



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Town Council

Tuesday, May 26, 2020

6:30 PM

Online Meeting Via Zoom

Joint Public Hearing with Planning Board and Council. To join the meeting remotely, use this link: <https://zoom.us/j/83299519037>. You may also call 1-646-558-8656 and enter meeting ID: 832 9951 9037.

I. Roll Call of Members.

Present: 7 - David Nadeau, Tim Nangle, Clayton Haskell, David Douglass, Nicholas Kalogerakis, Jarrod Maxfield and Brett Jones

II. Pledge of Allegiance.

Council Chair Maxfield led the Pledge of Allegiance.

III. Minutes to be Approved:

[CD 20-127](#) To approve the Minutes of the May 12, 2020 Council meeting.

Attachments: [Minutes-Town Council-May 12, 2020](#)

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

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

Absent: 1 - Vice Chair Nangle

IV. Public Participation.

None.

V. Councilors' Comments.

None.

VI. PUBLIC HEARINGS.

[20-108](#) To receive public comment and act on the proposed amendments to the Town of Windham Land Use Ordinance, Chapter 140, Sections 400 District Standards and 900 Subdivision Review requiring subdivisions be designed as either a Conservation Subdivision or a Country Estate

Subdivision. (20-29 minutes)

Attachments: [20-108 Cover Sheet](#)

[TC packet conservation subdiv 4 14 20](#)

[TC packet PB recommend conservation subdiv 07-24-19](#)

Town Planner Amanda Lessard gave some background and had some slides to show.

Amanda said this is not the same old cluster subdivision that Windham has had in place since 1986. The focus on this is Design Standards, essentially, to change how subdivisions are developed. It is not intended to be a growth management tool; it is meant to be a different approach.

What the Long Range Planning Committee recommended for changes to reflect the Planning Board's comments was they revised the draft of the minimum lot size to no longer reduce the minimum lot size for Conservation Subdivisions. They have stayed the same as we have currently for cluster subdivisions in the Farm and Farm Residential, at 30,000 sq. feet in the Farm Zone and 20,000 sq. feet in Farm Residential and reduced the County Estate subdivision minimum lot size from 8 acres to 6 acres.

Other changes included eliminating the minimum separation from existing driveways in Conservation Subdivisions and having a 50 ft perimeter buffer. That buffer does not need to be included in the open space but it could if it meets the criteria for those Primary and Secondary Conservation Priorities.

They also added some additional language to also require perimeter buffers and street buffers for the County Estate Subdivision.

Public Participation:

Elaine Pollock - Gentle Breeze had a couple of suggestions and a couple of questions. She said Windham is not Falmouth and County Estates Subdivision, with the word Estates in there, sounds a bit more like Falmouth than Windham. It seems like a pretentious word to her. Elaine likes the concept that is being considered but would suggest a different name, i.e. Preservation Subdivision, Farm Preservation, Rural Farm Preservation or County Farm Preservation or Rural Preservation Subdivision.

She is in favor of going from 8 acres to 6 acres. People look in terms of acres when looking at a large parcel of land, and she suggests the town go with acres as opposed to square feet.

She is also in favor of Dimensional Standards for many reasons. It seems to her that if you are bringing driveways from either a conservation subdivision or whatever we call the large parcels, that kind of defeats the purpose of the rural street scape, and she would advocate for that not be a provision that is able to be utilized in the Farm and Farm Residential zone. She thanked them for their consideration.

She said to reiterate what she would like changed is the name changed, not bringing out those driveways onto public roads, using the term acres rather than square feet, these would satisfy her. Elaine thank them for all their hard work.

Planning Board Members who commented:

Haden Brooks noticed in looking at subdivisions all over, not just Windham, is that a lot

of these properties takes all the trees off the property and they put a house up with no trees around it. He did research on subdivisions around the country and how some are required to have on every lot two or three trees planted. He'd like to see a list made up of trees that are natural to our local environments, and it would be required to plant a tree of a certain height and diameter in front of these new houses. He agreed with Elaine with using the term acres, so maybe using both acres and square footage? Amanda Lessard said elsewhere in the subdivision ordinance there is a tree requirement and that a tree be planted every 50 feet along the street. It does not offer specification on type or size. She would be more supportive of more specific types of trees.

