



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Draft

Town Council

Tuesday, March 10, 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.

Councilor Douglass moved to suspend the Council Rules and take agenda item 20-077 out of order to be acted upon next, second by Councilor Nangle.

Vote:

In Favor: 6

III. Council Appointments:

20-066 To appoint Haden Brooks for a three-year term to the Planning Board, as alternate, to end February 15, 2023.

Attachments: 20-066 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: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

20-067 To appoint Chuck Fleck to the Zoning Board of Appeals for a three-year term to end February 15, 2023.

Attachments: 20-067 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: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

20-068 To appoint Matt Bouchard for a three-year term to the Parks and Recreation Advisory Committee, to expire August 15, 2023.

Attachments: 20-068 Cover Sheet

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 Haskell, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

20-069 To appoint Larry Eliason to a two-year term on the Windham Economic Development Corporation, to expire February 15, 2022.

Attachments: 20-069 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: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

20-074 To appoint Haden Brooks for a three-year term to the Energy Advisory Committee, to end August 15, 2023.

Attachments: 20-074 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: 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Haskell, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

IV. Minutes to be Approved:

V. Public Participation.

None.

VI. Councilors' Comments.

None.

VII. PUBLIC HEARINGS.

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

Windham marijuana licensing ordinance 031020

Attorney Kristin Collins was in attendance to guide and answer questions for the Council. Kristin noted that she had sent an updated ordinance 45 minutes ago to the Manager and wanted to make sure the Council had it before they began.

Kristin said she had a conversation with Chair Maxfield today, and they went over the ordinance where he had a number of, mostly, housekeeping changes. Kristin went through section by section to address the changes that were made between the last meeting and this meeting. She said she will also highlight some things that they would like to work in for tonight, and if the Council wants to approve them all, you might want to put them off to the next meeting. Kristin explained that the language that is in yellow would be a change she is suggesting today from her conversation with Chair Maxfield, and anything underlined in red or crossed through in red would be a change from the meeting of February 25. (See Attached Ordinance)

Additional changes that came from tonight's meeting:

160-6, top of page 4, along with the submitted two copies, an electronic copy to be submitted (USB stick) which will not be returned.

160-7, I - should reference back to paragraph H and it would be sent back to the start.

160-7, J - Applications will be kept on hold for one-year from the close of the initial selection process. Such applicants need not submit the license fee within one-year.

160-7, A - Applications for renewal licenses shall be submitted no earlier than 90 days prior to expiration of the existing term, and no later than 60 days to allow for timely processing. Any Marijuana Caregiver Retail Store and Adult Use Store will forfeit its license if a new license is not received prior to expiration, and other businesses that operates beyond the expiration date is subject to a \$500.00 per-day penalty in accordance with 160-12.

160-7, A -Penalties will be assessed in accordance with the penalty provision, which is \$500 to \$2,500 per day.

160-7, A - Any Licensee who fails to obtain a renewal license prior to expiration of the existing term shall not have authority to operate until a license is granted, and the Marijuana Caregiver Retail Stores and Adult Use Stores shall forfeit their license.

*160-8, D - *Add after D* is in violation of this or any other ordinance related to the Marijuana business or has unpaid penalties.*

160-9, G - Marijuana businesses shall operate in accordance with all material representations made in the approved license application, and Operations Plan, if applicable, to determine compliance with the terms of this ordinance.

160-9, G - Marijuana businesses shall operate in accordance with all material representations made in the approved license application and Operations Plan (if applicable), if the Licensee is required to notify the State of a change related to the Marijuana Business, the Licensee shall promptly provide the Town Clerk with a copy of such notification, and the Town Clerk shall forward the change to the Police Chief, Fire Chief, Health Officer, and Code Enforcement Officer for review. If any of these officials determines that the change is not in accordance with the requirements of this ordinance or requires additional conditions of approval, the change shall be forwarded to the Council for consideration.

160-12 - (added at end of this) The penalty for operating a Marijuana Business without a valid license shall be \$500.00 per day.

Councilor Nangle stated he would like the changes made tonight done as soon as possible, so we can publish them on the website and people can see them.

Councilor Maxfield asked Kristin to explain in 160-7, G - what the thoughts are between the points system of number 2 and number 3? Are they looking at them as cumulative or does someone get one or the other. Kristin pointed out that the same language is, again, in H.

