



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Final

### Town Council

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Tuesday, July 28, 2020

6:30 PM

Online Meeting Via Zoom

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To join the meeting remotely, use this link: <https://zoom.us/j/85864954368> You may also call 1-646-558-8656 and enter meeting ID: 858 649 54368.

#### I. Roll Call of Members.

**Present:** 7 - David Nadeau, Tim Nangle, Clayton Haskell, David Douglass, Nicholas Kalogerakis, Jarrod Maxfield and Brett Jones

#### II. Pledge of Allegiance.

Council Chair Maxfield led the Pledge of Allegiance.

#### III. Minutes to be Approved:

[CD 20-145](#) To approve the Minutes of the June 9, 2020 Council meeting.

**Attachments:** [Minutes-Town Council-6-9-2020](#)

**A motion was made by Councilor Douglass, seconded by Councilor Jones, that the Minutes be approved. The motion carried by the following vote:**

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

[CD 20-146](#) To approve the Minutes of the June 11, 2020 Council meeting.

**Attachments:** [Minutes-Town COUNCIL-6-11-2020](#)

**A motion was made by Councilor Jones, seconded by Councilor Douglass, that the Minutes be approved. The motion carried by the following vote:**

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

#### IV. Public Participation.

*The Manager introduced Andrew Watson to the Council and the public. Andrew is a student at the Muskie School of Public Administration, and he has been with us for about three and a half weeks, and he will be with us for another 3 and half weeks.*

*He has been working with different departments, and he is doing a couple of different projects for the town.*

#### V. Councilors' Comments.

## VI. PUBLIC HEARINGS.

### [20-115](#)

To receive public comment and act on proposed amendments to Town of Windham Land Use Ordinance, Chapter 140, Sections 1200 and Appendix A related to Public Safety and Municipal Offices Impact Fees.

**Attachments:** [20-115 Cover Sheet](#)

[TC packet PB recommend PublicSafety-MuniOffice\\_Impact Fee 07-22-20](#)  
[Impact Fees for Public Safety and Town Hall Facilities 07172020](#)  
[PB packet PublicSafety\\_MuniOffice\\_Impact Fee 07-09-20](#)

*There was no public comment.*

*Amanda Lessard Planning Director said they were developed by a consultant, and this is the calculated maximum impact fee that could be charged on new development for their use of public safety services or services from the municipal offices. The Planning Board had a public hearing at their meeting on July 13, they had one member of the public that spoke against the amendment, and the Fire Chief spoke in favor of the amendment.*

*The Planning Board voted unanimously 4-0 to not recommend approval of the impact fees. Their comments were that on top of recently increased permit fees they felt it would be burdensome. There was discussion that the town should be paying for services that the whole community uses based on taxes.*

*Councilor Nangle and Councilor Nadeau had a couple of questions.*

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

**In Favor:** 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Douglass, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

**Opposed:** 1 - Councilor Haskell

### [20-128](#)

To receive public comment and act on a proposed Growth Ordinance, Chapter 116, of the Code of the Town of Windham and Amendment to the Official Land Use Map of the Town of Windham, Maine, to change the boundary of the Retirement Community and Care Facility Overlay District.

**Attachments:** [20-128 Cover Sheet](#)

[TC packet PB recommend Growth Management 07-22-20](#)  
[Windham-Growth-Management-Ordinance draft 061520](#)  
[RCCFO revised](#)  
[Building Permit count 1980 to 2019](#)

*No public comment*

*Amanda Lessard said this is a new Growth Management Ordinance that is permissible by State law for municipalities to enact a Growth Ordinance. There are some parameters within the State law that must be followed. The limit of permits must be set at 105% of the average of the permits issued within the last 10 years. She said included in the*

packets was building permit data from 2019 that shows the number of permits from the last 10 years as 89, so the minimum permit cap allowed would be 93. The draft ordinance proposes a limit of 100 growth permits, per year, to be allocated at 9 per month. Unused monthly permits will be carried forward to the next month. The 100 permits would be broken down by building type, and 83 would be for single family detached dwellings, 14 for 2 family structures and 3 for multi-family dwelling structures. She went on to further explain the ordinance.