Charles Hawkins said we don't really have a whole lot of people outspoken against it, and he thinks it does curb some of our growth issues, and he is for it.

Andrew Mayo agrees with what they have in front of them. He did ask Amanda if we are removing the standard of having to meet the road standard, does that mean we are going to see graveled roads, what will we have? Amanda said it would default to the other ordinance requirements. Andrew said after all the work they did to get rid of graveled roads he is not sure he wants to see them come back again.

Keith Elder asked Amanda on the Conservation Subdivision side of things, with the open space requirement calculation, he got a little lost, and he asked Amanda to go over that. Amanda said that has not changed. Keith also commented on the size of the lots and mentioned that years down the road, maybe six acres will seem too big.

The Chair of the Planning Board took a motion and a second and they voted to recommend the approval of the proposed amendment to sections 400 District Standards and 900 Subdivision review, 2 in favor, 2 opposed. The Planning Board adjourned their meeting.

Councilor Nangle asked if the Planning Board could waive the road standards, and Amanda said they have authority within the subdivision ordinance to waive portions of the performance standards, and yes, some elements of the road standards, they do have the authority to waive.

Councilor Kalogerakis said on the Country Estates he is struggling with the change of the lot size. Is that to make it more difficult to put a number of homes on a 24 acre parcel or is it to make it look more rural? He is concerned about the value of the property going forward. Amanda said it does reduced the number of homes that can be permitted because it has the minimum lot size. The rational behind this is it is preserving rural character, it is not requiring land to be in open space like the conservation subdivisions, but by having larger lots you retain some rural character and because the lots are larger, there is some give back to open space.

Councilor Nadeau thanked Amanda and the Committee, they did a lot of work on this. He'd like to look at our road standards, they kind of do away with gravel roads. All you need to do is narrow a road on a subdivision like this when you know you will only have 6, 10, or 12 lots. Outside of this, at some point in time, he would like to look at this.

Councilor Haskell said he likes the lot size. To Mrs. Pollock's point in changing the name and taking out 'Estate', he likes that a lot better. He said he has no problem with the gravel roads, it is part of the rural character. All the driveways should come off from one road, not onto a town road; it looks a lot neater. He was in favor of planting the trees.

Councilor Maxfield said based on what Councilor Haskell said the Design Standards we have been speaking about, are those built in for this proposal? Amanda said there is no specific landscape requirement other than the 100' buffer from the street and a 50' buffer around the perimeter that can't be cut. To Mrs. Pollock point he, too, is glad the lot size was reduced. He also agrees that Country Estate sounds hoity toity, and if they amend this to change the name, would it create any issues and Amanda said it would not.

Councilor Maxfield moved to amend the name Country Estate Subdivision to Preservation Subdivision, second by Councilor Kalogerakis.

Councilor Maxfield as the original motion maker, and Councilor Kalogerakis as the seconder agree to the second amendment.

Councilor Nangle moved to amend the amendment and change the name to Country Subdivision, second by Councilor Jones.

Vote on Amendment:

In Favor: 6

Opposed: 1 (Kalogerakis)

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

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

Opposed: 1 - Councilor Haskell

[20-047](#)

To receive public comment and act on a proposed Marijuana Business Licensing Ordinance, Chapter 160 of the Code of the Town of Windham. **(10-15 minutes)**

Attachments: [20-047 Cover Sheet](#)

[Marijuana Business License Application rev 051820](#)

[Marijuana Licensing Ordinance 051820](#)

[BTI Proposed Ideas on Retail Vendors and Potential Prevention Funding](#)

[Marijuana Licensing Ordinance 031820](#)

[Marijuana Licensing Ordinance 031820 \(clean\)](#)

[Windham marijuana licensing ordinance 031020](#)

[Draft -Marijuana-Licensing-Ordinance revised 030620](#)

[Marijuana Business License Application rev 030620](#)

[Marijuana Licensing Ordinance 021220](#)

Dave Whitten said his question was to the setback table that was published about the 250' setback being door to door instead of the property line, because according to the table it is still on there. His attorney pointed it out to him, and that they would not be eligible for Adult Use. He would like some clarity.

