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August 7, 2020

Barry Tibbetts, Town Manager
Town of Windham
8 School Road
Windham, ME 04062

RE: 2020 Budget Vote

Dear Barry:

You asked me to opine the commitment of taxes given that there was a scrivener's error in the total budget amount voters approved at the June 13, 2020 town meeting. The town meeting warrant was set up so that Article 7 stated a total appropriation amount, and Articles 8 through 18 set forth the budget amounts for each departmental category. Article 7 further stated that if that Article 7 was approved, Articles 8 through 18 need not be voted on. The intention was that Article 7 was to contain the total number derived from adding the numbers appropriated in Articles 8 through 18. However, due to a calculation error, the number printed in Article 7 was more than the total number for Articles 8 through 18.

As I mentioned above, I believe it is clear that the incorrect number in Article 7 was a scrivener's error and that the voters intended to raise and appropriate the total set forth in Articles 8 through 18, allocated as set forth in those budget articles. First, the Town Charter requires the budget to be set forth by category. Although the voters dispensed with the need to approve the individual budget categories, those more specific categories clearly comprised the intended municipal budget. They also formed the budget that was approved by the Council to be placed before the voters. The minutes also indicate that voters were made aware at the meeting that the presented budget would mean a 0% municipal tax increase. The total in Article 7 would lead to a tax increase, whereas the total from Articles 8 through 18 would be a 0% increase as intended. Finally, it would be absurd to interpret the voters' intent as requiring the appropriation of the erroneous amount in Article 7, because the difference between that and the total of the following articles was not appropriated to any budget category and therefore could have only gone to unallocated surplus. The voters most certainly did not intend to raise additional tax funds that could not be spent.

Given all of the above circumstances, I am comfortable to advise the Council to approve the commitment based upon Articles 8 through 18 and the resulting total.

Please let me know if you have any questions.

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Sincerely



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KMC: