



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Town Council

Tuesday, December 19, 2017

7:00 PM

Council Chambers

Postponed from December 12, 2017.

I. Roll Call of Members.

Present: 7 - Dennis Welch, Tim Nangle, Bob Muir, Jarrod Maxfield, Donna Chapman, Clayton Haskell and Rebecca Cummings

II. Pledge of Allegiance.

Council Chair Chapman led the assembly in the Pledge of Allegiance.

III. Minutes to be Approved:

[CD 17-364](#) To approve the minutes of the November 28, 2017 Council meeting.

Attachments: [Minutes-Town Council-11-28-2017](#)

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

In Favor: 7 - Councilor Welch, Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman, Councilor Haskell and Councilor Cummings

[CD 17-381](#) To approve the minutes of the December 5, 2017 Council meeting.

Attachments: [Minutes-Town Council 12-5-2017](#)

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

In Favor: 7 - Councilor Welch, Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman, Councilor Haskell and Councilor Cummings

IV. Public Participation.

There was no public participation.

V. Councilors' Comments.

Councilor Nangle noted that there was another life lost on River Road in the area of Laskey Road. This is a very dangerous area, and he wants to engage the Department of Transportation. Would like to know why they spent six million dollars on a section of road didn't correct the most dangerous piece of road in our town? He feels they need to look at additional safety measures out there.

Councilor Chapman read a short letter that was mailed to her. The woman wanted to say thank you for the wonderful lights that she enjoys when she is traveling through our town. She thanked her for brightening her days. Donna said it wasn't just her, although she did push to take money out of the TIF fund to help decorate, but Tom Bartell and a few others helped to make sure we really have a festive town during the holidays.

Councilor Cummings said she received an email from a constituent regarding a property having possible code violations or concerns on Cottage Road. Tony asked her to forward it along.

Councilor Maxfield wished everyone in town Happy Hanukkah, Merry Christmas, Kwanza, etc. He also echoed what Councilor Nangle said about how dangerous River Road is, and he is sure there is more to come. He received a hand written letter from a constituent a few weeks ago about the "race track" that is also Route 302 up in North Windham. He was an older gentleman who stays with the speed limit and others do not.

Councilor Chapman said the Wreath's Across America at the High School on December 10 was amazing, and it was a fitting tribute. She noted that the school did a wonderful job, and she hopes it becomes an annual event.

Councilor Haskell asked Tony on whether he had received any input on the suggestion he made in regard to 302 and River Road? Tony said he spoke with Chief Schofield about the meeting, and there is a project to redo River Road from Page Road to Route 302, which is a Municipal Partnership Initiative Project, which means we are getting 50% of the money from the state. That does include some reconfiguration of the intersection, but really this is just cleaning it up.

VI. Council Correspondence.

[CD 17-365](#) Windham Public Library Newsletter - December 2017

Attachments: [Check It Out - December 2017](#)

[CD 17-367](#) Town Clerk's Monthly Report - November 2017

Attachments: [Town Clerk's Report - Nov 2017](#)

[CD 17-368](#) Windham Public Library Monthly Report - November 2017

Attachments: [Windham Public Library Monthly Report - November 2017](#)

[CD 17-369](#) Windham Code Enforcement Monthly Report - November 2017

Attachments: [Code Enforcement November 2017 Monthly report](#)

[CD 17-370](#) Staff memo regarding proposed changes to the Surface Water Protection Ordinance, Chapter 142 from the Code of the Town of Windham, in order to strengthen water quality protections in the Highland Lake watershed.

Attachments: [TC packet_surface water protection_12-06-2017](#)

[CD 17-380](#) Fire-Rescue Department Monthly Report - November 2017

Attachments: [November 2017 Monthly Report](#)

[CD 17-382](#) Investment Report - November 30, 2017

Attachments: [Investment Report](#)

[CD 17-383](#) Assessing & GIS Report for November 2017

Attachments: [Assessing & GIS Department - November 2017](#)

VII. Town Manager's Report.

[CD 17-371](#) Town Manager's Report.

Attachments: [Town Manager's Report 20171208](#)

[Project & Issues List 20171207](#)

[Projects & Issues Sheets 20171207](#)

[Operations Manager Draft 20171207](#)

[171201 RFQ Solicitation WSVMF complete](#)

Tony Plante: They have had their post-election meeting of the Shared Maintenance Facility Joint Project team last Thursday.