He said between the time the town finalizes the application for them to apply for their use, he thinks some of the stores in town that are open and not open have already

received their conditional license. He had the mentality of trying to ascertain whether or not they would be, in fact, 100% through municipal before he continued with his Adult Use application with the State. He said that is nearing completion and he might be able to submit both at the same time, but in fear with all the COVID things going on to slow the procedures down, he hopes the Town will give them ample time for staff and the Clerk to review the applications and not just jump, the gun and approve the first two people who may already have conditional licenses.

David Foyer from Kind & Co said he is hoping the town could provide clarity about the criteria points number 2 & 3 on page 7. The first one is 1-3 points, the next criteria awards 1 point for operating a retail marijuana business in Maine. They are hoping these two criteria's are mutually exclusive. It has gone back and forth whether they are accumulative. The Council's discussion was to recognize that those that have been successful in the industry in Maine, and recognizing a bit more for those that have been doing business in the Town of Windham. If this criteria is not mutually exclusive and you can score on both of numbers 2 & 3, they think it would be unfair for a Windham applicant to score an extra point for simply owning another retail marijuana store, while precluding other retail experience that applicants may have. They feel strongly that the intent of this language was that applicants mainly score on either point number 2 or point number 3, but not both.

Maggie Terry of Freeman Court brought up the residency requirements that may be built into the point system that may backfire now that the State has been sued. She asked if you can really step up and put any residency requirements in there, she thinks they should be there and does not want to see the town get into a suit.

Her other concern is because of the way the application system is graded, if you own a marijuana business and you get points, what stops the Wellness Connection from coming back and saying they have more years than somebody else, and saying why did you pick them over me? She thinks the residency requirement could be an issue for the town and she'd like to see if you are going to do a point system, it should be awarded on, not just on marijuana businesses, but experiences in the past and years in leadership and a resume. Maggie thanked them for all their work on this, she appreciates it.

Joel Pepin 11 Storm Drive thanked the Council and staff for the hard work. This ordinance is definitely a compromise amongst many stakeholders. As an industry person he might have a few disagreements with pieces here and there but he said, by and large, he thinks it is a solid foundation. He spoke about what Portland did about the residency requirements. He thinks it has been a huge learning curve for city staff and citizens see this whole industry and for citizens to see this industry proliferate in Windham the way it has these past few years. This ordinance gives the city more tools than it ever had when it comes to regulating the industry regardless how people feel.

Charles Hawkins of Lolo Lane said he would pass it, but it does have a lot of flaws, and is not a shot at all the hard work that has gone into it. He said it is a hard thing to tackle. In regard to the residency issue, it does not hurt him from opening up, but it does long-range, hurt him from selling his business, and the cannabis market. Just because your business is in Windham doesn't mean the market is just in Windham, the market is in the entire State of Maine. It is a competitive disadvantage there. If big businesses move in, the town won't let him sell his business because of a residency law down the road when it is time for him to get out, it is a big deal. His main concern is the burden this is placing, from a resident standpoint, or from a land rights perspective, and how we are limiting where commercial growth can go and the size capacity of them. It is expensive and does not make a whole lot of sense, particularly in the farm zone.

How does the town plan on enforcing him not growing his three plants? Will we have an app where neighbors can report you, are we going to hire more Code officials or Police Officers to start going around neighborhoods? From a non-business standpoint, the people who actually fought hard to get cannabis in the State of Maine is because they want to grow their plants in their backyard. They don't want to spend money on lights and have them in the closet, they just want to put three plants in the backyard. He also asked a question about grandfathering the stores that are here now and how the point system works.

Council Chair Maxfield said the point system would not really come into effect for the people who are currently here and they have the right to get their license back. The point system will come into effect when they have the two new licenses available for recreational. If we have more than two applicants, that is when the point system will come into play. He believes that if you are currently here as a medical establishment and have been here, you are given priority to get your own license and keep that; he does not believe the point system will be a factor.

