



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Town Council

Tuesday, February 25, 2020

6:30 PM

Council Chambers

Council Meeting

I. Roll Call of Members.

Present: 6 - David Nadeau, Tim Nangle, Clayton Haskell, 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 20-072 To approve the Minutes of the February 11, 2020 Council meeting.

Attachments: Minutes-Town Council-2-11-2020

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

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

IV. Public Participation.

Larry Eliason of Mineral Spring Road commended the Town Manager on his ideas for helping expand facilities without breaking the bank. He suggests that if we have an opportunity to sell acquired property and take that \$120,000, you could put that into architectural engineering. There may be some other opportunities for Windham to convert some other town owned properties to put towards other investments.

Linda Morrell Town Clerk reminded people that the Clerk's Office will be open late Tuesday night for an extra three hours, until 7:00 p.m. to let people absentee vote, register to vote or change their name or address. This Thursday Absentee Voting ends at 4:00 p.m.

V. Councilors' Comments.

Councilor Douglass wanted to congratulate Will Hawkins on being the Chamber of Commerce Business Man of the Year.

Councilor Cummings read an email that was sent to the Council. Out of respect she did not give the person's name who wrote it because she didn't seek permission to read out loud. The email was from a resident on Tavern Hill in Windham who is concerned about a piece of property that was sold in that area she said they plan to construct a marijuana

grow facility just down the road from their house because it is zoned for farming. She also wrote about being able to smell marijuana when walking into and out of Our Lady Of Perpetual Help Church in No. Windham. She said she would like to see the town more concerned with these growth facilities, how shops look and whether you can tell what it is from the outside. She asked for the Council to review the guidelines posted by Gray and take into consideration these stricter regulations that protect residents and religious communities from having these facilities forced on them.

Councilor Cummings also brought up and read the pledge the Council used to say for quite awhile. She said she believes in the pledge and she whole heartedly disagrees with marijuana in this community. She said she cannot and will not be part of a Council that condones it.

Rebecca Cummings resigned her position on the Council, effective immediately.

Chris Hanson Director of Code Enforcement said, at this time, they have not permitted any cultivation facilities on Tavern Hill. He said what they were referring to has a foundation, only, permit but they have not issued a single family home. Right now there is a moratorium, and they have not issued even a home occupation for marijuana cultivation on Tavern Hill for the record.

Councilor Nadeau moved to suspend the Council Rules and take Orders 20-050, 20-051, 20-052, 20-053, 20-054, 20-055, 20-056, 20-057, & 20-058 off the agenda and make put them on as a Consent agenda, second Councilor Kalogerakis.

Vote 5-1 (Haskell) Fails

VI. PUBLIC HEARINGS.

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.

Attachments: 20-048 Cover Sheet

TC packet, PB recommend Marijuana 02-13-20 A

Marijuana Section 500 Performance Standards KMC edit 030620

School ChildCare Corr Buffer3

Public Hearing:

Dave Whitten-Sticky Buds said he has some real issues with this one. He said you are prohibiting people who already have a medical business, and who are grandfathered to operate those "said" medical businesses. If they, in turn, get an adult use license, by doing this co-location or not having it be on the same lot. He said he already has a spot on retainer with CN Brown, and a state inspector said it would meet the criteria of it being two separate businesses, and no more signage, like was talked about before and leaving it the same. Dave said by putting this clause in there, you can't have the two businesses on the same lot, which totally blows this away. He asked how was that fair if he, Joel or one of the others, who have a medical business, will now have to look at a separate store somewhere else? He asked where this change popped up from, he did not see it discussed at the Planning Board.

Maggie Terri of Freeman Court - She pointed out how it was written from the Planning Board is different from how the state has it listed. The state does not talk anything about lot, and the state has gone through a whole process of co-location and how it works. To have this come up all of a sudden, it will put a lot of people, potentially, out of business. Also, if you don't allow two different types of Licensees in the same lot and you say they can't do that, that is hurting landlords and tenants who are renting spaces.

Larry Eliason said he is looking at the big picture of proposed zoning changes. You will reward some property owners in the Enterprise Development area or the Industrial area and punish other people who are in the C1, C2, C3.

Danielle Drive is a business park that was developed by the WEDC a long time ago. Cannarx bought 2.5 acres/6,000 sq. foot building, and that property also had preliminary approval for another 4,000 sq. ft. on that site. Investors looked at the property, use and financing, and now you are proposing that indoor cannabis agricultural is not going to be permitted in the C3 but will be grandfathered non-conforming.

He thinks from a value standpoint, permitted and grandfathered non-conforming is a little different animal, it's subjective. Anyone from a manufacturing environment, as those companies develop and grow and looking to expand, under these proposed changes they can't, they are done.