The Library renovations are underway; they had their first construction meeting on December 6, and another meeting tomorrow. The movers that were hired to help move Collections out in the trailer and help set up the temporary Children's room in the meeting room went very well. They will be going through the renovation until about the end of March.

Yesterday the Highland Lake Leadership Team had another meeting. They have copies of meetings notes from the previous four meeting, and he said they would get those to the Council. He expects the committee to meet quite frequently over the next few months.

Dennis Brown was chosen as the team Chair person and Kim White and Chantal Scott were chosen as Co-Vice Chairs so if Dennis is away for awhile they can conference him, and they will be able to get team business done.

They have done a little bit of restructuring duties in the Public Works Department to provide better division of the Director's internal and external duties; also providing a clear second in command in the department; which of the three major departments, they did not have in Public Works. They have established a position of Operation's Manager, which is between the Director and the Division Heads. It gives the Division Supervisors a resource when the Department Director is not around.

VIII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Maxfield: They met with two candidates tonight and would like to put their names forward for the next Council meeting. They are Griffin Bourassa for the 3-year Planning Board seat and Barbara Maurais for the Summerfest Organizing Committee.

2. Finance Committee.

No report.

B. Other Committees.

1. Long Range Planning Committee.

Tony Plante: Reported that they had their initial meeting last Wednesday, and heard it was a very enthusiastic meeting, and they are eager to get started. Two main areas of focus are zoning and open space planning.

2. Parks & Recreation Advisory Committee.

Councilor Cummings: Reported that they had a meeting recently and they had sent letters out to people who would like to make donations for Winterfest and the donations are coming in. It will be held on January 6 and will have a beach theme.

3. Public Easement Advisory Committee.

No report.

4. Highland Lake Leadership Team.

Tony Plante: He said he would forward copies of the notes when he has them.

5. Joint Project Team.

Tony Plante: He said a Request For Qualifications for Design Build Teams has been issued. There is a 12-13 page questionnaire that Contractor led Design Build Teams along with their designer counterparts and engineers will need to respond to in order to be prequalified to submit proposals for the Maintenance Facility Project.

Statement of Qualifications are due January 10 and will be reviewed by our Design Team and will be referred to the Joint Project Team with recommendations and will prequalify some number of them. Those will be invited to submit technical proposals, which will be due around the end of February, first part of March. Those will be evaluated for how well those proposals meet the requirements for the technical RFP that goes out.

Part of the work of the Joint Project Team is also going to be reviewing the technical RFP to make sure that we have clearly defined what the facility needs to be and what it needs to do.

6. Windham Economic Development Corporation.

Tom Bartell said they will be having a quarterly board meeting sometime in January. They will be inviting the Council to the meeting, and will be looking at all the projects going on in town, and how they can assist and move projects along. It will be an update for everyone involved in all of the projects. He said they will set up a meeting ahead of time with Councilor Maxfield and Councilor Haskell as representatives from the Council to the WEDC so they can talk about everything going on.

7. Wastewater Management Planning Advisory Committee.

Tony Plante said they are continuing to work on getting revised proposals for hydrogeological services and hope to have something in place within the next couple of weeks.

IX. CONSENT AGENDA.

[17-229](#) To appoint Deborah McAfee to the Human Services Advisory Committee for a term to expire May 15, 2020.

Attachments: [Cover Sheet 17-229](#)
[Human Services Advisory Committee AMENDED 130423](#)

[17-235](#) To appoint Nick Kalogerakis to the Long Range Planning Committee.

Attachments: [Cover Sheet 17-235](#)
[Long Range Planning Committee](#)

[17-236](#) To appoint Mike Duffy to the Long Range Planning Committee.

Attachments: [Cover Sheet 17-236](#)
[Long Range Planning Committee](#)

[17-234](#) To accept Harvest Hill Road as a public way as described in a warranty deed from Sebago Heights, LLC.

Attachments: [Cover Sheet 17-234](#)
[TC_memo_SebagoHeights_Phase5_PubAccept_11-29-17](#)
[Sebago Heights Phase 5 road acceptance request](#)
[Sebago Heights Phase 5 FR 2017-11-09](#)
[Sebago Heights Phase 5 As-Built 2017 11 20](#)

[17-237](#) To appoint Tom Peterson to the Highland Lake Leadership Team.

Attachments: [Cover Sheet 17-237](#)
[Highland Lake Leadership Team](#)

[17-232](#) To approve an application for the Windham Veterans Association for a license to conduct beano and games of chance at Dena's Lobster House

and Tavern from January 1, 2018 through December 31, 2018.