Kristin Collins the town's attorney said the point system is there for Caregiver stores as well, and is not likely to be used, because it would only spring up if less than four Caregiver stores, that are already in business, are looking for licenses. Just because you are able to get a license, does not mean you are guaranteed one, you will still have to meet all the criteria's. If someone had a criminal history background and was not something that the state used as a basis for denial but for some reason we would, that could come into play and mean that an existing caregiver couldn't get their license, but it would be unlikely.

Public Hearing Closed.

Kristin Collins said in regard to the residency requirement, to be clear, no court has said that the state's residency requirements is invalid, it never got to court, it was just a decision the state made that it was not going to enforce the residency requirement.

She and Attorney Langsdorf both feel that the point system is definitely something that could sustain a challenge because it is not a requirement to get a license, it is a bonus, and the case law distinguishes that. There is no reason to believe someone who wasn't a Windham resident couldn't still get a license with this point system that is in place. They also have a very good reason for the point system that they have put in place documented by many hours of meetings where the Council went over this and what the reasons were for it. Those reasons are it is a regulated industry, it is a special industry and if you have done this kind of work in Windham or within the State without any history of violations, we know we can trust you. That counts for quite a lot when these things are subject to challenge.

If this passes, the timeline will be effective 30 days after tonight, the licensing requirements spring up. You could not have one of these businesses in Windham that is a new business that doesn't have a license starting 30 days after tonight. If you are an existing business in Windham you have 60 days starting tonight to file an application and then they have another 60 days after that to get the license, a total of 120 days which is a perfectly reasonable processing period.

Kristin said the only change to the ordinance was to take out the residency requirement and beyond that the only other change she made, since back in March, was to change the application to reflect they are taking out the residency requirement.

Councilor Douglass is looking for the other Councilor's input on "staying in the family" so to speak. He said it does tend to give the upper hand to existing businesses that are in the marijuana industry but it does make a good point. Maggie brought up the point if you go in for a job interview, they do not just talk about all the work you've done that is directly related to the job you are applying, they talk about all of your experiences. He would like to know how the other Councilors feel about striking the portion that gives weight to having an existing marijuana business in town, as part of the point system? He'd like to adjust that as well, he feels it needs to be looked at. Specifically it could be adjusted from having an existing marijuana business to having an existing business in town, an established business person in the community.

Councilor Kalogerakis said he would back that. Councilor Maxfield said we are pretty heavy towards current people with the points. Kristin said having a business in Windham and a business outside of Windham, you could collect points for each of those, but 1-3 for Windham and only 1 point for out of town. Kristin said she feels less comfortable with just being a business person because that just looks more like economic protection than focusing on the industry.

Councilor Jones said he sees both sides and agrees with both sides. He understands giving preference who has a business here and to also grow their business into something else, but he understands the Councilors giving preference to somebody who is good guy in town and does not have the experience. He is conflicted at the moment.

Councilor Nangle said the attorney makes a good point and feels it makes sense.

Councilor Nadeau agrees with Kristin as well. This is different with what they are selling, and he is fine with it the way it is.

Councilor Haskell said he thinks everyone knows where he stands on this issue. He is still opposed to it and he will side with the schools who do not like seeing all these signs for marijuana around town.

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

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

Opposed: 2 - Councilor Nadeau and Councilor Haskell

[20-048](#)

To receive public comment and act on proposed amendments to Chapter 140, Land Use Ordinance, Sections 300, 400, 500 and to Chapter 199, Sections 199-14, related to the regulation of medical and adult-use marijuana. **(10-15 minutes)**

Attachments: [20-048 Cover Sheet](#)[TC packet PB recommend Marijuana 05-19-20](#)[Marijuana Section 500 Performance Standards KMC edit 031820](#)[Marijuana Section 500 Performance Standards KMC edit 030620](#)[TC packet PB recommend Marijuana 02-13-20 A](#)[School ChildCare Corr Buffer3](#)[Current Medical Marijuana Facilities and Setbacks](#)

Dave Whitten said he is waiting for an answer on the corridor buffer for the school and child care. The 250' setback that is on the table basically states 'no' across the board for him. In previous Council meetings that he has attended, he believed it was addressed as being door-to-door, and they would be okay at the 815 Roosevelt Trail location.