Councilor Nadeau feels a 100 permits is a little low and recommends they increase to 110.

Councilor Nangle said he supports sticking with 100.

Councilor Kalogerakis said that we increased the building permits by quite a bit, and with the impact fees that were just approved, will that slow down building or doesn't that matter to them? Councilor Douglass said it will not slow it down. He asked if this was a forever deal or can it be revisited later on?

Amanda said statute requires we revisit a Growth Ordinance, also, the ordinance itself has language that directs the Council to look at it every three years.

Councilor Maxfield received an email about developers being able to figure out how to game the system to lock up those growth permits, and discussion followed.

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

**In Favor:** 5 - Councilor Nadeau, Vice Chair Nangle, Councilor Douglass, Council Chair Maxfield and Councilor Jones

**Opposed:** 2 - Councilor Haskell and Councilor Kalogerakis

### [20-151](#)

To receive public comment and act on proposed amendments to Town of Windham Land Use Ordinance, Chapter 140, related to backlots.

**Attachments:** [20-151 Cover Sheet](#)

[Backlots draft 08-06-20 KMC](#)

[TC packet PB recommend Backlot 07-22-20](#)

[Backlot Standards pre 10-2017](#)

*Public Hearing:*

Dwight Woodman said he was in favor of the amendment so long as they could serve two backlots as a driveway, but the driveway needs to be sufficient to get the emergency vehicles in there.

Mike Patnaude said he is in favor of this. He asked if this passed tonight and approved, does it take action within 30 days? Reply was yes.

*Public Hearing Closed.*

Councilor Nadeau said the last time this was in front of the Council this was not the direction they gave staff. They were told that they would like a backlot with one dwelling, not two. As soon as you start to read this, it tells you how you can extend that backlot, granted, once you extend it you have to make it a street, but this is just another way to

have sprawl. The idea of a backlot was to have a 50 foot right-of-way with a driveway to access one dwelling. He cannot support this the way it is written. He recommends that they go with what was discussed prior.

Councilor Douglass said Dave Nadeau makes a great point, and is leaning towards agreeing with him.

Amanda said the draft that was previously looked at, and went to them, was a modification to what the backlot standards had been in place and were removed in October 2017. The Council's discussion at the meeting, before you sent it to the Planning Board, was a split decision, there was no clear consensus on one lot or two.

You asked the Planning Board to weigh in on that. The language went to them with the same language that you saw and refers to a backlot being accessed by a driveway. Based on our current definitions in our ordinance, a driveway can serve two lots, that would be the interpretation that two lots could be served, it could be backlots because they could use the same driveway. The Planning Board's recommendation was unanimously to support the amendment that one driveway could serve two backlots.

After more discussion the Council decided to postpone the vote.

Councilor Nangle moved to postpone this until August 11, 2020, second by Councilor Douglass.

Mike Patnaude asked what the motion meant? The Chair said the motion is to postpone the vote to the next meeting, where the language will be revised and clarified per tonight's discussion, and to allow one house on the backlot.

**A motion was made by Councilor Douglass, seconded by Councilor Nadeau, that the Order be postponed to August 11, 2020. The motion carried by the following vote:**

**In Favor:** 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Douglass, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

**Opposed:** 1 - Councilor Haskell

### [20-159](#)

To receive public comment and act on a new application submitted by Eagle Sushi & Steakhouse I Inc. and to find that the requirements of 28-A M.R.S.A. § 653 have been met for a new Liquor License.

**Attachments:** [20-159 Cover Sheet](#)

[Eagle Shusi & Steakhouse New Liquor License](#)

[Eagle Sushi-B.G.check](#)

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

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

## **VII. CONSENT AGENDA.**

Councilor Douglass moved to take the Consent Agenda in its entirety, second by Councilor Nangle. Passed with an Unanimous vote.

**A motion was made by Councilor Douglass, seconded by Vice Chair Nangle, that the Consent Agenda be approved. The motion carried by the following vote:**

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

[20-149](#) To find that the requirements of Section 653 of Title 28-A have been met and to approve an application submitted by Apple American Group LLC d/b/a Applebee's Neighborhood Bar & Grill for an Extension of License on Premise.

