attachments: 19-203 Cover Sheet
Plummer Reservoir Warranty Deed
Vision Map6 Lot46
DHG memo to council Plummer Reservoir
Quitclaim to Plummer

Gary Plummer congratulated the newly elected Councilor members and Councilor Maxfield on a convincing victory in the last election.

He came to answer any questions but wanted to give a brief history of the reservoir.

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

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Cummings, Councilor Douglass and Councilor Kalogerakis, Jarrod Maxfield.

19-205

To award a bid for tax acquired property identified as map 7, lot 58B, 112 Roosevelt Trail.

Attachments: 19-205 Cover Sheet
Parcel 9 Bid

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

In Favor: 7 Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Cummings, Councilor Douglass and Councilor Kalogerakis, Jarrod Maxfield.

19-223 To award a bid for tax acquired property identified as map 10, lot 36 K04, Albion Road, and authorize the Tax Collector to write-off the remaining balance of taxes due.

Attachments: 19-223 Cover Sheet

Parcel 14 Bids

DHG memo to council tax acquired property Albion Rd

Councilor Nangle suggests they reject this bid; the bid amount does not cover the amount of taxes, and it would also be a 20 lot residential subdivision, and he has concerns about this.

Councilor's Cummings and Douglass echoed what Councilor Nangle said.

A motion was made and seconded, the motion failed by the following vote:

In Favor: 2 (Haskell, Kalogerakis)

Opposed: 5 (Nadeau, Nangle, Cummings, Douglass, Maxfield)

19-207 To authorize the amendment of the Conservation and Recreation Easement encumbering a 10-acre parcel as set forth in a "Conservation and Recreation Easement Agreement" recorded in the Cumberland County Registry of Deeds in Book 28710, Page 168 and further referenced in the "Donnabeth Lippman Park Indenture and Declaration of Covenants, Restrictions and Easements" in Book 28710, Page 160; and to further authorize the Town Manager to take any other action related thereto to finalize the action.

Attachments: 19-207 Cover Sheet

Donnabeth Lippman Park Easement Amendment

Linda Brooks Parks & Recreation Director handed out a map (See attached) Linda said one of the issues is very limited parking there. Mr. Lippman would love to open up that green area of open space and also do some other ideas he had for the park. She said the language in the easement did not allow them to do forest management or have vehicle access to that part of the parcel, and these amendments will accomplish that, and she said he was very happy with what the changes were.

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

In Favor: 7 Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Cummings and Councilor Kalogerakis, Jarrod Maxfield.

**DONNABETH LIPPMAN PARK
PROPOSED ADDITIONS**

ANGLERS ROAD
COMMONS
UNDER
CONSTRUCTION

NEW TRAIL
CONNECTION
TO EXISTING
PARK TRAILS

OPEN SPACE

ADDITIONAL
PARKING

Donnabeth Lippman Park

Chaffin Pond



Opposed: 1 - Councilor Douglass

19-216 To approve an application submitted by Central Maine Power and Northern New England Telephone Operations LLC to locate one (1) utility pole and cables and wires there on Highland Cliff Road, approximately 2100 +/- Southwest from Land of Nod Road.

Attachments: 19-216 Cover Sheet
Pole Location-Highland Cliff Rd.

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

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Cummings, Councilor Douglass and Councilor Kalogerakis, Jarrod Maxfield.

19-217 To cancel the Council meeting of December 24, 2019.

Attachments: 19-217 Cover Sheet
Council Rules

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

In Favor: 5 - Vice Chair Nangle, Councilor Cummings, Councilor Douglass and Councilor Kalogerakis, Chair Jarrod Maxfield.

Opposed: 2 - Councilor Nadeau and Councilor Haskell

19-218 To authorize the addition of various assigned fund balance amounts to the fiscal 2019-2020 budget accounts.

Attachments: 19-218 Cover Sheet
Carry Forward

Susan Rossignol Finance Director said these are annual carry forwards, funds are primarily from capital accounts that we can utilize until projects are complete. Susan said this happens every year.

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

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Cummings, Councilor Douglass and Councilor Kalogerakis, Chair Jarrod Maxfield.

19-222 To authorize the reimbursement of refunded excise fuel taxes for fiscal years 2017 and 2018, in the amount of \$76,372.41 from contingency account 19910-43100, to the State of Maine.

Attachments: 19-222 Cover Sheet
Excise Fuel Tax

Susan Rossignol Finance Director said in fiscal year 2016, evidently, someone received an application for a refund of fuel tax. The form was completed, submitted and the town

received \$35,000. The same was done for fiscal 2017 and we received a refund. When she started working in fiscal 2018 she repeated the process. When they got to fiscal 2019, they were challenged and she found out the town was not eligible for those refunds, and we have to pay them back. They are only requesting two-years (2017 & 2018), which comes to \$76,000 and if we pay before December 8 there is not interest or fees.

