



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Town Council

Tuesday, December 18, 2018

7:00 PM

Council Chambers

WCCG TV-7 Now on Channel 1303

I. Roll Call of Members.

Present: 7 - David Nadeau, Tim Nangle, Bob Muir, Jarrod Maxfield, Donna Chapman, Clayton Haskell and Rebecca Cummings

II. Pledge of Allegiance.

Council Chair Haskell led the assembly in the Pledge of Allegiance.

III. Minutes to be Approved:

CD 18-404 To approve the Minutes of the December 11, 2018 Council meeting.

Attachments: Minutes-Town Council-12-11-2018

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

In Favor: 7 - Councilor Nadeau, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman, Council Chair Haskell and Vice Chair Cummings

IV. Public Participation.

Holly Tubbs spoke about allowing construction services in the C3 zone. (See attached) Holly also turned in a petition signed by citizens who support the inclusion of "Construction Services" as defined by the Town of Windham in the Commercial-3 zone of the town.

Public Comment closed at 7:07 p.m.

V. Councilors' Comments.

Councilor Chapman had a follow-up on Holly Tubbs. Back on December 4th they had an email from A.J. Kale Landscaping and Excavation Services on Brand Road. She asked what the status is and hoped that isn't what brought Holly's issue about? Manager Gerrish said that issue is being dealt with and the Code Office will be getting a memo do him.

Councilor Nadeau said he was invited to the Middle School for a presentation on vaping. It has become an epidemic, and he does not think people are aware of how dangerous this is for our kids.

Councilor Cummings brought up some recent comments:

10/18/18

Good evening my name is Holly Tubbs I need to speak with you again about Construction Services being allowed in the C3 District of Windham.

Was it Nero who fiddled while Rome burned ? Windham is no Rome.

There is some urgency to this, if I drop the ball and don't pursue this or you fiddle around with the definition of Construction Services which you've already allowed in C1, as is. Windham, all of us will pay the price in higher property taxes. I know of a couple of companies looking to expand in the C-3 zone and others that want to come in. Are we going to help and encourage them to do that or are we going to continue the way we have been which is actively discouraging them from the C-3 District .

What we have been doing is grandfathering the businesses already here or trying to work the description of a new business around so it can go in as something else, which is O.K. I guess, but does everyone want to work that hard to get their business allowed in C-3 -No. This Construction Services definition has applied to C-3 for a very long time. Most people I have talked to or that have signed that petition have no idea that Construction Services are prohibited from C-3 or why, especially the plumbers,carpenters,painters,builder etc.

I know that noise was brought up at the last council meeting as a concern. I again want to share some information. In the early 1960s when there was no zoning, my grandfather built Water Systems Inc.on Rte 302, never in his wildest dreams could he have imagined that he was building on a street that today has one of the highest traffic counts in the state of Maine and neither did the people who built or bought homes on Rte 302.

Today in C-3 we have the traffic which at 6:30 A.M. yesterday was bumper to bumper heading for Portland, we had town plows, we had private plows, all before 7:00 A.M. we have dumpsters being emptied before 6, we have fuel trucks delivering to 24/7 convenience stores, we have milk trucks delivering to those same places before 6:00 A.M. We have school buses. The back-up alarms on the trucks, the engine brakes, a lot goes on in the morning before 7:00 A.M. in C-3.

I am not asking you to allow businesses to break the rules, they have to play by the rules. If the town gets a complaint about them the town has to respond.

The zoning spells out setback requirements that must be met one of them being rear set backs, C-1 and C-3 have the same description " a fifty (50) foot buffer from all property lines that abut a residential zoning district." It does not say a **residence** - located in a commercial zone.

Additionally, all of the dimensional standards are **more** restrictive in C-3 than they are in C-1. For example In C-3 we have a minimum lot size of 20,000 s.f. In C-1 there is no minimum lot size.

My concern is that very few taxpayers, business owners, or voters in town are even aware of this restriction or understand it. I am trying to get that information out to the public. This has come up before and not received much attention.

My personal concern is what will I leave my family. A business that can only be sold to certain people if they have a certain number of service vehicles and or a suitable profession and jump through numerous hoops, and a piece of property that has already been for sale for more than 10 years the last three with a real estate agent, basically a mess.

Right now the economy is good I've had interest on my lot, that will not last. The town has been working on this for a long time. I hope that doesn't mean your just trying to figure out how we can exclude more business from coming into C-3.

Thank you for your time

She doesn't think anyone here is aware of the issues that have been going on in her neighborhood for years, and recently more and more neighbors have gotten involved, and when they call the town for help they are told that Rebecca Cummings is your Town Council person and she can make this issue go away for you if she wanted to. She has been fighting on the front line of this issue for four years, and has been more active in the last year. The issue has to do with a lot of code and ordinance issues. She said she had to take out a cease harassment order because she fought so hard.

Councilor Chapman asked if they would be having a meeting about some of these things that have been going on? Manager Gerrish said he would take care of it.