He said the irony of this is, when they bought this property they could not do contractor services in there, and that is really why you ended up with cannabis. There are several other property owners in Windham who have developed business parks or owned large commercial properties, and different companies have come and gone. Cannabis is there with the desire, the checkbook to buy the buildings and pay the rent on time like clockwork but because it is cannabis, it's offensive. He thinks that changing zoning is unduly restricting and diminishing the properties use and taking about rights and value.

Public Hearing closed at 9:22.

Councilor Maxfield asked where did the co-location come from? Kristin said two workshops ago a Councilor said "weren't we supposed to have something in here preventing co-location?"

Councilor Kalogerakis said if we don't want them spread out all over, why not have them next to each other? Kristin said some feel that clustering them is a bad thing. The genesis of this was that there was some risk of state law co-location prohibition going away, so they are trying to put something together to address that. At this point, it is in there and is probably going to stay, and it does not say "on the same lot" as someone from the public suggested. It is more about being in the same facility. If there is a firewall between the two, you can have them side by side. Councilor Nadeau said he would recommend they only have one sign so people are not going to see a whole bunch of different store fronts.

Councilor Nangle would like to see it be 1,000 feet from schools and day cares, which is more stringent than the state. Currently it is 500 feet.

Councilor Nadeau moved to amend 20-048, second by Councilor Maxfield - Attorney Kristin Collins read the amendments.

1) To remove the co-location prohibition,

2) To add language to the current square foot limitation for caregiver cultivation, to make it apply to all caregiver growing on a single lot,

3) Increase the distance requirement from schools and daycare to 1,000 feet.

Tom Bartell - WEDC asked for a delay on final approval, like they did with the other order. He said 1,000 feet is a very long ways, and he would like to draw some circles. In North Windham there are multiple schools, and child care facilities, and he is not sure what is left after you take the 1,000 feet out of that.

Vote on amendments:

In Favor: 4

Opposed: 2 (Haskell & Kalogerakis)

A motion was made by Vice Chair Nangle, seconded by Councilor Douglass, that the Order be postponed to March 10, 2020. The motion carried by the following vote:

In Favor: 4 - Councilor Nadeau, Vice Chair Nangle, Councilor Douglass and Council Chair Maxfield

Opposed: 2 - Councilor Haskell and Councilor Kalogerakis

Absent: 1 - Cummings

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.

Attachments: 20-047 Cover Sheet

Marijuana Licensing Ordinance 021220

Draft -Marijuana-Licensing-Ordinance revised 030620

Marijuana Business License Application rev 030620

Paul Cleaves of Pear Tree Lane said that it was obvious he was speaking to a divided Council on the subject. He knows the Council has various responsibilities to the people of this community; for their happiness, their safety, well being, the things that they elected you for. He would say the health and safety are the most important things that they are elected to do and sometimes go against things like following a public referendum, a flawed process, and it is more important than individuals economic gain, and more important than taxes that you can collect. For the public safety reason alone, he would recommend that you not proceed with the allowing recreational marijuana businesses in this town. He feels that their responsibility is to vote against this.

Laura Morris Director of Be the Influence said while it is a coalition for the community, it is a coalition for youth. We don't know what is going to happen if we vote on something like this and it goes through here in Windham, and we do know what is happening in other areas. She said the truth is "access equals youth". If you increase access in a town, it does not matter what the substance is, it will increase youth use. She said that Washington, Colorado, Oregon have an increase in DUI's, 20% increase in youths living with marijuana users. The perception of harm has reduced 20% due to social norm making it okay.

Edibles are products that confuse youth, they do not understand how dangerous this stuff is. There is a 19% increase to E.R. visits due to edibles. Vomiting, abdominal

problems, and new information on brain science. We know that it hijack the connections of these developing brains, we know that it effects the way that they are going to make decisions in the future and their health in the future.

Cole Heanssler a 7th grade student in Windham schools said he has seen how marijuana is affecting us. They have been learning in D.A.R.E. class how it can affect their brains and remap them for addiction. He lives on the border of Raymond, and on his drive to school he sees six marijuana stores just heading to school. He does not think that is the best. Youth that is not educated sees all these stores, they are going to be thinking if there are so many then it shouldn't be that harmful to us. He really thinks it shouldn't be affecting the youth and the people who are not even using marijuana, because the odor from all the grows is every where you go in Windham. He said he feels uncomfortable when he smells it, and he really thinks it should not be affecting the people who don't use it.