160-7, G 2 - Points - Following discussion, the Council decided to keep 1-3 points available to Applicants with existing businesses in Windham, based upon the number and types of businesses and duration of operation. It decided to allow for only one point to be assignable for an Applicant who has an existing Marijuana Business in Maine, outside of Windham.

Public Comments:

Maggie Terri -spoke on the points system, and she said she would like to see those who live here and pay taxes here get a point that. Also, those with related Cannabis Business get some consideration for that.

Dave Whitten - Spoke to the point system, he said it was confusing and he'd like to see the final document for review. Feels the Council should honor that point system to people who have been here and proved themselves with no violations, and to exclude out of towners.

Tom Bartell - Had a couple of technical questions - time frame with renewals, what happens if the town doesn't act? Also, the appeals for denial, is it a denial for the others who do not make the cut?

Aaron Pastor 839 Roosevelt Trail - In regard to the points, number 2, he likes when you are looking to add structure, similar to number 1 (0,1,2). With number 3 he would recommend they consider that businesses consider businesses provide a certificate of occupancy by their municipality. Also, request that it be opened up to other business types.

Larry Eliason - Thanks Council for reappointing him to the WEDC. He stated he does not dislike any of the Councilors personally, he disagrees on issues because he is an advocate for business and for responsible development.

He recalls at previous public hearings the Chairman saying we have 9 grandfathered Medical, and you want to go to 6, 2 adult, 4 medical. Larry said "what if" through the application process you have 100 applicants and you decide you are going to issue 2 adult use and 4 medical to newbies?" The Chair said the 8 or 9 here now are grandfathered to those existing licenses. They could only do that if none of those come in and apply.

Joel Peppin - 11 Storm Dr. - He commended the Council on the thought that has gone into this. He said he was in favor of what the Council proposed tonight. In regard to multiple license types he said, personally, as an operator, he would like the ability to have two stores with separate leases side-by-side and go after each license. He said he can see where the Council is coming from on, even though he disagrees with it.

Closed public comment at 9:37 p.m..

A motion was made by Vice Chair Nangle, seconded by Councilor Douglass, that the Order be continued to March 24, 2020. 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

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

Current Medical Marijuana Facilities and Setbacks

Councilor Douglass made a motion to continue with Order 20-048, second by Councilor Nangle.

Tom Bartell presented a map with circles around all of the schools, daycares, and one prison, and he said all the facilities in most areas fall within these. He said first is the known Marijuana Facilities in town, via, the Code Enforcement Office. The second is the known licensed daycare operators from the State of Maine website listing those for the Town of Windham. Tom said the purple lines around each of those represents either 500 feet, 750 feet or 1,000 feet from the property line of the schools, daycares or correctional facility.

All of the existing Marijuana Facilities in North Windham all fall under the daycare exclusion zones, even down to the 500 foot circle. Tom said they also received a matrix that the Code Office put together that reflects that as well, for the 9 approved Medical Marijuana Retail Stores. He said that list does not include the grows.

Tom said he made this map due to the proposal that came out of the last meeting, which was these establishments had to be 1,000 feet from the property line of a school, child care or correctional center. They would be excluded from having a Marijuana Facility. The way the Marijuana Business is defined in the ordinance, it includes every Marijuana Business that can exist. What this map shows and the information from Code Enforcement shows, is that every facility would have difficulty meeting that 1,000 feet. The two that wouldn't are in the C3 zone and they are going to be grandfathered.

Tom said the measurement, as in the ordinance, is from the boundary line from where that parcel ends to where the building for the Marijuana Operation can be. Tom said it makes every one of them non-conforming. It makes it impossible for you to license any Retail Store for Adult Use in an area that is within those boundaries.

Kristin said Caregiver (Home Occupations) should be exempt because they have no signage and no one knows they are even there.

Councilor Nangle moved to amend section 535 A. to be 250 feet door to door for daycares, 1,000 feet for all schools and remove correctional facilities, second by Councilor Douglass.

Council will plan to have a joint meeting with the Planning Board on March 24th.

Councilor Nangle moved to continue the public hearing on March 24th, 2nd Councilor Douglass.