Councilor Maxfield wished everyone a Happy Holiday. He told Holly Tubbs that she speaks very well and she has done a great job each time she has come in, and has also made some good points.

Councilor Chapman noted that Stephanie Lay has her new kitchen, unfortunately, she wasn't able to go into the old fire station but her new location is over at Howell's Gun Shop in the old bakery located in Gray.

Councilor Nangle said that during last week's Right to Know segment and open meetings discussion he asked the town attorney Stephen Langsdorf if there was a specific statute that prevented the recording of executive sessions, which Councilor Chapman has accused him of, and he stated very clearly that there was; Councilor Nangle received an email from Attorney Langsdorf that he read.

Councilor Chapman said her concern was video taping in executive session and those concerns go back to an email he sent her on July 11, 2018, which she read.

VI. CONSENT AGENDA.

- 18-258 To find that the requirements of 28-A M.R.S.A. § 653 have been met and to approve an application submitted by GC Pizza Hut, LLC, d/b/a Pizza Hut for a renewal Liquor License.

Attachments: 18-258 Cover Sheet
Pizza Huts renewal Liq. Lic.

- 18-259 To find that the requirements of 28-A M.R.S.A. § 653 have been met and to approve an application submitted by 302 Club LLC d/b/a Dena's Lobster House and Tavern for a renewal Liquor License.

Attachments: 18-259 Cover Sheet
Dena's Lobster House-renewal Liq Lic

- 18-260 To approve an application submitted by Ken Ray & Dena Withey d/b/a Dena's Lobster House & Tavern located at 765 Roosevelt Trail for a renewal Special Amusement permit.

Attachments: 18-260 Cover Sheet
Dena's Renewal Special Amusement permit

A motion was made by Councilor Muir, seconded by Vice Chair Cummings, that

the Order be approved. The motion carried by the following vote:

In Favor: 7 - Councilor Nadeau, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman, Council Chair Haskell and Vice Chair Cummings

VII. PUBLIC HEARINGS.

None.

VIII. UNFINISHED BUSINESS & GENERAL ORDERS.

18-244 To amend the Council's rules of procedure by adding the definition of citizen to Section 29, "Council Appointments." (Sponsored by Councilors Chapman and Haskell)

Attachments: 18-244 Cover Sheet
Council Rules AMENDED 12182018 Attny edit

A motion was made by Councilor Chapman, seconded by Councilor Cummings that the Order be approved. The motion carried by the following vote.

In Favor: 5 - Councilor Muir, Councilor Maxfield, Councilor Chapman, Council Chair Haskell and Vice Chair Cummings

Opposed: 2 - Councilor Nadeau and Councilor Nangle

18-248 To appoint Casey Dubay to the Parks and Recreation Advisory Committee for a three-year term to expire August 15, 2021.

Attachments: 18-248 Cover Sheet

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

In Favor: 7 - Councilor Nadeau, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman, Council Chair Haskell and Vice Chair Cummings

18-249 To appoint Jeanne Rhein to the Natural Resources Advisory Committee for a three-year term to expire August 15, 2021.

Attachments: 18-249 Cover Sheet

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

In Favor: 7 - Councilor Nadeau, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman, Council Chair Haskell and Vice Chair Cummings

18-254 To appoint Joel Pepin to the Retail Adult-Use and Medical Marijuana Task Force.

Attachments: 18-254 Cover Sheet

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

In Favor: 6 - Councilor Nadeau, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman and Council Chair Haskell

Opposed: 1 - Vice Chair Cummings

18-255 To appoint Charles Hawkins to the Retail Adult-Use and Medical Marijuana Task Force.

Attachments: 18-255 Cover Sheet

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

In Favor: 6 - Councilor Nadeau, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman and Council Chair Haskell

Opposed: 1 - Vice Chair Cummings

18-251 To accept Enterprise Drive as a public way.

Attachments: 18-251 Cover Sheet

TC memo Enterprise Drive Phase1A PubAccept 12-11-18.pdf

Enterprise Drive Acceptance Request.pdf

Enterprise Drive Phase 1A deed description.pdf

Enterprise Drive 10-2002.pdf

AS Built Phase 1A.PDF

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

In Favor: 7 - Councilor Nadeau, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman, Council Chair Haskell and Vice Chair Cummings

18-256 To approve an application submitted by Central Maine Power Company and Northern New England Telephone Operations LLC to locate (1) utility pole and cables and wires there on Highland Cliff Road & Canada Hill Road, approximately +/- 1400' Northeast from Alweber Road.

Attachments: 18-256 Cover Sheet

CMP Pole Location-Highland Cliff

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

In Favor: 6 - Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman, Council Chair Haskell and Vice Chair Cummings

Opposed: 1 - Councilor Nadeau

IX. Discussion Items.

CD 18-380 Highland Lake Association - Watershed Protection Grant Final Report

Attachments: HLA Watershed Grant Final Report

Rosie Hartzler gave their final report along with a power point presentation. She handed out a packet to the Council.

