

Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Town Council

Tuesday, January 14, 2020

6:30 PM

Council Chambers

I. Roll Call of Members.

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

II. Pledge of Allegiance.

Council Chair Maxfield led the Pledge of Allegiance.

III. Minutes to be Approved:

CD 20-022 To approve the Minutes of the December 10, 2019 Council meeting.

Attachments: Town Council Minutes-12-10-2019

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

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

CD 20-031 To approve the Minutes of the January 7, 2020 Council meeting.

Attachments: Minutes-Town Council-1-7-2020

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

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

Abstain: 1 - Councilor Douglass

IV. Public Participation.

Charles Hawkins of Anthoine Road wanted to talk briefly to the Council about ethics and singling out members of the community, he said that it is happening to him. A woman on the Council want to bring his name up publicly. He lives in her district and he is confused and hurt because it is public and his kids reads those things; he would like to see some ethics.

Larry Eliason - He said he has spoken to the Council in the past about ethics, and he finds Windham has a lot of potential, but they seem to be a lot like a dysfunctional family and still continue to get at each other.

Larry said last year he spoke about the amount of time and amount of money we spend

talking with the town attorney, the meter was constantly running like a taxi. You have individual Councilors talking to the town attorney, as well as staff talking to them on a consistent basis. He wondered if there was a cap on that? As a resident, it concerns him with the amount of money that can be spent. The focus should be on town business.

Bill Walker of Falmouth Road spoke about last Thursday special meeting and some thoughts he has on growth in Windham. Why are we seeing growth in the farm and farm residential zones and very little growth in the growth zone? Increasing fees in town will not curb development. Paying a few thousand dollars more is not going to break the bank if the economics work.

To summarize he offers a plan to get growth where we want it. We move cluster or conservation subdivisions from the farm zone as recommended by the Planning Board. Work to bring sewer to Windham, this should be a number one priority for economic growth. Create a road corridor through the commercial district to allow for future growth. Also look at possible alternate routes to help facilitate sewer. It is important to engage people with knowledge in the area of development, engineering and land use planning, seek them out.

V. Councilors' Comments.

Councilor Cummings said she received an email asking about putting a guardrail on Varney Mill Road where a lot of accidents have happened.

She thanked the Portland Fire Department, the Allen Avenue station, her neighbor Adam and Adam's boss and the rest of the crew for helping with a family emergency last weekend.

In regard to the two comments made earlier she said, as a Town Councilor, you are allowed to have a personal opinion on the issues, and she has a personal Facebook page and she can express her amendment right to free speech. She said she does not call any individual out by name but she does speak very passionately about that issue.

As for contacting the town's attorney, the Council Rules state that you can ask the Chair for permission to contact the town attorney, which she did do since the Chair took over, and called one time.

As far as last year when she and Councilor Haskell were in the leadership rolls she said she never once received any requests to contact the attorney, but did not know if any of the other Councilors did without asking for permission.

As for ethics, there is an Ethic's Committee, which is not currently staffed, and if an issue comes up the Attorney is the only person she can go to besides the Town Manager to ask questions, especially dealing with inner Council relations.

Councilor Maxfield wanted to give a special thank you to the Public Works Department. This time of year they go above and beyond, and it has been nice to see their department working on communication with the public, it has made a big difference in turning some frowns upside down and getting people to realize what they do.

He also wants to solicit volunteers to join the committees in town, a lot of them are hurting with people moving and things changing. The Human Services Advisory Committee needs people desperately and the School Board has an opening.

VI. PUBLIC HEARINGS.**VII. CONSENT AGENDA.****VIII. UNFINISHED BUSINESS & GENERAL ORDERS.**

Councilor Maxfield makes a motion to add agenda item 20-020, moved by Councilor Kalogerakis, second by Councilor Douglass.

Vote to add Order 20-020:

In Favor: 7-0

20-002 To set the base salary of the Assessor to step M3-E, \$84,715.99, in accordance with the eligibility timing on the management pay scale and to maintain the G.I.S. stipend at \$17,500.

