



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Town Council

Tuesday, August 11, 2020

6:30 PM

Online Meeting Via Zoom

I. Roll Call of Members.

Present: 6 - David Nadeau, Tim Nangle, Clayton Haskell, Nicholas Kalogerakis, Jarrod Maxfield and Brett Jones

Absent: 1 - David Douglass

II. Pledge of Allegiance.

Council Chair Maxfield led the Pledge of Allegiance.

III. Minutes to be Approved:

CD 20-156 To approve the Minutes from the July 28, 2020 Council meeting.

Attachments: [Minutes-Town Council-7-28-2020](#)

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

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

IV. Public Participation.

None.

V. Councilors' Comments.

None.

VI. PUBLIC HEARINGS.

20-151 To receive public comment and act on proposed amendments to Town of Windham Land Use Ordinance, Chapter 140, related to backlots.

Attachments: [20-151 Cover Sheet](#)

[Backlots draft 08-06-20 KMC](#)

[TC packet_PB recommend_Backlot 07-22-20](#)

[Backlot Standards pre 10-2017](#)

No Public Comment.

Manager Tibbetts said they received updated information to their agenda on Monday. They received the final language from the Attorney. Changes were under Section 300 Definitions, 529 Lot, Backlot, B. Standards 1 (a) (2) A right-of-way shall serve no more than one (1) backlot.

Next paragraph, right below that was stricken - (Extension of a right-of-way to serve additional) and added in - A right-of-way shall serve no more than one (1) backlot shall meet the applicable street construction standards of Section 550.

Our Attorney raised an issue under Section C, minimum Setback Requirements, line 5 on possibly adding some additional language to clarify what that 200 ft. measurement would be from. He referred to Diagram A, and he said those measurements are always taken from the right-of-way extension lines, and that is what has been done in the past. He thinks that language is fine.

Councilor Nangle asked what if he owned the property, he is not giving himself a right-of-way. Would that still be considered a right-of-way? Amanda said yes. In order for it to apply to a flag lot, the person who owns the piece of property that has the frontage would need to create a right-of-way over their own property, so it allows for potential extensions or a road to be built in the future.

A motion was made that the Order be approved. The motion carried by the following vote:

In Favor: 5 - Councilor Nadeau, Vice Chair Nangle, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Opposed: 1 - Councilor Haskell

Absent: 1 - Councilor Douglass

VII. CONSENT AGENDA.

VIII. UNFINISHED BUSINESS & GENERAL ORDERS.

[20-143](#) To approve applications for property tax assistance pursuant to Chapter 112 of the Code of the Town of Windham, "Property Tax Assistance."

Attachments: [20-143 Cover Sheet](#)

[Manager's Memo tax assistance program](#)

[Chapter 112 - Property Tax Assistance ADOPTED 20171010](#)

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: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

20-173 To confirm the municipal net budget at \$23,854,048. (Excludes Overlay & TIF)

Attachments: [20-173 Cover Sheet](#)
[Budget Approval Legal Opinion](#)
[Warrant Approved 6.13.2020](#)
[Appropriation Discrepancy](#)

Manager Tibbetts said this was a scrivener's error in our Town Warrant, and there is an legal opinion submitted within this information; he apologized for the error. He said the action the Council takes tonight will allow them to take the correct budget numbers to keep the municipal budget at that zero percent.

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: 5 - Councilor Nadeau, Vice Chair Nangle, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Opposed: 1 - Councilor Haskell

Absent: 1 - Councilor Douglass

20-144 To set the tax rate for 2020-2021 at \$15.00 per thousand dollars of assessed value.

Attachments: [20-144 Cover Sheet](#)
[Assessor's Memo](#)

Manager Tibbetts gave a breakdown of what the rate represents.

Councilor Haskell said he recalled at the Town Meeting they voted to have a flat budget of \$14.00, that was without the School's figure of maybe fifty cents. He said with these economic times that we are in, is not good for a lot of people, there will be a lot of unhappy people. Manager Tibbetts responded.

