



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Town Council

Tuesday, September 15, 2020

6:30 PM

Online Via Zoom. See agenda for details.

Special Meeting - Marijuana Business License Application Review

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.

III. UNFINISHED BUSINESS & GENERAL ORDERS.

[20-187](#) To review Adult-Use Marijuana Store applications and award two (2) licenses for the term of one year.

Attachments: [20-187 Cover Sheet](#)
[Marijuana Licensing Ordinance - Chapter 160](#)
[Rating Worksheet for Applicant Submissions](#)
[Business License Summary Business Lease Ownership](#)
[Worksheet Summary Total](#)

All seven Councilors were present for the start of the meeting. Council Haskell said he was going to defer from tonight's meeting due to moral reasons. He said he voted against this from the get go, and he does not think it is right for him to take part in this, he is going to abstain and not vote.

Manager Tibbetts explained that we had received seven applications for two Adult Licenses. Council members have received copies of all the applications, either by digital or a hard copy. He said they have a summary spreadsheet that they will walk through to tally the votes.

He explained that they can break those votes down into to broad categories, one is under Operational Standards and explained there were twelve points available in Section 160-7 H.1. There were three other sections that he categorized as Lease/Ownership and other Retail Marijuana Businesses in Maine and/or any violations that might be on record. Those would be tallied into a number and carried across.

Kristin Collins Town Attorney said any Council questions to the applicants will be done right after their three minute opportunity to present. She said there are several other things the applicants have to meet in order to get their license or things that could justify

their denial, so when you present each application and go into the scoring, clarify whether our Staff review uncovered any reasons why the applications should be denied.

The Manager said that in going through all the applications and doing the background checks, etc. Staff found none of the applicants who had submitted applications would be deemed denied for not meeting any of the set criteria requested. They are all viable applicants at this point.

The Manager explained that our Ordinance says we need to post a public hearing for the Caregiver Licenses, Medical Retail, Cultivation, and Manufacturing for the award of those licenses. Staff has gone through all of those applications, and we had one party who received a notice for additional information. The issue is, we did not get the ad out for those seven days prior to the meeting of next Tuesday. In consultation with our Attorney, we would like to continue this public hearing and bring all of those remaining licenses up on September 22nd so there is no delay to the folks who have submitted applications for those other Marijuana Businesses. All of those other applications that have been submitted are currently operating.

Public Hearing:

Shaw Dwight - I am the owner and the operator of Paul's Boutique. After serving on the Windham Marijuana Task Force, and being part of this process for almost two years now, I know we are all glad that we have finally arrived at tonight's important meeting. I simply would like to make the following points.

Thank you for your time and commitment to a complex and thorough process. I know it has been challenging and emotional. You have my assurance that if granted an Adult Use Retail License, Paul's Boutique will continue to operate in the same accountable, professional, and community oriented manner that we've done since starting, which brought us to Windham in 2017. I look forward to continuing to grow Paul's Boutique in Windham, and add good paying jobs to the local economy.

In closing, I recognize that no matter how you vote tonight, some will criticize your decisions, and I appreciate your willingness to tackle this controversial issue. Thank you for your time.

Joel Pepin - Thank you Councilors for your effort on this. I am kind of communicating some of the same information and appreciation that Shaw just mentioned. It has been a long road to get here and a lot of time and effort and education and willingness to learn on your behalf. Also, thank you to the Town's Attorney Kristin who has helped keep this process on track.

I am Joel Pepin co-founder of Jar Cannabis Company operating a Caregiver Retail Store in Windham. Specific to our Adult Use application, and I know it is in our application but I want to make everyone aware just in case you missed it. The other co-founder of my business is my business partner Ryan, he is also a Caregiver who operates a Medical Caregiver Store up in Newry, and has been doing so since March of 2019. I am bringing it up, specifically, for the one point awarded to owners that have experience running a Retail Marijuana Business that is in a different town outside of Windham.