Attachments: 20-002 Cover Sheet

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: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Cummings, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

Abstain: 1 - Councilor Haskell

20-022 The Council hereby orders that routine management tasks related to employment of the Assessor be delegated to the Town Manager. The Assessor shall report to the Town Manager on all matters related to the position and the Town Manager shall be the day-to-day supervisor of the Assessor. The Town Manager may recommend action to the Council regarding the Assessor's appointment, discipline, job description, salary or benefits, but such matters shall remain within the Council's exclusive authority.

Attachments: 20-020 Cover Sheet

Barry Tibbetts Interim Manager said this was a recommendation by Don Gerrish the previous Interim Manager and himself. Having the Assessor working with the Manager is a good functioning way for staff to operate. He thinks it is difficult for a Council because they are not here on a day to day basis to be involved with the Assessor where the Manager is. It makes a lot of sense for the town.

Council Chair Maxfield said this is an organizational house keeping issue, we have a great Assessor and has nothing to do with any performance issue.

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: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Cummings, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

Abstain: 1 - Councilor Haskell

20-003

To appoint Charles Hawkins to the Planning Board, to serve the remainder of a three-year term to end February 15, 2022. (Sponsored by Appointments Committee)

Attachments: 20-003 Cover Sheet

Councilor Cummings said two of them requested to have a special meeting so they could discuss these matters behind closed doors and allow people to save face, and that did not happen. What she contacted the town attorney on, was not the fact that, Mr. Hawkins did support two of the candidates here tonight, it was more of the financial support given to the ad in the paper, and the fact that he is replacing one of the board members from the Planning Board whom he paid the ad for. She felt there was a conflict of interest and those in the ad should recuse themselves from this vote.

Councilor Nadeau asked what was the answer from the attorney? Councilor Cummings was given two different answers, the first was we should have the executive session and there might be a conflict of interest, and then the following day the answer was to bring it up tonight.

Councilor Douglass - The words you used were "paid for an ad for candidates", "you are implying we wanted him to pay for an ad for us." Councilor Cummings said it could give certain members of the public the impression that he paid to get the position he is about to get. She isn't saying that is what happened, but it could give some people that impression.

She said the second part of her conflict of interest concern is, the fact, that he is being put on a board when we are debating ordinance language for an industry, in which, he directly financially benefits from, and this Council has deflected to the Planning Board for opinions on such, that was her concern.

Councilor Douglass - for the record "Does the Planning Board make policy or just give recommendations?" Manager Tibbetts said they are giving you recommendations, they will send back with their best recommendation for the final determination on sending that article or amendment for the voters.

Councilor Douglass - for the record, "There is nothing to be gained to being a the Planning Board member." He said in speaking to Will, he wants to be a bigger part in this community, and he is a father, husband, business owner and an asset to this community and to penalize Will for this is absurd.

Councilor Nangle said there is a Planning Board member now who does earth work and Councilor Douglass was an engineer and he sees less conflict with Mr. Hawkins than there was with Councilor Douglass or Mr. Elder.

Councilor Cummings said part of the discussion with the attorney is also the fact that the members that are on the Council now are also members of the Appointments Committee, which interview and then appoint people to the board, rather they recommend and then the entire Council appoints. She said it was more than just support, there was financial ties to it to Council members that interview and recommend and that is where she had the issue and why she asked for permission to contact the attorney.

Councilor Nangle said he has been on the Appointment's Committee three times and never once in the three years have they not brought somebody to the Council for recommendations.

Councilor Nadeau said the Planning Board meeting last night was cancelled because they didn't have quorum. To step on anybody that comes forward to participate is belittling the whole process.

Councilor Maxfield said this is not for the public benefit, this is using the Council to fight your own personal battles again, in his opinion. He said we do need ethics, and they have some ethics they will be bringing forward, and he would like to have an ethic's board because he has some questions. For the record - the attorney was contacted two times on this matter. The attorney said there is no difference in one of you supporting a candidate by purchasing an ad in the paper or buying a bumper sticker or putting a sign on your front lawn, nobody made any deals. He asked every member of the Council to please get on board, work together and just try and solve the problems of the town and stop the foolishness.

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

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

Opposed: 2 - Councilor Haskell and Councilor Cummings

20-004 To appoint Charles Hawkins to the Windham Economic Development Corporation for a three-year term to end February 15, 2022. (Sponsored by Appointments Committee)

Attachments: 20-004 Cover Sheet

Maggie Terry of Freeman Court wanted to say that one who has volunteered for a committee with the town, and frankly, not feeling the support of the Council once that happened, and to feel like the volunteers are not appreciated, she has been in that position. You don't get volunteers to sit on a committee if the Council treats them poorly and disrespects them.