Other Councilors said they did not remember a \$14.00 rate being discussed.

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

In Favor: 5 - Councilor Nadeau, Vice Chair Nangle, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Opposed: 1 - Councilor Haskell

Absent: 1 - Councilor Douglass

20-145 To set the dates on which 2020-2021 taxes will be due as October 1, 2020 and April 1, 2021.

Attachments: [20-145 Cover Sheet](#)

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

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

[20-146](#) To set the rate of interest that will be charged on overdue taxes for 2020-2021 at eight percent (8.00%).

Attachments: [20-146 Cover Sheet](#)

[Delinquent Tax Rates](#)

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

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

[20-147](#) To authorize and direct the Tax Collector/Treasurer, pursuant to Title 36 M.R.S.A. §906, to apply any tax payment received as payment against outstanding or delinquent taxes due in chronological order, beginning with the oldest unpaid obligation, including personal property, provided, however, that no such payment may be applied to any tax obligation for which an abatement application or appeal is pending, unless approved in writing by the taxpayer.

Attachments: [20-147 Cover Sheet](#)

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: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

[20-148](#) To authorize and direct the Tax Collector/Treasurer, pursuant to Title 36 M.R.S.A. §506, to accept prepaid property taxes at any time and to establish an interest rate of 0% on such payments.

Attachments: [20-148 Cover Sheet](#)

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: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

[20-164](#) To refer proposed ordinance changes to Chapter 140, Land Use

Ordinance, related to Farm and Farm Residential Zoning District Standards to the Planning Board for its review and recommendation.

Attachments: [20-164 Cover Sheet](#)

[TC packet_LRPC rural zoning_07-23-20](#)

[GrowSmart Maine_Maximum-Lot-Size-and-Densities-Rural-Zones](#)

No public comment.

Councilor Haskell said at the last meeting he thought he heard Amanda say there was 80,000 sq. feet for one Farm Zone and in a different part they could have 40,000 sq. feet?

Amanda Lessard said the packet includes changes to both the density and a minimum and maximum lot size in the Farm Zone. The current Farm Zone has a minimum lot size of 80,000 sq. feet, as proposed to have a minimum lot size of 40,000 sq. feet and a maximum lot size of 80,000 sq. feet., but net density would change from one dwelling unit for 3 acres.

Councilor Haskell said you have too many numbers for people, you should have one thing regardless of what it is, you have Farm Zone and Farm Residential, it is 80,000 sq. feet.

Town Manager said in this proposed amendment we are going from a 2 acre parcel to a 3 acre parcel, so if you own 10 acres you will only be able to get 3 lots from it, where with 2 acres you could get 5. He thinks every resident in those respective zones, where this would apply, should receive information about any public hearings and how we move forward. This is a pretty big change, and we want to make sure the public is fully aware of this. Councilor Maxfield reiterated that they are not voting on this tonight, this is just to send it on to the Planning Board.

Councilor Nadeau said the first piece is you look at is Farm Enterprise. This gives you a definition on the different uses the farm could use to utilize their property, i.e. weddings, etc. It also gives you the number of events you could have. He is not in favor of moving forward with changes in zoning, that is too big of a fight. They have done everything they could to reduce lot size. They have done a lot to keep things looking rural. He said with the deal with going from two acres to three acres, he is not in favor of.

Amanda said the driving factor to reduce the number of development that happens in a rural area is the net density. This is a way to have rural character because we are creating open space but also to decrease the amount of development by lowering the density so it would ultimately limit the total amount of homes that could be built in these districts.

The Committee felt that if we are going to use zoning, as a tool, to discourage people from developing rural areas, we really should consider this concept of a minimum and maximum lot size and adjust the zoning density in a more modest way.

Councilor Jones said he thought they were going to leave outside subdivision alone at the 80,000 sq. feet in the Farm area. He said he can't support changing that to 3 acres. He does agree with some of the other changes moving forward.

