

Town of Windham

Town Offices 8 School Road Windham, Maine

Meeting Minutes - Draft

Town Council

Tuesday, September 14, 2021

6:30 PM

Council Chambers

I. Roll Call of Members.

Present: 6 - David Nadeau, Nicholas Kalogerakis, Jarrod Maxfield, Mark Morrison, Brett Jones

and Ed Ohmott

Absent: 1 - Tim Nangle

II. Pledge of Allegiance.

Council Chair Nadeau led the Pledge of Allegiance.

III. Minutes to be Approved:

CD 21-121 To approve the Minutes of the August 10, 2021 Council meeting.

Attachments: Minutes-Council-8-10-2021.pdf

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

In Favor: 6 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor

Morrison, Councilor Jones and Councilor Ohmott

Absent: 1 - Councilor Nangle

CD 21-122 To approve the Minutes of the August 17, 2021 Special Council meeting.

Attachments: Minutes-Council-8-17-2021.pdf

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

In Favor: 6 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor

Morrison, Councilor Jones and Councilor Ohmott

Absent: 1 - Councilor Nangle

IV. Adjustments to the Agenda.

V. Public Participation.

Marge Govoni of Johnson Road stated that she is on the School Board and Planning Board. She came tonight because the town has ordinances and we put developments in and we do not have any ordinances in that cover school buses. A lot of these roads are private ways and school buses do not go down most of those road, which means it is a cluster stop at the end of the road. Some developments come out onto River Road and

Route 302 and they are heavily traveled roads. There are no accommodations ever made for queuing of vehicles for parents who are driving their kids to the bus stop nor is there a place for the kids to wait who walk to the end of the road. There is nothing in the ordinance for those who put developments in to either widen the end of the road that meets up with the main road to make room for the parents cars and for the kids to stand.

Marge mentioned that a lot of developments put in those multi-unit mailboxes, which are also are at the end of the roads, and again, these are not covered in our ordinances. Those create the same problem, people stop there to pick up their mail. She requests that somebody take a look at the ordinances, and we try to address those two issues.

Linda Morrell said she received a phone call from a gentleman who asked her to put it out to the Council that he thinks that Council meetings should be held Saturday mornings.

VI. Councilors' Comments.

Councilor Nadeau congratulated Jennifer Alvino our Library Director for winning the Emerson Greenaway Award. It is an National Award for distinguished service in Librarianship. Kudos to Jen for winning.

VII. PUBLIC HEARINGS.

21-168 To receive public comment and act on proposed amendments to the

town's General Assistance Ordinance, Chapter 111 of the Code of the Town of Windham, which update appendices establishing certain benefit

maximums as required by statute.

Attachments: 21-168 Cover Sheet.pdf

GA Ordinance Legislative Changes.pdf

GA Ordinance Signature Sheet.pdf

No public comment, closed public hearing.

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

In Favor: 6 -

 Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

Absent: 1 - Councilor Nangle

21-169 To receive public comment and act on proposed amendments to the

Schedule of Fees, Appendix A of the Marijuana Business Licensing Ordinance, Chapter 160 of the Code of the Town of Windham.

Attachments: 21-169 Cover Sheet.pdf

Marijuana Licensing Ordinance Proposed Appendix A amendment

2021 0914.pdf

Current Appendix A.pdf

No public comment, closed public hearing.

Councilor Ohmott said that Walgreen's and some other pharmacies are looking at adding Marijuana to their sales, at some point, and being that they are big corporations, they

could literally take out a few of our dispensaries here that we are collecting tax money from. Maybe we should put these pharmacies on a payment schedule, perhaps they pay \$25,000 so they don't wipe out our little dispensaries here.

Councilor Nadeau said when you set a license fee it has to be uniform across the board.

Councilor Kalogerakis said with our restrictions on the amount of licenses we allow, we are at our maximum for stores. We are only allow six stores in Windham.

Manager Tibbetts said our ordinance should stop that from happening.

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

In Favor: 6 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

Absent: 1 - Councilor Nangle

VIII. CONSENT AGENDA.

IX. UNFINISHED BUSINESS & GENERAL ORDERS.

21-167

To accept as a town way Abenaki Drive, to accept a shared use easement of the Common Open Space, and to accept a stormwater drainage easement across Lot A, all as depicted on the plan for the River Road Subdivision approved by the Planning Board on December 11, 2017 and amended on May 14, 2018 and described in a proposed deed submitted by STJ, Inc.