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

Opposed: 2 - Councilor Haskell and Councilor Cummings

20-005 To appoint Tyler Dunlea for a three-year term to the Planning Board to end February 15, 2022. (Sponsored by Appointments Committee)

Attachments: 20-005 Cover Sheet

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 Cummings, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

20-006 To appoint Aaron Pieper to the Summerfest Organizing Committee. (Sponsored by Appointments Committee)

Attachments: 20-006 Cover Sheet

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 Cummings, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

20-008 To appoint Shawn Plante for a three-year term to the Parks and Recreation Advisory Committee, to expire August 15, 2022. (Sponsored by Appointments Committee)

Attachments: 20-008 Cover Sheet

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 Cummings, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

20-010 To approve an application submitted by Buck's Naked BBQ (Smoke This Two, LLC) located at 4 Turning Leaf Drive for a renewal Special Amusement permit.

Attachments: 20-010 Cover Sheet

Buck's Naked Special Amusement renewal

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

20-011 To approve an application submitted by Private Power Services for Robie Builders to locate one (1) utility pole and cables and wires there on River Road, approximately 50 ft. south of Pole 14.

Attachments: 20-011 Cover Sheet

Pole Location-River Rd

Email Robie Contracting Pole Permit Request

Councilor Nadeau pointed out the location of the pole location on the map, there is no dimension of where that pole is. The only pole that can go in the right-of-way is a CMP pole or a telephone pole. If it is a private pole it cannot be put there. It creates a whole bunch of issues, if somebody hit that pole and it is in the right-of-way and is a private pole, do you go sue him? It was agreed to postpone until they have more information.

A motion was made by Vice Chair Nangle, seconded by Councilor Douglass, that the Order be postponed to the January 28 meeting or to be put on the workshop of January 21st if it is an immediate need. The motion carried by the following vote:

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

20-012 To appoint both a delegate and alternate delegate to the Greater Portland

Council of Governments General Assembly.

Attachments: 20-012 Cover Sheet

Councilor Maxfield nominated Councilor Nadeau, second by Councilor Douglass.

Vote:

In Favor: 7-0

Councilor Nangle nominated Interim Manager Barry Tibbetts, second by Councilor Douglass.

Vote:

In favor: 7-0

- 20-013 To grant a blanket letter of approval to the Fraternal Order of Eagles #4352 for its application for licenses to conduct Games of Chance at the Lake Region Eagles #4352 for the period of January 1, 2020 through December 31, 2020.

Attachments: 20-013 Cover Sheet

Lake Region Eagles-Banket Letter

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: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Cummings, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

- 20-018 To approve the Watershed Protection Grant application and process as proposed by the Natural Resources Advisory Committee.

Attachments: 20-018 Cover Sheet

Town of Windham Combined Application Final

Gretchen Anderson gave an update from last weeks meeting regarding the budget, and in terms of the maintenance discussion and following the project being completed. On page 2 they included language highlighted in yellow.

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: 7 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Cummings, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

- 20-019 To extend the contract agreement between the Town and Barry Tibbetts, Interim Town Manager, through June 30, 2020.

Attachments: 20-019 Cover Sheet

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

IX. Council Correspondence.

Councilor Douglass said Lee Allen reached out to him, he is a long time resident of Windham and is the 10th generation living on his land. He produces wood for burning and wood products and Lee said the new zoning ordinance would have a severe impact on him. He made some edits and gave them to Amanda.

CD 20-010 Fire-Rescue Department Monthly Report - November 2019

Attachments: November 2019 Monthly Report

CD 20-014 Windham Public Library Monthly Report - November 2019

Attachments: Library Monthly Report - November 2019

CD 20-019 Parks and Recreation Department Monthly Report - November 2019

Attachments: Monthly reports - November 2019

CD 20-020

Attachments: Police Department Monthly Report - November

CD 20-021 Town Clerk's Report for November 2019.

Attachments: Clerks Monthly November 2019

CD 20-024 Windham Public Library Newsletter.