Councilor Nangle asked "what if I want to buy 10 acres and build a farm in the Farm Zone? Amanda said there is an exception that the minimum and maximum lot size would

not apply for properties greater than 10 acres. If that was the lot size, and you built a house on it, that one dwelling unit would still be counted. Nangle said he thinks it is worth looking at and see where things land.

Councilor Nadeau made a motion that they break this into three separate pieces and vote on three separate pieces to see if they all go to the Planning Board, not as one group, dies for lack of a second.

After much more discussion, it was decided to do a mailing to all the landowners affected by this.

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: 5 - Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Opposed: 1 - Councilor Nadeau

Absent: 1 - Councilor Douglass

20-165 To approve a ballot for the election of vice president and executive committee of the Maine Municipal Association.

Attachments: [20-165 Cover Sheet](#)

[MMA Annual Election - Executive Committee](#)

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: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

20-166 To decommission the Mineral Extraction 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: [20-166 Cover Sheet](#)

[Mineral Extraction Committee Charge](#)

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

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

20-171 To approve the write-off of uncollected 2011 and 2012 personal property taxes in the amount of \$31,722.17.

Attachments: [20-171 Cover Sheet](#)

[Manager's Memo](#)

[Unpaid Personal Property Tax Years 2011 and 2012](#)

Councilor Haskell asked how many are delinquent all of the time?

Susan Rossignol said there are many people who go year to year without paying.

Town Manager said we should turn these over to a collection agency after a certain time but send the resident a letter with the warning.

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

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

[20-172](#) To approve a \$50 fee for the Growth Permit Application process.

Attachments: [20-172 Cover Sheet](#)

[Growth Permit Application](#)

Manager Tibbetts said the draft will be revised and the recommended \$50 fee is credited towards their permit when it is issued.

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: 5 - Councilor Nadeau, Vice Chair Nangle, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Opposed: 1 - Councilor Haskell

Absent: 1 - Councilor Douglass

IX. Council Correspondence.

[CD 20-150](#) The LifeFlight Foundation Correspondence.

Attachments: [The LifeFlight Foundation Correspondence](#)

[CD 20-154](#) The Opportunity Alliance Correspondence

Attachments: [The Opportunity Alliance Letter of Thanks](#)

X. Town Manager's Report.

Town Manager said he thinks the Growth Ordinance should be back on the agenda for September 8th. He has been looking at the number of permits based on a 5-year or 10-year average, and there is a difference of around 28 permits based on those two numbers. Looking at the graph of where there are peaks, those peaks happen generally in April and October.

The challenge he sees is in the current ordinance is you could have a potential log jam, even carrying forward the number of permits that are there. Contractors depend on the ability to pull permits in the spring to prepare for summer, and they do the same in the fall. The ordinance that was passed becomes effective August 28th, so September 1 there are 9 permits available, and we could see as many as 20, and this will be a hardship for a lot of our builders.

He would like to bring back, as a recommendation, to amend the influx of permits at two different points and it gives you an option to deal with a potential problem.

XI. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

No report.

2. Finance Committee.

No report.

B. Other Committees.

1. Long Range Planning Committee.

Councilor Nadeau said they had several meetings and they are working on a couple of little things.

2. Parks & Recreation Advisory Committee.

Councilor Nangle said they met last night, and Summer Camp went well, some parents were concerned that it ended a little too early. There was some talk of maybe next year doing it a little bit longer.

The Community Park had the bid go out for Phase Final, but it wouldn't be finished until spring/summer next year. The will do some in the fall and then shut down. The Skate Park is open and everybody is happy.

The Community Center Ad hoc Committee has not had any meetings due to COVID.

With program planning for the fall, they are looking at a lot of options for senior and kid programming. They are trying to figure out how to do Trunk or Treat and the Tree Lighting ceremony. He suggested that they find a large Christmas type pine tree that is pretty well grown and have it transplanted at the Community Park so we can have the "Town Christmas Tree" there.

3. Windham Economic Development Corporation

No report.

4. Highland Lake Leadership Team.

Councilor Maxfield said they are planning a meeting for September.

