



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Final

### Town Council

---

Tuesday, October 16, 2018

7:00 PM

Council Chambers

---

#### I. Roll Call of Members.

Councilor Nangle arrived at 7:03 p.m.

**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.

#### IX. PUBLIC HEARINGS.

*Tom got up to speak before the public hearings started.*

*Tom Bartell said about a month ago he and Councilor Chapman, Town clerk Linda Morrell, Parks & Rec Director Linda Brooks took a trip around the town looking at what we could do differently this year for holiday decorations. The difference that will be seen this year is primarily in South Windham. We will be putting up some banners, and Tom showed one of the banners that will be up during the holiday season on the new light poles along Main Street. Then he showed a patriotic banner that will go up around May for that season, then maybe look for another one that would be a custom village sign to be put up in between those time frames.*

*He said Councilor Maxfield was unable to attend the Grow smart Meeting and Lynn Smith had nominated the Town council for continuing the process on the Downtown. Grow Smart Maine is an organization in Maine that works on other things like rural issues and many other areas. They said there were about 40 different projects and plans submitted and they gave out six of them. One was to the Windham Town Council for their work on the 21st Century Downtown zoning that they passed recently and that many people were very anxious to get started. Tom had a plaque in the shape of the State of Maine and a sentiment that Senator King sent in their honor as well.*

#### [CD 18-328](#)

To receive public comment on a proposed 180-day extension to the "Moratorium Ordinance on Mineral Extraction."

**Attachments:** [Mineral Extraction Moratorium Adopted 20180424](#)  
[Mineral Extraction Moratorium amended 20180619](#)

*Margaret Pinchbeck - I live on Nash Road, and I would ask the committee to please extend the moratorium so the committee can finish finalizing the new Mineral Extraction Ordinance. I was at the committee meeting where public comment was asked for; I'm not sure how many of those changes made it into the next version, but the night we had the public comment we had a lot of people surprised that there were no changes made*

for zoning, and quarries and pits were not prohibited in any areas, and the one answer I did get from a committee member was that a quarry can go anywhere there is granite, and there is a lot of granite in Windham and a gravel pit can go anywhere there is gravel.

But what I see happening with the remaining open land in town is you have different allowed uses; you have building allowed, and mineral extraction allowed and they are sort of on a collision course. They are both allowed uses but they are not compatible at all, and it seems like if you look at the Comp Plan to where the growth areas are you could put a big circle around those and say "we're going to focus on building homes here, we don't want any blasting in this area."

Similarly, if you have natural resources that are in trouble, like Highland Lake or Forest Lake or some of the rivers, it seems like you could go back so many thousands of feet from there and prohibit those. The blasting is more of an issue, I think, with homes because we have cracking in our walls and people have had basement cracks. So I don't know if it is possible, probably there is a minimum size that someone would need to put in a quarry; I don't know if it is 50 acres or a 100 acres but look at any 100 acre plus parcels and see if they are on granite, look where they are and decide if you are going to allow them or not. I mean, if it was up to me I would say no more quarries in town because the population is growing so fast and there are houses everywhere. I know people have the rights to do what they want to with their property, but I am afraid that if this moratorium isn't extended then the quarry near Forest Lake is going to go to the Planning Board and some form of it is going to be approved; it might be smaller than what they have and they are going to have to jump through a lot of hoops, there is a lot of work they haven't done.

But once that is approved, that is there forever, that is going to outlive all of us, so I would rather see everyone step back and make sure we get the ordinance right. Take a breath, there is no reason to rush into it, and I would please ask that you would extend the moratorium. Thank you.

Michael Manning - I live on Bruschi Road near the proposed quarry that is going to be discussed later on tonight. I would like to take a moment to thank all of the folks who have been coming out for the last several months working on this; the Town Council for listening to us and working with us as we try to do this, and more importantly, the folks who have been working on the Mineral Extraction Committee. As a member of the committee myself, it is not easy work. You are trying to find a middle ground that's applicable for the town as it continues to grow, for the person who owns their property and being able to develop it, but at the end of the day it is the responsibility of us all, both the owner, the towns people, the Council and the people on the Extraction Committee to find something that is best for Windham. Anytime you rush anything, whether it is building a house, building a relationship with somebody in your life, if you rush it, normally it goes wrong.

This committee has been busting their butt, meeting almost weekly since the ordinance was enacted, and they've done a lot of incredible things, but there are still things to be done. There are still things that need to be reviewed, there are things that need to be proposed. One of the things that I was shocked when I attended one of the meetings was that violations in other towns are not under consideration when things are done in Windham. We consider ourselves as leaders in the lakes area. We consider ourselves a leader in our State of Maine, but we don't look at people's past conduct, we don't look at things that have been done in the past. If I ask somebody to come to my house and build an addition I am going to look at what they did previously, projects, whether they have any code violations before I write them a check and give them authority to work on

my home.