Man from the audience (did not say his name) got up and spoke on grandfathering.

Councilor Maxfield said they received some emails from current business owners who are in the Cultivation Business. Councilor Maxfield said in Windham we do not treat cultivation any differently on whether you are cultivating for Adult Use or Medical. Under the new proposals they would be grandfathered to stay a cultivator doing what you are already doing.

Man from the audience (did not say his name) spoke again and asked if whether it is a retailer or cultivator, if whether it is the new zoning that we are proposing or the daycare, and if they don't comply, would they be grandfathered still at adult use? The Town Attorney's answer was "no". He asked "if we have a C1 Cultivator, can they cultivate, legally, Adult Use even though we've moved Adult Use zoning out of C1?" Kristin said for Cultivation, no matter what you are cultivating for, Adult Use or Medical, you could stay a Cultivator regardless of where it is located, as long as you get the State and Town License. For a Caregiver Retail Store that is located in one of these places, would not be allowed to locate under this ordinance, they are stuck as a Caregiver Retail Store, they cannot get an Adult Use License because those are two different business categories under the ordinance, as we have it written.

Vote on the motion to continue:

In Favor: 6

Councilor Nangle moved to send 20-048 back to the Planning Board, 2nd by Councilor Kalogerakis.

Maggie Terri said she was at that Planning Board meeting and they never talked about it. Councilor Maxfield said they didn't actually have to speak about it, but it was in the materials the Council sent them and they technically approved.

Vote to send it back to the Planning Board.

In Favor: 6

A motion was made by Councilor Nadeau, seconded by Councilor Douglass, that the Order be continued until March 24, 2020. 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

VIII. UNFINISHED BUSINESS & GENERAL ORDERS.

20-076

To approve one (1) application of the Kenison-Hooper Post 128, for a license to conduct Beano/Bingo at the Windham Veterans Center from May 1, 2020 through October 31, 2020.

Attachments: 20-076 Cover Sheet

Bingo Beano-Kenison Hooper Post 128

A motion was made by Council Chair Maxfield, 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

20-070 To adopt amendments to the town's purchasing policy.

Attachments: 20-070 Cover Sheet REVISED

Purchasing Policy Proposed AMENDMENT 2020 0310

Manager Barry Tibbetts said it simply raises the limit for a Department Head be able to purchase up to \$10,000 and it still requires a P.O. This is already in the budget and already planned for.

Councilor Douglass had stepped out of the room and was not present for the vote.

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 Haskell, Councilor Kalogerakis and Council Chair Maxfield

Absent: 1 - Councilor Douglass

20-072 To approve fees for services for the Town Clerk's Office.

Attachments: 20-072 Cover Sheet

Town Clerk Business License Fees

Councilor Douglass had stepped out of the room and was not present for the vote.

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

Absent: 1 - Councilor Douglass

20-073 To approve applications for watershed protection grants, such funding to be paid from fiscal year 2019-2020 watershed protection funds in account 11500-46930.

Attachments: 20-073 Cover Sheet

Watershed Protection Grant Funding Recommendations Memo

Gretchen Anderson said the group went through the evaluation process and the amount asked for was less than the amount budgeted. It made things easy and they will probably be adjusting things a little bit. Gretchen said there is going to be some allocation of funds for the Committee, itself, to do some work in the Pleasant River.

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

20-061 To create a Council-appointed Building Committee assigned to assist with the interview and selection process of a construction management firm for the proposed Public Safety and Town Hall facility expansion and renovation projects.

Attachments: 20-061 Cover Sheet

Building Committee - Town Hall and Public Safety Renovation and Construction Selection Committee

Councilors Douglass, Haskell and Nadeau will be the three appointed by the Town Council to sit on the committee.

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 Haskell, Councilor Douglass, Councilor Kalogerakis and Council Chair Maxfield

20-049 To refer the Town Manager's proposed budget for fiscal year 2020-2021 to the town Council's Finance Committee for review and recommendation(s).

Attachments: 20-049 Cover Sheet

Manager's Proposed Budget FY2021 Summary

Finance Committee Budget Review 3.19 and 3.21

Windham Proposed Budget FY21 - PPT

Manager Barry Tibbetts said the budget's mill rate was reduced by .18 cents, but due to County increases it went back up .18 cents. Due to the Homestead Exemption shift there is going to be up to an additional .10 cents on the Mill Rate, but due to new valuation that is going to occur in town, they believe they will be back down to zero on the municipal side. Whatever the school comes in as, that is what the increase in the Mill Rate will be.