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

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Cummings, Councilor Douglass and Councilor Kalogerakis, Chair Jarrod Maxfield.

19-224

To authorize the town manager to authorize, on behalf of the town, the amendment to the Land and Water Conservation Fund Project Agreement for the development of the Community Park located adjacent to and incorporating the skate park and further, to state the Council's intent to appropriate the sum of \$150,655 from recreation impact fees (1000-25002) for the additional local share of this project.

Attachments: 19-224 Cover Sheet
Order 16-179 of 11.15.2016
Original Grant for Community Park

Linda Brooks Parks & Recreation Director said they have completed a good portion of phase 1 of the Community Park Project, which is the skate park. Linda explained that initially the bids came in high so they had to scale down the initial part of the project to be able to manage what was appropriated for it.

There were many delays, and by the time they approached the state to ask for an extension of time, they said they could grant them the time and asked if we needed more money? They said they could appropriate additional funds if we had that match. Now they are in a good position to go back to what Grover's original bid was, and this amendment would allow them to accomplish what was initially our Phase 1 part of the project. The total local share would be the \$348,025 and the total Federal share would be \$306,414.

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

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Cummings, Councilor Douglass and Councilor Kalogerakis, Chair Jarrod Maxfield.

XII. Council Correspondence.

None.

CD 19-271 ecomaine 2019 Annual Report.

Attachments: 2019-ecomaine-Annual-Report

CD 19-269 Town Clerk's Report for October 2019.

Attachments: Town Clerk's Report-Oct. 2019

CD 19-270 Social Services Monthly Report - September 2019**Attachments:** Social Services Monthly Report - September 2019.docx**CD 19-275 Windham Public Library Monthly Report - October 2019****Attachments:** October 2019**CD 19-276 Parks and Recreation Department Monthly Report - October, 2019****Attachments:** Monthlyreportsoctober2019**CD 19-277 Fire-Rescue Department Monthly Report - October 2019****Attachments:** October 2019 Monthly Report**CD 19-278**

Financial Reports as of 10/31/2019

Attachments: Revenue as of October 31 2019Expenses as of October 31 2019**CD 19-280 Windham Police Department Monthly Report - October 2019****Attachments:** October**XIII. Town Manager's Report.***No report.***XIV. Committee Reports.****A. Council Subcommittees.****1. Appointments Committee.***Councillor Nangle said they have not met.***2. Finance Committee.***Councillor Nadeau said they have had one meeting and will be meeting once per month.***B. Other Committees.****1. Long Range Planning Committee.***Councillor Nadeau said they are meeting tomorrow morning.*

2. Parks & Recreation Advisory Committee.

Councillor Cummings said the meeting was canceled due to weather, and there will be a tree lighting at the Public Safety Building from 5 to 7.

They are accepting applications through December 4th for the Community Center Adhoc committee.

3. Windham Economic Development Corporation.

Councillor Maxfield said they have not met since the annual meeting.

4. Highland Lake Leadership Team.

Councillor Cummings said they will be January 8, 2020 from 3 to 5.

5. Private Roads ad hoc Committee.

Councillor Nangle said they have not met.

6. Natural Resources Advisory Committee.

Councillor Douglass said they met last week and they went over the preliminary review criteria for grant applications for funds on natural resource protection.

7. Public Easement Advisory Committee.

Councillor Nadeau said they have not met but they have scoped out all of the roads and had contact with a couple of roads who had to be updated and they are good to go.

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

Have not met.

XV. Agendas & Scheduling.

Schedule a discussion on the remaining properties that did not bring in bids.

Long Range Planning is working on a growth ordinance and will have a workshop coming soon.

Councillor Maxfield said he met with Mark, Patrick, Kevin at the Albion Road and Route 302 Intersection.

He will put on the agenda that they request the State take a look at the speed approaching that area; it is a high crash area, and also wants to request the State look at speed limit approaching Colonial Park Road in No. Windham as well.

Councillor Nangle - discuss opening the Enterprise District to regular agriculture and define what grandfathered means in our ordinances so staff has guidelines.

XVI. ADJOURN.

A motion was made by Vice Chair Nangle, seconded by Councilor Douglass, that the be adjourned. The motion carried by the following vote:

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Cummings, Councilor Douglass and Councilor Kalogerakis, Chair Jarrod Maxfield.

Respectfully submitted,



Linda S. Morrell
Town Clerk, CCM