*If we lift this ordinance, we're giving people, who we know have done things, permission to work on our home. Would you do that? Would you allow that person with a questionable record babysit your child? Would you allow that mechanic with questionable credentials to work on your car that you carry your family in? I am not asking you to say no, I am asking you to give us time to give that committee that is busting their hump time to complete their work. That is all anybody can ask for, is an opportunity to do right. Thank you.*

*Ann Sparling on James Way - I am also going to ask you to extend the moratorium and until we can figure out ways to address the issue of mineral extraction, not just in our neighborhood but anywhere, but particularly in the area that is going to have adverse effects, and it will, that is not even a question, and we know it on an entire community for the benefit and financial benefit for one individual, so please extend the moratorium until we can figure out how to get ordinances that will protect communities as they have already been established and the health of the residents that live in these areas. Thank you.*

*Dennis Brown on Pond Villa - I spoke before the committee a couple of weeks ago and one of the things that I mentioned there was that I had just left a meeting, a Highland Lake Association meeting in Conference Room 1, and as I was walking up to see what was going on at the meeting, I walked past all the maps on the wall that showed the growth from about 1940 to 1950, and I was taken aback by how much the community has changed.*

*I'm not sure that the zoning has kept up with that. I think we have a much bigger issue, frankly, than just mineral extraction. I spent some time today looking at the farm and farm residential, what's allowed in those two zones and I was amazed. You all, and as well as people in the Highland Lake Association have learned a huge amount over the last year, year and a half, about what impacts the lakes and everything, and I think a whole lot more work needs to be done on zoning, as it applies to mineral extraction, as it applies to farming, etc.*

*One of the items we are going to be bringing forward to you folks here in a few weeks is ways to control phosphorus from manure piles. We've got some horse farms over in Falmouth that we need to deal with that are some of the biggest phosphorus emitters to Highland Lake. Most of the lakes in town, the zoning is either farm or farm and residential. I think if you go back and look at the ordinance of what can be done in farm and farm and residential, you will see that looking at the maps downstairs, that is not the same kind of communities when these were established, and I think it is really time that a huge focus has to be put on the zoning, not just the rules around mineral extraction. Because I think that all the lakes that we have, and we've talked about this and I've spoken with you folks about this before, they are all in trouble. We need to take a hard look at the zoning around those communities for the benefit of Windham.*

*There is a huge amount of tax dollars that comes into town as a result of that, and it didn't appear to me that there has been much emphasis at all on looking at zoning from the committee; they were looking at more ordinances that they could do, and I think you need to take a step back and look town-wide on what needs to be done. Thank you.*

*Scott Campbell - I'm on Lakeside Drive and in 2019 I will be the road president for the association for Lakeside, so this is important for my family, but important for us because Lakeside is where this proposal is going off of. One thing I am also concerned with, and have heard from a lot of people is zoning. I don't know what has or has not occurred but*

*I mirror what everyone else has said, can we really look at zoning in the future? I am going on year number 19 living down there on the lake and we love it, and lots of kids, a lot of them are mine, and I too am asking for an increase of adding 180 days. That is a small amount of time to pay for a multi decade project, and I would like to see Planning.*

*I personally, have not seen anything come forward from the landowner proposing mitigation of how do we control noise pollution, how we control dirt pollution, and the brooks that feed into Forest Lake. I'd love to see an honest effort put forth to address the concerns, because there are a lot of concerns. I am for increasing the 180 days, and ask that we do that. A lot has changed in the 19-20 years since I have been here, and there are a lot more people in this town. I cringe anytime I go near 302 now a days, I'm glad I live on the other side, but it is busy and there are a lot of pits around us. I come through Cumberland and there are pits all around us, and I just question adding another one right there, and water quality is very important to our lake community and our families down there. Thank you.*

*Tanya Marston - I live in Cumberland right down beside Forest Lake, and I was here at the committee meeting the last time, and I would ask for an extension for the moratorium to gain further information. One of the concerns that I have is because this is such a vital importance to the quality of life and also to the environment and to all of the communities. Not only Windham, but also Cumberland and Falmouth because they are going to be right across from where this quarry is being considered.*