Attachments: [Cover Sheet 17-232](#)

[Windham Veterans-Blanket Letter](#)

[17-241](#)

To approve an application for seven (7) coin-operated device licenses submitted by Milton S. Smith d/b/a Smitty's Cinema-Windham LLC.

Attachments: [Smitty's Cinema-7 Coin-ops](#)

Tony noted that the Harvest Hill Road probably should not have been put on a Consent Agenda but where they were having a discussion now it was fine.

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

In Favor: 7 - Councilor Welch, Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman, Councilor Haskell and Councilor Cummings

X. UNFINISHED BUSINESS & GENERAL ORDERS.

[17-205](#)

To approve amendments to the Surface Water Protection Ordinance strengthening water quality protection in the Highland Lake watershed.

Attachments: [Cover Sheet 17-205](#)

[Cover Sheet 17-205 11/14/17 agenda](#)

[CD 17-322 Cover Sheet - Private Roads Standards & Waivers](#)

[10/24/17 agenda](#)

[TC packet surface water protection 10-27-2017](#)

[TC packet surface water protection 12-06-2017](#)

Tony Plante explained that this had been on the agenda of November 28, and the Council held a public hearing. at that time. and received comment from a number of people in attendance, including a copy of the ordinance marked up with a series of changes from John MacKinnon. (See attached) They took those suggestions that Mr. MacKinnon provided following discussion by the Council, and had staff review them, and in addition to the original memo with the draft and the mark-up of changes Mr. MacKinnon offered, is another staff memo outlining further work that has been done incorporating those changes.

Ben Smith: He said he had not spoken with Mr. MacKinnon, but did get the very detailed mark-up. Walking down through the suggested changes, some of them made very good sense to incorporate and some of them they had highlighted as to the reason why they thought it might make sense to leave them out at this point. (See attached Memo) Councilor Chapman said pertaining to the buffer requirements, New Hampshire makes sure they put plantings that are native to the area so nobody plants anything that is invasive. Ben said they would make sure it was native to the area.

John MacKinnon - Haven Road: He said he appreciated the staffs attention to incorporating these comments, and he respects that they are trying to make it as simple as possible for the homeowner, while at the same time providing some protection. Mr. MacKinnon referred to his Staff Memo (See attached).

Dennis Brown - Pond Villa: He thanked the Council, Tony and staff for the help they

have provided them this past year. The reception they have gotten has been outstanding.

In terms of what John said in applying this to not just the lakes but the whole town, he thinks that will simplify things a lot as you are dealing with the other lakes in town. As was said in the recent meeting, there are no circumstances where added phosphorus helps the lake. With that in mind and the concerns they have with all the all the lakes, the phosphorous feeds it. He said he really liked the approach town staff took to help the land owners, and for the most part, these are not expensive fixes.

Rich Murk owns two lots in the Highland Lake Watershed, and he came because at the time the moratorium was put in place he had two lots sold, and now he lost one of the buyers and the other buyer is waivering.

He said the changes they were thinking about making tonight were good, and appreciate what they are going through, but he feels a little bit harmed by it, but understood it was part of the process. He asked are there more changes they expect to make to the ordinance before the moratorium is done in March, or would they consider either ending the moratorium earlier or modifying it?

He said his two lots have been through complete Windham Planning Board approvals in 2010. They went through Cumberland County Soil & Water Conservation District Review, a Gorrill Palmer Review on behalf of the Town of Windham as part of the approval process, and they went through DEP review and a license was issued.

He knows he cannot clear more than 12,000 sq. ft. on any lot for any reason, including the driveway, septic system, well and building. He asked if they could they modify the moratorium to allow lots that have gone through that kind of review and will continued to be reviewed by the CEO's as they come out to check the work when it is done. It would be wonderful if they could modify the moratorium at the first meeting in January to allow lots that have gone through that kind of review to move forward.

Councilor Maxfield asked how often did the DEP update the list? Tony replied it was every two years. Councilor Maxfield said he would like to see a core of these things eventually be applied to all water bodies. He agrees that they should start with Highland Lake but would support, sooner than later, taking the core items, things that makes the most sense and applying them to the other watersheds.

He said they've done the moratorium, they've put together a team, and they have got step one from staff; he still thinks septic systems, especially around the lakes, are an issue and he would like to see it part of the leadership team that they address that.