Jar has recently invested, this year, significant resources in building a Cultivation Facility in town creating a dozen new jobs. Starting construction in January and brought online now. As an experienced operator in town our application was put together primarily by myself and other members on my staff. Everything presented to you was written by me

and my team, no outside attorneys or counselors, it comes strictly from industry experience. Looking at what we are doing as a business, I think out of all the applicants Jar, in terms of professionalism, in terms of consistency, in terms of staff professionalism, more than anything I also believe we have the greatest control of actually making sure we have safely tested products available and the ability to supply an Adult Use Store relative to our competition. I know there are no points in this specific application process that will reflect this but if awarded a license, JAR would be ready to transition to Adult Use and exercise our license as quickly as possible pending the local authorization approval from the town at our Cultivation Facility in Windham. Thank you for your time and effort.

Maggie Terry - Good evening Councilors I have Legal Leaf here in town. It is hard to believe that it has been two years since I first brought this up to Council, the opportunity to open up an Adult Retail Store. It has not been an easy subject for the town to struggle with, as such. I want to thank all of those involved. It is refreshing and exciting to see Windham moving forward with a proactive Council at its helm.

I am here tonight to hopefully be awarded this opportunity that I have worked hard for. I have been involved with the Cannabis industry for many years, and I have been a Caregiver for the past four years. It is that experience, as well as owning several successful businesses, that brings me here today. We own the building at 4 Whites Bridge Road, and we want to vertically integrate it with my other Cannabis businesses, and this store allows me the outlet to sell my wares. We are well proven, we are good stewards of this industry and we have been good stewards of this town.

We moved here and took an eyesore of a building and made it a vibrant business park. I belong to the WEDC, we donate, volunteer for the betterment of the community and we pay a lot of taxes. I hope you see my experience and you allow me for what I have worked so hard for.

I want to say COVID-19 has changed all of our lives. Who would have thought Cannabis would go from a bad gateway drug to being essential to our community. The virus has reminded us of who we are and what is important in our life. For all of those essential front-line workers, thank you for what you do, and for all the rest of you, stay healthy, stay safe and hold on to the ones you love. Thank you.

David Voyeur with Kind & Co. and I wanted to echo a lot of the sentiments said before me. It has been a long journey here, thank you for your hard work. Kind & Co. has assembled a really great team. Three owners, Ben, Mark and David. David Macheseny has partnered up with them as Caregivers. David Macheseny is the founder and owner of Pratt Abbot. He has been doing that for nearly three decades, I think he has seen something with Ben and Mark, and has wanted to partner and work with them to get into the Cannabis industry. I think they would make a great team. They have been doing a great job in Windham, so far, with the Caregiver Store Front and their Cultivation. I think they would bring their professionalism and experience that Pratt Abbot has and bring it into the Cannabis industry. We appreciate your consideration tonight. You have a lot of fate in your hands.

David Whitten - Good evening Town Councilors. I wanted to say thank you for all the time you have spent on this, I am sure it was not easy going through all of those pages of all those applications. It has been a long road to get to this point, and it is amazing to see the turn around and how things change from the old Town Council to the new Town Council. I appreciate your time.

We put in our applications, and I think we have already proven ourselves as being the operator who has been here the longest. We have not had any issues, we strive to constantly improve how we do things at the store. We are using the state of the art POS systems, we are ready to go to Adult Use, we only have to change a few things and do a little remodeling in the store. I appreciate your consideration, and I think we worked really hard, we pay a lot of taxes, and we do a lot of things in the community. I hope that we get it, I think there is a lot of good people to consider for this, you do not have an easy job. Thank you very much.

Andrew Keeley - Good evening, I represent 839 Roosevelt Trail with Alternative Essence. I wanted to start by saying "Thank You" to all as being part of this process. I know it has not been easy, it has been a long road. We have not been there for the entire road but are happy to see this through, and hopefully be a part of the future here in Windham.

After submitting our application, we have received pending Conditional Use for the State License for our facility in Portland. We do anticipate on utilizing the Adult Use License for that location as well as the Cultivation. I want to point out that it might not just be one or two other operators that have the ability to supply their store from the ground up. We are currently undergoing a cultivation facility build-out, as well, to stock our shelves with more of our own products and the others as well. We look forward to working with other vendors in the Town as we have in the past. Ideally now, in a different way. I want to thank you again, and if there are other questions you might have please feel free to ask.

Public Hearing Closed.

