



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Town Council

Tuesday, January 10, 2023

6:30 PM

Council Chambers

I. Roll Call of Members.

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

II. Pledge of Allegiance.

Council Chair Morrison led the Pledge of Allegiance.

III. Minutes to be Approved:

[CD 23-008](#) To approve the Minutes of the December 13, 2022 Special Meeting.

Attachments: [Minutes-Special Town Council - 12-13-2022.pdf](#)

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

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

[CD 23-009](#) To approve the Minutes of the December 13, 2022 Council meeting.

Attachments: [Minutes-Town Council - 12-13-2022.pdf](#)

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

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

IV. Adjustments to the Agenda.

V. Public Participation.

Susan Dexter was here on behalf of Donna Cobb on behalf of the Windham/Raymond School Age Child Care Program. Donna handed out a map to the Councilors. They are hoping to expand their program in the Windham area to do free school child care. In order to do that they will be applying for a grant through the state for up to \$250,000, which would be a huge asset to them.

In order to do that they need to meet some requirements; they need to have the land identified, and notification from the town that they would be able to build on that property. She sent the Council an email that includes the details that they are looking for. They have a time frame of March 1, so time is of the essence.

Donna Cobb said the map is not exactly accurate, but it is close.

David Whitten Sticky Bud Farms (see attachment)

Linda Morrell Town Clerk reminded Windham residents that dogs need to be licensed for 2023. A late fee of \$25.00 per dog will start on February 1. The fee for a dog spayed/neutered is \$6.00 and one that is not is \$11.00.

VI. Councilors' Comments.

VII. PUBLIC HEARINGS.

23-004

To receive public comment and act on a proposed zone change request from Ryan and Brewster Harding request to amend the official Town of Windham land use map to rezone a parcel on River Road identified on Tax Map 5, Lot 14, and the six abutting residential properties identified on, Tax Map 5, Lots 14A, 14B, 14C, 14D, 14E and 15, from Industrial (I) District to Farm (F) District.

Attachments: [23-004 Cover Sheet.pdf](#)
[506 River Road Land Use Map Amendment.pdf](#)
[Proposed MapChange Industrial 2 Farm.pdf](#)

Amanda Lessard Planning Director said she presented the property owner's request to rezone their property at 506 River Road from Industrial to Farm Zone. The Planning Board had a public hearing on it, and they unanimously recommended to the Council to change the zoning as well as recommending expansion of that zone change from just that one parcel to the additional six (6) abutting properties that are all currently residential uses. Those property owners were notified of this meeting this evening. The Planning Staff received a call from one of the owners who was in support of the zone change, and they did not hear from the other property owners.

Councilor Nadeau asked if the other lots that were included in the zone change, are they two acre lots going into Farm or are we making non-conforming lots?

Amanda said only one is over the 80,000 sq.ft. required by the Farm minimum lot size, so all, except for two of the seven, will be non-conforming lots, but the uses will now be conforming.

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

23-008

To receive public comment and act on a new application submitted by JMA Enterprises Inc d/b/a Pat's Pizza- Windham, and to find that the requirements of 28-A M.R.S.A. § 653 have been met for a new Liquor License.

Linda Morrell

From: Sticky Bud Farms <stickybudfarms@gmail.com>
Sent: Wednesday, January 11, 2023 4:00 PM
To: Linda Morrell
Subject: Dave whitten speech 2

Intro:

Good evening to all of you and I do hope you enjoyed a beautiful holiday season. My name is David whitten and I own and operate multiple businesses here in town and have been operating sticky bud farms for the last 5 years here with no police complaints, no problems in my parking lot, no selling to minors and have displayed our COMMUNITY outreach in many ways. Education, counseling of those suffering from addiction, giving free treatment to multiple cancer patients, helped thousands that suffer from poor sleep along with all the charitable things we do for this and surrounding areas.

In the past year we have asked to be allowed to operate both our current medical dispensary and add a adult use dispensary next door. We have been met with great resistance as well as some pretty poor excuses as why we can't.. First excuse given was that the other two shops needed to be open a while and to make sure there wasn't issues that derive from these adult use shops like stabbing in the parking lot. We all have been open for years and obviously this hasn't happened and I wonder if you say that about those serving and selling alcohol in WINDHAM. I dont think so..

The second reason was that you wanted to wait a few years to let Paul's and jar have time to recoup their investments. What about my investments? Really consideration of my investments over the years we're not even considered in that statement. Did you tell that to walmart when they came to down and effected the business at shaws,Hanna fords, the hardware store, corner stores etc. I dont think so.

