



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Town Council

Tuesday, June 26, 2018

7:00 PM

Council Chambers

I. Roll Call of Members.

Present: 6 - Dennis Welch, Tim Nangle, Bob Muir, Jarrod Maxfield, Donna Chapman and Rebecca Cummings

Absent: 1 - Clayton Haskell

II. Pledge of Allegiance.

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

III. Minutes to be Approved:

[CD 18-207](#) To approve the minutes of the June 12, 2018 Council meeting.

Attachments: [Minutes-Town Council-6-12-18](#)

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

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

Absent: 1 - Councilor Haskell

IV. Public Participation.

David Tanguay resident of Running Brook Road and American Legion Post 148: Mr. Tanguay thanked the town for their great support during this last Memorial Day; it was a great success by all accounts.

In 2005, he reported to the Council that the Legion and other groups had placed 500 flags on various Veteran's graves; this last Memorial Day they placed 875 flags.

The Legion has placed 100 flags around town, which will fly from Memorial Day until Labor Day. There has been some question of the density of flags in the North Windham area, he said they are looking into that. One of the issues is the number of obstructions on the polls, they end up destroying the flags.

He noted at the town Volunteer Awards Night you recognized Chuck Whynot Post Service Officer for his efforts working with the food deprived Veteran's homeless community. Mr. Tanguay reported that at convention this last weekend Chuck was recognized as the Post Service Officer of the Year for the Department of Maine.

Linda Morrell Town Clerk let the public know that due to a change in the laws late last

summer, municipal nomination papers have an earlier availability date than previously. The change came because the Clerks were not getting their municipal ballots back from the printers in time to be mailed out with the state ballot, which caused double mailings and more work for all. Nominations Papers will be made available on Friday, July 27, and they will be due back in either the Clerk's Office or the Superintendent's Office on or before Friday, September 7. There will be an ad in the local paper and the Clerk's website has been updated with the information.

V. Councilors' Comments.

Councilor Chapman said the Council had just gone down to the ground breaking ceremony for the new Joint Maintenance Facility. She said it was a nice event and thanked Tony Plante Manger for setting it up.

She read in the paper that the Raymond Select Board are starting another petition to withdraw from the RSU over some of these issues; she said it saddens her. She thinks Raymond should look at the bigger picture, and she was very disappointed.

Councilor Cummings said she was at Summerfest for most of the day Saturday and she was very proud of the turnout, even with the off and on showers, it was a great event. She thanked all who worked on it.

VI. Council Correspondence.

No Council Correspondence.

[CD 18-198](#) The Lifelight Foundation - Agency Funding Correspondence

Attachments: [Lifelight Foundation Thank You](#)

[CD 18-193](#) Town Clerk's Monthly Report - May 2018

Attachments: [Town Clerk's Report -May 2018](#)

[CD 18-197](#) Fire-Rescue Department Monthly Report - May 2018

Attachments: [Fire-Rescue Monthly Report - May 2018](#)

[CD 18-200](#) Windham Public Library Monthly Report - May 2018

Attachments: [Library Monthly Report - May 2018](#)

[CD 18-203](#) Parks and Recreation Department Monthly Report - May 2018

Attachments: [Parks & Rec Monthly Report - May 2018](#)

[2018 Camp Flyer](#)

[2018 Summer Concert Series Flyer](#)

[Summerfest Full Page ad](#)

[CD 18-205](#) Police Department Monthly Report - May 2018

Attachments: [Police Monthly Report - May2018](#)

[CD 18-206](#) Public Works Monthly Report - May 2018

Attachments: [Monthly Report - May 2018](#)
[May 2018 Mission.Success.Measurment Table](#)

[CD 18-213](#) Social Services Monthly Report - May 2018

Attachments: [Social Services Monthly Report - May 2018](#)

VII. Town Manager's Report.

[CD 18-210](#) Town Manager's Report.

Attachments: [Town Manager's Report 20180621](#)
[Projects & Issues List 20180622](#)
[Projects & Issues Sheets 20180622](#)

Tony Plante: Thanked everyone who helped make the Shared Maintenance Facility the reality it is so far, which is just beginning. It took a lot of effort on the part of the Council, RSU Board of Directors, School District staff, town staff to get us to this point. He said they are a matter of days away from placing the first footings for the building. A few challenges have arisen, but our Design Team and the contractor have been working together to come up with alternative methods. He said he would let them know if there were any costs difference.