Public Hearing Closed.

Amanda Lessard said they added it and it is the top item of the Town Council packet of the Planning Board recommendation. She said because she made the substantive change to the LUO related to those setbacks, it went back to the Planning Board. They held a public hearing, made a recommendation to the ordinance, and carried the same recommendation they previously had, and asked the Council to consider making Caregivers a conditional use in residential zoning districts, similar to other commercial uses that are permitted in those districts and had no additional comments.

Councilor Maxfield made a motion to suspend Council Rules to add an agenda item to adopt an Ordinance extending the existing Moratorium on Marijuana Cultivation Facilities ending on May 26, 2020 to June 25, 2020, second by Councilor Douglass.

Vote to Suspend Council Rules to add agenda item:

In Favor: 6

Opposed: 1 (Haskell)

A motion was made by Councilor Douglass, 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 Douglass, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Opposed: 1 - Councilor Haskell

20-124

To adopt an ordinance extending the existing moratorium on marijuana cultivation facilities ending on May 26, 2020 to June 26, 2020.

Attachments: [20-124 Cover Sheet](#)[Moratorium Ordinance Regarding Marijuana Cultivation Facilities](#)

A motion was made by Councilor Douglass, 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 Douglass, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Opposed: 1 - Councilor Haskell

[20-113](#) To receive comment on the municipal services budget for fiscal year 2020-2021. **(10-15 minutes)**

Attachments: [20-113 Cover Sheet](#)
[Budget Presentation](#)
[Finance Committee Budget 5.20.2020](#)
[CAPITAL FY 21 4-28-20](#)

No public comment.

VII. CONSENT AGENDA.

VIII. UNFINISHED BUSINESS & GENERAL ORDERS.

[20-102](#) To approve a Memorandum of Understanding and Agreement with Portland Water District regarding the joint investigation of the feasibility, and potential development, of a wastewater collection, treatment, and disposal system that would serve properties in the North Windham Area to mitigate groundwater pollution. **(8-10 minutes)**

Attachments: [20-102 Cover Sheet](#)
[PWD Memorandum of Understanding](#)

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

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Douglass, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

[20-045](#) To accept Sabatus Lane as a public way. **(3-5 minutes)**

Attachments: [20-045 Cover Sheet](#)
[Sabatus Lane Extension Public Request 03-24-2020](#)
[Sabatus Lane Subdivision As Built Set](#)
[Sabatus Inspection Report 03-20-2020](#)
[Public Acceptance of Streets 2017 \(1\)](#)
[Sabatus Lane Public Street Acceptance Memo_05-07-20 \(1\)](#)

Amanda Lessard noted that there was a memo from Mark Arienti our town engineer. (See attached)

Mark Arienti said there are inspection reports that mention the temperature discrepancies of the inability to meet the temperature requirement on that load of asphalt last fall, and so there is documentation. Mark said sometimes these issues come up after the first year, so they think it is good to add a year to that, and he feels two years should be enough.

Councilor Nadeau moved to put a condition on this so that the road bond be held for two years, not one year, second by Councilor Maxfield.

Councilor Haskell thinks it should be five years.

Vote on amendment:

In Favor: 6

Opposed: 1 (Haskell)

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

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

Opposed: 1 - Councilor Haskell

[20-110](#)

To find that the requirements of Section 653 of Title 28-A have been met and to approve an application submitted by JMA Enterprises Inc. d/b/a Pat's Pizza Windham for an Extension of License on Premise. **(3-5 minutes)**

Attachments: [20-110 Cover Sheet](#)

[Pat's Pizza-Extension of Lic](#)

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

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Douglass, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

[20-111](#)

To find that the requirements of Section 653 of Title 28-A have been met and to approve an application submitted by Erik's Church, LLC d/b/a Erick's Church for an Extension of License on Premise. **(8-10 minutes)**

Attachments: [20-111 Cover Sheet](#)

[Erik's Church Extension of Lic](#)

[Memo to Council - Erik's Church](#)

Ken Cianchette said in these trying times the outdoor patio is the key to survive through the summer. He said he appreciates the town doing this to help all the restaurants in the area.