Although as the council you have the power to do what you want and you all say your pro business but I'm sorry, I'm not seeing that. I appreciate all the time and efforts put forth.As a professional operator and businessman I'm frustrated with the continued excuses. I simply don't understand what the issue is. As seen all over the news this morning about adult use is growing, providing great influx into maines general fund and how the stigma is falling behind .

That being said ,I have decided to initiate a citizens initiative to remove the cap on adult use cannabis dispensary licenses. The exact wording is in process with my lawyer and should be ready for review with town lawyer next week. It was suggested to me by an employee of WINDHAM to bring this to you at tonight's council meeting as you do have the power to increase cap on your own. I was informed we only need 948 signatures to place this on the ballot for June and I can tell you that getting those signatures is no problem. So now were both faced with an easy way and a harder way but that choice falls on the council to make. I can no longer just sit and be quiet as this really effects my business, my family, my staff as well as our livelihood. We send at least 50 potential customer away in a month and in summer months,it hundreds per month. I should not have to hand my customers over to my competition ,ESPECIALLY WHEN THEY WANTED TO PURCHASE FROM US! I have asked before and stated I much rather approach this with civility and diplomacy but now I need to take this to the poeple with a citizens initiative . I FEEL CONFIDENT THAT WE CAN NOT ONLY GET THE SIGNATURES BUT ALSO PASS THE VOTE AS BASED ON MY DISCUSSIONS WITH NUMEROUS WINDHAM RESIDENTS THAT ARE SYMPATHETIC TO THIS , that it is unfair and creates a clear business advantage leading to monopolies. I could easily open an adult use in another town but I already have the space here and simply put, I love the people of WINDHAM , I love this COMMUNITY and hence why I've opened 5 businesses here.

In closing I urge you to reconsider letting the current operators ,in the c1 zone only,be allowed to operate both MEDICAL AND adult use as we have proven that we are professional and compliant. This will save a lot of time for both as the clerks office will have to spend weeks verifying signatures and when passed this will take up even more of the town councils time.

Thank you,
David whitten

Attachments: [23-008 Cover Sheet.pdf](#)

[Pat's Pizza new Liq. Lic App.pdf](#)

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

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

23-009

To receive public comment and act on an application submitted by JMA Enterprises INC, d/b/a Pat's Pizza located at 844 Roosevelt Trail for a new Special Amusement permit.

Attachments: [23-009 Cover Sheet.pdf](#)

[Pat's Pizza new Sp. Amusement.pdf](#)

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

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

VIII. CONSENT AGENDA.

IX. Council Mandatory Training.

Attorney Kristen Collins did the presentation for the Freedom of Access training for the Councilors and other Department Heads who were required to take it.

IX. Council Mandatory Training.

CD 23-001

Freedom of Access Act (FOAA) Training.

A motion was made by Councilor Reiner, seconded by Councilor Maxfield, that the Discussion Item be discussed with no follow up needed. The motion carried by the following vote:

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

X. UNFINISHED BUSINESS & GENERAL ORDERS.

22-240

To apply the revised Disposition of Tax-Acquired Policy to the disbursement of sale proceeds received for 53 Provost Drive.

Attachments: [22-240 Cover Sheet.pdf](#)

Manager Tibbetts said they received the signed document from that sale. The party has complied with the rules of the policy.

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

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

23-003

To accept the public easements for Hemlock Drive, Island Drive, Brass Lane, and Phil Hunt Road identified by the Town as Designated Private Ways and that have met the criteria set forth by private and special law L.D. 1975, for the purpose of the Town's continued winter maintenance services on the defined public easement area.

Attachments: [23-003 Cover Sheet.pdf](#)
[Hemlock Drive Easements.pdf](#)
[Brass Ln Island Dr Phil Hunt Dr Easements.pdf](#)

Manager Tibbetts said that with the approval this evening 28% of the roads will have completed the process, roads with easement collections that are underway is at 35%, associations established or working on formalizing the next steps are at 27%, and we still have 11% of those roads that we have had no contact from.

Tammy Hodgman has done a great job with this, it is a huge project and has been going on for well over a year, and we still have another seven or eight months to go.

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

23-005

To endorse an application for Community Development Block Grant (CDBG) funds for the proposed "Vet to Vet Maine", which is a multi-community block co-sponsored with the Town of Scarborough.

Attachments: [23-005 Cover Sheet.pdf](#)
[CDBG for Windham Vets Request.pdf](#)
[Multi-Community Applicants--Windham Endorsement.pdf](#)
[Vet2VetME Windham 11.2021 Original Sponsorship](#)

Manager Tibbetts said this is a great program to help the vets, and we are participating with the Town of Scarborough, which is the lead. He thought there were ten or eleven veterans here in Windham that receive benefits.

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

23-011

To authorize the Town Manager to send a letter of support to Cumberland County for ARPA funding.