The town has welcomed new Police Officer Derek Axelsen who will attend the Police Academy this August and Jackie Frye, our new ACO. They are working on filling the positions of truck driver and equipment operator. There has been some exchange about the Compliance and Safety Officer's position and concern about what was discussed during budget. The position was posted, but they pulled it because there were some questions about it that they want to get cleared up.

Tony recognized the people who put so much work into making Summerfest a success. It was a lot of fun, and he, Sandy Prince and Donna Chapman had the privilege of being judges in the parade. One of the themes that was awarded a prize was The Best Depiction of Unity in the Community and that prize went to Windham Neighbors Helping Neighbors for their years of devoted service to the community, and noted that there were any other number of units that could have done that.

Town Office will be closed Wednesday, July 4th for Independence Day. He noted that Windham does require a permit for the use of consumer fireworks, please check the website for details on the ordinance.

It is construction season, and they will be replacing a culvert on Falmouth Road June 27th. There is paving on Albion Road between Pope and Windham Center Road, and they will soon be scheduling a neighborhood meeting for residents of the Brand Road area, design for Brand Road is 90-95% complete.

There is Information on how to apply for the Senior Property Tax Assistance Program, it

will be advertised in local papers as well as being on the website and Facebook soon.

VIII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

Councilor Maxfield reported that they have not met since the last meeting and they have no applicants to put forward.

2. Finance Committee.

No report.

B. Other Committees.

1. Long Range Planning Committee.

No report.

2. Parks & Recreation Advisory Committee.

No report.

3. Highland Lake Leadership Team.

They had a meeting last week, and Tony thinks there will be some recommendations forthcoming or a report from the Highland Lake Leadership Team.

4. Shared Maintenance Facility Joint Project Team.

Tony reported on this during his Manager's report.

5. Windham Economic Development Corporation

Tom Bartell: The Farmer's Market will hold a ribbon cutting this Saturday and they will be gathering at 8:45 and ribbon cutting at 9:00. He hopes the Council will be able to come and see what is going on.

They will have some morning refreshments, music playing from 10:00 to noon by The Pond Lily's, and the Baker Brook calves will be visiting during the day.

IX. PUBLIC HEARINGS.

[CD 18-212](#)

To receive public comment on a proposed amendment to the Mineral Extraction Moratorium Ordinance.

Attachments: [Cover Sheet CD 18-212](#)

[Mineral Extraction Moratorium proposed amendment order and ordinance with markup \(NON-EMERGENCY for 20180626\)](#)

Tony Plante said this is a public hearing on the amendment to the Mineral Extraction Moratorium that the Council approved by Emergency vote last Tuesday, June 19, 2018, which clarifies that for the purposes of this Moratorium the ordinance and application shall not be considered pending until a final application has been deemed complete by the reviewing authority consideration during a pre-application, meeting staff review process, or sketch plan review shall not qualify an application as pending. That was the amendment that the Council adopted to the Mineral Extraction Moratorium Ordinance last Tuesday.

Public Hearing Closed at 7:21 pm

X. CONSENT AGENDA.

XI. UNFINISHED BUSINESS & GENERAL ORDERS.

[18-130](#)

To approve a proposed amendment to the Mineral Extraction Moratorium Ordinance as follows:

WHEREAS, the Town Council adopted the Moratorium Ordinance on Mineral Extraction ("Moratorium") on April 24, 2018;

WHEREAS, by its terms, the Moratorium as applicable to applications for permitting or approval of mineral extraction activities that were not pending as of April 17, 2018;

WHEREAS, the Town Council's express intent was that the Moratorium would be applicable to and prevent further processing of any application that was in the staff review or sketch plan phase of review and had not been deemed complete by the reviewing authority as of the Moratorium's enactment date; and

WHEREAS, to the extent there is any ambiguity regarding how the Moratorium Ordinance should be applied to an application in the preapplication, staff review or sketch plan phases of review, the Council wishes to resolve such ambiguity and prevent any further question;

NOW THEREFORE, the Town Council hereby ordains that the proposed amendment to the Mineral Extraction Ordinance dated June 19, 2018 shall be approved.