Councilor Muir said he would like to get a sense of where the Councilors are with the additional suggestions that Mr. MacKinnon brought up. He thinks they are reasonable, it does not seem as though it would cost an awful lot to implement them, perhaps come up with some kind of a manual.

Councilor Haskell said he had no problem with adding what Mr. MacKinnon presented, his only question was about the gentleman who had the two lots for sale. He is hearing that this will take a long time to resolve, so he will be stuck with two lots that have already been approved by many departments. He thinks it is unfair to him, especially, having been approved.

Councilor Chapman said those lots were from 2010 and she thought after five years they

had to update the plan? Ben Smith said that was in an approved subdivision. She said that if this has created a hardship, they have told people to go in and meet with the Code Officer, as they have been trying to work some of these situations out.

Tony said the only thing they have done is with soil disturbance, where somebody has already started construction. In that case, their feeling has been that it is better to have the site built and finished than to leave it bare. Mr. Murks are individual lots that are in an approved subdivision, and that except for these two lots is complete. These two lots are still in Mr. Murks ownership and he is looking to sell them. These lots, from a surface water protection perspective, are fine the way they are.

The moratorium ordinance would not allow a soil disturbance of more than 500 sq. ft. If he had sold them, and the people who had bought them or he had got building permits and begun construction before the moratorium began, then it would be better to get them finished and buttoned up, but that is not where they are. The current moratorium runs out in early March, and under state law the Council can renew it for additional periods of up to 180 days at a time, but there are certain conditions that have to be met.

Tony said the briefing on the science that we know today will probably be sometime in January or February. The public forum on the science that we know today, and what some of the options are will be in March. As far as additional science that needs to be done to understand what the dynamics actually are in Highland Lake, and what is causing this particular bloom for the last four years; they've got to go through the seasonal cycle with the lake and do monitoring testing and that won't be done until about this time next year.

Councilor Maxfield said the Council should be thinking sooner rather than later on whether they would they be prepared to extend the moratorium, and if not, do they even let it go to March? If they vote on these, they are putting in best practices now and that is probably all they will get done between now and then.

Councilor Nangle said he would like to see the leadership team come back with recommendations on how to resolve this problem if the report is bad. What kinds of things will they need to do so they can start planning for them.

Chris Hanson said what was before them tonight is this amendment for the point system. He said this was designed for small projects; it is not designed for subdivisions, site plan review, road extensions and that type of stormwater. If this was to pass, it takes 30 days to go into effect, and by that time they will probably have the report out. He thinks if they adopt this and use the next month to look at the science, and maybe modify the moratorium to exclude single family development on lots like what Mr. Murk has, then we will have addressed a small piece of it.

Councilor Muir: Moved to amend Order 17-205 to include John MacKinnon's recommendations for Highland Lake, seconded by Councilor Cummings.

Councilor Maxfield has a hard time adding these amendment as is, because he does appreciate all the work Mr. MacKinnon did, but he feels at this point staff, as they went through it, took into consideration the points he made and incorporated where they felt they made sense. The other points can be considered in the step two discussions as they add them. He thinks with what is written up will get them going and will build a foundation, and as they go deeper into the other things they will have better options.

Councilor Muir asked John as far as the watershed is concerned with someone not living

right on the lake but away, what are you rating the importance of these things as?

John MacKinnon said he thinks it has to apply to the entire watershed, whether or not you are right on the shore doesn't necessarily mean you are contributing to it, it could be somebody in the upper watershed that is discharging into a stream that leads to the lake and they should have the same kinds of standard as the people living right on the lake. He thinks this can be done by giving guidance to people in the brochure.

Ben Smith said that in the handout that Mr. MacKinnon passed out dated 12/19/17 that has two points at the bottom that strike him as very sensible corrections to the ordinance, and regarding the four points at the top, number 2 & number 4 Mr. MacKinnon said could be addressed through a brochure, and the question that had to do with number 1 he thinks he heard the Council say this should only apply to Highland Lake, so that leaves number 3, which is the difference between the types of buffers.

Vote on amendment:

In Favor: 2- Councilor Muir, Councilor Haskell

Opposed: 5- Councilor Chapman, Councilor Cummings, Councilor Maxfield, Councilor Nangle and Councilor Welch.

Amendment Fails.

Councilor Welch: Moved to amend Order 17-205 by adding number 3 and numbers 1 & 2 at the bottom under the "updated version of proposed changes to the ordinance", seconded by Councilor Maxfield.