This proposed budget meets all the needs that have been brought forward by staff and addresses all the long-term issues the Council wanted to look at from the goal setting back in December.

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, Councilor Kalogerakis and Council Chair Maxfield

20-077 To approve a contract agreement between the Town and Barry Tibbetts who will serve as Town Manager.

Attachments: 20-077 Cover Sheet

BAT WIND Contract 2020 3

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, Councilor Kalogerakis and Council Chair Maxfield

IX. Council Correspondence.

None.

CD 20-076 GPCOG Correspondence

Attachments: Letter to Members 02142020

CD 20-077 Windham Public Library Monthly Report - January 2020

Attachments: January 2020

CD 20-078 Windham Public Library Newsletter.

Attachments: Check It Out - March 2020

X. Town Manager's Report.

Manager's Report:

Barry reported that the LED lights should be completed this week.

The Sebago Lakes Region Chamber of Commerce has a Job Fair on March 25 at the Windham Veteran's Center.

The Council asked us to look at wastewater treatment options for North Windham and to look at rear access roads. They are continuing to work on that and will be back to the Council within the next couple weeks with some timelines and plans on options going forward.

Note: Cancellation of March 17, 2020 Council Workshop.

XI. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Kalogerakis said they had two appointments today. They will nominate Jim Cobb to be reappointed to the ZBA for a 3-year term, and Robert Rosborough reappointed to the Windham Public Library Board, for a 3-year term.

2. Finance Committee.

This was taken up in Order 20-049.

B. Other Committees.

1. Long Range Planning Committee.

Amanda Lessard said there is a meeting in April.

2. Parks & Recreation Advisory Committee.

Councilor Nangle reported that Parks & Rec Department is still looking for summer camp workers and life guards for Dundee Park.

Up and coming events:

Mid-March the Spring/Summer brochure will be coming out.

March 14th from 1:00 to 3:00 p.m. at the Little Meeting House will be the Bi-Centennial Tea hosted by the Library.

March 20th is the Mother/Son Night Out, tickets are on sale.

March 23rd Camp registration opens.

The Summerfest Committee Charge does not have an expiration date, and at the meeting last evening Councilor Nangle suggested that they present the Council with a new Charge with term expiration dates. He thinks the Parks & Recreation Committee is better suited to interview and select the Summerfest Committee, rather than the Appointment's Committee doing it. The reason being, they are a much better judge of who is appropriate for the Summerfest Committee. A new Charge will be along in the next couple of weeks.

3. Windham Economic Development Corporation

Councilor Maxfield said they will be meeting tomorrow morning, March 11th at 7:30 at the Library.

4. Highland Lake Leadership Team.

Councilor Maxfield said they met at Public Works two weeks ago, and it was kind of a science symposium on the feedback on data that the town and the group has received. Jeff Dennis from the DEP was there and is very involved with them. We have a lot of data on Highland Lake, and they came up with some hypothesis on what is causing the issues and they will create further plans to explore those to see if they can figure out what some of the root causes are going to be and come up with some solutions.

5. Private Roads ad hoc Committee.

Councilor Nangle said they have not met in a long time. Amanda said the next thing is to have a joint meeting with the Council, the Committee and Planning Board about what we are going to do. Councilor Nangle said they have all the language changes and he suggests they dissolve that Committee going forward. If the Committee wishes, they can come in and speak when we do public comment on the changes they have placed in the ordinance.

6. Natural Resources Advisory Committee.

Gretchen Anderson gave her report during Order 20-073.

7. Public Easement Advisory Committee.

*Councilor Nadeau said they have not met, and he and Barry have a meeting coming up.
He said they will not look at the roads until after spring.*

XII. Discussion Items.

XIII. Agendas & Scheduling.

XIV. ADJOURN.

**A motion was made by Vice Chair Nangle, seconded by Councilor Kalogerakis,
that they be adjourned. The motion carried by the following vote at 10:46 p.m.**

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

Respectfully submitted,



Linda S. Morrell

Town Clerk, CCM