Attachments: [23-011 Cover Sheet.pdf](#)
[DRAFT Memo Council to CCC.pdf](#)

Manager Tibbetts said this application will be submitted this week for funding for our sewer project. We are requesting \$1.5 million, and the work that has been put in on this has come from the Portland Water District, Tom Bartell and other staff members.

Councilor Maxfield asked if there was any value in highlighting Windham because

Windham is the center of Cumberland County, a regional center and also our wastewater treatment facility not only benefits Windham but will also help benefit the environment and the water stream. Manager Tibbetts said he would include it.

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

23-014

To authorize the borrowing of an amount not to exceed \$3,025,000 by the Town of Windham (the "Town") by the issuance of one or more general obligation bonds to be used to refund, on a current basis, the currently outstanding general obligation bonds duly authorized and issued by the Town on December 15, 2011 for the purpose of realizing debt service savings to the Town.

For the Council's reference, Moors & Cabot, Inc. is acting as the Town's municipal advisor for the issuance of the bonds.

Attachments: [23-014 Cover Sheet.pdf](#)

[Council Order Windham GOB23 Refund Revised.pdf](#)

[Council Cover Sheet Windham Gob23 Refund Attachments.PDF](#)

[Town Council Memo Windham GOB23.pdf](#)

[2023 Windham POS.pdf](#)

Manager Tibbetts: Originally this bond was issued in 2003 and was refinanced in 2011. When going through our current bonding approvals our bonding agent, Joe Cuetara, looked at it and realized we could probably refinance this also, so he then went out and found a party that was interested in purchasing these bonds. So, the net effect to us is, basically, two payments left for the town on this bond, about \$45,000 if you decide to move forward; it is a great deal for us.

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

23-015

To refer proposed amendments to the Land Use Ordinance, Chapter 120 of the Code of the Town of Windham, related to sunset provisions to the Planning Board for review and recommendation.

Attachments: [23-015 Cover Sheet.pdf](#)

[Memo from Code Dir J Rioux.pdf](#)

[Legal Opinion Regarding Sunset Provision.pdf](#)

Manager Tibbetts said he thinks this will help us correct some language in our Land Use Ordinance so that we can be more efficient in how we handle applications, and/or approvals.

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

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

23-001 To accept Hayfield Lane as a public way.

Attachments: [23-001 Cover Sheet.pdf](#)

[M Arienti Memo 11.18.2022.pdf](#)

[Hayfield Lane Deed to Windham Town Council.pdf](#)

[Hayfield Lane - street map view.pdf](#)

[Performance and design standards.pdf](#)

Manager Tibbetts said staff has reviewed the application, and they have met all of the criteria and the recommendation is to accept this as a public way.

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

23-016 To accept a grant from Grondin Corporation, LLC of a strip of land [or right-of-way] for the purposes of future development of a public way as depicted on the plan for the Nelson Meadows Subdivision approved by the Planning Board on March 22, 2021 and described in a proposed deed submitted by Grondin Corporation, Inc. This acceptance shall not confer upon the Town any obligations to maintain the right-of-way until such time as a road is constructed to applicable standards and accepted by the Town Council as a town way.

Attachments: [23-016 Cover Sheet.pdf](#)

[Hayfield Lane Deed to Windham Town Council.pdf](#)

[Nelson Meadows Approved Plan Note 17.pdf](#)

[Potential Future Road Extension.pdf](#)

Manager Tibbetts said the Council's approval of this would complete the process of the Planning Board approval.

Councilor Nadeau said it shows the road coming off the cul-de-sac and then running along the line, but then it goes off the paper, where does it go?

Amanda Lessard Planning Director said it is a large undeveloped parcel, and one of the standards in subdivision review is that the Planning Board may require a right-of-way to a large undeveloped property. The street acceptance process that you just accepted, Hayfield Lane, this is the right-of-way extension off of Hayfield Lane. As a public street, the Town could control the development or the extension of that public way if that property was ever developed, it could utilize it as a road connection.

Councilor Nadeau - in moving forward, could they have the piece of property that attaches to it shown on the map? Amanda said yes, they would do that.

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

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

XI. Council Correspondence.

CD 23-006 ME D.O.T. Paving Project 2023 Notification.

Attachments: [MDOT Preservation Paving Project Route 302.pdf](#)

CD 23-007 Substance Prevention Grant Recipient Reports.

Attachments: [Progress Report - Taking Back Maine's Future - Educational Grant Recipient.pdf](#)
[Final Report - National Night Out - Educational Grant Recipient.pdf](#)
[Natural High Program Grant Final Report.pdf](#)

CD 23-005 Department Quarterly Reports.