Manager Tibbetts asked Ken if he was able to get his Performance Bond and talk to his contractor on the final pricing and cost estimates for the finishing of the project and back to the town for review, as well as setting up an appointment with the Planning Office to come in and finalize all the documents? Ken said yes, they have a 1:00 Zoom meeting on Thursday for the pre-con stuff. The contractor got busy today but they are expecting his number for the Town Engineer tomorrow, and that will tell them what the performance guarantee needs to be.

Councilor Nangle asked the Manager if Eric's Church was in good standing with the town as far as all of the compliance issues? Barry said he has been through the Planning Board and they are in the, after, process of that. Once he completes the Pre Con meeting and provides the final numbers from the contractor for determination of the

Performance Bond and has it in place, he would be fully in compliance with the town on the parking lot.

Councilor Nadeau talked about putting on an amendment with the condition, being, he comes into total compliance with the town for this application. He said they could still vote on the application this evening.

Councilor Douglass said based on the history of this going back to April of 2019 and a number of violations being issued; he understands that the urgency to do this is based on the emergency orders from the state, and the nature of the COVID 19 pandemic, but Mr. Cianchette had ample time to resolve this and he does not see this as an emergency.

Councilor Douglass offered an amendment that all of this outstanding work must be completed, the inspection and the bond released prior to this going into effect, and the extension to the liquor permit being issued, seconded by Councilor Nadeau.

Ken Cianchette said they got site plan approved one week before the Governor shut people down. They were working in good faith and they were not pulling wool over anyone's eyes. He feels they are being attacked and is not sure why. They have been in great standing with the town, and said he has been losing money since they opened. In March he received approval from the Planning Board with a plan in place. They have been shut down for 10+ weeks and they have been limited to reopen. He feels this is a very punitive amendment, which would eliminate his entire summer season for no reason what so ever. He has 33 employees who are on unemployment.

Councilor Douglass said the first notice of violation was issued in May of 2019. If the process to permit and build the parking lot, etc. was undertaken immediately, this would not be an issue. The fact that it started in March of this year is of no consequence. A second notice of violation was issued in October and then a meeting was held in January. He feels Mr. Cianchette has had more than ample time to address the situation. He feels this work does need to be completed prior to the extension of his liquor license.

Ken Cianchette said when he got that citation, about a year ago, they contacted Chris Hanson. The construction industry has been booming and it has been tough to get architects. He said they got St. Clair Associates on board and they did the surveys at the end of the summer last year, and it takes awhile to get the design. He said they have been moving with good faith.

Chris Hanson said they issued the notice of violation because Mr. Cianchette dragged his feet coming in to talk to them after they requested him to talk to the Planner about the site plan review that was required. He had started to create this parking lot by cutting all the trees and stumped it, and made a gravel parking lot which they were using. They had to send a second violation because they didn't get any response.

Amanda Lessard said after site plan approval is granted the ordinance requires several post approval activities, and Amanda listed all the steps that are required before a permit can be issued. That has not happened, and she said this is kind of a normal timeline for someone to get their planning approval and post their guarantee.

Councilor Maxfield said if this wasn't COVID time he would be 100% with Councilor Douglass. We need people who come to town and we appreciate their business, but it is not a free for all and sometimes Windham has a history of not enforcing. The Clerk said we can put some conditions onto this approval if needed.

Ken Cianchette said he would like to clear something up. Before they opened up, the work that was done to the site was done before they opened and they got a CO. The reason they did the work is that there was multiple conversations going on. Shortly after that time they were informed that it may require a site plan but they were not quite sure because it was a separate lot parcel. It was more of a legal question more than anything, and it was a few months later they got the citation for it. He said he has witnesses that were there and had heard and they believed they had gotten verbal approval on certain things.