CD 18-385 Highland Lake Leadership Team Recommendations.**Attachments:** HLLT Recommendations

Dennis Brown from Pond Villa and John MacKinnon from Haven Road gave a presentation and their recommendations to the Council.

Other speakers:

Chris Hanson, Director of Code Enforcement

Rosie Hartzler

Larry Eliason

Amanda Lessard, Town Planner

Interim Manager Don Gerrish said he made a mistake in the number of members needed on the Marijuana Committee. There was supposed to be six members, and with the two appointed tonight it makes it a seven person committee. The Council agreed to leave it that way.

CD 18-409 Addition of Medical Retail Marijuana Establishments Definition to the Land Use Ordinance.**Attachments:** Caregiver Retail Store

The Council discussed the topic.

Speakers:

Chris Hanson, Code Enforcement Director

CD 18-391 Residential Growth Concerns.**Attachments:** SFH Permits 2014

SFH Permits 2015

SFH Permits 2016

SFH Permits 2017

SFH Permits 2018

Dwelling Summary 2011 to 2018

Development Information from Assessor

2015 Applicatons 12-14-2018

2016 Applicatons 12-14-2018

2017 Applicatons 12-14-2018

2018 Applicatons 12-14-2018

Planning Board Applications 2015-2018 summary

Amanda Lessard gave preliminary information to the public and then had a discussion with the Council.

Speakers:
Chris Hanson, Code Enforcement Director
Jeanne Rhein
Dennis Brown
Woman who did not state her name
Sarah Bronson

X. Council Correspondence.

CD 18-397 Fire-Rescue Department Monthly Report - November 2018

Attachments: November 2018 Monthly Report

CD 18-399 Town Clerk's Report for November 2018.

Attachments: Town Clerk's Report for Nov 2018

CD 18-401 Windham Police Department Report - November 2018

Attachments: Police Report November 2018

CD 18-406 Parks and Recreation Department Monthly Report- November 2018

Attachments: Monthlyreportsnovember2018

0018 2 Nov Dec 18

CD 18-407

Assessing & GIS Department Report for October & November

Attachments: Assessing & GIS Departments October & November 2018

CD 18-411 Code Enforcement Monthly Report November 2018.

Attachments: Code Enforcement Monthly Report - 2018 November.pdf

XI. Town Manager's Report.

Dog Gerrish asked if he could change the December 29th date for the Council and Staff Goal Setting meeting as he was not ready. He said he could be ready for either January 5th or January 12th. The Council went with January 12th.

XII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Maxfield said they met with two candidates - Maureen Denig for the Parks & Rec Advisory Committee and Dennis Brown for the Natural Resources Advisory Committee, both for a three year term to expire on August 15, 2021.

2. Finance Committee.

No report.

B. Other Committees.

1. Long Range Planning Committee.

Councilor Haskell said they will meet tomorrow.

CD 18-412 Long Range Planning Committee Report.

Attachments: 11-2018 public meetings - summary final 12-05-18

2. Parks & Recreation Advisory Committee.

Councilor Cummings - Did not meet because they did not have a quorum.

3. Windham Economic Development Corporation

Tom Bartell WEDC Director said they will be looking at a board meeting in mid-January and hopefully they will gather their legislative delegation and talk about what they can do for us in Windham.

4. Highland Lake Leadership Team.

Reported on this earlier in the meeting.

5. Shared Maintenance Facility Joint Project Team.

Manager Gerrish said they are moving along.

6. Mineral Extraction Committee.

Councilor Chapman said they are done and are waiting for it to come back from the Planning Board to see what they do next.

7. Private Roads ad hoc Committee.

No report.

8. Natural Resources Advisory Committee.

No report.

XIII. Agendas & Scheduling.

CD 18-410 Agenda Items Report.

Attachments: Future Agenda Items 2018 1214

Topics to be discussed:

Trash and recycling

Look at the properties the town owns and maybe selling them.

Look at the number of properties that have been held for more than three years due to being tax acquired properties.

XIV. Executive Session.

18-246

To enter into executive session under 1 M.R.S.A. §405(6)(A), which provides for the "Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency," for the purpose of discussing a personnel matter.

Attachments: 18-246 Cover Sheet

Councilor Muir moved to go into executive session, second by Councilor Maxfield. The motion carried by the following vote.

Vote 7-0 at 10:12 p.m.

Councilor Chapman moved to return from executive session, second by Councilor Muir. The motion carried by the following vote.

Vote 7-0 at 10:46 p.m.

XV. ADJOURN.

A motion was made by Councilor Muir, seconded by Councilor Maxfield, that the be adjourned. The motion carried by the following vote:

In Favor: 7 - Councilor Nadeau, Councilor Nangle, Councilor Muir, Councilor Maxfield, Councilor Chapman, Council Chair Haskell and Vice Chair Cummings

Respectfully submitted,



Linda S. Morrell
Town Clerk, CCM