**Attachments:** [20-149 Cover Sheet](#)  
[Applebee's Extension of License on Premise](#)  
[Applebee's Liq Addendum](#)

[20-154](#) To find that the requirements of Section 653 of Title 28-A have been met and to approve an application submitted by Rustler's Windham Inc. for an Extension of License on Premise.

**Attachments:** [20-154 Cover Sheet](#)  
[Rustler's Extension of License on Premise](#)

[20-157](#) To approve a new Victualer's permit application submitted by Min Qiang Lin d/b/a Eagle Sushi & Steakhouse Inc. located at 818 Roosevelt Trail.

**Attachments:** [20-157 Cover Sheet](#)  
[Eagle Sushi & Steakhouse-New Victualer's permit](#)

[20-158](#) To find that the requirements of Section 653 of Title 28-A have been met and to approve an application submitted by Min Qiang Lin d/b/a Eagle Sushi & Steakhouse I Inc. for an Extension of License on Premise.

**Attachments:** [20-158 Cover Sheet](#)  
[Eagle Sushi&Steakhouse I Inc-Ext of Lic on Premise](#)

[20-160](#) To approve a new Victualer's permit application submitted by FQSR, LLC d/b/a KBP Foods (Kentucky Fried Chicken), located at 755 Roosevelt Trail.

**Attachments:** [20-160 Cover Sheet](#)  
[KFC-New Victualer's Permit](#)

[20-161](#) To approve a new Victualer's permit application submitted by FQSR, LLC d/b/a KBP Foods (Taco Bell), located at 755 Roosevelt Trail.

**Attachments:** [20-161 Cover Sheet](#)  
[Taco Bell New Victualer's Permit](#)

[20-162](#) To find that the requirements of Section 653 of Title 28-A have been met

and to approve an application submitted by Hana Asian Cuisine Inc, for an Extension of License on Premise.

**Attachments:** [20-162 Cover Sheet](#)

[Hana Asian Cuisine-Extension of Lic. on Premise](#)

## VIII. UNFINISHED BUSINESS & GENERAL ORDERS.

### [20-127](#)

To create a Public Dirt Road Sub-Committee assigned to prioritize the repair, reconstruction and pavement of town-owned dirt roads and appoint Councilors Maxfield and Nadeau to serve as members.

**Attachments:** [20-127 Cover Sheet](#)

[Public Dirt Road Sub-Committee Draft 2020 0728](#)

*Manager Tibbetts said that from a budgetary perspective they could look at the public dirt roads that we have and do a review of those roads. Each member would review the roads by rating them, then meet and make a priority listing, so at budget time we would see which roads we want to allocate funds to for repair, reconstruction and/or pavement. Councilor Nangle thought it should be a public meeting so people can come and speak.*

*Councilor Haskell said he thinks they need to take care of our paved roads that are in dire need versus our four or five miles of dirt roads. He would like to know how much it costs to maintain that dirt road compared to a paved road?*

*Councilor Nangle asked if they should add a member of the public to the committee?*

*Councilor Nadeau said that several years ago we put X amount of money in the town budget for taking care of these roads, and this is a way to go out and assess these roads to see what the best way is to try and rehabilitate them.*

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

**In Favor:** 6 - Councilor Nadeau, Vice Chair Nangle, Councilor Douglass, Councilor Kalogerakis, Council Chair Maxfield and Councilor Jones

**Opposed:** 1 - Councilor Haskell

### [20-150](#)

To award a contract for architectural services to Harriman in the amount up to \$70,500, said amount to be paid from account TM-2021-003 for the Public Safety Building renovation and expansion project, and to authorize the town manager to execute a contract and to take any other necessary action related thereto.