*I would ask for the extension to have more time to get a little bit more people involved. I don't think that the Falmouth people up on Poplar Ridge and Grist Mill Drive understand what is actually being proposed here. One of the things that I've experienced since I've been down there, because I live beside the person who wants to make the quarry; I live beside his "homestead" that he put in there, and what happened with Cumberland is the people voted not to have a gravel pit, because he wanted to put a gravel pit in, and then he changed his tune after Cumberland voted for no more gravel pits, and he said he had a house lot. What had happened is, what I'm asking is, when people say they are going to do what they are going to do but then they don't; it's like you can't unclear cut, you can't ungravel pit the stuff, you can reclaim it. He actually got violated by the DEP for Maine because he had a fourteen acre gravel pit there, and what had happened when you have people that are dishonest, if you had people that had transparency, and if you had people that followed the rules, then we wouldn't have to worry about all of this stuff, but when you've got people that don't; what happens when it doesn't? What happens if you let this quarry go in, what will happen is the "no trespassing" signs go up, nobody is allowed to go on; the loop holes go, attorneys make a lot of money. Right now the little bit of research I've done with people that have been affected by quarries with the blasting, is that the construction company hires a blasting company, and then when the people's foundations crack, when their wells fail, they go to the construction people and the construction people say "it's not us, it's the blasting company", and then the blasting company does their footwork and say "no, all our machinery, all our testers show it is not our fault." Because it such a distance, a lag of time, you can't prove the blasting affects. Augusta had gone to them because they had a quarry up there that failed a lot, and the City of Augusta ended up going to court and that exactly what had happened, the attorneys for the blasting company found no fault. So what do you have, you have a lot of people that are affected and only a few that are making the money, and as a community I would ask that you would extend that because this is our rain forest and we don't want it devastated. Thank you.*

*Rebecca Wisner - I live on James Way near the proposed quarry. I know one of the things that is in your whole thought process with extending the moratorium for the quarry,*

*which I am for, is the effect on the people who own that land. I did have a conversation with Mr. Copp before the moratorium was voted in, and I am going off memory, and his plans may have changed since then but he informed me that it was just going to be a three season quarry, that was his idea, and he really wouldn't be working it in the winter time. So if we extend the moratorium it is really a short period of time where he wouldn't actually being doing any work on the land, so it wouldn't have a huge effect on his development process if it were to get approved down the road, just something to keep in mind. But again, that is off memory and if his plans changed, he obviously wasn't going to give me a call. Just something to think about. Thank you.*

Closed at 7:23

[CD 18-330](#)

To receive public comment on the proposed amendment to the Fire Prevention & Life Safety Code, Chapter 95, to add an exception to sprinkler requirements for specific structures.

**Attachments:** [Fire Prevention Code Ch 95 October 2018 mark up](#)  
[Memo Chapter 95 Exception of Group U 9-24-18 \(2\)](#)

*Brent Libby Fire Chief said there is a memo from September 24, 2018 that outlines the amendments. Back history - in 2010 this ordinance was created, it was updated into 2016 when the BOCA codes went away, the original ordinance specified all of the different BOCA uses so they were no longer applicable. When the change was done the Use Group U, which stayed very similar, was not included in 2016 version, which covers agricultural buildings, aircraft hangers, accessory one or two family residences, barns, carports, fences more than six feet high, grain silos, and that are accessory to residential occupancy, green houses, livestock shelters, private garages, retaining walls, sheds, stables, tanks and towers. Those are all the items that fall into that Group Use U, and this amendment would add that exemption back in, so anything that falls into that use group would be exempt no matter how big or small it is from that ordinance.*

*The other adjustment, while we were at it, is at the very end. Originally we had several areas in town that were classified as "no burn zones", which entailed any outside burning at all, which would have been campfires, permitted burns, unpermitted burns. In 2016 after the ordinance was updated I reached out to anybody that lived on any of those streets that were affected, and we got a lot of great feedback back, and what we were able to do, based on those that still had concerns of smoke or medical issues, we were able to establish that if those areas were able to burn with permits, their brush, etc. on the fourth weekends, those who were affected by smoke, could count on that and they could adjust as needed. That would allow those folks to be able to still have an outside campfire, which is something they didn't have. It was a very good compromise, and this would clean up that language at the end of that chapter in the appendixes.*

Closed at 7:25

## **XI. UNFINISHED BUSINESS & GENERAL ORDERS.**

[18-193](#)

To adopt an extension of 180 days to the Mineral Extraction Moratorium Ordinance.

