



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Town Council

Tuesday, November 14, 2023

6:00 PM

Council Chambers

**To join the meeting remotely use this link: <https://us02web.zoom.us/j/82276399709> or
you may call 1-646-558-8656 and enter meeting ID: 822 7639 9709**

Pursuant to the Town of Windham Council Remote Meeting Participation Policy adopted October 12, 2021, Zoom is only available to the public if one or more of the Board members cannot attend in person but will be participating remotely.

The policy can be found online at:

<https://www.windhammaine.us/DocumentCenter/View/7831/Council-Board-or-Committee-Remote-Meetings-Policy->

Zoom will be the meeting platform used by both the Council and the public. Information about using Zoom is available at

<https://support.zoom.us/hc/en-us/articles/115004954946-Joining-and-participating-in-a-webinar-attendee->

Please note that members of the public will need to use the raise your hand feature in Zoom or type *9 on the phone to be called on and heard during the public testimony portion of the agenda.

If you prefer, you may also email the Council at TownCouncil@windhammaine.us prior to the meeting with your thoughts on an issue and if you would like, please note that if you would like the email read into the record during public participation or during that agenda item. Please keep in mind we request stated comments to be three minutes or less.

The meeting will be recorded and broadcast live on WindhamTV (Channel 7) and the Town's Facebook page.

I. Roll Call of Members:

Present: 6 - David Nadeau, Brett Jones, Nicholas Kalogerakis, Mark Morrison, William Reiner and Jarrod Maxfield

Absent: 1 - John Henry

Swearing In of Councilors-Elect.

Town Clerk Linda Morrell swore Mark Morrison in for Town Council At Large for a 3-year term.

II. Pledge of Allegiance.

Council Chair Morrison led the Pledge of Allegiance.

III. Minutes to be Approved:

[CD 23-145](#) To approve the Minutes of the October 24, 2023, Council meeting.

Attachments: [Minutes-Council-10-24-2023.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: 6 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Maxfield

Absent: 1 - Councilor Henry

IV. Adjustments to the Agenda.

Council Chair Morrison said there were two adjustments to the agenda, and the first is that they withdraw from the agenda Order 23-215 entirely. It will not be on tonight's agenda or any future agendas. This is related to the Roman Catholic Church and the seven acre site and it is being removed because the applicant has withdrawn the request.

The second adjustment is to add an appointment to the Natural Resources Committee.

V. Public Participation.

David Brinkman - (See Attached)

Ingrid Levassuer - (See attached)

Stephen Napolitano - He congratulated the Town of Windham coming out and voting in incredible numbers and also passing our Recall Ordinance. He said he thinks it is a great success in the making for our town to have something in place to restore integrity on how we do business; it is a bipartisan ordinance.

He said he knows that the Council is planning on looking at the language and matching it up with the Charter, and he appreciates all the effort going into that, but keep in mind that the people voted with the numbers in place and they have heard a lot of chatter in past meetings that will be attacked. He hopes they respect the election, just like they respect everybody that voted in Mark and Linda, and congratulations to them. They respect the fact that you are voted in and the same with the Recall. He hopes they just focus on the language verses protecting numbers that would benefit politicians.

Stephen said he knows tonight they will be appointing a Chair and Vice Chair, and talking about the Ethic's Committee. He wanted to share his concern about Councilor Maxfield ever being considered for either a Chair ever again or being on any part of the Ethic's Committee. He said this was a gentleman who followed him out of a School Board meeting, and inside he said despicable things to him, defamed him in public, and there are many witnesses and video on the outside when he was followed out, and anything that has to do with ethics, he should not even be in the conversation to make decisions for the town. He said you are not just a Councilor sitting behind a computer; Barry is our

I'm David Brinkman, Vietnam Veteran, Windham, Maine resident for 40 years.

Reply to Town Manager response to my letter dated Nov 3.

I did not read in your Ethics Code that the title of Councilor must be used in correspondence to differentiate from acting as a private citizen. You are saying that as long as a councilor does not say he/she is a Councilor then any influencing, interfering or affecting an election is the action of a private citizen. Seems like a flaw in the ethical code; or at least it highlights that the ethical code does not adequately define the veiled distinction between private citizen and Councilor. Whenever a Councilor removes his badge he can do all the political bashing, trashing and name calling we have all witnessed recently. Thus Private Citizen Maxfield can influence, interfere or affect an election and then return to his Councilor chair to reap the benefits obtained from his incendiary, inflammatory, and very public muckraking. Certainly what this councilor does as a private citizen reflects poorly on your whole Council and our Town and on Maine whether he speaks as a private citizen or not.

If, as you say in your letter, the policy does not apply, then I submit that the policy does not address inappropriate private citizen behavior and your Council's ethical compass should be re-calibrated. Now I'm asking for an overhaul of your Council's Municipal Code of Ethics.

Acceptable conduct would allow endorsements of a candidate without the use of an official title. So then what is Unacceptable conduct? Maybe the Council is unaware of the use of Councilor David Nadeau's Municipal eMail to endorse and encourage the election of Marge Govoni to School Board. There has been no sanction for that; No accountability. It appears that the Council is conflated on the ethical difference between a Councilor and a Private Citizen.

This Ethical Code is a counterfeit construct put in place to insulate the Councilors from the rules. Everyone knows that he is a Councilor. How can that be ignored, manipulated, and/or justified by a Code that is labeled ethical? In effect, the Council grants discretionary immunity to itself through a pretend ethical code. No ethical Ethical Code would protect such destructive defamation by shrouding Councilor Maxfield in the garb of a private citizen. Everyone knows that he is a Councilor.