Aaron Pastor affiliated with 839 Roosevelt Trail that will be a new construction and is to be built by a compliant company with a focus on adult use and best practices. He commented on the first person's comment about what is statistically accurate. Recently the Center for Disease Control put out a study that said marijuana use has actually declined among youth in adult use legal states. They think it might be because the novelty has worn off, because an adult use market is more compliant, but it is not just this automatic idea of having more marijuana around equals more use by children.

He said he appreciates all the work they are doing, but at the last meeting it was said "in terms of the businesses who are here right now, I think with what we came up with tonight, it does give you a fair and healthy advantage." He said he agrees it gives the, currently, operating businesses in Windham a healthy advantage, he disagrees that it is fair. More importantly by using a system that wield arbitrary results it is likely to work against the town's interest of hosting high quality compliant operators while also increasing the town's liability.

He spoke to the proposed points system and whether it should exist or not, and he expressed his views and concerns. He is worried that without the lack of definition there is a lot of space to leverage the system, and he gave an examples. He had two recommendations - 1) He would like to be grandfathered in and 2) creating a non-subjective binary point system would even the playing field and lessen the town's liability.

Phil Rosetti Assistant Principle at the high school said he spoke with the Council last year to share some things they are dealing with at the high school. He's been an educator in Windham for 23 years and has seen a lot of ups and downs in the community. He sees the challenges that adolescence face daily at school. The recent increase in vaping has become an epidemic in schools across the nation. The increased availability of these devices are coupled with recent legalization of marijuana and has become a major challenge.

The content in the devices is highly addictive to the adolescent brain. He said besides the high concentration you find in devices for nicotine, other things such as THC are being used by the kids. He has confiscated from his kids, devices that have THC levels around 93%, and that is significantly higher than when we were kids.

Mr. Rosetti gave statistics of a survey the state administers, which WHS was selected to participate in, and 40% of adolescence in our high school has used marijuana at least one time, 7% of those surveyed showed the first use was before the age of 13, that 23%

of the students have used marijuana in the last 30 days and 51% of the students said it was sort of easy or very easy to get marijuana. Access is a huge concern, and they work hard with their students to make healthy choices. He said he hopes, as the Council proceeds, they will continue to give thoughtful consideration to legislation that will support the students of the community.

Councilor Douglass asked how often did he take marijuana away from students at the high school. Phil said about every week and a half and the incident could involve several students. With regular smoking products he said two years ago they had about 50 or so incidents around nicotine, since then there has been changes in the community and the numbers have come down a little bit, but is still a major challenge and marijuana has stayed consistent the last 3-4 years. Phil said alcohol is probably more rare in the school and they have had some encounters with kids and the harder drugs.

Officer Matt Cyr has been a DARE officer in Windham for 21 years. He said as a DARE Officer he is frustrated. He is trying to help these kids to understand scientifically proven consequences of using drugs, in broad terms, and now he is looking at a community that is being referred to by youth as Weedham. He said he has had conversations with other folks who said Windham has always had a reputation for marijuana. The kids are confused. He said it is up to the Councilors, as people in leadership in the community to take a good hard look at what kind of message we are trying to send to our kids.

He said Be the Influence was started because they were trying to get parents, adults, the business community and the town leadership to start being the influence for our youth. He said with all due respect to the new business owners in the community that are now doing something that is voted legal here in our community, he does not want to tear them apart, but he thinks they have to accept the fact that they have a responsibility in this in that they are sending messages to our youth. He said they chose tonight to elect Cole to have the voice, but everyone of these people did have something to say.

Officer Cyr asked the Council, before they make a decision tonight, to take a walk in their life. See what they see, know their perspective. When they go for a hair cut, to the optometrist, for ice cream, chinese food, Thai food, buy new sneakers, they are influenced by what they see, and now add the sense of smell to what they see. Some define the smell as fragrant, and he has yet to hear them say that this smell is fragrant, they say it stinks. It is up to us as adults to be the influence, and to do our best to make sure we are not sending the wrong messages to their developing brains. Thank you for your time.

Maggie Terri of Freeman Court first addressed the youth that came and Be the Influence because no one more in the community than the community itself is more concerned about drugs getting into our kids hands. The community itself is very willing to work with the town to help prevent these issues in the school.

She said she was a little surprised that the statistics were not much different than when she was in school. She said the kids are getting these substances though the black market, it is not being accessed by our youth at the medical stores, or any adult use stores. She said if you were worried about your children accessing drugs that may be unsafe then you would at least want them to access drugs that were tested and safe and that come from an adult retail store. She said it is important to understand that the black market stuff is not tested, but if you are selling in a store it has to be tested "safe".