Attachments: [Cover Sheet 18-130](#)

[Mineral Extraction Moratorium proposed amendment \(NON-EMERGENCY\)](#)

[Mineral Extraction Moratorium proposed amendment 062218](#)

Councilor Nangle had some concerns about the 1,500 cubic yards and wondered how

much will be removed for the public works garage?

Tony Plante said over the last four business days he and the Code Enforcement Director has become aware of a few loop holes in the town's Land Use Ordinance with respect to Mineral Extraction. What they are trying to do, working with the town attorney, is define ways to make sure that the Councils intent in putting the Moratorium in place, to begin with, was secure and could not be circumvented. (see attachment) The Maintenance project has already been approved and would be exempt. Tony said what the three of them tried to do was to come up with a number that was reasonable and would allow people to conduct projects that were being conducted for the purpose of that project and not as a way of getting around the Moratorium and doing Mineral Extraction and saying it is something else.

Councilor Nangle said he is concerned they are going to shut down any building project, especially if somebody is going to build a road that will necessitate the removal of 1,500 cubic yards. He wondered if a more reasonable amendment would be that construction activities couldn't take place on the site, such that what you would ordinarily do in a quarry?

Councilor Maxfield asked what you just read and I am voting on right now, is that we are voting on what we approved last week; does this Order already include this 1,500 cubic yards?" Tony said it did not. Right now all that is before the Council is what the Council approved at the June 19th meeting; the other suggested amendment has not been moved yet.

Councilors Maxfield and Welch said they can't vote for the amendment as it is because it is wrong on so many levels. It would literally shut down a lot of development in the entire town for the next four months, which is right in the middle of the building season. He asked if something could be added to the end of it, was there a type of appeal process? He said he is afraid this will dig them into a hole, and they will have people with legitimate projects and they won't be able to do them.

Chris Hanson Director of Code Enforcement explained that if the material is used on the same project there is not problem but what is being talked about is removing gravel for sale or use on another project, that is what they are trying to keep from happening. Councilor Muir asked if the ordinance is written as 1,500 cubic yards and you have a subdivision and a couple of houses in that subdivision will be 2,000 cubic yards, is that allowed? Chris said that is a question the Planning Board would have to ask during the project. Chris said they are trying to address a situation; they are trying to further define and refine it because they can't use words like substantial or extraction, they have to have some kind of a number, and like Councilor Chapman said, he does not think you can take it to an appeals board during a Moratorium.

Several scenarios were brought up and talked about between the Council and Chris Hanson discussing what the answers might be, nothing was clear and Chris said it is kind of a nightmare.

Councilor Chapman said most of them got elected to represent the people in the community and have heard them loud and clear. She wondered if they could get this done in 60 days versus 180 days if the Council was in favor?

Councilor Welch asked why can't they have this in the watershed areas only instead of the whole town? This whole thing started with the impaired watersheds. He feels it has gotten out of hand; he is fine with the 1,500 cubic yards but it should be contained to the

watershed areas only, not the whole town. He can't support this as written.

A short time later Tony asked for a short recess to speak with Chris Hanson and Council Chair Chapman.

The meeting reconvened.

Councilor Chapman moved Order 18-130 to vote on and adopt what was written on tonight's agenda and which was adopted at the June 19, 2018 Council meeting, seconded by Councilor Maxfield.

No public comment.

Motion to waive the reading, and seconded.

Vote to waive the reading 6-0.

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

In Favor: 5 - Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman and Councilor Cummings

Opposed: 1 - Councilor Welch

Absent: 1 - Councilor Haskell

18-109

To proclaim Saturday, June 30th, 2018 as "Field-Allen American Legion Post 148 Day."

Attachments: [Proclamation 18-109 Field-Allen American Legion Post Appreciation](#)

Councilor Cummings read the proclamation.

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

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

Absent: 1 - Councilor Haskell

18-128

To authorize professional services for community center concept design from recreation impact fee funds.

Attachments: [Cover Sheet 18-128](#)
[Memo to council june 212018](#)
[Narrative of Architectural Fee Invoices](#)
[Harriman Preproposal \(2\)](#)
[Oak Point Associates WCC](#)
[RecCamp-FacilityProfiles-2018](#)
[509 Gray Road Purchase Memo 20050429](#)
[Cover 05-77](#)
[Minutes 5.10.05 meeting](#)
[Morrell property contract](#)
[Tax Card Map 12 Lot 49-1](#)
[50759 7 25 2005](#)
[50760 7 25 2005](#)

Linda Brooks Parks & Recreation Director and Patrick Moody gave a presentation on where they are so far in the process and to inform the Council that they would recommend Harriman Associates to do the Concept Design based on their experience and the number of projects they have completed or have underway in the State of Maine with working on community centers. He said they also came in with the lowest proposal.