The Town has been wounded by the political attacks and divisive public commentary of a Council member in his role as a private citizen. An apology would go a long way toward mending and healing in a gesture of leadership from a private citizen who was once elected to do good community work.

Ethically, there should be no difference between the conduct of private citizen and public councilor. And a public councilor should not hide behind the freedoms of citizenry.

THE END

Chairman Morrison, Vice-Chair Nadeau, Counselors:

I came late to the party in 2023 and missed most of the fireworks of the School Board and Town Council meetings. By the time I started attending there were clear animosities and stark differences of opinion. I tried to keep an open mind since I didn't have the entire background.

Recently, I was shocked and appalled when I read a FB post of a town councilor publicly accusing a local candidate of rape. To make such a life-altering post on a public platform based on the information from another post is foolish, irresponsible and reckless. And this is the behavior of someone we are supposed to trust to make sound decisions on behalf of the town and its residents.

I, for one, am sickened by this counselor's actions.

And to the remaining counselors;

You are honorable, decent men trying to do right by this town and its citizens.

Are you going to denounce this despicable behavior?

Do you have the integrity to say, "You've crossed a line that should NEVER be crossed by anyone"?

Do you have the courage to say, "We no longer trust your judgement"?

Do you have the self-respect to say, "We can NOT work with you in good faith"?

How can you trust a man who would seek to destroy a fellow resident based on information from a FB post?

How can we depend on someone who has exhibited such a profound lack of judgment?

How can we residents believe anything he says?

And counselors, this is your test of character. Are you strong enough to demand a public recognition of an egregious, deliberate action. I am not talking about a meaningless "I'm sorry".

I'm talking about a public acknowledgement of the reprehensible, reckless, juvenile, libelous behavior that none of us in this community should ever have to endure from anyone, let alone an elected official.

I implore you to take action, tonight!!

And, if the counselor in question has even one thin thread of integrity remaining, he would resign immediately, TONIGHT.

Thank You,

Ingrid LeVasseur

Town Manager, even when he is not in this building; what kind of look do you want for this town? It is a responsibility, and they appreciate the effort that all of them are taking, and they should be operating with integrity at all times, not just while in here. He said he does not care which side of the isle you sit or if in the middle, this is for the benefit for everybody. He said he does not want to keep coming to these meetings.

Ken Clark - He came to address some things he thought were unethical. There were emails that they found where Dave Nadeau was recommending Marge Govoni for School Board, and she got elected and he congratulated her on their efforts.

He showed some pictures that Marge supports, which he said was fine, everyone has different view points. He said these books are in the school and there a lot of parents against them. He finds it inappropriate for a Town Councilor to be using town emails to push to have someone elected to School Board who kind of supports this type of stuff. Mr. Clark said kids can get their hands on these books, and parents have no way of knowing. He said this is important stuff, and these are children doing pornography.

He wants to be on the Long Term Planning Committee, as he is a little concerned about taxes. He said we are doing a whole lot of spending, doing high density residential growing in the center of town, which will cause the property to go up and it will be harder for commercial people to make investments in the town. We know that residential has a high impact on our services, our schools and those are things that cause taxes to go up. Will we be doing something to address taxes going down and also the congestion?

Mark York - He said he doesn't want the Roman Catholic Church to build anything at the end of the road, as he has been living on Pettingill Pond his entire life. There are lots of different opinions, and the change and growth in this town has been good. Should we slow it down, it is up to all of us to decide, and he said he appreciates all of these people coming out to be here.

In regard to the books and pictures, you can find any of that on your phones, what can't we find on the phone that you can't find in the library?

Public Participation closed at 6:26

Present: 9 - David Nadeau, David Nadeau, Brett Jones, Nicholas Kalogerakis, Mark Morrison, Brett Jones, William Reiner, Jarrod Maxfield and Nicholas Kalogerakis

Absent: 1 - John Henry

VI. Councilors' Comments.

Councilor Morrison - Thanked the people for their comments and feedback. He said they need to make sure when you talk about individuals and individual's behavior, it needs to be factual and provide evidence. He is not a social media guy and he has not been aware of some of the accusations made of Councilor Maxfield. He said "we as Councilors also are citizens, we also have our first amendment rights. There is a difference between being a Councilor and our duties; we need to act ethically, respectfully, converse with town's people with a civil level of decorum, have calmed discussions and speak to the facts and not make it personal."

With respect to Councilor Nadeau, it is in their documentation on tonight's agenda; there was a questioning of Councilor Nadeau and the use of his email. They had a review by an attorney who is not the Town's Attorney, to make sure they had full transparency and to have an unbiased opinion, and the Attorney did not find that it rose to a level of impropriety. It was asked that we take a look at it again by a fellow Councilor. It was

looked at again by another Attorney, and again, it was found that there was no merit in that accusation in regards to Mr. Nadeau, for the record.

Councilor Maxfield said as Councilors they actually have less rights then everybody else, specifically against defamation and liable. Folks can stand up at the microphone and say anything they want; like I chased them into a parking lot after a School Board meeting, and that has been asked and answered a hundred times, it did not happen. He said during the meeting when Mr. Napolitano came up to him with Mr. Clark next to him and asked to shake his hand, he refused to shake his hand, and he refused to shake his hand for things he has not said in public about him. He has done him the respect of not saying that in public. Councilor Maxfield said he stood after Mr. Napolitano said to him that he was shocked that an elected official would not shake his hand. He said he stood in that room for another two or three minutes with another resident speaking about the resident, when he walked out, a member of their group who likes to record things walked him out of the building talking about the appointment of Marge Govoni to the School Board and she was holding her phone the whole time and recording him. He said he walked to his car where the group was in the car next to him. Councilor Maxfield asked Mr. Napolitano if he would like to know why he wouldn't shake his hand, at which point he was screamed at by the two of them, surround by a group of eight people and a giant gentleman got in his face until the police had to come. Councilor Maxfield said "put the video out or stop talking about it."