Attachments: 21-167 Cover Sheet.pdf

Abenaki StreetAccept MEMO 08-23-21.pdf

Abenaki Drive Public Acceptance Attachments.pdf

RiverRdSubdiv OpenSpace MEMO 08-23-2021.pdf

No public comment when first asked.

Councilor Ohmott asked where would the snowplow trucks pile all of the snow on this street?

Councilor Nadeau said they asked for a waiver from a cul du sac, and they asked for it so they did not have to remove a mound. Then they built three driveways off of the hammer head. To plow this road you have to push snow into somebody's driveway. His issue is they asked for a waiver, they created this issue to save money, and to save a lot, now they are asking the town to absorb the headache. He is not in favor of it.

Councilor Kalogerakis said he was also wondering where the snow going to go? If you are not familiar, this is quite a large, steep hill and they will be plowing up hill. It shows there is four acres of open space, and if it is open space, shouldn't that be left opened year round? He doesn't know how this will work.

Doug Fortier Public Works Director said when they plow everything goes to the right. The last lot on the right's driveway is probably fifteen feet off the end of the road and it will get

buried. There is a driveway right at the end of the road and that is where they would plow to. Then to the left of the end of the road there is a driveway going off that corner of the hammer head so they cannot put the snow there. If he tries to plow the hammer head, all the snow will roll off to the left into the guys driveway and garage. There are also plants and trees all around there that will be destroyed. He does not know where they would put the snow. He is not opposed to hammer heads but you cannot put driveways off from them. There are three driveways off around the hammer head and one driveway to the left of it.

Mark Arienti said there is houses and driveways all the way off the end, and there is really no spot to put the snow on the way in unless you take it off site.

Public Comment was opened again:

Steve Porter from 14 Abenaki Drive said the comments don't hold water. They've been plowed out for the past two winters. They have big ditches on both sides of the road and have had no problems with drive ways being plugged up. They have a turnaround that goes right into the woods and you can plow down over the hill. Gorham Sand & Gravel has done the plowing with a F250 with a plow.

Steve Stewart with Gorham Sand & Gravel - This was all approved by the Planning Board and the road is built to town standards. They do plow it currently, we use a 250 truck. They have had no complaints from the owners. His biggest thing is that they it built to the town's specs and it is approved by the town.

Jess Pigeon from 11 Abenaki said her house is on the hill on the right. When they plow they push the snow in the ditch on the right side of the road. She said she has not had any interference with the snow, it has not blocked or restricted her. This was a town approved road and is one of the reasons she built here, because she understood it would go public within a year of her building. She said she would be disappointed, where she is paying tax dollars to the town, to find out the town can't go public and she can't have the services that she expected to receive.

Kelly Luce from 10 Abenaki said the turnaround is right next to her driveway, and beyond the turnaround is open land that they can throw snow in there if need be.

Shauna Grant from 7 Abenaki said she moved to Windham to raise her family and to send them to Windham Schools, but as a young woman raising a family she does not feel safe having her children stand at the end of the street, because it opens onto River Road that is a 50 mph road. Nor does she feel safe checking her mail or dropping off her trash at the end of the road. When she decided to build her house she was told that it would become a public road after a short time.

Nikki Robinson from 9 Abenaki said she does have 2 kids in school and makes two trips to the end of the road to drop off and pick them up. Another big selling point for them was they were told that the road was built to be taken over by the town once all of the building there was complete. As for snow, they had no problem with the snow and plowing last year.

Manager Tibbetts had lots of questions that he asked of the residents and Steve from Gorham Sand & Gravel to get a better understanding of what they are looking at on the map.

Councilor Nadeau asked Steve about the truck they use to plow Abenaki. He then said

he feels for the residents on that road, but this issue was created by Gorham Sand & Gravel to make money on this subdivision, and he thinks they own it because they asked for all those waivers at the Planning Board, which they were granted.

Councilor Maxfield said the whole waiver process can be viewed on line. He wants to vote for this because this was one of the first roads that was built to a public standard when we asked but then you asked for every waiver you can get. He said whoever told these folks that the town was going to take this road should have never said that, because there is no guarantee, at any time, that the town would take the road. No where in the ordinance does it say "if you build it, the town has to take it."

