



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Town Council

Tuesday, July 10, 2018

7:00 PM

Council Chambers

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.

Vice Chair Muir led the assembly in the Pledge of Allegiance.

III. Minutes to be Approved:

[CD 18-219](#) To approve the Minutes of the June 26, 2018 Council meeting.

Attachments: [Minutes-Town Council-6-26-18](#)

A motion was made by Councilor Welch, seconded by Councilor Chapman to approve the minutes. 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

Abstain: 1 - Councilor Haskell

IV. Public Participation.

Larry Eliason from Colby Drive presented some comments regarding the Highland Lake Moratorium. (See attached) Mr. Eliason also read a comment made by Councilor Nangle from the Lakes Region Weekly paper dated April 30, 2018 that said his feeling is to rescind this moratorium as soon as we have the ordinance language in, and in effect, so that we can restart business as. Larry said he is here as a resident and tax payer and what about his rights and property rights? He said he knows the Council has a lot going on, but this has been going on a long time, and he asks for their consideration to move this forward.

Councilor Chapman said it is coming up but the water quality has not improved and there is a lot more work going on over there, including a septic survey that should be starting soon.

Linda Morrell Town Clerk let people know that if they are interested in running for either a Town Council seat or a School Board seat this November, the time frame was changed late last summer in regard to taking out and returning nomination papers. Nomination papers will be made available on Friday, July 27, two weeks earlier than before. Council candidates will go to the Clerk's Office and School Board candidates will go to the Superintendent's Office to get their papers or you can be nominated by your political caucus. The nomination papers and party nominations will be due back on or before

Friday, September 7, 60 days prior to election Day.

The reason for this change was due to the fact that Clerks could not get the municipal ballots back from the printers in time to be sent out with the state ballot. The law states we must issue the state ballot as soon as we have them, to anyone who has requested an absentee ballot, and sometimes it can take up to another 2 weeks before we received our Municipal ballot. This meant double the work and twice the postage being spent.

Councilor Chapman let people know that the reason Vice Chair Muir is leading the meeting is because she left her glasses at home.

V. Councilors' Comments.

Councilor Maxfield - To follow up on the public comment from Mr. Eliason, I am extremely disappointed in the Council in that we have not rescinded the Moratorium on Highland Lake. July 22nd was the thirty-day mark where the ordinance change that we made for subdivisions took effect. I had been told that after that happens, after we had created new rules for new houses, smaller projects, after we've created new rules for subdivisions to keep them from creating more issues, that we'd be in a position to lift it. There was a member of the Highland Lake Leadership Team who came before us, at one point, and said once we adopted those ordinances he expected us to lift that Moratorium. I was told today that a member of this Council actually told a member from a potential applicant, that actually, it will not be lifted until the quality of the water improves. That is not what we told people, and I feel like I am being forced to be sitting here like a hypocrite because we asked people to stand by and trust us to stop their lives and stop development, and now that we have actually made progress and they were patient; we have not lived up to our end of the bargain.

The deal was not that there was no science or answers that anyone is going to get anytime soon that is going to turn that lake, and what we have not done and we were told to fully expect by fall, at the latest, is ordinance changes recommended for the people that live in that neighborhood. If I am now being told that we are changing the rules and that it's not creating ordinance to create better conditions for future development, but we are, in fact, now waiting for an entire lake, that nobody has an answer really as to why or how or the exact cause of the issue, then that makes us hypocrites, we did not do what we said.

At the same time we created a second Moratorium in town, how would anybody trust us at this point, that we are actually going to do what we said? This is our second meeting after June 22 where it could have been on the agenda; we could have lifted that Moratorium, got those folks back to work, and there is no reason why that could not be done, and we still move forward, with changes, such as forcing people who are not taking care of their private roads to do so, having them do their septic systems, having some sort of phosphorus ban, there are lots of things we could do for the folks who are there who actually caused the problem; we have not done that. So when we get to Unfinished Business and General Orders I will be making the motion to suspend the rules and add that to tonight's agenda, and I would hope that my Councilors support me in that and we actually do what we said we would do.

Councilor Chapman: I am going to put this out there, I don't like hearsay, I don't like implied comments saying that the Council, as a whole, is not doing our job, we have been doing our job and it was to protect the lake. That is why the Moratorium was originally put in. Are the conditions improved that we can lift that Moratorium, they are not. Are we probably going to lift it anyways, probably. Unfortunately, things take time and Tony can attest to this.

