



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Draft

### Town Council

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Tuesday, September 28, 2021

6:30 PM

Council Chambers

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#### I. Roll Call of Members.

**Present:** 7 - David Nadeau, Tim Nangle, Nicholas Kalogerakis, Jarrod Maxfield, Mark Morrison, Brett Jones and Ed Ohmott

#### II. Pledge of Allegiance.

Council Chair Nadeau led the Pledge of Allegiance.

#### III. Minutes to be Approved:

CD 21-140 To approve the Minutes of the September 14, 2021 Council meeting.

**Attachments:** [Minutes-Council - 9-14-2021.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

**Abstain:** 1 - Councilor Nangle

#### IV. Adjustments to the Agenda.

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](#)

[CORRECTED Marijuana Licensing Ordinance Proposed Appendix A amendment.pdf](#)

*Councilor Nadeau explained that this was back on because it was discovered that there was a typographical error on the fee chart; two of the fees were switched.*

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

Opposed: 1 - Councilor Nangle

## V. Public Participation.

*None.*

## VI. Councilors' Comments.

*Councilor Nadeau thanked Aaron Cieslak of MPM Seal Coating. He donated his services for resurfacing and striping of the Community Park's basketball courts. It was a generous donation.*

*Councilor Maxfield wants to clarify on how something is added to the agenda? Technically, if we add something to the agenda we are supposed to suspend Council Rules and vote to add it.*

*Councilor Nangle feels the public should have some notice of what would be added in case they would like to attend.*

## VII. PUBLIC HEARINGS.

CD 21-143 To receive public comment relative to the issuance of licenses for junkyard/automobile graveyards in the Town of Windham.

Attachments: [Junkyard Applications\(1\).pdf](#)

*Public Comment: None*

*Councilor Maxfield moved to take items 21-195 through 21-199, seconded by Councilor Kalogerakis.*

*There was no public or Council comment relative to taking the above orders out of order.*

*Vote in Favor: 7-0*

## 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](#)

Mark Curtis spoke representing STJ. He apologized for not being at the last meeting, he was at another meeting in Sebago and offered to answer any questions.

Jess Pigeon at 11 Abenaki Drive (Lot 4) The plow truck did come around yesterday, she took a video of it, and there didn't seem to be any problems or issues and from what she understood it was a successful campaign.

Steve Porter 14 Abenaki Drive suggested they talk to the public works staff to discuss this.

Doug Fortier Public Works Director. They went with the plow truck and it is plowable, it is just the 4 driveways at the very end that, potentially, due to the type of storm or type of winter that we normally get, they could have a wall of snow in front of their driveway. There may be times they may not be able to put it into the designated area of where it is supposed to go, and that is the biggest issue. Mark told them if they were to sign agreements and that happens, the town would not be at fault.

Manager Tippetts said after talking to Doug his understanding is that it can be plowed, and the challenge is on a really heavy storm, particularly, a wet and heavy storm. He may not be able to make that turn and the snow may end up in part of that driveway, in front of the driveway or on either side. Also there were a couple of trees and shrubs and a couple of mailbox posts that all need to be removed because they could potentially be in the way.

The Manager concurred with Doug, he said we need easements from the four people at the end of this cul-de-sac because there are four driveways coming off from it, and the town wants those easement to clearly state that any damage to shrubs, lawns, and other areas are not the responsibility of the town. We are not responsible for the snow removal in front of those driveways if it occurs from a heavy snow, we are not going to send in special equipment to clean it out, it will be up to the home owners, and we will not be back in the spring to reseed the lawns, etc. The easement will be irrevocable so that even if one of the owners of those property sold, it does not matter, it will travel with the property forever.

Councilor Maxfield asked when would they get these easements, because his vote is contingent upon these being locked in.

Manager Tippetts said he spoke with our town attorney and she said the Board can approve this subsequent to the four easements being drafted, being reviewed by the Public Works Director, himself and her, and when they have all of them and all three of them are in agreement, then the Council's order would become effective and they would be able to record the deed and it would be accepted as a road. There is one additional thing; they would have to pay for our attorney's time in the review and processes. It isn't fair for the town to pay for that.