Lily from 7 Abenaki lives on the right hand side and they have a very large drainage ditch, and the winter the snow flows right in there. If this road was built to town specks, why wasn't snowplowing logistics considered, and why is it now after the fact?

Jess Pigeon she completely understands why you would feel like the town is now taking the responsibility that you feel Gorham Sand & Gravel should hold based upon their choices, but they are the ones who are paying the cost of that, not just financially, because we pay taxes but also because we are not getting the benefits we deserve by living here.

Councilor Jones feels for everyone here and the road was built to standards, but he pointed out that the last two winters have been very mild winters. He plows roads for a living, and if you get a lot of snow, it will not be able to be plowed with a F250 because it will have to be winged back.

Manager Tibbetts suggested they postpone the order tonight, and tell Doug to take the truck he normally would drive up there and see how he maneuvers. If he can't maneuver, it is dead in the water. A F250 is different than a 5 ton and different than a tandem axel. If the tandem axel can't and the 5 ton can and is the normal route, it will be something to weigh in the balance.

Councilor Nadeau told Doug to look at the route, look at which type of truck does that route, whatever it is, that goes up there to see if the route can be plowed. We are not juggling trucks around to try and plow one road, we have a hard enough time as it stands.

Councilor Maxfield - So where are we going to put the snow? Somebody mentioned that there is land and "it is my land you can put it there, it's no problem." His question to the town and to their group would be whether you have to form an association to grant this to the town, but if the Town takes it over he thinks we would need an easement to be able to dump the snow. If you sell your properties in the next few years and the next people who buy it tells the town "you can't put the snow here", they would have that right. If it is not your common land, and that is a big concern. If the town takes it, the town takes it and these are questions we have to ask.

It was determined, that where it is a private road, the town will have to have permission before they can go on it to check it out with the plow truck.

Councilor Nadeau made an amendment to postpone Order 21-167 to September 28, 2021, seconded by Councilor Maxfield.

In Favor of amendment: 5
Councilor Morrison was out of the room at the time of the vote.
Absent: Councilor Nangle

A motion was made by Councilor Morrison, seconded by Councilor Ohmott, that the Order be postponed to the next Council meeting. The motion carried by the following vote:

In Favor: 6 -

Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

Absent: 1 - Councilor Nangle

21-170

To approve a new Victualer's permit application submitted by Starbucks Corporation d/b/a Starbuck's Coffee (#63397), located at 799 Roosevelt Trail.

Attachments: 21-170 Cover Sheet.pdf

Starbuck's Victualers.pdf

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

In Favor: 6 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

Absent: 1 - Councilor Nangle

21-171

To appoint Nathaniel Glaude to the Energy Advisory Committee for a three-year term to expire August 15, 2024.

Attachments: 21-171 Cover Sheet.pdf

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

In Favor: 6 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

Absent: 1 - Councilor Nangle

21-174

To authorize the addition of various assigned fund balance amounts to the fiscal 2021-2022 budget accounts.

Attachments: 21-174 Cover Sheet.pdf

Assigned Fund Balance Memo and Tabulation.pdf

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

In Favor: 6 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

Absent: 1 - Councilor Nangle

21-175

To award a bid for the purchase of: 1) one 2022 International HV507 cab and chassis from Daigle and Houghton in the amount of \$76,400 plus \$89,839 for related plow and sanding gear from HP Fairfield, for a total price of \$166,239; 2) one 2023 International HV513 cab and chassis from Daigle and Houghton in the amount of \$120,530 plus \$94,587 for related plow and sanding gear from HP Fairfield, for a total price of \$215,117; 3) one 2021 Trackless MT7 Sidewalk Tractor and attachments in the amount of \$157,966; 4) one 2021 Elgin Pelican three-wheel sweeper in the amount of \$229,500 from CN Wood Co.; and 5) three Cardiac Monitors from Zoll Medical Corporation in the amount of \$93,899.16; at total equipment purchase of \$862,751.16 to be applied to account 19100-47430 and financed through a municipal lease-purchase agreement.