He said, as a Councilor, he has much less rights against liable and defamation. You can lie about me, go on line and lie about him, and because he is an elected official dedicating his time to the town he has less rights. What less rights he does not have is for freedom of speech. He is fully allowed to be involved anyway he wants. He said most people in town do not know they are town councilors. He does not have a town councilor Facebook page, he does not post under town councilor, he does not mention being a town councilor. He is fully allowed in his rights, as an American. He said this has been a non-political Council for years, and what has happened in the last six months is politics and petty bitterness brought in here. He will not be resigning, he is going to continue to do his job for the Town of Windham, and keep responding to those people who keep asking him to stand up, and he will use his voice anytime he can do it. Someone also said that he said that somebody raped somebody; send that post to this Town Council, because he never said that. He hopes they can move past that and the Ethic's Committee can devise some rules and adjustments to the policy.

He finished with an email they received from Gary Plummer talking about the recall. Gary said he doesn't support recalls but he did support the People's Recall going forward on its own, without the Council putting it on something else for the folks to have two options. What he did say is "as individuals you can work to defeat their measure." It is not just this Council's Rules, it is the courts of the United States, the courts of Maine."

Councilor Reiner said he appreciated everyone showing up tonight for public comment as he enjoys what people have to say and it is good feedback for them. In regard to the ethic's complaint, he probably put our Chairman in a difficult position, as he has been persistent in getting an answer from the lawyers in getting an answer on use of Council's email or how wording in the emails are presented. He said they did get an answer back and he was not satisfied with it, so he challenged it again. So, there has been work in that area behind the scenes, it was not glossed over or dismissed, it was addressed and he has seen the answers from the attorneys, and as far as he is concerned, he is satisfied with the answers they have received.

He asked when the People's Recall Initiate might take effect? Manager Tibbetts said it

will become effective 10 days after the vote, which will be November 17, 2023. He knows the recommendation from one of the Councilors was to start a bipartisan, multi focal committee to look at the language and wording. He would like to get ahead of this before the next meeting, if they can take the ordinance, as written, present it to our legal Counsel and have them redline anything they feel in the language, which would be indefensible or does not fit within the guidance of our Charter at this time. He is only looking for language that would be inappropriate; he does not want to have any recommendations from our legal Counsel as far as numbers, percentages, or anything like that. Those things were voted on and appropriate and legal at the time when it was written.

Councilor Kalogerakis congratulated Mark and Linda on the election. He said to the three individuals, Steve, Kristen and Justin that spear headed the People's Ordinance, congratulations. He said he was very vocal that he did not like one of the numbers, which was no specific number on voter turnout. He does not like the situation we have now with certain groups and the Council sparing back and forth. His commitment this year is to quell that as much as he can by continuing to reach out, have conversations and find out how they can meet common ground and move forward. There is no winner in the way it is going now. His efforts will be to try and get them back together, they will not always get what they want, and when that happens they have to move forward and try to find other solutions. This election and what has been going on in social media, it is disgusting and it was disgusting on both sides, and he thinks they all need to look at that first. He hopes in the future people can stick to the issues, whether you like someone or not. Those are his hopes and prayers.

Councilor Maxfield said with regard to the Recall the only thing to do is strike the part that violates the Charter, everything should stand until they have a committee and have people work on it together. Everything else is really up for debate and just have the Charter issues that need to be fixed. He supports doing that at the next meeting so it is cleaner, then decide how to proceed forward with the rest of it.

Manager Tibbetts said he will have the attorney go through it and identify that issue, which is contrary to what the Charter says. They will red line it for the Council to consider and leave the rest as is. The numbers are a policy issue.

VII. PUBLIC HEARINGS.

23-213

To receive comment and act on proposed amendments to the Land Use Ordinance, Chapter 120 of the Code of the Town of Windham, Article 4 Zoning Districts, related to two-family dwellings, and Article 5 Performance Standards, related to accessory apartments.

Attachments: [23-213 Cover Sheet.pdf](#)

[LD 2003 LUO AMENDMENTS 092023.pdf](#)

[Windham ordinance review LD2003 Sept23.pdf](#)

[TC MEMO PB recommend Duplex ADU 110723.pdf](#)

Amanda Lessard gave an overview. (See attached memo)

Amanda said since the Planning Board hearing the Council has text written in front of them, where upon further discussion with the Code Department, they had some misunderstanding of the State Plumbing Code requirements for the sizing of septic



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MEMO

DATE: November 7, 2023

TO: Windham Town Council
THROUGH: Barry Tibbetts, Town Manager
FROM: Amanda Lessard, Planning Director
Cc: Windham Planning Board

RE: Planning Board Recommendation - #23-31 Amendment to Code of the Town of Windham Chapter 120 Land Use Ordinance, Article 4 Zoning Districts, related to two-family dwellings, and Article 5 Performance Standards, related to accessory apartments.