Mark Curtis of STJ said he thanked the Council, Manager and Public Works Director for recognizing that this is a solvable issue. As a developer, he did not expect to saddle these people with any legal costs, and he said they will pick up that costs. Obviously, it will be up to the residents to okay the language, and each one will have to agree to that, and if they don't, the agreement can't go into place.

The Council had more discussion about what should be done to avoid this in the future.

Councilor Maxfield amends Order 21-167 to accept it as a town way, to accept a shared

*use easement of the common open space, and accept a stormwater drainage easement across Lot A 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 as described in proposed deed submitted by STJ, Inc. contingent upon obtaining, execute, approved easements from the four property owners as designated by town staff upon review, moved by Councilor Kalogerakis, seconded by Councilor Nangle.*

*Vote on amendment:*

*In Favor: 7*

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

**In Favor:** 6 - Councilor Nangle, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

**Opposed:** 1 - Council Chair Nadeau

**21-181** To approve an agreement with the Town of Gray to extend winter maintenance to the portion of Mt. Hunger Shore Road located in the Town of Gray for a period of five (5) years.

**Attachments:** 21-181 Cover Sheet.pdf

Gray - Windham Snowplow Agreement for Mt. Hunger Shore Road  
2022-2026.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:** 7 - Council Chair Nadeau, Councilor Nangle, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

**21-182** To appoint Raymond Batchelder Jr. to the Zoning Board of Appeals for a three-year term to end February 15, 2024.

**Attachments:** 21-182 Cover Sheet.pdf

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

**In Favor:** 7 - Council Chair Nadeau, Councilor Nangle, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

**21-183** To appoint Evert Krikken to the Planning Board, to serve a three-year term to end February 15, 2024.

**Attachments:** 21-183 Cover Sheet.pdf

*Councilor Maxfield said they also interviewed him for the LRPC, but it was not added to the Order. We need to put that on the next agenda.*

**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:** 7 - Council Chair Nadeau, Councilor Nangle, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

- 21-191** To approve the annual salary adjustments of the BTI Program Director and Program Coordinator as outlined by the federally funded "Be the Influence" community collaborative grant.

**Attachments:** [21-191 Cover Sheet.pdf](#)  
[S Rossignol Memo and Materials](#)

A motion was made by Vice Chair Maxfield, seconded by Councillor 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

**Opposed:** 1 - Councilor Nangle

- 21-192** To confirm an appointment made by the Town Manager to the position of Code Enforcement Director.

**Attachments:** [21-192 Cover Sheet.pdf](#)

*Manager Tibbetts said Chris Hanson who was our Code Enforcement Director retired, and the town posted the position. They had a number of applicants, they held interviews with a team, and the recommendation was that our current Deputy Director Jon Rioux should be the new Code Enforcement Director, and that is the Manager's recommendation.*

*Jon has a some real depth in management from his prior work with the City of Portland and other entities. He is a graduate of the Muskie School of Public Service, and he thinks he will be a nice collaborative approach to that office and his staff. He is going to look to find some new efficiencies, and is helping to work the process through with the complexity we have with our ordinances. He would appreciate the support from the Council to appoint Jon.*

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:** 7 - Council Chair Nadeau, Councilor Nangle, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

- 21-195** To approve the application of Lewis Weatherby and Michael Bryant d/b/a Atlas Auto Parts for a permit to operate a junkyard/automobile graveyard.

**Attachments:** [21-195 Cover Sheet.pdf](#)  
[26 Anthoine Rd Memo 09-22-2021.pdf](#)  
[26 Anthoine Rd Memo 9-22-21.pdf](#)  
[Atlas Auto Parts-Weatherby & Bryant.pdf](#)

*Councilor Nadeau said we have Findings of Fact relating to this Junkyard.*

*Manager Tibbetts explained that this came before the Council in May. An application came in for a license renewal and change concerning the three aspects of the junkyard/automobile graveyard and automobile recycling. The Council, at the time, dealt with the latter two of those items because that was what the request was for. After that review it was determined in the Findings of Fact it was not permissible. The junkyard license, which was good until October 1 would be addressed at this time. After his conversations with staff and with the Town Attorney he had the Findings of Fact put*

together for the Council's review. The Manager said the end result of this Findings of Fact is his recommendation is not to renew the junkyard permit.