Patrick Moody said the property they would recommend for this would be the parcel the town owns next to the Smith Cemetery on Route 202 & 302.

Councilor Muir asked how much land would be set aside for the community center? Tony said the total parcel is about 24 acres, and the area for the cemetery expansion is on the back of the cemetery, which is the easiest to access. Councilor Muir said he would need the size of the cemetery expansion before he would vote on this.

Patrick Moody said the idea behind the next step is to paint a picture, it is to understand what the community center is going to be and having the lot's location helps with that tremendously. This is a good parcel of land, easily accessible and identifiable, centrally located, and that isn't to say that maybe there is another parcel that will be identified that would be suitable, but right now this is the lot we are recommending.

Councilor Cummings asked would this part of the planning phase address the traffic patterns? It is one of her concerns, especially with the rotary. Pat said that would be in the more detailed piece. Councilor Cummings asked about the public input meetings, and would the town send notifications to the abutter in the area? Pat said they will have three public meetings.

Pat read the following piece from the packet: "Concept Design is where much of the important, formative decisions get made about the overall design of the project and in turn would aid in a successful fundraising campaign." If we do not have solid site information, the proposals would be "hypothetical" and not a true representation of the project cost." That is one component that they will have a hard time identifying the project costs if they can't work with a potential site; it might not be the site, but it is a potential site. Councilor Chapman said she didn't have a problem with that, but half of that land needs to be cemetery because that is what it was purchased for.

There was more talk about the size of the current cemetery and how much would it gain

with the expansion. Councilor Chapman read what Liz Wisecup said from a previous meeting back in 2005 when the land was being purchased, and she said she wanted to make sure that the town expanded the Cemetery with this purchase.

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

Absent: 1 - Councilor Haskell

[18-110](#)

To authorize the release of the town's interest in property located at 13 Vacation Lane to the Little Sebago Lake Association.

Attachments: [Cover Sheet 18-110](#)

[windham deed 13 vacation](#)

[LSLA Land Use Agreement](#)

Tony Plante said in response to a question at a previous Council meeting he checked with Attorney Mike Lane with Preti Flaherty who said in his review he did not see anything in the title that would prevent the town from transferring its interest in the property.

Pam Wilkinson said they just started their operation this week and it is going very well. It really will be an asset to the people who take care of it and will be a lot easier for the next group of helpers.

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

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

Absent: 1 - Councilor Haskell

[18-119](#)

To approve an application submitted by Northern New England Telephone Operations LLC and Central Maine Power Company to locate (1) utility pole and cables and wires there on Roosevelt Trail, approximately 305 feet Easterly of the intersection of center line of Provost Drive.

Attachments: [Pole Location-Roosevelt Tr](#)

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

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

Absent: 1 - Councilor Haskell

[18-122](#)

To adopt amendments to the town's purchasing policies as outlined in an email and attachment from attorney Kristin Collins dates May 14, 2018.

Attachments: [Cover Sheet 18-122](#)

[KCollins Email 20180514](#)

[Purchasing Policy - Proposed amendment re prof services](#)

Councilor Chapman said it was not clear on the \$25,000 figure and whether it goes out to bid or not, and this is cleaning up some of that language.

Councilor Nangle read: "Professional services not anticipated to exceed \$25,000 in a given twelve month period" and he asked if that was to a single vendor, and Councilor Chapman said yes and it comes out of a Professional Services account. Councilor Nangle stated that each department has their own Professional Services correct, and Tony replied that most do.

Tony said the straight faced answer to this is if there is a particular project or engagement, then it has to be under \$25,000 under this, or you would have to get professional quotes on it.

Councilor Nangle said he does not want to see things slow down. Tony said we are dealing with public resources and he thinks erring on the side of more process and more accountability is not a bad thing.

Councilor Muir said he would like to see something in the policy where it goes to the Council for approval before a purchase is made if it is over a certain amount so that way the Council knows what is being expended and when.