Chris Hanson said he wanted to respond to his comment that he was doing everything above board. He remembers having a conversation with him just before they issued the C of O that he could cut the trees behind where this parking lot was going to go, but he told him he could not stump it or grub it because that would require site plan review. He agreed that he did have a good working relationship with Ken, and he did a great job on the restaurant, but he definitely knew he was not supposed to stump and grub that and turn it into a parking lot without site plan approval.

Ken Cianchette spoke some more about the situation.

Amanda Lessard was asked by Councilor Maxfield if the work had been done? Amanda replied that the letter explains the steps that need to be taken before work can begin and a building permit can be issued. She said this is an odd situation where there is already a parking lot semi constructed that people are continuing to use. She noted that the purpose of the performance guarantee is to make sure a project is completed in the time that the ordinance allows for it. Work should not begin, people should not be constructing anything before the town accepts the guarantee.

Councilor Nangle asked Amanda what steps would need to be taken before he can start construction?

Amanda Lessard said it is likely not more than a week. They need to have updated numbers and response to Mark's comments that need to be included in the cost estimates for the performance guarantee, a preconstruction meeting, which is scheduled for Thursday, and they need to receive the performance guarantee and the Town Manager needs to accept it.

Chris Hanson said that maybe Mr. Cianchette should block off the parking lot, if that can be a way of not allowing the parking lot use. He seems to have ample parking there already and it should be able to handle the amount of people he is allowed to have.

Vote on Amendment:

In Favor: 2

Opposed: 5 (Nadeau, Jones, Nangle, Haskell, Maxfield)

Councilor Nangle offers a motion to amend Order 20-111 to set as a condition before issuing this Extension that he complies with all the site plan review, post approval of requirement, i.e. obtains the bond, the bond is accepted by the Town Manager, as well as blocking the parking lot with a jersey barrier or something similar to prevent its use 100%, until such time as the construction of it is complete and signed off by all officials, second by Councilor Maxfield.

Vote on Amendment:

In Favor: 6

Opposed: 1 (Haskell)

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

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

Opposed: 1 - Councilor Haskell

20-112

To find that the requirements of Section 653 of Title 28-A have been met and to approve an application submitted by Vision Coaching and Consulting LLC, d/b/a Elbow Room Bistro for an Extension of License on Premise. **(3-5 minutes)**

Attachments: [20-112 Cover Sheet](#)

[Elbow Room Bistro-Extension of Lic. on Premise](#)

Councilor Kalogerakis recused himself from this Order and vote due to a conflict of interest.

A motion was made by Councilor Douglass, 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 Douglass, Council Chair Maxfield and Councilor Jones

Abstain: 1 - Councilor Kalogerakis

20-114

To waive the fee requirement for Change of Use permits for Windham restaurants. **(3-5 minutes)**

Attachments: [20-114 Cover Sheet](#)

[TC memo Restaurant and Retail Sales Town Response to Covid19](#)

[Windham Restaurant permit process](#)

[Fee Schedule](#)

Manager Tibbetts said this Order as well as the next Order both deal with trying to expedite the ability for our restaurants comply with the COVID-19 requirements for spacing and he noted that this would also be for retail. Our Economic Development Director Tom Bartell has worked on this and has written up the documents that are before you. These change are just waiving the fees to help our businesses who are restaurants and our small retail shops.

Tom Bartell said this is a temporary waiver of fees and any permits that are provided for this, in either the change of use or the retail sales outdoor would be temporary and would only run through October of this year.

Councilor Nangle moved to amend 20-114 to waive the fee of the Change of Use permits for Windham restaurants until October 31, 2020, second Councilor Douglass.

Vote on Amendment:

In Favor: 7

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

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Douglass, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

[20-116](#) To waive the fee requirement for Retail Sales, Outdoor Temporary permits for Windham retailers. **(3-5 minutes)**

Attachments: [20-116 Cover Sheet](#)
[TC memo Restaurant and Retail Sales Town Response to Covid19](#)
[Windham Retailer permit process](#)
[Fee Schedule](#)

Amanda Lessard said Retail Sales Outdoors is a defined use that is an accessory to Retail Use. The Marijuana Retail stores and Medical Marijuana Retail Stores are a different use in our ordinance. She does not think it applies to them, it applies to other retail stores.