Attachments: 21-175 Cover Sheet.pdf

Approved FY22 Budget Leased Projects.pdf

- 1 2022 International Truck and Equipment.pdf
- 2 2023 International Wheeler Truck and Equipment.pdf
- 3 2021 Sidewalk Tractor and Attachments.pdf
- 4 2021 Elgin Pelican Street Sweeper.pdf
- 5 Cardiac Monitors .pdf

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

In Favor: 6 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

Absent: 1 - Councilor Nangle

21-176

To adopt a resolution to authorize the Town Treasurer to negotiate the terms of an Equipment Lease Purchase Agreement and related documents providing financing of up to \$862,751.16 plus interest, maturity, and other terms and conditions with whatever financial institution the Treasurer deems appropriate and to award the Equipment Lease Purchase Agreement to such financial institution as he deems to be in the best interests of the Town in order to provide the Town with one (1) 2022 International dump truck, one (1) 2023 International dump truck wheeler cab, one (1) 2021 Trackless Sidewalk Tractor, one (1) 2021 Elgin Pelican Sweeper, and three (3) cardiac monitors to be determined by the Town Treasurer.

Attachments: 21-176 Cover Sheet.pdf

Windham Resolutions.pdf

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

In Favor: 6 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

Absent: 1 - Councilor Nangle

21-177

To appoint a voting delegate and an alternate voting delegate to the Maine Municipal Association annual business meeting.

Attachments: 21-177 Cover Sheet.pdf

MMA Annual Business Meeting and Voting Credentials.pdf

Councilor Kalogerakis nominated Dave Nadeau along with Ed Ohmott as the alternate.

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

In Favor: 6 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

Absent: 1 - Councilor Nangle

21-172

To approve a three-year collective bargaining agreement for the period July 1, 2021 through June 30, 2024 between the Town of Windham and the Teamsters Local 340, and to authorize the Town Manager to sign the agreement on behalf of the Town.

Attachments: 21-172 Cover Sheet.pdf

Memo - Negotiations Update.pdf Teamsters Locan 340 contract.pdf

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

In Favor: 6 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

Absent: 1 - Councilor Nangle

X. Council Correspondence.

CD 21-131 Congratulations to Library Director, Jen Alvino.

Attachments: NELA 2021 Emerson Greenaway Award.pdf

All the Councilors congratulated Jen Alvino on her award.

Councilor Maxfield liked the Council Orientation materials that was just put together, it was a great idea and he hopes it is on the web so everyone can view it. He spoke about the Junkyards Inspection List and asked if the one on Anthoine Road was on there, and it was the first on the list. They asked Barry to check on that.

CD 21-132 COUNCIL ORIENTATION MATERIALS

Attachments: 2021 New Councilor Orientation .pdf

CD 21-134 Junkyard Inspection reports.

> The Council will review the inspection report from the CEO for the Town's currently licensed junkyards. A public hearing on the license renewals is scheduled for the meeting of September 28, 2021.

Junkyards and automobile graveyards are not permitted uses under Windham's Land Use Ordinance. The junkyards licensed by the town are grandfathered (i.e. existed before the town adopted zoning in the 1970's) and operating under permits granted by the Council under the provisions of Maine statute.

See attached report.

Attachments: Junkyard Inspection Memo.pdf

Asked Barry to check on the state licenses from the state for all and to check on number 1 Atlas Auto.

XI. Town Manager's Report.

Manager Tibbetts report:

The Police and Fire project is moving along. A portion of the steel is up, and more going up this week. They did get the paving done around the new building. All of the police operations on the first floor has been moved up to the second floor.

We have an outside consulting group working on those access roads. There will be a public hearing for that on the 26th. It will come back to the Council in October, it will your first meeting for preliminary review, and for final review at the end of October.

They have spent this last week working with the engineers defining the collection system on the sewer project. The idea was to avoid Route 302 being down to just two lanes. We are hoping to have cost estimates on that by December.

The Codification of the town ordinances was approved in last year's budget. The core has been done and staff will be going through that in the next several weeks and some things may come back to the Council.

We have a yearly FOAA training to be done in late October or November.

They are releasing the RFP for the South Windham Master Plan. They will be working with Gorham on the redevelopment of that whole area.

Our Canine Officer is moving to Freeport, and he will be taking the police dog with him because the dogs pair with their partners. Freeport will be buying Windham a new dog.

CD 21-125

Board and Committee Vacancies.

Attachments: Recent Committee Vacancy Ad

XII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Maxfield reported that they met tonight and interviewed two candidates.