Councilor Maxfield said we approve things in the budget, we have a capital plan, we hire a town manager and department heads to spend that money accordingly based on the plans, we get the warrants and we see the money before it goes out the door, and Councilor Muir said he wants to see it before it goes out and Councilor Maxfield said he does not. Councilor Muir stated it is the Council's responsibility to look over the budget for its citizens.

Councilor Muir moved to postpone Order 18-122 to July 10, 2018, seconded by Councilor Welch

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

In Favor: 4 - Councilor Welch, Vice Chair Muir, Council Chair Chapman and Councilor Cummings

Opposed: 2 - Councilor Nangle and Councilor Maxfield

Absent: 1 - Councilor Haskell

[18-123](#)

To cancel the Council meetings of July 3, July 17, August 7, and August 21, 2018.

Attachments: [Cover Sheet 18-123](#)

[Council Rules](#)

Councilor Welch said he would vote no because they have a few things he would like to finish, and they have a lot on their plate right now.

Councilor Maxfield said he would vote yes because he has a family and he loves them

and they don't know what he looks like most of the time. He would vote yes, and then call special meetings when needed. He said his trade off to do two a month for those two summer months, would be the nights they are meeting he is willing to sit there until ten or eleven and just pack the agenda, even though it might not be everyone's favorite. Councilor Welch said that makes it difficult for those, like him, who have to get up at 4:30 a.m.

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

In Favor: 5 - Councilor Nangle, Vice Chair Muir, Councilor Maxfield, Council Chair Chapman and Councilor Cummings

Opposed: 1 - Councilor Welch

Absent: 1 - Councilor Haskell

[18-124](#)

To approve a one year extension of the Pine Tree Waste contract for solid waste and recyclable materials collection.

Attachments: [Cover Sheet 18-124](#)

[PTW Contract Extension 20180621](#)

Councilor Welch said they need to deal with this because he has been trying to have a discussion to come up with a better way for trash pickup and getting rid of the blue bags. He's been trying for years now, and they keep renewing the contract year after year. They need to focus on this.

Councilor Nangle said he has been getting complaints from constituents about things that don't get accepted into the recycling program and they basically toss those items on the front lawn. He said if it is something that can't be recycled, the least they could do is put it back in the bin that it came out of so it is not blowing around in the neighbor's yards.

Tony Plante said there was no automatic extension clause, it was a two-year extension in 2016. To have this coincide with the start of our fiscal year makes sense budgetarily, from his perspective. If we are looking to implement a different approach, which is fine, there is the method of collection and also the method of paying for the program, which is partly what the bags are about and providing incentive but recycling is changing.

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

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

Absent: 1 - Councilor Haskell

[18-129](#)

To amend the Council's rules of procedure by deleting Section 30, "Council-Staff Communications" in its entirety.

Attachments: [Cover Sheet 18-129](#)

[Council Rules AMENDMENT 20180621](#)

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

Absent: 1 - Councilor Haskell

[18-127](#) To amend the town's personnel policies by deleting Article VIII, Section 11, "Council-Staff Communications" in its entirety.

Attachments: [Cover Sheet 18-127](#)

[Personnel Policies AMENDMENT 20180621](#)

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

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

Absent: 1 - Councilor Haskell

XII. Discussion Items.

XIII. Agendas & Scheduling.

[CD 18-211](#) Agenda Items Reports.

Attachments: [Agenda Items Scheduled 20180622](#)

[Agenda Items to be Scheduled 20180622](#)

[Projects & Issues List 20180622](#)

[Projects & Issues Sheets 20180622](#)

Councilor Nangle asked if they could get a couple of flashing speed limit signs for River Road, like the one that was up in front of Manchester School.

Councilor Maxfield wants to invite the RSU to a meeting and have a presentation on why the Windham tax payer is benefiting from the RSU? Tony was asked to try and set the meeting up.

Councilor Cummings had constituents ask about noise issues and noise ordinances in regard to construction starting early in the morning, 6:00 a.m. and going as late as 8:30-9:00 p.m. She would like to find out if the town has any restrictions.

Councilor Cummings also brought up the signage in the rotary and asked if they can they be there? There were two main concerns, safety and the gardens.

XIV. ADJOURN.

A motion was made by Council Chair Chapman, seconded by Councilor Welch, that the be adjourned. The motion carried by the following vote at 9:09 p.m.

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

Absent: 1 - Councilor Haskell

Respectfully submitted,

Linda S. Morrell
Town Clerk, CCM