Overview

At the Planning Board meeting on [October 23, 2023](#), a public hearing was held on the proposed amendments to the Land Use Ordinance Article 4 Zoning Districts, related to two-family dwellings, and Article 5 Performance Standards, related to accessory apartments, in order to comply with the state law [LD 2003](#), An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions. To implement the law, the Town must make adjustments to existing land use regulations as it relates to requirements of allowing structures with up to 2 dwelling per lot and parking requirements for accessory dwelling units. Staff is also proposing some additional changes to the standards for Accessory Apartments to improve administration and remove some of the barriers to developing this housing type. The Town Council Ordinance Committee unanimously recommended the amendments.

Summary of Proposed Changes

- Article 4 Zoning Districts
 - Dwelling, Two-Family are permitted uses without exception in the Farm (F), Farm-Residential (FR), Light-Densit Residential (RL) and Commercial III (C-3) Districts
- Article 5 Performance Standards, Section 120-501 Accessory apartments
 - Increase the maximum size from 600 square feet to 800 square feet
 - Limit the number of bedrooms to 2
 - Allow permits to run with the property instead of the owner
 - Remove requirements for recording permits in the Registry of Deeds

Planning Board Review and Recommendation

One member of the public provided comment at the Planning Board's public hearing held on October 23, 2023, asking if four-unit buildings would be allowed where single family homes are allowed.

The Board discussed how the Town was already in compliance with allowing four-unit buildings required by LD 2003 in growth areas, the reasons for increasing the minimum size for accessory apartments, that even though duplexes would be allowed everywhere accessory apartments were still necessary for lots that didn't have the net density to have another dwelling but required it to be owner-occupied. Following discussion of the proposed changes, the Board made the following motion:

To recommend approval of the proposed amendments to Chapter 120 Land Use Ordinance Article 4 Zoning Districts, related to two-family dwellings, and Article 5 Performance Standards, related to accessory apartments.

Motion: Kathleen Brown

2nd: Marge Govoni

Vote: 7-0

systems. We are more restrictive with the sizing for these accessory apartments in our Ordinance today, and where they are proposing to add duplex units to these same districts, it does not seem appropriate to have a septic system requirement that is greater for an apartment than they would for a duplex. They are proposing an additional change for the Council to consider as an amendment.

Amendment: Section 120-501(I) strike the end of the first sentence with the words "to accommodate the wastewater volume from two dwelling units" and instead replace that with: "A property on which an accessory apartment is located shall require the installation and the use of a septic system that is in accordance with the State of Maine Subsurface Wastewater Disposal rules."

The Planning Board had a general discussion and unanimously made a vote to recommend the changes to the Council.

Public Comment:

Mark York He said it was interesting that this is coming up when the church cancelled this meeting. Are we looking to change farm land usage? Amanda said the answer is no.

Amanda said LD 2003 is a State law enacted a two years ago that requires municipalities to make these changes to Land Use Ordinances to increase the availability of housing, so there is several components related to providing density bonuses for affordable housing developments in growth areas to allowing up to four units to be built on properties in growth areas. The two they are addressing tonight are the elements related to municipalities have to allow for accessory dwelling units, they can't require more parking for them, and we have to allow for duplexes, essentially, every where else in town that is not a growth area.

*Mark York said he went to a meeting a month ago and he wanted to remind everyone that the church is within that growth area that the town wants to grow.
Closed Public Comment.*

Councilor Nadeau made an amendment to 120-501(I) Accessory Apartments, Section I and cross out "to accommodate the wastewater volume from two dwelling units" and add in its place "In accordance with the State of Maine's Subsurface Wastewater Disposal Rules." moved by Councilor Kalogerakis, seconded by Councilor Reiner.

*Vote in Favor of Amendment: 6-0
Absent: J. Henry*

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

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

Absent: 1 - Councilor Henry

23-214

To receive comment and act on proposed amendments to the Land Use Ordinance, Chapter 120 of the Code of the Town of Windham related to Article 4 Zoning Districts, Industrial District (I), including the addition of permitted uses, a reduction of front setbacks, the addition of buffer yards along the street, the removal of open space with new maximum building

and impervious area standards, and the screening of outdoor storage from view from public ways.

Attachments: [23-214 Cover Sheet.pdf](#)

[TC MEMO PB recommend I District 110923.pdf](#)

[Industrial District \(I\) draft 09-2023.pdf](#)

Amanda Lessard gave a brief explanation. (See attached memo)

Councilor Morrison commented that Amanda is talking about the buffer and she is referencing against residential, and he sees where the buffer applies along the street, but he does not see where it is denoted for residential.

Amanda Lessard said it is not called out, specifically, in the district standards the way the street buffer standard is in the buffer yard standards, themselves, that were adopted. There is a section related to buffer requirements for commercial and industrial uses abutting non-residential uses that the side yard setback have a landscape buffer.

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: 6 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Maxfield

Absent: 1 - Councilor Henry

23-215

(It is recommended that this item be postponed to November 28, 2023.)

To receive public comment and act on a proposed zone change request from The Roman Catholic Church to amend the official Town of Windham land use map the rear portion of the property, fronting Anglers Road, currently zoned in the Farm District (F) to the Commercial 4 District (C-4). The request includes amending the Land Use Ordinance Article 4 Zoning District §120-411.1B Permitted Use by adding "Place of worship" as a principal use in the Commercial 4 District (C-4). The subject property is identified as Tax Map 80 Lot 58 in the Commercial 1 North District (C-1N) and Farm District (F) and in the direct watershed of Pettingill Pond.



23-214 6 pgs.