Raymond Batchelder Jr. for the ZBA for a three-year term ending on February 15, 2024, Everett Cricken for the Planning Board for a three-year term ending on February 15, 2024 and he also interviewed for the Long Range Planning Committee. There are still plenty of vacancies on the other boards.

2. Finance Committee.

Councilor Nadeau reported that they met last Wednesday. All revenues are tracking as the budget predicted. They went over assigned fund balances, estimated fund balance, public safety building renovations, property tax collections, which are up from 97.89 to 98.72, Impact fees for 2021/2022, which has an offset because of the Growth Ordinance, and had updates on revenues, excise tax, revenue sharing and the building fees, and all are as predicted.

B. Other Committees.

1. Long Range Planning Committee.

Councilor Nadeau said they will be meeting tomorrow, 9/15/21 at 7:30 a.m.

2. Parks & Recreation Advisory Committee.

No report.

3. Windham Economic Development Corporation

Tom Bartell Executive Director of the Windham Economic Development Corporation said he wanted to thank all the members of the Council, and Councilor Morrison, in particular, for helping out at their Business Meeting Day. Both meetings were very successful where they were able to talk with a lot of property owners and business owners, particularly in North Windham about the infrastructure projects. There will most likely be another one in early winter when we understand more about them.

Tom said the Councilors all received the magazine Mainebiz because they have an article in there, and they hope to do that more often.

4. Highland Lake Leadership Team.

Councilor Maxfield said they scheduled a meeting for October.

Natural Resources Advisory Committee.

Councilor Jones said they were meeting tomorrow but it was postponed.

Public Easement Advisory Committee.

No report.

XIII. Discussion Items.

CD 21-127 Town-Plowed Private Road Legislation.

Attachments: Private Road Memo Sept 2021 BAT V3.pdf

Maine 130 - HP 1278 item 5.pdf

2021 StreetMap Classification Draft4.pdf

Ordinance re maintenance of designated private ways.pdf

DRAFT website Private Roads with Winter Maintenance.pdf

Draft Q and A Sept 2021 version 6.pdf
Private Ways resources DRAFT.pdf
Guide to Forming Road Associations.pdf

Appendices to a Guide to Forming Road Associations.pdf

CD 21-123 Proposed Amendments to Shoreland Zoning - Maine D.E.P. Requirement.

Attachments: TC packet PB recommend Shoreland Ordinace Amend 08-05-21.pdf

CD 21-124 Zoning Map Changes.

Attachments: CURRENT Windham Zoning Map 2020.02.11.pdf

Potential Zoning Map CHANGES 08-04-21.pdf
Potential Zoning Map CLEAN 08-04-21.pdf

TC packet PB recommend Windham Center 09-10-21.pdf
WindhamCenter ProposedZoningChangesMap 04-2021.pdf

Zoning Standards WC 4-21.pdf

Zoning District Uses Table WC 1-5-21.pdf

CD 21-133 Remote Meetings & COVID Precautions.

Attachments: Council, Board or Committee Remote Meetings Policy.pdf

S.P. 40 - L.D. 32.pdf

XIV. Agendas & Scheduling.

VI. Executive Session.

21-173 To enter into executive session in accordance with Title 1 MRSA §405 (6)

(C) for the discussion or consideration of the condition, acquisition or the use or real or personal property permanently attached to real property or interests therein since premature disclosures of the information would projudice the competitive or bargaining position of the Trum

prejudice the competitive or bargaining position of the Town.

Attachments: 21-173 Cover Sheet.pdf

Councilor Morrison moved to enter into executive session, seconded by Councilor Maxfield at 8:59 p.m. and this session will include Tom Bartell and

Amanda Lessard.

In Favor: 6

Absent: 1 (Nangle)

Councilor Jones moved to return from executive session, seconded by Councilor

Maxfield. There was nothing to report.

In Favor: 6

Absent: 1 (Nangle)

XVI. ADJOURN.

A motion was made by Councilor Jones, seconded by Councilor Ohmott, that they be adjourned. The motion carried by the following vote:

In Favor: 6 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor

Morrison, Councilor Jones and Councilor Ohmott

Absent: 1 - Councilor Nangle

Respectfully submitted, Linda S. Morrell

Linda S. Morrell

Town Clerk, CCM