Council Chair Nadeau read the Findings of Fact into the record. (See attached)

Councilor Nangle moved to amend the Motion for 21-195 to accept the Findings of Fact on 9/28/2021, and to deny the application of Lewis Weatherby and Michael Bryant d/b/a Atlas Auto Parts for a permit to operate a Junkyard/Automobile Graveyard, seconded by Councilor Maxfield.

Lewis Weatherby said he has been in this town for 50 years and has had this junkyard here since 1999, he believes. He has had over 6,000 cars there over that period of time, and now they put 75 cars there and he found somebody to buy the 11 acres for \$300,000, and you are denying this sale? He spent \$10,000 to have it cleaned up to make it presentable so the neighbors would not have to see anything around it. Mike has done a great job, they have hauled in thousands of dollars worth of fill, graded it and put up a snow fence. He said the only reason Mike bought it from Mr. Weatherby is because the Code Enforcement Officer and his Secretary told him to go see Mr. Weatherby because he has a junkyard license. Mike would never have gone to him if it wasn't for the Code Enforcement Officer and Mabel. "You people are going to deny a sale for him because he sold Atlas Auto Body and he was eventually going to sell this land as part of his retirement. It doesn't make sense, would I do that to you?"

Councilor Maxfield asked Mr. Weatherby when he sold Atlas? Mr. Weatherby said he thought three or four years ago. Councilor Maxfield said the license is not transferable, those are the rules. Mr. Weatherby said every year he has paid the Town of Windham \$55.00 for the license.

Michael Bryant said every year you have to go inspect that lot for junk cars, junk, tires, etc. He asked if the person who inspected it walk the whole property? Who inspected it last year? The Manager said it would have been one of our Code Officers. The Manager said they can ask the Officer if he did, but he does not think the requirement is that he has to walk the whole property, but he has to go onto the property and observe what is there and take record of it. Mr. Bryant said there should have been tires, fenders, hoods, doors, and down over the bank there were some cars, whole cars, rotted cars, so there were cars on that property. He said he hauled them out and he has more in there. If he had walked the whole property, they would have seen everything. There is 14 acres and you are saying there wasn't cars there and there was, and that is what you are going by. Councilor Maxfield asked whose cars were those, and Mr. Bryant said Lou's. There was more back and forth between Mr. Bryant, Councilor Maxfield and Manager Tibbetts.

Mr. Bryant asked if cars are registered can they put them there because he can use it as a lay-down lot for when he tows in crashed cars, they will be registered and inspected. Manager Tibbetts said he couldn't answer that right then but he would check with the town attorney and get back to him tomorrow to make sure they give him the right direction.

Vote on amendment to accept the Finding of Fact and to deny the application of Lewis Weatherby & Michael Bryant.

Vote on the amendment:

In Favor: 7-0

A motion was made by Councilor Jones, seconded by Councilor Ohmott to vote

on the Order as amended. Order 21-295 Failed.

**In Favor:** 7 - Council Chair Nadeau, Councilor Nangle, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

**21-197** To approve the application of Phyllis Wolstenhulme d/b/a Bob's Salvage for a permit to operate a junkyard/automobile graveyard.

**Attachments:** [21-197 Cover Sheet.pdf](#)  
[Phyllis Wolstenhulme - Junkyard.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:** 7 - Council Chair Nadeau, Councilor Nangle, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

**21-194** To approve the application of Matthew Herrick d/b/a J & M Used Auto Parts and Cores for a permit to operate a junkyard/automobile graveyard.

**Attachments:** [21-194 Cover Sheet.pdf](#)  
[J&M Used Auto Parts & Cores - M. Herrick.pdf](#)

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

**In Favor:** 7 - Council Chair Nadeau, Councilor Nangle, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

**21-196** To approve the application of Stephen Rogers d/b/a Serve-U-Garage for a permit to operate a junkyard/automobile graveyard.