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MEMO

DATE: November 9, 2023

TO: Windham Town Council

THROUGH: Barry Tibbetts, Town Manager

FROM: Amanda Lessard, Planning Director

Cc: Windham Planning Board

RE: Planning Board Recommendation - #23-32 Amendment to Code of the Town of Windham Chapter 120 Land Use Ordinance, Article 4 Zoning Districts, Section 120-413 Industrial District (I).

Overview

At the Planning Board meeting on [October 23, 2023](#), a public hearing was held on the proposed Land Use to the Land Use Ordinance Article 4 Zoning Districts, [§ 120-413 Industrial District \(I\)](#). The amendments were drafted by staff following discussion with development opportunities in the I District with Windham Economic Development Corporation (WEDC) and I property owners. The changes would allow for development in the I District to be more similar in uses and dimensional and performance standards as those found in the [§ 120-414 Enterprise Development District \(ED\)](#). The Town Council Ordinance Committee unanimously recommended the amendments.

The I District is shown on the [Town of Windham Land Use Map](#) in South Windham between River Road and the Presumpscot River around Gambo Road, and at Mallison Falls Road. The ED District is in North Windham off Enterprise Drive. The I District boundaries and standards today are substantively the same as when Windham's first Land Use Ordinance and Zoning Map were adopted in 1976, although seven residential properties along River Road were removed from the I District in January 2023. The ED District was established in 1999.

Summary of Proposed Changes

- Additional Permitted Uses
 - Business and professional office; Contractor services; Contractor services, landscaping; Contractor storage yard; Construction services, heavy, major; and Construction services, heavy, minor.
- Front Setback reduced from 100 feet to 40 feet
- Addition of required buffer yard along street (Buffer Yard A, 30 feet)
- Removal of open space requirement and replacement with new maximum building coverage and maximum impervious area standard
- Required screening of outdoor storage from view of public ways

Planning Board Review and Recommendation

No members of the public spoke for or against the proposed amendment during the Planning Board's public hearing held on October 23, 2023.

The Board discussed how the 30 foot buffer along the street sounded prohibitive and should not be the same for office uses compared to other commercial uses, but that the buffer was more important when abutting an existing residential property, the reduced setback did not protect the residential homes, that storage should

be defined, and questioned if the existing roadways and infrastructure was adequate to support increased commercial uses. Following discussion of the proposed changes, the Board made the following motion:

To recommend with comments the proposed amendments to Chapter 120 Land Use Ordinance, Article 4 Zoning Districts, Section 120-413 Industrial District (I). The Board commented that there should be some flexibility the buffer requirements from the road for some uses, like business professional office, and storage should be defined in Section 120-413F(3).

Motion: Christian Etheridge
2nd: Kathleen Brown

Vote: 7-0

Attachments: [23-215 Cover Sheet.pdf](#)[TC MEMO PB RECOMMENDATION Zone Change-F to C4.pdf](#)[7 ZONE CHANGE APPLICATION F to C-4 919RooseveltTrl 10022](#)[3 DC EDITS.pdf](#)[8 ZONE CHANGE SURVEY F to C-4 919RooseveltTrail 100223.p
df](#)[9 DC Planning Board Slides 10-23-23 FINAL.pdf](#)[Zone Change Public Comments Received by Planning Through
10-23-2023.pdf](#)[ZoneChange Public Comments Recieced by the Planning Board after
10-23-23.pdf](#)[Petition Opposing Zone Change Request 10232023.pdf](#)[Email A Lessard RE 919 Roosevelt Trail Property.pdf](#)[Oldefendt 11052023.pdf](#)[Memo Councilor Morrison 919 Rezone Request Feedback.pdf](#)[Email B Reiner Re Rezoning Catholic Church.pdf](#)[Email E Hanson Rezoning Opposition.pdf](#)[Email L Hanson Rezoning Opposition 919 Roosevelt Trl and Anglers
Rd.pdf](#)[Email N Davis No on Church Rezone.pdf](#)[Email R Cummings Oppose 23-193.pdf](#)[Email Rezoning Opposition 919 Roosevelt Trl and Anglers Rd.pdf](#)[Email S Adams Rezoning Opposition 919 Roosevelt Trl.pdf](#)[Email T Donaldson Rezoning of 919 Roosevelt Trail and Anglers
Rd.pdf](#)**23-223**

To receive public comment and act on an application submitted by Fraternal Order of Eagles #4352 at 456 Roosevelt Trail for a renewal Special Amusement Permit.

Attachments: [23-223 Cover Sheet.pdf](#)[Fraternal Order of Eagles - Renewal Sp. Amuse.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: 6 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Maxfield

Absent: 1 - Councilor Henry

23-229

To receive public comment and act on an application submitted by The Hashery located at 16 White's Bridge Road, for a new Marijuana Manufacturing Facility. Application received in the Clerk's Office on 11/7/2023.

Attachments: [23-229 Cover Sheet.pdf](#)
[Marijuana Ordinance.pdf](#)
[The Hachery #1309 Addendum.pdf](#)

Manager Tibbetts said this is a license that is permissible within the zone, its permissible on that property, and it has met all inspections, and is approved by the State. From the staff's perspective, it is a second manufacturing facility at the site, and is allowable, and we missed it last year when we were doing the reviews of this because of a coded number, and this is a correction going forward.

Mark York said the Hashery is across the street from where he pulls out of his road. He is not against weed, but how many do we need? Have they looked at where the bus stops are, is there a distance between grows and where weed is sold near a school zone, or does it just matter how far they are from schools and not bus stops?

Public comment closed:

Councilor Nadeau said he understood what Mark was saying. This is not a store, there are caps on stores, and as stores close down we will see less of those store fronts because we only allow for four Medical stores and two Adult Use Stores. He said for this type of business you will never know that it exists.