They are doing the survey and they are finding out what are the hot spot private roads, unfortunately there are two hot spot private roads that are probably going to come before us, that probably, as a community, we will have to step in and help them because they can't seem to get along enough to address that issue. I don't like hearing that "we don't want to do anything over there because that is not our lake, it is not our problem; it is the whole towns problem. If the lake does not come back and it stays tipped, what is going to end up happening is there is going to be a big reduction in the property taxes over there, are you willing to make that up in the budget and how? So if we lose 30% of every property around that lake because of the water quality are we ready to make that up in the budget somewhere? We can imply innuendoes and pick on one another while sitting here, but that wasn't what we were elected for, and I do believe that is on the agenda, I think for the 26th, correct Tony? Tony replied it is not on the schedule at this point; I know it has come up in the conversation a couple of times but it hasn't been put on the agenda.

Councilor Chapman: I do know that the Ordinance Committee was looking at a couple of tweaks and I don't go to those meetings so I don't know where they are with that, so maybe that is one of the things we could look at because I will not support adding an agenda item and voting on that this evening. Thank you.

Councilor Nangle: I want to echo Councilor's Maxfield's statements. I don't think it is reasonable for us to enact a Moratorium and wait until the lakes water quality improves. We enacted a Moratorium in order to prevent additional stress on the lake by new development, and I think we've addressed those issues, and I think it is time that we let the property owners begin to do what they want with their property. I support adding it to the agenda tonight, and I think it is reasonable to add it to the agenda and then vote it up or down. I believe the time has come for us to move forward and move on from the Highland Lake. What needs to be done going forward, certainly can be done concurrently with the lifting of the Moratorium.

Councilor Welch: I think the Council has done a great job of changing ordinances on that lake, and I am sure there is more that has to be done. I feel that we should lift that Moratorium, I think if we have done as much as we can right now, we need to keep working on some changes that might need to be done down there, but I think Councilor Maxfield made a good point, as soon as we start doing these changes we will look at lifting it, so I feel pretty comfortable if it goes on the agenda and having a vote, see where it goes.

Councilor Maxfield: What is not hearsay is what's in our record, and we did not say that we were going to do a Moratorium until that lake was perfect. It is not what we said; we are like Lucy with the football now, and we are pulling it out, and we have people who believed us, and we went to bat and we stopped peoples lives and we stopped development and we said this is what we are going to do and the sad thing is, come June 22nd I was pretty proud of what we did because we worked with residents, we had a developer who probably could have sued us and gone the way other people are going right now and actually stood by patiently and let us do our job. We did our job and now we are changing the rules, and that is not what I voted for, and that is not what I signed up for. We said we would make those changes and then it would be appropriate to lift the Moratorium. At no point did we say we are going to do a Moratorium until that lake is 100%. We need to do what we told the people we would do. It is pretty simple.

Councilor Chapman: I just want to put this out there so Linda has it for public record. Never did I say we were waiting for water quality to improve. What I said was, if you read

the Moratorium, we put the Moratorium in place because of the water quality, and no, we have not improved the water quality; we've improved everything around that lake, and did I want to lift the last Moratorium, no I wasn't too sure I was going to do that because I knew the water quality had not improved but yes, I supported it because we have things in place. Is it the right thing to do when DEP even says "no more new development around the lake, period?" Yet we have and we've allowed it and we're continuing it. Am I confident in doing that when those ordinances come back and everybody on that lake who pays taxes and they are comfortable with that. The Highland Lake Association, the Highland Lake Leadership Team; if they come back and they tell me they are ready and we are good, I am more than happy to lift that, and it is my understanding it is coming back to us, and at that time I would support it; until then I wouldn't. I don't think it is fair to anybody around that lake that we throw it on the agenda tonight and go ahead and vote it up or down; I think that is a disservice to those who elected us in the community and look to us to protect and serve their interest, not self interest.

Tony Plante: The Highland Lake Leadership Team's Ordinance Committee had a meeting 2-3 weeks ago, and the focus of the meeting was to review the amendment ideas that the Highland Lake Association put forward to identify any we thought were critical to protecting the lake; recognizing there was going to be more work overtime that needs to be done, and there were no critical ordinance amendments that were identified by that group. I have been meaning to reach out to Dennis Brown and find out where we were with getting that recommendation communicated back to the Council so you would have that.