She is proud of the kids and hopes they learn lessons from it, and she thinks they should understand the dangers. Maggie said she knows it has been a very difficult

decision for the town and was very sorry that Rebecca resigned tonight over the issue. It would be much better if they work together to resolve the issues than if we fight. Regardless of what happens, marijuana is here, and we have the opportunity, and we are asking you to allow them to do it and to do it right, legally and safe. Thank you.

Larry Eliason of Mineral Spring he said regarding the \$100 education fee, he thinks it is really low and you should encourage them to do more. He'd rather see cannabis regulated in both stores and get away from black market, it isn't safe. The elephant in the room is cannabis. He thinks education is a big part of this and he suggested a \$500 or \$1,000 fee; try it for a year and see if you get a return on that educational fee money.

Dave Whitten of Sticky Bud Farms said he can concur with Mr. Eliason about raising the fee. He is not up for paying more money but it is an important thing to take into consideration. He spoke of a mom who came into his store who was concerned about her 15 year old son who was in possession of a dab pen, which is the 93% concentrate stuff, it is very strong. He does think it is a concern and it is our responsibility, medical or recreational to do education.

Dave has posted on the Windham Community Page about wanting to put together an educational seminar for parents. Today's cannabis is not what it was in the 70's, there are many different variations and forms it comes in and parents would not even know that it is cannabis. He said hopes to hold it at the Microtel in North Windham.

Joel Peppin owner of a Caregiver Retail Store said they are not voting to open the flood gates here in Windham to marijuana. The reason the town is in this situation with odor complaints, is due to the lack of action from previous Town Councils to step up to the plate and pass ordinances that would have better regulated this industry. There doesn't need to be nine store fronts in town. Odor complaints, this ordinance addresses odor complaints by all cultivators and gives the town resources to go after operators who are not following the rules and controlling odor appropriately.

He said, to him, it is about a failed war on drugs. He is invested in this community outside of cannabis; he owns real estate and other businesses in the town, and his five year old son goes to school here. He is grateful the youth showed up to talk about this, and he looks forward to continued conversations. This marijuana discussion at the Town Council level has been happening for well over a year and a half now; he served on the Marijuana Task Force and if the youth had spoken up sooner, he feels he could have helped urge the Council to take action to regulate this industry much sooner.

Joel said if you look at other countries with lower drinking ages, there is a very high correlation into lower adolescence rates. We are not increasing access here, we are looking at regulating and educating the youth. He said in regard to the operating plan, he would recommend that this ordinance requires contingent upon final license, perhaps upon successful scoring of an application. City officials come in to inspect premises to make sure everything stated in a plan is physically accurate. He would suggest raising the educational fee to \$1,000, it seems more than reasonable.

His advice - smoking weed, as a youth, is not cool. Marijuana consumption is a choice only adults should make as to whether or not they consume, just like alcohol. Say no to marijuana, say no to alcohol, say no to pills.

Laura Morris said the people she has met have regulated very well and they care about youth and are trying to do all the right things. She thinks it gets down to understanding the facts, and the kids are confused with all of this. We do have control on whether we

bring it in or we don't. You have control as to how much comes into the community. They want work together on doing marketing. They are not saying that other drugs are good but marijuana is a mind altering drug that affect youth, it is not a wellness routine very often for youth, and you have to understand that.

Public Hearing Closed at 7:26

Councilor Nangle moved to amend Page 4 (J) and read how it is currently and then read his amendment: If the Town Clerk determines that a submitted application is not complete, he or she shall notify the applicant within ten (10) business days that the application has been denied. The applicant may resubmit the application with the required fees, second by Councilor Nadeau.

The following people spoke to the amendment: Dave Whitten, Shawn Dewhite. The town attorney and following Councilors spoke to the amendment: Douglass, Kalogerakis, Nadeau, Maxfield.

Kristin Collins mentioned that some towns have processing fees and then the licensing fee. You pay a processing fee when you submit the application; you only pay the license fee when you go in to pick up the license. The licensing fee is supposed to encompass inspecting and enforcing.

She pointed out that this just isn't for Caregiver Retail and Adult Use Stores; that process would apply to the smallest home occupation who might not have that level of sophistication; that is why she was redirecting them to this other paragraph about only applying it to the stores, and if they don't get their materials in by the 30 day after the effective date, they are out of luck because they will not get forwarded on to the Council, and that first pass of the Council is probably going to award all the licenses.

Kristin said the way that this structured is they have to be licensed starting 30 days after the effective date of this ordinance. The 30th day after the effective date, the Clerk takes all the applications that she has received for Caregiver Retail Stores & Adult Use Retail Stores and as long as they are complete, she will forward them on to the Council for action. It is like a deadline within the deadline.