VIII. CONSENT AGENDA.

IX. UNFINISHED BUSINESS & GENERAL ORDERS.

[23-200](#) To accept nominations for and elect a Chairman of the Town Council.

Attachments: [23-200 Cover Sheet.pdf](#)

Councilor Kalogerakis nominated Mark Morrison.

In Favor: 5 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Councilor Reiner and Councilor Maxfield

Absent: 1 - Councilor Henry

Abstain: 1 - Council Chair Morrison

[23-201](#) To accept nominations for and elect a Vice-Chairman of the Town Council.

Attachments: [23-201 Cover Sheet.pdf](#)

Councilor Maxfield nominated Nick Kalogerakis.

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

Absent: 1 - Councilor Henry

[23-202](#) To accept nominations for and elect a Parliamentarian of the Town Council.

Attachments: [23-202 Cover Sheet.pdf](#)

Councilor Morrison nominated Councilor Maxfield.

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

Absent: 1 - Councilor Henry

23-203 To accept nominations for and appoint a Finance Committee.

Attachments: [23-203 Cover Sheet.pdf](#)

**Councilor Maxfield nominated David Nadeau
Councilor Reiner nominated Nick Kalogerakis
Councilor Kalogerakis nominated Bill Reiner**

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

Absent: 1 - Councilor Henry

23-204 To accept nominations for and appoint an Appointments Committee.

Attachments: [23-204 Cover Sheet.pdf](#)

**Councilor Reiner nominated Bill Reiner
Councilor Morrison nominated Mark Morrison
Councilor Kalogerakis nominated Jarrod Maxfield**

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

Absent: 1 - Councilor Henry

23-205 To accept nominations for and appoint an Ordinance Committee.

Attachments: [23-205 Cover Sheet.pdf](#)

**Councilor Maxfield nominated John Henry
Councilor Maxfield nominated David Nadeau
Councilor Maxfield nominated Jarrod Maxfield**

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

Absent: 1 - Councilor Henry

23-206 To accept nominations for and appoint two representatives to the Windham Economic Development Corporation board of directors.

Attachments: [23-206 Cover Sheet.pdf](#)
[Windham Economic Development Corporation](#)

Councilor Morrison nominated Jarrod Maxfield and Nick Kalogerakis.

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

Absent: 1 - Councilor Henry

23-207 To appoint a Council representative to the Parks and Recreation Advisory Committee.

Attachments: [23-207 Cover Sheet.pdf](#)

[Parks and Recreation Advisory Committee Charge](#)

Councilor Maxfield nominated Brett Jones.

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

Absent: 1 - Councilor Henry

23-208 To appoint a Council representative to the Energy Advisory Committee.

Attachments: [23-208 Cover Sheet.pdf](#)

[Energy Advisory Committee.pdf](#)

Councilor Morrison nominated Mark Morrison.

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

Absent: 1 - Councilor Henry

23-224 To appoint two Councilors to the Substance Prevention Grant Committee.

Attachments: [23-224 Cover Sheet.pdf](#)

[Substance Prevention Grant Committee Charge](#)

Councilor Maxfield nominated Mark Morrison.

Councilor Maxfield nominated David Nadeau.

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

Absent: 1 - Councilor Henry

23-225 To appoint a Council representative to the Long Range Planning Committee.

Attachments: [23-225 Cover Sheet.pdf](#)

[Long Range Planning Committee Charge](#)

Councilor Maxfield nominated David Nadeau.

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

Absent: 1 - Councilor Henry

23-231 To appoint a Council representative to the Natural Resources Advisory

Committee.

Councilor Reiner nominated Brett Jones.

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

Absent: 1 - Councilor Henry

[23-228](#) To appoint both a delegate and alternate delegate to the Greater Portland Council of Governments General Assembly.

Attachments: [23-228 Cover Sheet.pdf](#)

Councilor Morrison nominated Jarrod Maxfield as the Delegate

Councilor Morrison nominated Councilor Nadeau as the Alternate.

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

Absent: 1 - Councilor Henry

[23-230](#) To appoint a representative and alternate representative to the ecomaine board of directors.

Councilor Maxfield nominated Assistant Town Manager Bob Burns as the Representative.

Councilor Maxfield nominated Jarrod Maxfield as the Alternate Representative.

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

Absent: 1 - Councilor Henry

[23-210](#) To approve minor amendments to and adopt the Council's Rules of Procedure.

Attachments: [23-210 Cover Sheet.pdf](#)

[Council Rules Amended.pdf](#)

Councilor Reiner amended item (F) from changing no new business from 9:30 p.m. to 9:00 p.m., seconded by Councilor Morrison.

In Favor: 6-0

Absent: 1 (J. Henry)

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

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

Absent: 1 - Councilor Henry

[23-211](#) To decommission the Public Easement Advisory Committee, and to express the Council's profound gratitude and appreciation on behalf of the town and its residents for the work of the committee and all of its members.

Attachments: [23-211 Cover Sheet.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: 6 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Maxfield

Absent: 1 - Councilor Henry

23-216 To appoint Raeann Haggard to the Human Services Advisory Committee for a three-year term to expire May 15, 2026.

Attachments: [23-216 Cover Sheet.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: 6 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Maxfield

Absent: 1 - Councilor Henry

23-217 To appoint Raeann Haggard to both the Natural Resource Advisory Committee and Parks & Recreation Advisory Committee for three-year terms to expire August 15, 2026.