VI. Council Correspondence.

Councilor Chapman said in regard to River Road someone reached out in regard to the new curbing up there. She thinks everybody wants to take a look at that and see about that design, and maybe they can discuss it and move on as to whether something can be done or not to bring that curbing back in a little bit for those taking that right hand turn off from Route 302 heading down River Road.

VI. Council Correspondence.

[CD 18-214](#) Cumberland County Annual Report 2017

Attachments: [2017 County Annual Report](#)

[CD 18-215](#) RSU #14 Warrant for Assessment of Regional School Unit Tax

Attachments: [RSU 14 Warrant for Assessment of RSU Tax](#)

[CD 18-216](#) Forest Lake Association Newsletter - Summer 2018

Attachments: [FLA 2018-Summer-Newsletter](#)

[CD 18-220](#) Windham Public Library Monthly Newsletter - July 2018

Attachments: [Check It Out July 2018](#)

VII. Town Manager's Report.

[CD 18-217](#) Town Manager's Report.

Attachments: [Town Manager's Report 20180703](#)

[Projects & Issues List 20180703](#)

[Projects & Issues Sheets 20180703](#)

Tony Plante said he was able to attend a tour of St. Joe's College yesterday along with the Chair. They appreciated them taking them around and showing them parts of the campus he had never seen and talking a little more about some of the initiative President Jim Dlugos shared with them back in May. He said it is clear to him that they are really interested in being engaged with the community, not just Windham, but Standish, their host community, and looking at the wider region as a way of furthering the mission of the college in its educational and research efforts. In particular, the institute for Food Systems, Innovation and the institute for Integrative Aging. As we all age, particularly in Maine, there are going to be, both, some challenges and some opportunities for doing things differently.

The Shared Maintenance Facility Project has had some challenges with the pre-engineered metal building portion due to the threat of tariffs of imported steel. It is not the tariffs that are the problem, but the people who are thinking they might want to order a building, and when they heard tariffs were going to be imposed, they ordered their building to get ahead of the tariffs and that sucked up all available manufacturing capacity and put a strain on manufacturers, including Mesco, the one the town is using, which went from 50 orders to 150 orders. Tony went on further to explain what they were doing to compensate.

Fourth of July was in the middle of last week, and they had about a dozen fireworks complaints but on the upside they had 73 permits issued so people seem to be getting the message. They still have some work to do but he thinks the permit system is working. It was brought up that Maine people can only purchase Consumer type fireworks, but it is not known what vacationers from other states bring with them.

He reminded people that the Dundee Park Concert Series starts tomorrow, July 11th, 6:30 to 8:00 p.m. Admission is free after 5:00 p.m. Tomorrow night features the 121 Band, on July 18 is the Hurricanes, July 25 is the Downeast Soul Coalition, and August 1 is our own Rick Charette. There will be concessions there benefitting local organizations.

Spoke about the Senior Property Tax Assistance Program. Information about this is on the town's website, it is on the Facebook page and flyers. Copies of the ordinance and application forms are available at the town office and public library. There are ads in the local papers for the next few weeks. The application deadline is August 1. Tony said they have a pool of \$50,000, and if they receive applications totaling more than that then the amount of everyone's refund will be equally decreased from the maximum \$500.00 amount.

VIII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

They have not met.

2. Finance Committee.

They have not met.

B. Other Committees.

1. Long Range Planning Committee.

No report.

2. Parks & Recreation Advisory Committee.

Councilor Cummings said they are meeting next week.

3. Highland Lake Leadership Team.

This was talked about, somewhat, under Councilor Comments.

4. Shared Maintenance Facility Joint Project Team.

The Manager spoke about this in his report.

5. Windham Economic Development Corporation

Tony Plante had no report but said there was a ribbon cutting at the Windham Farmer's Market a week ago Saturday. It was well attended and the market is really doing well. The WEDC has a big hand in that but certainly they are not the only ones. They want to thank all the farmers, vendors, local food producers, Lisa Fisher and others who helped get them off the ground.

Councilor Chapman said the Mineral Extraction Committee has already met three times, and she thinks they will have some things coming back quickly.