Vote on Amendment:

In Favor: 1 (Nangle)

Opposed: 4 (Kalogerakis, Nadeau, Douglass, Maxfield)

Abstain: 1 (Haskell)

The important categories for the Operations Plan that we need to make sure people follow are: security plan, provisions to ensure against loitering and using marijuana on site, protocols for hiring and training, experience in training means seed to sale tracking system, protocols for disposing of waste and protocols for ensuring the safety and security of product. Councilor Maxfield wanted to know who would be the appropriate staff to review things like that? Barry said Chris Hanson would need to be involved, and there are some human resource issues in there too. He said that could be the Human Resources Director or him as Manager. Kristin said it made sense to have it read: Town Manager or Designee.

Councilor Nadeau asked about an inspection fee, and Kristin said she did not see a need to break it out, just roll it into the License fee.

Councilor Haskell said they are talking more retail than the medical side. The retail you do not have to opt into, you either do it or you don't. He said the town had already opted in on medical, it has almost been four years, and pretty well done before November with just a couple things left to do. Council members disagreed and said the town never opted in on the medical. Councilor Nadeau said they backed into us; they started cultivation because every part of Windham allows agriculture, after that they opened up a medical retail store and that was how they came into Windham. We never stopped it ahead of time.

The Educational fee was talked about and Councilor Douglass said he liked having it be \$1,000. Kristin said to keep in mind that applies to Home Occupations. That fee could force the Home Occupations people out of business, because they can't justify that amount and the statute says we can't prohibit them, so if we pass a regulation that is so onerous on them so that they can't operate, they might make the case that we are effectively prohibiting them. It was agreed upon to make it 40% of the License Fee with a \$100 minimum.

Councilor Nangle brought up a concern he had on page 7, L1, which currently reads: A Marijuana Business License shall be forfeited if the Licensee fails to apply for a new license within thirty (30) days of expiration of an existing license; and he proposed it to say: A Marijuana Business License shall be forfeited if the Licensee fails to apply for a new license prior to the expiration of an existing license.

Kristin said at the state level they would not be allowed to operate as of the day the license expires. Here they would lose their number within the cap, and they could effectively have to shut down forever. Once the license is forfeited, we will issue it to somebody else. It was agreed that the Clerk's Office will send a notice to the businesses 90 in advance of their expiration date.

Councilor Nadeau moved to amend Order 20-047 to have the following amendments voted on at a second reading, second by Councilor Nangle. Attorney Kristin Collins read the following amendment, in substance, but not with exact language and to have the Council authorize her, in her discretion, to insert the language where appropriate into the ordinance, and these will be approved at a second reading on March 10, 2020.

Amendments to be approved at the second reading:

- 1) To make the ordinance effective 30 days following the effective date,
- 2) When reviewing renewal applications for Adult Use and Caregiver Retail Stores, approval shall be subject to verification that the facility is operating in accordance with the submitted Operations Plan,
- 3) Before beginning operation, the applicant must provide the town a copy of its active state license and arrange for an inspection to be conducted by the Code Enforcement Officer and Town Manager or Designee. To determine the facilities compliance as built with all applicable ordinance standards and the Operations Plan,
- 4) The applicant must submit a copy of the state application or a state license,
- 5) Any changes to the materials shall be submitted to the Town and approved by the reviewing authority before any changes are made,
- 6) The Education Fee is changed to be the greater of \$100 or 40% of the License Fee,

7) If the applicant fails to apply prior to the expiration of the existing license, the license is forfeited and strike the late fee in the fee schedule,

8) To remove the reference in Section 160-7, A related to failure to obtain the license prior to expiration.

No public comment

Vote on amendments as read:

In Favor: 4

Opposed: 2 (Haskell & Kalogerakis)

Council took 5 minute break.

A motion was made by Councilor Nadeau, seconded by Councilor Douglass, that the Order be postponed to March 10, 2020. The motion carried by the following vote:

In Favor: 4 - Councilor Nadeau, Vice Chair Nangle, Councilor Douglass and Council Chair Maxfield

Opposed: 2 - Councilor Haskell and Councilor Kalogerakis

Absent: 1 - Cummings

20-054 To receive public comment and act on an emergency ordinance establishing a moratorium on new marijuana cultivation facilities.

Attachments: 20-054 Cover Sheet

Moratorium Ordinance Regarding Marijuana Cultivation Facilities

Larry Eliason said this Moratorium for cannabis was imposed at a workshop with two Councilors, and he thought it was an important enough issue that his preference would have been to have all seven here for the vote and discussion.