**Attachments:** [20-150 Cover Sheet](#)

*Manager Tibbetts explained that the bond was approved for the renovation of the Police Station and new addition on the Fire Station. They put an advertisement out to find an architectural firm to develop a floor plan, develop a criteria for a minimum bid specification to help us put together the RFP to put this out for a Design Build Construction Project.*

*They had six different firms respond, and the prices ranged from \$60,000 to \$120,000.*

*There were add-ons of all these different prices. The Construction Committee met, went through the applications, interviewed a couple of firms and the firm that came out on top was Harriman Associates. Their firm had the greatest combination of expert representatives within their original bid quote to get us to where we needed to be for the least amount of money.*

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

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

### 20-155

To award a contract for Bonding Agent services to Moors & Cabot in the amount of \$43,520, said amount to be paid from TM-2021-003, for various approved capital expenditures, and to authorize the Town Manager to execute a contract and to take any other necessary action related thereto.

**Attachments:** [20-155 Cover Sheet](#)  
[Approved Town Warrant](#)  
[Moors & Cabot Inc.](#)  
[Moors Cabot Recent Issues](#)  
[Northeast Municipal Advisors LLC](#)  
[Northeast Municipal Advisors Recent Issues](#)

*Manager Tibbetts explained that the town meeting authorized the issuance of a bond for the Police/Fire, and also some equipment, and what the Bonding Agent will do for us is they will write the perspective that is issued out to several different Clearing Houses, and they will take care of all the bonding setup; everything from writing out the perspective, all the way through the issuance of it. They will help us get a rating through Moody's and Standard and Poor's, and they will contact potential bidders and bring them to the actual bidding activity. Their assistance is critical to go to the bond market.*

*The other option is not to go through a private agent like what is before you, and go with a Maine Bond Bank, but the limitations on the Maine Bond Bank is you can't refinance your bond, and you would be tied into a higher interest rate.*

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

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

### 20-156

To adopt a resolution to support Windham's participation in the Workers' Compensation Safety Incentive Program affirming the town's commitment to a safe and healthful workplace.

**Attachments:** [20-156 Cover Sheet](#)  
[Memo Worker's Compensation Safety Incentive Program](#)  
[WC Safety Incentive Program Resolve](#)

*Phyllis Moss Human Resources Director said by joining this program it would reduce our Worker's Comp cost by as much as 10%. There are significant requirements but we have never been in a better place.*

*She said we recently hired a Safety Compliance Officer Tess Konczal, who has hit the ground running. Her attention to detail, her technical skills and her inquisitive nature are a perfect match for the position. She strongly encourages the Council to sign this Resolve to participate in this program.*

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

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

### 20-163

To amend the Tax Increment Finance and Credit Enhancements Agreements Policy to establish an expense approval process and timeline.

**Attachments:** [20-163 Cover Sheet](#)

[TIF Policy ADOPTED 20171024](#)

[TIF Policy Proposed Amendment 2020 0728](#)

[TIF Funded Projects](#)

[TIF Account Status](#)

*Manager Tibbetts said in the Council packet under section 5, TIF Districts, they added in letter B, which basically describes how the expenses of the TIF funds are reviewed and then determined to be prioritized. He said this will come back to the Council for final approval during our budgetary process.*

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

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

## **IX. Council Correspondence.**

### CD 20-149

Southern Maine Agency on Aging - Letter

**Attachments:** [SMAA Thank You](#)

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

*Manager Tibbetts said that Brand Road work will begin in early August.*

*The Falmouth Road and Route 202 traffic light will begin the first part of September.*

*The sidewalk on Route 35 will begin in mid-August.*

*They have received a number of the Marijuana licenses in the different categories, and we will begin to process those and break them down.*

*Portland Waster District is working on our potential sewer for North Windham has seven different engineering firms that have expressed an interest to bid on that project.*

*Portland Water District will be applying for a grant to see how those costs can be offset.*



**XI. Committee Reports.****A. Council Subcommittees.**

1. Appointments Committee.

*No report.*

2. Finance Committee.

*No report.*

**B. Other Committees.**

1. Long Range Planning Committee.

*Amanda Lessard said they have a webinar tomorrow night on the Open Space Plan. They will be reporting on what they have heard from the survey responses.*

2. Parks & Recreation Advisory Committee.

*No report.*

3. Windham Economic Development Corporation

*Councilor Kalogerakis said they had a Zoom meeting, and they are working on the South Windham Fire Station. They put together a package to see if there is any interest by a developer.*