Tom Bartell said he thinks retail is part of the June 1 opening and if that happens it is part of that.

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

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Douglass, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

[20-117](#) To approve an application submitted by Gilbert's Chowder House II located at 61 Tandberg Trail for a renewal Special Amusement permit.

Attachments: [20-117 Cover Sheet](#)
[Gilbert's Chowder-Renewal Sp. Amusement](#)

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

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

Abstain: 1 - Vice Chair Nangle

[20-122](#) To approve a Two-Party Planning Partnership Initiative Agreement with Maine Department of Transportation to conduct a study that evaluates certain proposed safety and mobility improvements along Route 302 in North Windham. **(8-10 minutes)**

Attachments: [20-122 Cover Sheet](#)
[Memo to Council - MDOT Agreement](#)
[MDOT TwoParty Planning Study Agreement](#)

Manager Tibbetts said this was the result of the meeting they had with MDOT about two months ago to look at alternative routes, to have bypasses on either side of Route 302.

He said the State is putting up \$75,000 in a grant for the study, and we are putting up \$75,000 from the TIF. The best outcome would be for us to receive MPI for the alternative possible roadway to alleviate traffic on Route 302. Without the study we would not be able to access those funds.

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

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Douglass, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

IX. Council Correspondence.

None.

[CD 20-128](#)

Financial Reports as of April 30, 2020

Attachments: [Revenues as of April 30 2020](#)

[Expenses as of April 30 2020](#)

X. Town Manager's Report.

Manager Tibbetts said Town Hall opened up to the residents and it has gone very smoothly. Next week we will increase the hours and will open at 8:00 and close at 3:30.

XI. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

No report.

2. Finance Committee.

Councilor Nadeau said the budget is in front of the Council.

B. Other Committees.

1. Long Range Planning Committee.

Councilor Nadeau said they met last Wednesday.

2. Parks & Recreation Advisory Committee.

Councilor Nangle said they have not met. Summerfest is going to be virtual this year, and they are hoping for some fun from that.

3. Windham Economic Development Corporation

Councilor Maxfield said they met a week or two ago.

Tom Bartell said they went over committee assignments a little more in depth and they will be explained more to the Council and the public. They will be meeting with the Council on June 9 to discuss where they are going. In the meantime, they will be working with businesses getting through the restrictions from the State and also a big emphasis with working with the businesses in North Windham and property owners, as they move forward with sewer and transportation study.

They have had a number of loan applications with both the continuation and restart programs. The committee has met a number of times and have had some approvals. They will report on June 9 on what has been done to date. Also, the Loan Committee voted to extend the application deadline so applications will start to be accepted again on June 1.

4. Highland Lake Leadership Team.

Councilor Maxfield said they meet tomorrow at 1:00 p.m.

5. Private Roads ad hoc Committee.

Has been disbanded. Need to remove from agenda.

6. Natural Resources Advisory Committee.

No report.

7. Public Easement Advisory Committee.

Councilor Nadeau said they have not scheduled the roads yet.

XII. Discussion Items.

[CD 20-102](#) Impact Fees for Police/Fire-Rescue/Town Hall. (8-10 minutes)

The attached draft impact fee study was developed to determine the feasibility/necessity of these fees because of the growth in Windham. The past and potential growth warrants the implementation of impact fees. I am recommending to the Council that the Planning Board review and recommend ordinance amendments.

Attachments: [WindhamMEImpactFeesSafetyTownOfficeDRAFT18May2020](#)

[CD 20-130](#) Backlots - Access From Public Roads. (8-10 minutes)

Attached is a brief memo and correspondence summarizing the issue. I am recommending to have the Planning Board review and recommend ordinance amendments.

Attachments: [Manager Memo and Supporting Docs](#)

XIII. Agendas & Scheduling.

XIV. ADJOURN.

A motion was made by Vice Chair Nangle, seconded by Councilor Douglass, that they be adjourned. The motion carried by the following vote at 10:35 p.m.

In Favor: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Douglass, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

Respectfully submitted,

Linda S. Morrell
Town Clerk, CCM