Moratoriums are a suspension of activity and a delay because of an emergency, but this isn't like the health of a lake, it is about being able to sell a building, lease a building, renovate a building for cannabis, everything is so fixated on it. Government bodies, like Windham, can do a moratorium on a broad range of things. You can regulate property development by imposing moratorium on the issuance of permits but the legality of such a moratorium is generally determined by measuring its impact on the effected parties. You are affecting a lot of folks in the C1, C2, C3 tax bases, and they might not opt to do cannabis, the bank might say no way, but they'd like to have that option. In 1987 the U.S. Supreme Court held that certain moratoria on property development may be unconstitutional takings, thus making it more difficult for local governments to slow development in their communities. He said he thinks every time you do this, you put Windham at risk for litigation, especially if you go forward with all the zoning changes proposed.

Public Hearing Closed.

Barry Tibbets said he brought this forward at the workshop, and it was permissible, at that time, to enact a moratorium. He said the reason was based on the definition of agriculture, in our current ordinance, it does not exclude any marijuana, it doesn't define marijuana, at all, within in the agriculture definition. We had a number of different

operations that were happening in different areas, other than where we really wanted them, from the discussions he had heard in certain zones. This moratorium basically says we are going to pause this until the Marijuana Ordinance is approved, because there they will define it. Two or three years ago the town should have defined what is "agriculture", and if we had defined that marijuana was not part of that, we would not be here today, but because of that, it has caused a lot of ripple effects. This will go away once you vote on the ordinance, 30 days later it is gone.

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: 4 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell and Councilor Douglass

Opposed: 2 - Councilor Kalogerakis and Council Chair Maxfield

Absent: 1 - Cummings

VII. CONSENT AGENDA.

VIII. UNFINISHED BUSINESS & GENERAL ORDERS.

20-050 To set seasonal weight limits on roads.

Attachments: 20-050 Cover Sheet

Seasonal Road Postings 2020

Councilor Nadeau said 48% of our roads are private, and he feels those private roads should be posting their roads.

Council Haskell said he would like to have a frost limit on the roads. If the temperature stays at about 35, they can travel on the roads, if it reaches 36, then they can't travel on them. It would give some of these contractors time to get into places in the morning when the road is still frozen.

Doug Fortier said once they post the road, it is posted. They don't go with temperature fluctuations. If you put an 1/8 to 1/4 inch of frost back in the ground, it will not hold a 60,000 pound truck, you are just destroying the roads.

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

Opposed: 2 - Councilor Haskell and Councilor Kalogerakis

Absent: 1 - Cummings

20-051 To appoint Catherine Miller to a three-year term on the Library Board of Trustees, to expire February 15, 2023.

Attachments: 20-051 Cover Sheet

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, Vice Chair Nangle, Councilor Haskell, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

Absent: 1 - Cummings

20-052 To appoint Christopher McDonald to a three-year term on the Zoning Board of Appeals, to expire February 15, 2023.

Attachments: 20-052 Cover Sheet

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, Vice Chair Nangle, Councilor Haskell, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

Absent: 1 - Cummings

20-053 To appoint Brandi Caceres to a three-year term on the Human Services Advisory Committee, to expire February 15, 2023.

Attachments: 20-053 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 Haskell, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

Absent: 1 - Cummings

20-055 To approve a new Victualer's permit application submitted by Charles Hawkins d/b/a Bio Market, located at 771 Roosevelt Trail.

Attachments: 20-055 Cover Sheet

Bio Market

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

Opposed: 1 - Councilor Haskell

Absent: 1 - Cummings

20-056 To approve an application submitted by Central Maine Power to locate one (1) utility pole and cables and wires there on Hall Road, approximately +/- 1800 feet southerly from Roosevelt Trail starting at the corner of Roosevelt Trail and Hall Road.

Attachments: 20-056 Cover Sheet

Pole Location-Hall Rd

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 Haskell, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

Absent: 1 - Cummings

20-057 To approve fees for services for the Police Department.

Attachments: 20-057 Cover Sheet

Police Fees

Barry Tibbetts Manager said all the fees will stay the same, the only one that needs to change is the crash report, it will go to \$20.00.

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 Haskell, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

Absent: 1 - Cummings

20-058 To approve fees for services for the Windham Public Library.

Attachments: 20-058 Cover Sheet

Library Fees

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 Haskell, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

Absent: 1 - Cummings

20-059 To approve fees for permitting and services for the Code Enforcement Department.

Attachments: 20-059 Cover Sheet

Building Permit Fee Comparisons Updated

Chris Hanson said at the last meeting he was asked to, under Windham's current and proposed, to add the impact fees to each town. Council also asked him to do a chart that showed increments of nickel increases, which is on the second page, and would show what your building fee would be in Windham at each unfinished area. Chris said he would like to stay with the square foot price, easier for his staff and the software does it that way.