Councilor Nangle said to the two vendors that get selected tonight, "this probably goes without saying, but everything you submitted in your application, we are going to hold you to it. If you said you will have somebody at the door, there had better be somebody at the door. If you are going to use a certain system to check I.D.'s, that system better be there and up and running. We will hold you to this, just be aware of that."

The Manager explained, for the public's benefit, that the average application was well over 100 pages, and it was packed with a lot of data and information. Staff has put a ton of hours trying to read through them and understand them. He thanked the applicants for providing that insight about their business and everything we learned about it, it was fascinating.

He explained how the spread sheets were set up and how they would work for scoring the applicants.

Kristin wanted to make sure they knew that for each point category that allows for a range, that those numbers will be averaged to produce the final points assigned. It was also explained that in column K that every applicant would receive a point for having a Lease or Ownership and a point awarded if the applicant has operated a Retail business outside of Windham.

Kristin Collins said for the record that she would like it noted that if any of the Councilors deducted points for the Operations Plan or have any reasons why they gave the number they did to the Retail line, please go ahead and say it for the record.

The Councilors said they just want to give their totals, and they did not want to explain anything. Kristin said if they had notes on their paperwork they should turn those in so that it will make it clear so people would know why they were not chosen? They said they had their spreadsheets that they could turn in to Barry.

Scoring began, please see the attached spreadsheet with the tallied results.

After Paul's Boutique, Jar Co., CannaRX and Sticky Bud Farm's points had been given there was discussion on what does a Retail Business actually mean to earn the 1 point? Councilor Nangle felt if they paid retail sales tax, then they would call it a Retail Business. Councilor Maxfield said to him Retail meant Medical Retail Stores, an actual store front.

A straw poll was taken to see whether they would consider paying sales tax or actually having a Retail Store would be the criteria for receiving the 1 extra point.

Kalogerakis - sales tax

Nadeau - sales tax

Douglass - sales tax

Maxfield - retail

Nangle - sales tax

Jones - sales tax

The poll decided that they would accept the paying of sales tax would qualify and tally resumed with Kind & Co., Alternative Essence-C&C Lakeside and Legal Leaf.

Before Legal Leafs points were given Councilor Maxfield asked Kristen for clarification under Section J, he said it did not offer a 0. Kristin said it is 1-3 points if they have demonstrated that they have operated a Marijuana business, so they would get 0 points if they had not.

All of the Councilors asked to amend their Retail points (orange column) for Alternative Essence as they had not operated a Marijuana business.

Manager Tibbetts read the totals for each applicant:

The two top applicants were Paul's Boutique and CannaRX-Windham RSL

Attorney Collins said where so much emphasis was placed on sales tax, if Staff could verify for the top four applicants, that they did collect sales tax in some of their jurisdictions. The Council will still take a vote to award those two licenses tonight, but if there is any report from the town that the information cannot be verified, we would have to bring it back up on the 22nd. She asked that the Town not hand out the paper with the license until it is verified.

Councilor Nangle moved to award one (1) license each for the purpose of Adult Use Retail Marijuana Sales to Paul's Boutique and CannaRX - Windham RSL based on verification of retail sales tax collection. second by Councilor Douglass.

Councilor Jones said, personally, he would give licenses to all of them, and let business sort out who survives and who doesn't. He doesn't think this was the right way to go about it.

Councilor Nangle asked if a licensee does not have conformance with zoning, that would make their application void, correct? Kristin said their permit would be revoked.

Vote In Favor of the amendment:

Nangle - Yes

*Nadeau - Yes
Douglass - Yes
Kalogerakis - Yes
Jones - Yes
Maxfield - Yes
Passes - 6-0*

Vote on the Motion as amended:

*Nangle - Yes
Nadeau - Yes
Douglass - Yes
Kalogerakis - Yes
Jones - Yes
Maxfield - Yes
Passes - 6-0*

Councilor Nangle moved to continue the public hearing to September 22, 2020, second by Douglass.

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

Abstain: 1 - Councilor Haskell

IV. ADJOURN.

A motion was made by Councilor Nadeau, seconded by Councilor Douglass, that they be adjourned. The motion carried by the following vote at 8:22 p.m.

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

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

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Respectfully submitted,

Linda S. Morrell
Town Clerk, CCM