Attachments: Check It Out January 2020

CD 20-026 MDOT Notification - Route 35 Sidewalk Improvements.

Attachments: MDOT Project 22166.00

22166.00 cover page 12.30.2019

Rte. 35 Project - Appraisal Services Notification

X. Town Manager's Report.

Manager Tibbetts said that staff and he will have the budget and CIP ready a little earlier this year for the Finance Committee. They are hoping to be done by the middle to the end of February.

They are reviewing all the fees that are currently charged by the Town of Windham and will bring that back to the Council in a couple of weeks.

He has talked with staff about the SHAPE Program, which is the Safety Health for Public Employees and to see if we can bring the Town of Windham into that program.

He explained that this program does three things really well. 1) Shape is offered by the Bureau of Labor and they are equivalent to OSHA. They come into your public building

and they will walk through the building, just as OSHA would do, and tell you where you are or are not in compliance. 2) As it identifies those things, we will be able to make those improvements, and it also will upgrade our buildings and our facilities. 3) The objective is to lower our injury rate for our workers. You might see some recommendations coming through the budget for back-up cameras on trucks or different items to improve the safety levels. By lowering our injuries we can have lower MOD rates, which will give us lower Worker's Comp.

Also, being in the SHAPE Program, when they come to inspect there are no fines. They will give us a list of things needing to be done/fixed within 6 months, and if we can't do it within that budgetary cycle, they will extend it. If we are not in the program and they come in, we will get find if they find issues.

He also said there are a lot of things the town has done a lot of work on, and he has categorized them into a list. He is talking with Leadership about putting those into workshops so to move things along and get a better accountability of where we are at with some of them.

XI. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Nangle reported that they met tonight with two applicants. Maggie Terry has applied for the Windham Economic Development Corporation for a two-year term ending 8-15-2021, and Michelle van Summern applied for the Natural Resources Committee for a three-year term ending 8-15-2022. They are both qualified and look forward to volunteering.

2. Finance Committee.

Councilor Nadeau said they met a week ago. The Manager is drawing up the plans for a future meeting.

B. Other Committees.

1. Long Range Planning Committee.

Councilor Nadeau said the meeting tomorrow has been moved to next Wednesday January 22nd.

2. Parks & Recreation Advisory Committee.

Councilor Cummings said they met yesterday. There are skate parties coming up, the one on the 17th has been postponed due to weather, but they are still planning on the 24th and the 31st. The new skating rink is up to Arlington Field, and there will be hot cocoa and smores. In February there will be the Father/Daughter Dance. The Community Center Adhoc Committee will have a meeting on Monday January 20. The old members are going to update the newer members and get the ball rolling. They are hoping to have a grand opening for the skate park in April.

Councilor Nadeau wanted to ask the ice fishermen, who might be ice fishing up to

Chaffin Pond, to please walk away from the shore a little ways and put your traps away from the skating area.

3. Windham Economic Development Corporation

Councilor Maxfield said there is a meeting tomorrow, the January 15 at 7:30 at the Library.

4. Highland Lake Leadership Team.

Councilor Cummings said they have a doodle poll out for when they can meet.

5. Private Roads ad hoc Committee.

No report.

6. Natural Resources Advisory Committee.

The update was given earlier tonight from Gretchen Anderson.

7. Public Easement Advisory Committee.

Councilor Nadeau said they have not met, and will not meet again until the Manager brings back their proposal for fees.

XII. Discussion Items.

CD 20-012 Westbrook Housing Presentation - Affordable and Senior Housing.

CD 20-015 Impact Fees for Open Space as Recommended by the Planning Board.

Attachments: TC packet PB recommend Open Space Impact Fee 11-27-19

CD 20-016 Ordinance Amendments re. Private Roads.

Attachments: TC packet PB recommend Private Roads 12-23-19

CD 20-017 Zone Change Request - Single Property Where Lot Split by Zoning.
(Amanda)

Attachments: PB to TC TM 5 L1-1 FR-RM 12-23-19
RMills Rezone Request 2019 10 25

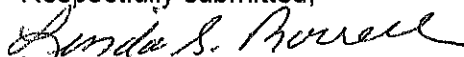
XIII. Agendas & Scheduling.

XIV. ADJOURN.

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

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

Respectfully submitted,



Linda S. Morrell

Town Clerk, CCM