All but one Councilor agreed to going with #4.

Councilor Nangle feels the people who are using the services, such as the person who is building the property should pay for the services they are receiving from Code Enforcement. If we, some how, put in a provision that automatically increases fees town-wide, to match the CPI annually, so we are not always behind the eight ball, but

stated that this would have to be done separately.

Councilor Haskell asked how would this impact the person who wants to put an addition onto their house or a garage? Councilor Douglass said the same as everybody else.

Councilor Maxfield said we haven't raised our fees in 18 years, and we are leaving money on the table, which is then being picked up by the Windham tax payer who are then subsidizing somebody who is building something new at a discount.

Chris said if you are just adding an addition, you will just have a building permit fee, not the impact fees. He also said this was a concern of his, if you have someone who is on a limited budget and they have to do a building permit, in the past, previous town managers that he has worked for have had the ability to waive fees if they so desire. You can give the town manager the discretion to waive the fee if he decides it is a hardship case. Barry asked what defines a hardship for someone building a \$300,000 home? The answer, it would be more of putting a ADA bathroom off of a bathroom so someone could remain in their home.

A motion was made by Councilor Douglass, seconded by Vice Chair Nangle, that the Order be approved. The motion carried by the following vote to go with #4:

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

Opposed: 1 - Councilor Haskell

Absent: 1 - Cummings

20-060 To approve fees for services for the Fire-Rescue Department.

Attachments: 20-060 Cover Sheet

FireRescue Fees

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 Douglass, Councilor Kalogerakis and Council Chair Maxfield

Opposed: 1 - Cummings

20-062 To discuss and act on a contract for solid waste and recyclable materials collection for the period July 1, 2020 through June 30, 2023 as specified in the memo from the Public Works Director dated February 20, 2020 and to authorize the Town Manager to take necessary action to finalize the agreement.

Attachments: 20-062 Cover Sheet

Municipal Solid Waste RFP Bid Results

Barry Tibbetts gave an explanation.

A motion was made by Councilor Maxfield to amend the motion but with a sunset date of June 30, 2020, second by Councilor Kalogerakis.

Vote on amendment:**In Favor: 6-0****Vote on as amended:****In Favor: 5****Opposed: 1 (Haskell)**

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

Opposed: 1 - Councilor Haskell

20-063

To discuss and act on silver bullet recycling collection services and to authorize the Town Manager to take any necessary action.

Attachments: 20-063 Cover Sheet

Silver Bullets Memo

Councilor Maxfield moved to amend Order 20-063 to discontinue the silver bullets, but with a sunset date of June 30, 2020, second by Councilor Kalogerakis.

Vote on Amendment:**In Favor: 6****Vote as amended:****In Favor: 5****Opposed: 1 (Haskell)**

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

Opposed: 1 - Councilor Haskell

Absent: 1 - Cummings

20-065

To order that an Order of Vacation regarding a portion of a proposed, unaccepted way described in such Order be filed with the Town Clerk pursuant to 23 M.R.S.A. § 3027 and 3027-A:

Order of Vacation

TO: Residents of Town of Windham and other interested persons

FROM: Town Council, Town of Windham

The Town of Windham Town Council, pursuant to 23 M.R.S.A. § 3027-A, hereby orders the vacation of the following described portion of a proposed, unaccepted way ("rangeway") shown on a plan entitled Range Map, Town of Windham in Plan Book 24, Page 13:

A certain parcel of land situated on the southerly side of Highland Cliff Road and the northeasterly side of Canada Hill Road in the Town of Windham, County of Cumberland, State of Maine being bounded and

described as follows:

Beginning on the southerly sideline of Highland Cliff Road at the intersection of the northeasterly assumed sideline of Canada Hill Road;

Thence N 77° 51' 20" E, by and along the southerly sideline of Highland Cliff Road, a distance of 14.49 feet to land now or formerly of Ronald E. Goodwin and Lynda K. Goodwin as described in a deed recorded in Book 25182 Page 74 in the Cumberland County Registry of Deeds;

Thence S 42° 50' 02" E, by and along land of Ronald E. Goodwin and Lynda K. Goodwin and land now or formerly of Chase Custom Homes as described in a deed recorded in Book 28733 Page 118 in the Cumberland County Registry of Deeds, a distance of 473.44 feet to the assumed northeasterly sideline of Canada Hill Road;

Thence N 62° 41' 26" W, by and along the assumed northeasterly sideline of Canada Hill Road, a distance of 59.81 feet;

Thence N 71° 54' 10" W, by and along the assumed northeasterly sideline of Canada Hill Road, a distance of 9.13 feet;

Thence N 42° 50' 02" W a distance of 382.11 feet to the assumed northeasterly sideline of Canada Hill Road;

Thence N 23° 13' 55" W, by and along the assumed northeasterly sideline of Canada Hill Road, a distance of 36.62 feet to the Point of Beginning.