Attachments: [Police Quarterly report 4th quarter 2022.pdf](#)
[Public Works October-December 2022 Quarterly Report \(002\).pdf](#)
[Quarterly Report from the Town Clerk.pdf](#)
[Assessing Report Oct - Dec 2022.pdf](#)
[Parks and Recreation Quarterly Report October - December 2022.pdf](#)
[Code Enforcement Department Quarterly Report 10-1-22 to 12-31-22.pdf](#)
[2022 Fourth Quarter Fire-Rescue Report.pdf](#)
[Library Quarterly update 01052023.pdf](#)
[Planning FY23 Q2 Report.pdf](#)

XII. Town Manager's Report.

Manager Tibbetts reported that Senator Collins has successfully gained \$2 million for our sewer project, and Senator King has also been able to obtain \$2 million for our sewer project. This is great news.

2. We have also received word from M.D.O.T. that Windham has been selected for the Raise Grant Program, which will fund our Rear Access Road that we have been talking about. Meetings will start this week, and it looks like we will have the funding to do the project.

3. With the funding from Senator King, the Phase 1 Project is estimated at \$25 million to get that done, which is the disposal fields at Manchester School along with the playing fields, the treatment plant and the collection pipe, which would go from Manchester all the way over to the Windham Mall (Portland Pie area), and then the goal would be to come back up to River Road and eventually connect in with the Middle School. They think, at this point, based on the grants received and the grant being submitted, they will have met that objective, and they will not have to go back to the residents to do a bridge loan or anything for Phase 1. With Phase 2 (westerly side of Route 302) they have been in discussions with a developer, and that looks very promising.

4. Next Tuesday night, January 17 at 6:30 will be a meeting to discuss the Windham Center Zoning, and we will be joined by the Planning Board, and there is an executive session at 5:30 for the Council beforehand.

XIII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

No report.

2. Finance Committee.

No report.

3. Ordinance Committee.

No report.

B. Other Committees.

1. Long Range Planning Committee.

Councilor Nadeau said their discussion was on pieces you will see in front of you next week.

2. Parks & Recreation Advisory Committee

No report.

3. Windham Economic Development Corporation.

Tom Bartell said they are working with their engineers in the development on concept plans for the relocation of the North Windham Fire Station, the reuse of the current North Windham Fire Station, the reuse of the Andrew's School in South Windham, and redevelopment of the former transfer station site on Enterprise Drive. These are concept levels that they are going through to see if they can't turn them into performing properties.

The Executive Committee will be reviewing a proposal received through Town Manager and the WEDC board member, Mr. Tibbetts for an updated development strategic plan, this will go to the full WEDC Board for review and action after we look at it in the Executive Committee. The Executive Committee is also developing the annual budget and funding request to the town, and that will be presented to the town through their budget process happening this month.

They continue to work on the North Windham Sewer Project. The LUO discussion and along with that, the Cumberland County Sewer Grant as well as the CDBG Grant for South Windham that you approved moving forward a couple meetings ago.

You will also be seeing the T.I.F.'s that they have been working on as well.

4. Highland Lake Leadership Team.

No report.

5. Natural Resources Advisory Committee.

No report.

6. Public Easement Advisory Committee.

Councilor Jones said they will be working on that this summer.

XIV. Discussion Items.

***Note: Minutes are not taken for discussion items.**

CD 23-003 Council Rules Amendment to Meeting Start Time.

Attachments: [Council Rules PROPOSED AMENDMENT 2023 0124.pdf](#)

CD 23-004 New TIF District Proposals: Boody's Corner B and Gambo Road Districts.

Attachments: [Windham TIF Program Update Dec 2022 \(002\).pdf](#)
[TIF Common Funded 1 5 2023 \(002\).pdf](#)
[So. Windham Industrial DECD MTIF Application w Exhibits.pdf](#)
[Boody's Corner B DECD MTIF Application w Exhibits.pdf](#)

CD 23-010 Land Use Ordinance Third-Party Review - Report.

Attachments: [A REVIEW OF LAND USE REGULATIONS.pdf](#)

CD 23-011 Town Auditor's Report: Provided via Zoom Conference.

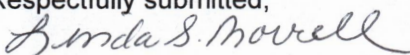
Attachments: [Windham YB Report 2022 1-10-2023 Final.pdf](#)
[Windham FS Audit 2022 1-10-2023 Final.pdf](#)
[Windham SAS 114 2022 1-10-2023 Final.pdf](#)

XV. Agendas & Scheduling.**XVI. ADJOURN.**

A motion was made by Councilor Maxfield, seconded by Councilor Kalogerakis, that they be adjourned. The motion carried by the following vote at 8:50 p.m.:

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

Respectfully submitted,



Linda S. Morrell

Town Clerk, CCM