In Favor: 6: Councilor Chapman, Councilor Cummings, Councilor Maxfield, Councilor Muir, Councilor Nangle and Councilor Welch.

Abstained: 1: Councilor Haskell

Passed

Vote on Order as amended.

In Favor: 6 - Councilor Welch, Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman and Councilor Cummings

Opposed: 1 - Councilor Haskell

[17-223](#)

To appoint a council representative to the Wastewater Management Planning Advisory Committee.

Attachments: [Cover Sheet 17-223](#)

[Wastewater Management Planning Advisory Committee Charge 20131219](#)

A motion was made by Councilor Nangle, seconded by Vice Chair Muir, that they appoint Jarrod Maxfield. The motion carried by the following vote:

In Favor: 7 - Councilor Welch, Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman, Councilor Haskell and Councilor Cummings

[17-228](#)

To cancel the Council meeting of December 26, 2017.

Attachments: [Cover Sheet 17-228](#)

[Council Rules](#)

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

In Favor: 7 - Councilor Welch, Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman, Councilor Haskell and Councilor Cummings

[17-238](#)

To approve an amendment to the promissory note from the Windham Economic Development Corporation as approved by Council order 09-186 on December 22, 2009 and amended by Council order 16-219 on December 13, 2016 for property located at the intersection of Anglers Road and Route 302, and to authorize the town manager to sign the amendment on behalf of the town and to take any other necessary action related thereto.

Attachments: [Cover Sheet 17-238](#)

[WEDC Town Council Anglers Road Update - 11 27 17](#)

[Amendment to Promissory Note \(WEDC Town\) 12.8.17](#)

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

In Favor: 7 - Councilor Welch, Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman, Councilor Haskell and Councilor Cummings

[17-239](#)

To appoint Clayton Haskell as one of the two (2) Council representatives to the Shared Maintenance Facility Joint Project Team.

Attachments: [Cover Sheet 17-239](#)

[Joint Project Team Memo 20170120](#)

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

In Favor: 7 - Councilor Welch, Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman, Councilor Haskell and Councilor Cummings

[17-240](#)

To appoint Dennis Welch to fill a vacancy for Senate District 26 representative to the Maine Municipal Association's Legislative Policy Committee.

Attachments: [16-123 Cover Sheet](#)

[Ballots for Election to MMA Legislative Policy Committee memo](#)

[Legislative Policy Committee Ballot](#)

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

In Favor: 7 - Councilor Welch, Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman, Councilor Haskell and Councilor Cummings

[17-242](#)

To approve a Victualer's permit application submitted by James & Kelley Savoie d/b/a Kelley's Sebago Diner, located at 862 Roosevelt Trail.

Attachments: [Kelley's Sebago Diner-Victualers](#)

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

In Favor: 7 - Councilor Welch, Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman, Councilor Haskell and Councilor Cummings

[17-244](#)

To proclaim December 25, 2017 to be "#Fight Like a Cyr Day."

Attachments: [Cover Sheet 17-244](#)

[Proclamation 17-073 for Windham Volunteer Month 20170401](#)

Councilor Muir moved to suspend Council Rules to add an agenda item, seconded by Councilor Welch.

In Favor: 7- Councilor Chapman, Councilor Cummings, Councilor Haskell, Councilor Maxfield, Councilor Muir, Councilor Nangle and Councilor Welch.

Councilor Nangle explained that Nolan Cyr is an eleven year old resident of Windham and he was diagnosed with Osteosarcoma back in April. A lot of people have watched him go through his treatments, and he returned home on December 14th cancer free. He thought it would be fitting to proclaim Christmas Day "Fight Like a Cyr" Day in Windham. Councilor Nangle read the Proclamation. (See attached)

A motion was made by Vice Chair Muir, seconded by Councilor Welch, that the Proclamation be approved. The motion carried by the following vote:

In Favor: 7 - Councilor Welch, Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman, Councilor Haskell and Councilor Cummings

XI. Agendas & Scheduling.

[CD 17-372](#)

Agenda Items Reports.

Attachments: [Agenda Items Report 20171207](#)

[Project & Issues List 20171207](#)

[Projects & Issues Sheets 20171207](#)

There was discussion of agendas and scheduling.

XII. ADJOURN.

A motion was made by Councilor Welch, seconded by Vice Chair Muir, that they be adjourned. The motion carried by the following vote at 8:53 p.m.

In Favor: 7 - Councilor Welch, Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman, Councilor Haskell and Councilor Cummings

Respectfully submitted,

Linda S. Morrell
Town Clerk, CCM