**Attachments:** [18-193 Cover Sheet](#)[Mineral Extraction Moratorium Adopted 20180424](#)[Mineral Extraction Moratorium amended 20180619](#)

*Councilor Nangle said he kept track of who came up and spoke and there were a lot of people that voted for extending it and none that said "don't". He said that tells him how he is going to vote tonight. He said he was not sure they should allow any new quarries. He knows the Mineral Extraction Committee has worked really hard but he really thinks with all of the residential development that is going on he thinks they are all quarried out.*

*He said he believes that violations in other towns should be considered within a quarry application, and one of the problems he sees with these violations is they are not really violations in the sense that they give the operator a certain number of days to come into compliance, and if they do come into compliance it kind of goes away. The harm that it does to the wells, the lake just does not go away after the compliance period. Leave the zoning adjustments to the Long Range Planning Committee, as they are looking at it holistically. He said he never has heard of a three season quarry. He will vote to extend the moratorium.*

*Councilor Cummings echos what the audience said and what Councilor Nangle said. Not too long ago there was a blast not too far from her house at a quarry and she dealt with the blasting before but she had never felt one in her core before. She ran outside to see if something had blown up. She will extend it.*

*Councilor Maxfield said he agrees with the last two Councilors. Being on that Mineral Extraction Committee is tough work trying to find a balance between what everybody thinks. He said to keep in mind that the Mineral Extraction Committee, what they send back to the Council are suggestions and once it comes back they will be able to add, remove to adjust it, and there is a lot of good work in there, but what they send back is not the end all and be all, so don't feel like whatever that committee says is where things will end up, as it ends with the Council.*

*As for the zoning, they are dealing with subdivisions popping up in farm fields, dealing with the water issues, and he wished they had dealt with it all sooner, and he supports extending the moratorium.*

*Councilor Muir disclosed he works for a member of the Copp family, although it is not the gentleman who wants the quarry, and there is no financial gain for Council Muir.*

*Councilor Welch will also support the extension for another 180 and agrees with his fellow Councilors.*

*Councilor Chapman said she forwarded to the Town Clerk, emails from several people for the minutes from Catherine Wright, Erin Hansen and Jean Dolan who sent their comments in opposition of the quarry. (See attached) It was a difficult committee to work through some things and they are still working on some things, and she believes there was a recommendation and tried to look at the zoning. They knew the Long Range Planning is looking at the farm zone. She thinks maybe the whole farm area needs to become a residential zone and not a farm zone because of the growth.*

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

**Opposed:** 1 - Council Chair Haskell

[18-194](#) To approve an amendment to the town's Fire Prevention & Life Safety Code, Chapter 95, regarding an exception to sprinkler requirements for specific structures.

**Attachments:** [18-194 Cover Sheet](#)  
[Memo Chapter 95 Exception of Group U 9-24-18 \(2\)](#)  
[Fire Prevention Code Ch 95 October 2018 mark up](#)

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

[18-200](#) To approve the Town Clerk's roster of Warden and Deputy Warden for the November 6, 2018 election; for districts 25 & 25, Warden: Marcia Blanchard, and Deputy Warden: Paulette Shepard.

**Attachments:** [18-200 Cover Sheet](#)

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

[18-201](#) To set the poll hours and polling location for the November 6, 2018 General & Municipal Election as 7:00 a.m. to 8:00 p.m. at the Windham High School's Main Gym.

**Attachments:** [18-201 Cover Sheet](#)

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

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

[18-202](#) To set the date and time for extended hours of the Registrar of Voters as 4:00 p.m. to 7:00 p.m. on October 30, 2018.

**Attachments:** [18-202 Cover Sheet](#)

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

[18-199](#) To enter into executive session in accordance with Title 1 M.R.S.A. §405 (6) (C) to discuss "the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or

disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency.

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

A motion was made by Councilor Welch, second by Councilor Muir that they enter into executive session. The motion carried by the following vote at 7:39.

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

A motion to return from executive session was made by Councilor Muir, second by Councilor Maxfield. The motion carried by the following vote at 8:07 p.m.

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

Absent: 1- Councilor Nangle

## **XII. Discussion Items.**

[CD 18-345](#) Sign Ordinance Discussion.

**Attachments:** [ME D.O.T. Placement of Political Signs](#)  
[ME D.O.T. Placement of Temporary Signs](#)  
[Gardiner Land Use Ordinance Excerpt re. Political Signs](#)  
[Sign Ordinance - Section 710 - Signs Permitted in All Districts](#)

*Councilor Cummings spoke about an email received in regard to MDOT's rules on political or campaign signs, and the signs not being allowed in rotaries and round-a-bouts, which generated a lot of discussion on the subject.*

## **XIII. Agendas & Scheduling.**

### **XIII. Agendas & Scheduling.**

[CD 18-348](#) Agenda Items Reports.

**Attachments:** [Agenda Items Scheduled 2018 10.12](#)  
[Agenda Items to be Scheduled 2018 10.12](#)  
[Projects and Issues List](#)

*There will be no meetings on October 30th, which is the 5th Tuesday and would help Linda out. Also, November 6th is Election Day and the Charter states Council will not meet on election night.*

## **XIV. ADJOURN.**

A motion was made by Vice Chair Muir, seconded by Councilor Welch, that the be adjourned. The motion carried by the following vote at 8:30 p.m.



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

Respectfully submitted,

Linda S. Morrell  
Town Clerk, CCM