Attachments: [23-217 Cover Sheet.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: 6 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Maxfield

Absent: 1 - Councilor Henry

23-218 To appoint Raeann Haggard to the Library Board of Trustees for a three-year term to expire February 15, 2027.

Attachments: [23-218 Cover 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: 6 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Maxfield

Absent: 1 - Councilor Henry

23-219 To appoint Gale Savard to the Planning Board as an alternate for a three-year term to expire February 15, 2027.

Attachments: [23-219 Cover Sheet.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: 6 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Maxfield

Absent: 1 - Councilor Henry

23-220 To appoint Mike Duffy to the Substance Prevention Grant Committee for a three-year term to expire August 15, 2026.

Attachments: [23-220 Cover Sheet.pdf](#)

Councilor Nadeau said that Marge Govoni is the Chair of this program and he has been appointed to that committee, will that be a conflict? There was a brief discussion and it was decided there was not conflict.

A motion was made by Councilor Maxfield, seconded by Councilor Nadeau, 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 Maxfield

Absent: 1 - Councilor Henry

23-221 To appoint Elizabeth Schidzig to the Windham Economic Development Corporation for a two-year term to expire February 15, 2025.

Attachments: [23-221 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 Maxfield

Absent: 1 - Councilor Henry

23-222 To approve amendments to the Personnel Policy, Article VI, Section 2, Holidays to clarify that employees are eligible for paid holidays that occur within their normal working schedule and other minor corrections to the holiday list.

Attachments: [23-222 Cover Sheet.pdf](#)

[Personnel Policies REV 11.01.2023 MARKUP.pdf](#)

[Memo 4day Work Week.pdf](#)

Manager Tibbetts said this basically was from when we went from a five day work week to a four day work week. They calculated out the total number of hours for holidays, and sometimes holidays fall on a Friday, which we are not open. The actual time the employee accumulates their vacation fluctuates each year because the holidays rotate. Some years they will be good for a couple of hours and other years they will be short a couple of hours but it all averages out.

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: 6 - Councilor Nadeau, Councilor Jones, Councilor Kalogerakis, Council Chair Morrison, Councilor Reiner and Councilor Maxfield

Absent: 1 - Councilor Henry

23-226

WHEREAS, on October 24, 2023, the Town Council adopted Order 23-198, authorizing the Town Treasurer to negotiate the terms of the purchase of the following equipment: 1) Fire Dept. Car 4 - 2023 Ford Interceptor and related equipment; 2) Fire Dept. Ambulance #2 - 2023 Ford E450 Braun Chief XL Chassis; 3) Fire Dept. Ambulance #2 - 2023 Ford E-450 Chief XL Remount; 4) Fire Dept. Unit 9 - Utility Pickup Truck and related equipment; and 5) Public Works International Single Axle Dump Truck with cab, chassis, and related plowing and sanding gear (collectively the "Equipment"); and

WHEREAS, the Town expects to enter into one or more lease purchase agreements in an aggregate principal amount of \$580,685 for the purpose of financing the Equipment authorized to be purchased by Order 23-198; and

WHEREAS, the Town Treasurer made an original expenditure in the amount of \$43,376.80 on November 2, 2023 for the purpose of acquiring the Fire Department Car 4 - 2023 Ford Interceptor and related equipment authorized by Order 23-198; and

WHEREAS, the Town expects to make additional original expenditures to acquire said Equipment prior to closing on the lease purchase financing;

NOW, THEREFORE, be it voted, resolved, and ordered by the Town Council of Windham, Maine:

That the Town Council hereby declares its official intent within the meaning of Treasury Regulation 1.150-2 to pay, on an interim basis, up to \$580,685 of costs of the Equipment, which costs the Town reasonably expects to reimburse with proceeds of the lease purchase financing to be issued in the maximum principal amount of \$580,685, or as otherwise increased by the Town Council.

Attachments: [23-226 Cover Sheet.pdf](#)

[Reimbursement Resolution.pdf](#)

Manager Tibbetts said this is related to the equipment that was approved at the annual Town Meeting through the budgetary process. There is sometimes lag between the time we order the equipment and when the actual equipment comes in. They are putting this on notice, publicly, because of that difference and the monies that they put down in advance for the vehicle to hold that price, and they want to be able to use that number on the final bonding issue.

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 Maxfield

Absent: 1 - Councilor Henry

X. Council Correspondence.

CD 23-143 General Correspondence.

Attachments: [Email S Napolitano Re VOTE NO ON 1 Complaint J Maxfield.pdf](#)
[Email J Maxfield to Email S Napolitano Re VOTE NO ON 1 Complaint J Maxfield.pdf](#)
[Email S Napolitano and J Maxfield Continued Conversation.pdf](#)
[Email S Napolitano and J Maxfield Continued Conversation2.pdf](#)
[Email S Napolitano and J Maxfield VOTE NO ON 1 Dialogue.pdf](#)
[Email J Maxfield Re VOTE NO ON 1 Reply.pdf](#)
[Email Attorney Brandwein Re Ethics Complaint D Nadeau.pdf](#)
[Email C Grant RE Human Services Advisory Committee K Turpen Appt.pdf](#)
[Email D Davis Re Human services advisory committee K Turpen Appt FollowUp Email.pdf](#)
[Email D Davis Re Human Services Advisory Committee K Turpen Appt.pdf](#)
[Email F Emery Failure Notice.pdf](#)
[Email J Marquis Inquiry on Location of Ethics Policy.pdf](#)
[Email M Morrison Email to Chief Schofield Re Active Shooter Matter.pdf](#)

CD 23-144 FOAA Status Report.