*Tom Bartell said they are very involved in the COVID-19 Outreach Program that the town received a grant for. The WEDC and the Sebago Lakes Region Chamber of Commerce are working on the Outreach together. Between the Chamber's Outreach Day and onsite visits they have reached over 300 businesses with information on COVID 19 and they are letting the business know, nicely, what their responsibilities are.*

*They have taped three PSA's that are running on cable in rotation. They have provided advertising on a weekly basis in the local newspapers, and they are purchasing a number of masks and other PPE supplies to distribute to businesses and their customers. They will also be handling any complaints that come in on the businesses. There are also A-frame signs and posters around town with information on them.*

4. Highland Lake Leadership Team.

*No report.*

5. Natural Resources Advisory Committee.

*No report.*

6. Public Easement Advisory Committee.

*Councilor Nadeau reported that they have reviewed some of the roads and will be getting back out to review the rest.*

## **XII. Discussion Items.**

### [CD 20-139](#) Westbrook Housing Presentation - Affordable and Senior Housing.

In January, the Council discussed having Westbrook Development Corporation and Westbrook Housing hold listening sessions for “Windham Affordable and Senior Housing.” Those sessions were held in February and March prior to the COVID-19 pandemic outbreak.

The attached summary represents the findings along with our comprehensive plan and demographic information. Should the Council determine next steps are necessary, staff is recommending these items be considered for the workshop discussion:

1. Identify market cost housing for Windham in several categories;
2. Learn and examine options to fund various housing opportunities ranging from work force, affordable and senior housing, and how our demographics indicate the level of need.
3. Identify location options by zoning, transportation, walkability and other pertinent factors.

**Attachments:** [CD 20-139 Discussion Cover Sheet](#)  
[Windham Affordable Housing Listening Sessions Report](#)

### [CD 20-140](#) Windham Website Update.

The Town worked with CivicPlus to provide us with a “Basic Redesign” at no cost as part of our initial 2013 contract.

\*The timeline from start to finish was estimated to take from 28 to 30 weeks (by CivicPlus).

\*Throughout the process, feedback was solicited from the community and Town employees which enabled the team in establishing goals for the new website design.

\*Due to the team’s diligence in completing all tasks on our end as quickly as possible, the project was completed in 25 weeks! The result is a beautiful website that provides accurate, non-editorial content that informs, educates and enlightens citizens about the functions, services, activities, issues, operations, and projects of Windham’s municipal government. In addition, it facilitates, where appropriate, the delivery of direct services as provided by Windham’s municipal government to its citizens and other

customers.

\*Going forward, we have one employee, Tammy Hodgman, who will serve as the Town's Website Coordinator. She will facilitate website content and design as part of her new role.

**Attachments:** [CD 20-140 Discussion Cover Sheet](#)

[Website Policy](#)

[New homepage photos](#)

[New Navigation Buttons](#)

[Homepage Calendar feature](#)

[Homepage newsflash items](#)

[CD 20-104](#) Shaping Growth - Rural Performance Design Standards.

**Attachments:** [TC packet LRPC rural zoning 07-23-20](#)

[GrowSmart Maine Maximum-Lot-Size-and-Densities-Rural-Zones](#)

[CD 20-148](#) Public Request to Change Chapter 227 - Vehicles & Traffic Ordinance.

The Town received this request for changes/additions to the Vehicles & Traffic Ordinance from residents on Fox Run Road subdivision. The impetus for this request came from an eighteen-wheeler parked on Fox Run Road. Based on current state law the Town's ability to manage the issue was limited. The solution is to modify our current language.

The recommendation to move forward would be to review the items on the requested petition, examine other areas of applicability with revisions for an ordinance amendment. We would look to have this to the Council in September.

**Attachments:** [CD 20-148 Discussion Cover Sheet](#)

[Chapter 227 Vehicles and Traffic](#)

[Fox Run Road petition](#)

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

### **XIV. ADJOURN.**

**A motion was made by Vice Chair Nangle, seconded by Councilor Douglass, that they be adjourned. The motion carried by the following vote at 9:53pm:**

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

Respectfully submitted,

Linda S. Morrell  
Town Clerk, CCM