5. Natural Resources Advisory Committee.

No report.

6. Public Easement Advisory Committee.

Councilor Nadeau reported that they have finished the roads and there are several roads getting letters on maintenance issues.

7. Public Dirt Road Sub-Committee.

No report.

XII. Discussion Items.

CD 20-152 Chapter 227 - Vehicles & Traffic Ordinance Amendment.

Attachments: [Fox Run Road Petition](#)

[Chapter 227 - Vehicles and Traffic Section 227-23 DRAFT](#)

[AMENDMENT 20200811](#)

[Chapter 227 - Vehicles and Traffic](#)

CD 20-005 Veteran's Memorial at Smith Cemetery - Next Steps.

Discussion and consideration of options for Smith Cemetery expansion.

Attachments: [Manager's Memo re Smith Cemetery](#)

[Walsh Engineering Master Plan](#)

[Smith Cemetery Parcel A&B areas](#)

[Smith Cemetery Parcel A&B areas and wetlands](#)

[Walsh Engineering Concept A](#)

[Walsh Engineering Concept B](#)

[Walsh Engineering Concept B additional images](#)

CD 20-151 Schedule Special Meetings to Review Marijuana Business License Applications.

The Town has received many applications for the new Marijuana Business Licensing Ordinance. Due to the enormity of reviewing the applications the task has been broken into components. The first two areas to be reviewed for compliance will be

- a. Adult-Use (7 Applications - 2 Licenses available)
- b. Medical Retail Store (9 Applications - 9 Licenses grandfathered)

These will be reviewed for submission compliance, with notices to applicants for any requested data or clarifications. The anticipated review date is September 15th, at a Special Council Meeting. All submissions (applications) would be available to the Council by August 28th for your review. Councilors would return scoring by September 11th, and the summary by applicants and tallies would be discussed by the Council at the meeting of September 15th.

The remainder of the applications could be addressed at a regular council meeting, potentially later in September or early October.

[CD 20-153](#) Proposed Marijuana Business License Fee Committee Charge.

Attachments: [Marijuana Business License Committee Charge DRAFT](#)

[CD 20-157](#) Modifying the Elected Officials Compensation Ordinance.

Currently the Town budgets \$1,400/Councilor for meeting. After reviewing this ordinance, I am recommending that §2-4 Compensation be amended. "Elected officials shall be compensated from the approved budgetary allocation on a quarterly basis (every three months)." From the Manager's perspective, Councilors work basically 24/7 with calls, meetings, events regional commitments, etc., so budgeted compensation should be paid out quarterly, not just on meetings attended. Currently staff tracks meeting and attendance for a quarterly payment. This is an inefficient use of staff time.

Attachments: [Chapter 2 - Elected Officials Compensation DRAFT AMENDMENT](#)

[CD 20-158](#) Fall Meeting Schedule.

Upon review of the fall schedule, I am recommending that workshops be on an as-needed basis, reserving the first Tuesday of the month for these potential workshops. We have caught up on many items and we can continue to utilize our discussion area on our regular meeting agenda.

XIII. Agendas & Scheduling.

XIV. Executive Session.

[20-170](#) To enter into executive session in accordance with Title 1 MRSA §405 (6) (C) for the discussion or consideration of the condition, acquisition or the use or real or personal property permanently attached to real property or interests therein since premature disclosures of the information would prejudice the competitive or bargaining position of the Town.

Attachments: [20-170 Cover Sheet](#)

Councilor Nadeau moved to enter into executive session, second by Councilor Nangle.

In Favor: 6

Absent: 1 (Douglass)

Councilor Nangle moved to return from executive session, second by Kalogerakis.

In Favor: 6

Absent: 1 (Douglass)

XV. ADJOURN.

A motion was made by Vice Chair Nangle, seconded by Councilor Kalogerakis, that they be adjourned. The motion carried by the following vote at approximately 10:00 p.m.

In Favor: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Absent: 1 - Councilor Douglass

Respectfully submitted,

Linda S. Morrell
Town Clerk/CCM