Bearings are Grid North.

Having given notice to the Town Planning Board, and having received a written waiver of notice and damages from the sole abutter, Bellevue Ave. LLC (15 Canada Hill Road, Book 34569, Page 283), the Council orders that no damages be awarded.

Attachments: 20-065 Cover Sheet

15 Canada Hill Vacate Unaccepted Way

Councilor Nangle moved to waive the reading, second by Councilor Douglass.

Chris Hanson Code Enforcement Director explained why they are doing this. Mr. Hill got a building permit in September based on a survey that he had done, and they issued a building permit. After that he had a mortgage appraiser come out and they did more research and found out that there was a rangeway going through his property and his house has a corner of it in the rangeway. A rangeway is like a paper street and never was built. We are going to eliminate just that section on his property.

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

IX. Council Correspondence.

None.

CD 20-064 Southern Maine Agency on Aging - Windham Meals on Wheels Program.

Attachments: SMAA Thank You

CD 20-063 Fire-Rescue Monthly Report - January 2020

Attachments: January 2020 Monthly Report

CD 20-067 The Town Clerk's Report for January 2020.

Attachments: Town Clerks report for January 2020

CD 20-068 Police Department Monthly Report.

Attachments: January 2020

CD 20-071 Central Maine Power Correspondence.

Attachments: CMP Communication on Improvement Project

CD 20-073 Financial Reports as of January 31, 2020

Attachments: expenses 013120

revenues 013120

CD 20-075 Parks and Recreation Monthly Report - January 2020

Attachments: Monthly Report - January 2020

X. Town Manager's Report.

None.

XI. Committee Reports.**A. Council Subcommittees.****1. Appointments Committee.**

Councilor Kalogerakis said they had four people come in tonight. They will be appointing Haden Brooks for a three-year term to the Planning Board as an alternate, and also for a three-year term to the Energy advisory Committee. Chuck Fleck to the Zoning Board of Appeals for a three-year term, Matt Bouchard for a three-year term to the Parks & Recreation Advisory Committee, and Larry Eliason to a two-year term on the Windham Economic Development Corporation.

2. Finance Committee.

Councilor Nadeau said they met last week and had a three hour meeting with the Manager. The department heads will meet with the Finance Committee on March 19th from 5 to 9 p.m. and March 21 from 8:00 to 11:30 a.m. and if needed, the 26th. Barry said there may be a conflict on the 26th.

B. Other Committees.

1. Long Range Planning Committee.

Councilor Nadeau said the meeting last week was cancelled due to snow and Amanda Lessard was on vacation.

2. Parks & Recreation Advisory Committee.

Councilor Nangle said he will attend his first meeting on March 9.

3. Windham Economic Development Corporation

Councilor Maxfield said they have not met since the last meeting.

4. Highland Lake Leadership Team.

Councilor Maxfield said they have a meeting tomorrow at Public Works from 3 to 5 p.m.

5. Private Roads ad hoc Committee.

Councilor Nangle said they have not met.

6. Natural Resources Advisory Committee.

Councilor Douglass said he did not make last months meeting.

7. Public Easement Advisory Committee.

Councilor Nadeau said they will not meet again until the spring.

XII. Discussion Items.

It was decided to discuss these two discussion items next week on March 3 along with the executive session.

CD 20-054 Council Rules Follow-Up Discussion.

Attachments: Council Rules recommendations from 1_28 meeting KMC edit
Council Rules CLEAN with KMC questions
Council-Staff Communications excerpt KMC 020620

CD 20-074 To discuss a Council-appointed Building Committee for the proposed Public Safety and Town Hall facility expansion and renovation projects.

Attachments: Building Committee - DRAFT Charge

XIII. Agendas & Scheduling.

XIV. Executive Session.

This will be taken up at the March 3 meeting.

20-064 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.

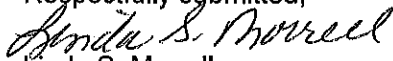
Attachments: 20-064 Cover Sheet

XV. ADJOURN.

A motion was made by Vice Chair Nangle, second by Councilor Douglass, that they be adjourned. The motion carried by the following vote at 10:41 p.m.:

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

Respectfully submitted,


Linda S. Morrell
Town Clerk, CCM