IX. PUBLIC HEARINGS.

X. CONSENT AGENDA.

XI. UNFINISHED BUSINESS & GENERAL ORDERS.

[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 she thinks this was originally brought up due to the fact from a bid on the Community Center. She said she was all set with the changes on this, but

other Council members wanted to adjust the all out purchasing to a specific dollar amount but she was okay with Stephen's changes. Councilor Muir said for right now he is okay with the way it is.

Councilor Nangle said he didn't see any markups on the attached policy and isn't sure what has changed? Tony said it is section 6, Competitive Purchasing, paragraph 4.

Councilor Maxfield said he agrees with it but will not be supporting it because, as a Council, they will soon be bidding on a contract that is more than \$25,000 that they did not put it out to competitive bid, and they are putting constraints on others that they do not put on themselves, he doesn't agree with that.

Councilor Nangle hopes it does not slow the process for town staff.

Tony explained that any single engagement that would run to more than \$25,000 is something that they will spend the time developing a scope of work on and issuing RFQ and RFP's for anyway. The quote that Councilor Chapman is referring to was simply that he asked Oak Point Associates to provide just to give them a ballpark idea of what they would be looking that to do a Community Center study. There was no RFP or RFQ, no bid or contract.

Councilor Nangle stated he agreed with Councilor Maxfield.

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

In Favor: 5 - Councilor Welch, Vice Chair Muir, Council Chair Chapman, Councilor Haskell and Councilor Cummings

Opposed: 2 - Councilor Nangle and Councilor Maxfield

[18-131](#)

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 Cook Road, approximately 250 feet Northwesterly of the intersection of center line of Sloan Drive.

Attachments: [Cover Sheet 18-131](#)
[Pole Permit -Cook Road](#)

A motion was made by Council Chair Chapman, 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

[18-132](#)

To nominate District 26 representatives to the Maine Municipal Association's Legislative Policy Committee.

Attachments: [Cover Sheet 18-132](#)
[MMA LPC Election 2018-2020](#)

A motion was made by Council Chair Chapman to nominate Councilor Dennis Welch for the District 26 Representative to the Maine Municipal Association. 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

18-133

To award a contract for snow plowing services to Adam Copp Inc., for the period covering fiscal years 2018-2019, 2019-2020 and 2020-2021, in the amounts of \$16,110.50 for year one, \$16,593.83 for year two, \$16,593.83 for year three; an aggregate cost of \$49,298.16.

Attachments: [Cover Sheet 18-133](#)

[Adam Copp Inc Snowplowing Agreement](#)

Mike Manning from Bruschi Road spoke in support of this Order. He said four years ago when they started the whole road situation, the Council challenged the road association to improve their roads. If you have been out there over the last couple of years you have seen a dramatic change on what they have done to their roads. That afternoon members from four different Road Associations met with Adam Sellick from the Cumberland County Soil & Water to continue improvements on their roads, including a generous grant the the Town of Windham gave them. Mr. Manning handed out a spreadsheet (see attached) that shows in the time that the town awarded the plowing contract to their organization, they actually put the money where their mouths were. You challenged us and we challenged ourselves. He went on to explain the spreadsheet and their future plans for road improvements.

Councilor Nangle applauded Mr. Manning's group and he would like to challenge every other private road owners in town that the town, provides winter maintenance to and go out and invest that money as well. He said he'd like to see a change in the public easement process where the road association has to invest, at the very least, that the town pays for their winter maintenance.

Councilor Welch said he was impressed with the work they have done down there but he cannot support this. He supported it for three years because it was a mess down there. These roads down there are not public easements and he agrees with Councilor Nangle on the roads who are plowed by the town, they should save that money and put it into their roads.

Councilor Chapman said they are in a watershed that has issues and by law the Council can spend money to help the roads over there if it improves Forest Lake. She will support this.

Councilor Nangle said he agrees with Councilor Welch's concerns, but also thinks if they were to change the public easement winter maintenance standards and say "you need to invest this much money in your road" then maybe they wouldn't see the roads falling into disrepair. These guys are doing a great job and are a great model for what every other road association should do.

Councilor Chapman said, in some instances, we are quick to jump the gun. The town has a lot of water bodies that are having issues, and by law they can help with those issues. In some areas of Highland Lake some of those people are not right on the lake or have "waterfront", they might just be hanging on by a shoestring and can't afford it. Every road is a case by case. There are four committees right now looking at private roads.