**Attachments:** [21-196 Cover Sheet.pdf](#)  
[Serv-U-Garage - Stephen Rogers.pdf](#)

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:** 7 - Council Chair Nadeau, Councilor Nangle, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

**21-198** To approve the application of Roy E. Thistle d/b/a River Road Storage for a permit to operate a junkyard/automobile graveyard.

**Attachments:** [21-198 Cover Sheet.pdf](#)  
[River Road Storage - Roy Thistle.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:** 7 - Council Chair Nadeau, Councilor Nangle, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

**21-199** To approve the application of Jeffrey Whitney d/b/a Whitney's for a permit to operate a junkyard/automobile graveyard.

**Attachments:** 21-199 Cover Sheet.pdf

Jeffrey Whitney - Junkyard.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: 7 - Council Chair Nadeau, Councilor Nangle, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison, Councilor Jones and Councilor Ohmott

## **X. Council Correspondence.**

CD 21-137 Portland Water District Newsletter

**Attachments:** PWD Sebago In Depth Summer-Fall.pdf

CD 21-141 MMA Award Notification.

**Attachments:** HoMETown Careers MCSPC Internship Program.pdf

CD 21-144 Windham Public Library - Recipient of Donation.

**Attachments:** Bangor Savings Bank Donation.pdf

## **XI. Town Manager's Report.**

*Nothing to report.*

## **XII. Committee Reports.**

### **A. Council Subcommittees.**

#### **1. Appointments Committee.**

*Councilor Kalogerakis said they are putting Mr. Phil Spiller on the Natural Resources Advisory Committee. He has been attending the meetings for quite sometime. He will have a 3-year term ending on August 15, 2024.*

#### **2. Finance Committee.**

*No report.*

### **B. Other Committees.**

#### **1. Long Range Planning Committee.**

*Councilor Nadeau said they will meet tomorrow morning.*

#### **2. Parks & Recreation Advisory Committee.**

*No report.*



3. Windham Economic Development Corporation

*No report.*

4. Highland Lake Leadership Team.

*Councilor Maxfield said there will be a meeting the beginning of October.*

5. Natural Resources Advisory Committee.

*Councilor Jones thought there was a meeting coming up in October.*

6. Public Easement Advisory Committee.

*Councilor Jones said that committee is all done for the year.*

**XIII. Discussion Items.**

CD 21-033 Community Center.

CD 21-135 Town-Plowed Private Road Legislation & Proposed Ordinance for Windham Designated Private Ways.

Attachments: [Ordinance re maintenance of designated private ways.pdf](#)  
[Inspection Checklist for Private Roads](#)  
[Draft Q and A Sept 23 2021](#)

CD 21-142 American Recovery Plan Act (ARPA) Federal Monies.

Attachments: [ARPA funds summary.pdf](#)  
[arpa-fact-sheet-cslfrf.pdf](#)  
[SLFRPFAQ.pdf](#)  
[TREAS-DO-2021-0008-0002\\_content copy.pdf](#)

CD 21-145 Planning Board Recommendations of Proposed Amendments To Chapter 140 Land Use Ordinance related to Affordable Housing Standards.

Attachments: [TC packet PB recommend AffordableHousing\\_09-22-21.pdf](#)  
[Windham Housing Listening Sessions Summary Paper 07-28-2020 \(2\).pdf](#)

**XIV. Agendas & Scheduling.**

**XV. EXECUTIVE SESSION.**

21-200 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 prejudice the competitive or bargaining position of the Town.

**Attachments:** 21-200 Cover Sheet.pdf

Councilor Maxfield moved to enter into executive session, seconded by Councilor Kalogerakis.

In Favor: 7-0

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

In Favor: 6-0

Absent: 1 (Councilor Nangle left early)

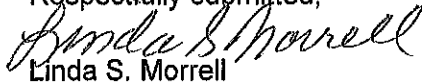
## **XVI. ADJOURN.**

A motion was made by Vice Chair Maxfield, seconded by Councilor Jones, 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

Town Clerk, CCM