Attachments: [FOAA Response Afsar 10.26.23.pdf](#)

CD 23-146 Department Quarterly Reports.

Attachments: [Police Dept july-sept 23 quarterly report.pdf](#)
[Human Resources Quarterly Report July - Sept. 2023 .pdf](#)
[Public Works July-Sept 2023 Quarterly Report.pdf](#)
[Fire-Rescue 2023 Third Quarter Report.pdf](#)
[Library Quarterly update 11012023.pdf](#)
[Parks and Recreation Quarterly Report July - September 2022.pdf](#)
[Assessing Quarterly Report-2023-Q3.pdf](#)
[Windham Communications Quarterly Report.pdf](#)
[Quarterly Report from the Town Clerk.pdf](#)
[Code Enforcement Department Quartely Report 07-01-23 to 09-30-23.pdf](#)
[WEDC Quarterly Town Council Report - 10 31 23 \(002\).pdf](#)
[Planning FY24 Q1 Report.pdf](#)

CD 23-148 Portland Water District Annual Wastewater Assessment Meeting of 10/31/2023.

Attachments: [PWD Annual Wastewater Assessment Meeting 10.30.2023.pdf](#)

CD 23-149 Employee Newsletter.

Attachments: [November 2023 Employee Connection.pdf](#)

CD 23-150 Town of Windham is Maine Town & City Magazine Cover Story.

Attachments: [Maine Town and City Cover Windham Sewer Project.pdf](#)

CD 23-151 Town-Funded Social Service Agency Correspondence.

Attachments: [Maine Behavioral Healthcare - Thank you To Council.pdf](#)
[LifeFlight Foundation Publication - Dispatches October 2023 opt.pdf](#)

XI. Town Manager's Report.

Manager Tibbetts reported on the following:

They were a little delayed on their GMP 2 & 3 numbers for the sewer project. He said they anticipated those in early November but it looks more like early December. The costs are still be refined, and they have some changes to look at.

They should be closing on the Thompson property fairly soon. The target date is the 21st. This is the small parcel right inside the whole East Windham Conservation parcel.

He asked if the Council would be in favor of cancelling the December 26 Council meeting where it falls in between Christmas and New Years, and it usually is a very difficult meeting to make.

Councilor Nadeau said he has had second thoughts about being on the Substance

Abuse Prevention Grant Committee because he does not want any underlying look from anybody to think they are corrupting small town Windham.

Councilor Maxfield moved to reconsider Order 23-224 and he would nominate Mark Morrison and Nick Kalogerakis.

In Favor: 6-0

Absent: 1 (J. Henry)

Councilor Nadeau noted that the Highland Lake Leadership Team was not on this agenda and needs to be added to the next agenda.

XII. Committee Reports.

Clerk Linda Morrell gave a wrap up on the election.

Councilor Maxfield offered up a suggestion of adding GPCOG and EcoMaine to their committee reports because they talk about some interesting things.

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 they have a meeting Wednesday, November 15, and he will not be able to attend.

2. Parks & Recreation Advisory Committee

No report.

3. Windham Economic Development Corporation.

No report.

4. Highland Lake Leadership Team.

Councilor Maxfield said they met on November 2, but he missed the meeting.

5. Natural Resources Advisory Committee.

No report.

6. Public Easement Advisory Committee.

Councilor Jones said it no longer exists.

XIII. Discussion Items.

Note: Minutes are not taken for Discussion Items.

CD 23-127 Ethics Discussion.

Attachments: [Community Research.pdf](#)
 [Barry's Additional Items for Code of Ethics.pdf](#)
 [Code of Ethics.pdf](#)
 [Ethics Committee Charge.pdf](#)
 [Oath of Office.pdf](#)
 [Auburn, ME CH2 Code of Ordinances.pdf](#)
 [Bangor Code of Ethics \(2\).pdf](#)
 [Biddeford Code of Ethics.pdf](#)
 [Bridgton Code-of-Ethics.pdf](#)
 [Brunswick Conflict of Interest Policy \(Approved 030722\).pdf](#)
 [Brunswick Council Rules of Order and Procedure.pdf](#)
 [Cape Elizabeth Town Council Code of Ethics.pdf](#)
 [Falmouth council rules see Policy 7.pdf](#)
 [Kennebunk Code of Ethics for Select Board.pdf](#)
 [Old Orchard Beach code of ethics 2022 signed.pdf](#)
 [Raymond Code of Ethics Appointed and Elected.pdf](#)
 [Saco Code of Ethics and Conduct FINAL.pdf](#)
 [Sandford Rules of Procedure 2021 - Amended 8-3-21.pdf](#)
 [Sanford Council Code of Conduct.pdf](#)
 [Sebago Maine Code of Conduct.pdf](#)
 [Standish Code of Ethics.pdf](#)
 [Waterville Code of Ethics.pdf](#)
 [Westbrook ME Ethics Ordinance CH28.pdf](#)
 [Yarmouth ME Council Rules with Conduct Section.pdf](#)
 [York Code of Ethics 2021-06-14.pdf](#)

XIV. Agendas & Scheduling.

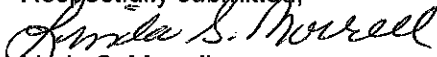
XV. ADJOURN.

A motion was made by Councilor Maxfield, seconded by Councilor Reiner, that they be adjourned. The motion carried by the following vote at 8:31 p.m.

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

Absent: 1 - Councilor Henry

Respectfully submitted,


Linda S. Morrell
Town Clerk, CCM