Councilor Maxfield will support it tonight and he supports Mr. Manning's community. He

said he didn't disagree with Councilor Welch and he smells what he is cooking and he likes it, but wants to add in his own spice, he doesn't mind opening Pandora's box on the roads because they can't make people fix their roads or form associations or be good neighbors, but if the town gives them a winter easement, they can.

Councilor Haskell didn't see the name of the community or the roads as to where this contract is being awarded in the Order. It was explained that it is on the first page of the contract. All the roads are listed i.e. Lakeside Drive, Forest Avenue, Harrison Road, Cyprus Hill Drive, Glendale Road, James Way, Atlantic Drive, and Bruschi Road.

A motion was made by Councilor Welch, seconded by Councilor Nangle, 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: 2 - Councilor Welch and Councilor Haskell

Councilor Maxfield made a motion to suspend Council Rules to add to Unfinished Business and General Orders the lifting of the Emergency Moratorium on Highland Lake Watershed, seconded by Councilor Nangle.

Vote to suspend Council Rules:

In Favor: 5

Opposed: 2 Councilor Chapman and Councilor Muir

Motion Fails - Unanimous vote is required.

[18-134](#)

To authorize professional services for an organizational survey.

Attachments: [Cover Sheet 18-134](#)

Councilor Nangle said he thinks \$30,000 is a lot of money, especially when they, at times,icker over a much smaller amount. He doesn't necessarily disagree that the study is unnecessary and thinks it is somewhat hypocritical for them to vote earlier on our Professional Services budget of \$25,000 without going out to bid, yet turn around, not even a half hour later, and violate the Order they just voted on.

Councilor Maxfield moved to amend Order 18-134 to \$25,000 so to be in line with Order 18-122, the town's Purchasing Policy that they just voted on and adopted, seconded by Councilor Nangle.

Councilor Welch said he has no issue with that because if it comes back to the Council, and it is more they can vote on it at that time.

Vote on Amendment 7-0 in favor.

Councilor Chapman has no problem with this, if they need more, they can vote on it. She said she did not ever recall the Council doing an organizational study. She has been there long enough to know a lot of complaints go back and forth all around, and this is one way these complaints can be looked into in a fair and unbiased way, and hopefully they can move on to town business after this is done.

Councilor Maxfield said they just paid \$6,000 to \$8,000 for an organizational study. They had a consultant come in within the last few months who has created an organizational study and apparently that is not adequate. That study resulted in an action plan, which is being thrown out the window. He would have preferred, at the very least, what they paid for would have been able to run its course and then if it had been a failure or needed more support then they could do more.

Councilor Chapman said the Town Council did not ask for the study, that was done by the Town Manager. She and the Town Manager had a discussion over this, they understood what happened to cause a major breakdown after that study was done and after that report came in. This is why the Council is now voting on this and doing this study; it is authorized by us.

A motion was made by Councilor Welch, seconded by Councilor Cummings, that the Order be approved as amended. 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

XII. Discussion Items.

[CD 18-191](#) Rescue Billing - Insurance, Fees, and Collections.

Attachments: [Cover Sheet CD 18-191](#)

Shawn McPherson and Chief Brent Libby spoke on this topic.

[CD 18-199](#) Sprinkler system requirements.

Attachments: [Cover Sheet CD 18-199](#)

[Section 500 Performance Standards \[Revised 4-20-18\]](#)

[Section 900 Subdivision Review \(Revised 11-28-2017\)](#)

[Residential Sprinkler Discussion](#)

Councilor Chapman said this was part two of this discussion that started a few months ago. Resident Rick came to the table for the discussion and was joined by Chief Brent Libby.

XIII. Agendas & Scheduling.

[CD 18-218](#) Agenda Items Reports.

Attachments: [Agenda Items Scheduled 20180703](#)

[Agenda Items to be Scheduled 20180703](#)

[Projects & Issues List 20180703](#)

[Projects & Issues Sheets 20180703](#)

Councilor Maxfield sent an email to the Manager that he and Councilor Nangle supported this. Council Rules allows for two Councilors, in writing, to request something be put on the agenda, and they want the vote for the Highland Lake Moratorium be put on the next

meeting's agenda.

XIV. ADJOURN.

A motion was made by Councilor Welch, seconded by Councilor Cummings, that they be adjourned. 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

Respectfully submitted,

Linda S. Morrell
Town Clerk, CCM