



# Town of Windham

Town Offices  
8 School Road  
Windham, Maine

## Meeting Minutes - Final

### Town Council

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Tuesday, May 25, 2021

6:30 PM

Remote Via Zoom

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**To Join the meeting remotely use this link: <https://us02web.zoom.us/j/82323695753> or you may call 1-646-558-8656 and enter meeting ID: 823 2369 5753.**

In accordance with Public Law Chapter 617 adopted as emergency legislation by the Maine State Legislature on March 17, 2020 and signed into effect by Governor Mills, 1 MRSA § 403-A permits public proceedings through remote access during the declaration of state of emergency due to COVID-19.

Zoom will be the meeting platform used by both the Council and the public. Information about using Zoom is available at <https://support.zoom.us/hc/en-us/articles/115004954946-Joining-and-participating-in-a-webinar-attendee->.

Please note that members of the public will need to use the raise your hand feature in Zoom or type \*9 on the phone to be called on and heard during the public testimony portion of the agenda.

If you prefer, you may also email the Council at [TownCouncil@windhammaine.us](mailto:TownCouncil@windhammaine.us) prior to the meeting with your thoughts on an issue and if you would like, please note that you would like the email read into the record during public participation or during that agenda item. Please keep in mind we request stated comments to be three minutes or less.

The meeting will be recorded and broadcast live on WindhamTV (Channel 7) and the Town's Facebook page.

#### **I. Roll Call of Members.**

*Councilor Nangle arrived at 6:37 p.m.*

**Present:** 6 - David Nadeau, Tim Nangle, Nicholas Kalogerakis, Jarrod Maxfield, Mark Morrison and Brett Jones

#### **II. Pledge of Allegiance.**

**Council Chair Nadeau led the Pledge of Allegiance.**

#### **III. Minutes to be Approved:**

[CD 21-092](#) To approve the Minutes of the May 11, 2021 Council meeting.

**Attachments:** [Minutes-Council-5-11-2021.pdf](#)

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

**In Favor:** 5 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison and Councilor Jones

**Absent:** 1 - Councilor Nangle

#### **IV. Adjustments to the Agenda.**

#### **V. Public Participation.**

*None*

#### **VI. Councilors' Comments.**

*None.*

#### **VII. PUBLIC HEARINGS.**

##### [21-071](#)

To receive public comment and act on a proposed Restriction of Vehicle Weight on Posted Ways Ordinance, Chapter 192 of the Code of the Town of Windham.

**Attachments:** [21-071 Cover Sheet.pdf](#)

[Ordinance Restricting Vehicle Weight on Posted Ways KMC edit.pdf](#)

[Ordinance Restricting Vehicle Weight on Posted Ways KMC edit CLEAN.pdf](#)

*Doug Fortier Public Works Director said he sent this to Kristin Collins our town attorney to look it over. This was previously discussed in a workshop about a month ago. It allows us to post and have the Police Department enforce our ordinance, and not be based on the DOT's ordinance.*

*Doug said when Windham posts a road, we do not go with frozen or not frozen., and one the road is posted, we keep it posted, and this way it protects the roads much better. There are exemptions, i.e. home heating oil, farm related materials, etc.*

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

**In Favor:** 5 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison and Councilor Jones

**Abstain:** 1 - Councilor Nangle

##### [21-101](#)

To receive public comment and act on the proposed amendments to the Surface Water Protection Ordinance, Chapter 142, of the Code of the Town of Windham.

**Attachments:** [21-101 Cover Sheet.pdf](#)  
[Surface Water Protection - Chapter 142 revised 04-05-21.pdf](#)  
[TC memo NRAC Shoreland Surface Water 04-06-21.pdf](#)  
[2021 Recommendations for Prioritizing Windham's Waterbodies.pdf](#)

*Manager Tibbetts said it was on our last agenda, and Council asked for this to be broken into three parts. Amanda Lessard said this is a proposed change to the Surface Water Protection Ordinance. The Phosphorus and Stormwater Control Standards currently apply to the Highland Lake Watershed. This is a recommendation from the Natural Resource Advisory Committee to expand those standards to the Shoreland Zone in town. The Resource Protection District, Stream Protection District, Limited Residential District and the General Development District. She also would require projects to have double erosion control in the Shoreland Zone.*

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

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

[21-115](#) To receive public comment and act on a new license with name change for a junkyard/automobile graveyard licensed to Michael Bryant d/b/a SOS Auto Salvage and currently owned by Lewis Weatherby at 26 Anthoine Road.

**Attachments:** [21-115 Cover Sheet.pdf](#)  
[M Bryant Request to Postpone Order.pdf](#)  
[Junkyard Memo.pdf](#)  
[Junkyard Name Change.pdf](#)  
[Winslow Letter.pdf](#)  
[26 Anthoine Rd Legal Direction to CEO.pdf](#)

*Councilor Nangle moved to postpone Order 21-115 to the next regularly scheduled Council meeting of June 15, 2021, second by Councilor Kalogerakis.*

*Council Chair Nadeau noted that this public hearing will remain open and will be continued on June 15th.*

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

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

[21-120](#) To receive public comment and act on an application submitted by Jacko Labs LLC to be located at 639 Roosevelt Trail, for a new Marijuana Manufacturing Facility, Tier 1. Application received in the Clerk's Office on May 10, 2021.

**Attachments:** [21-120 Cover Sheet.pdf](#)  
[Jacko Labs LLC- Addendum.pdf](#)

*No Public Comment.*

**A motion was made by Vice Chair Maxfield, seconded by Council Chair Nadeau, that the Order be approved. The motion carried by the following vote:**

**In Favor:** 4 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield and Councilor Jones

**Opposed:** 2 - Councilor Nangle and Councilor Morrison

## **VIII. CONSENT AGENDA.**

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

[21-098](#) To make an appointment to the Town Council.

**Attachments:** [21-098 Cover Sheet.pdf](#)

*Council Chair Nadeau said they interviewed two candidates on May 18, 2021.*

*Councilor Maxfield nominated Ed Ohmott.*

*Councilor Kalogerakis nominated Kevin Kimball.*

*Vote In Favor for Mr. Ohmott: 5*

*Opposed: 1 (Kalogerakis)*

*Ed Ohmott will fill the vacant Councilor At-Large seat until the next Municipal election on November 2, 2021.*

*Councilor Nadeau and Maxfield thanked the two applicants for stepping up and helping the Council round-out the year.*

[21-087](#) To accept nominations for and appoint a councilor to the Appointments Committee.

**Attachments:** [21-087 Cover Sheet.pdf](#)

*Councilor Maxfield nominated Councilor Nangle.*

**Vote for Councilor Nangle.**

**In Favor: 6-0**

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

[21-088](#) To appoint a Councilor to the Natural Resources Advisory Committee.

**Attachments:** [21-088 Cover Sheet.pdf](#)

*Councilor Nangle moved to postpone Orders 21-088 & 21-089 to the June 15, 2021 meeting, second by Councilor Kalogerakis.*

*The reason was to give new Councilor Ed Ohmott the opportunity to be nominated to one of the vacant committee seats and to have all Councilors involved.*

*Councilor Jones asked if this was for all three appointments? The answer was that it was just for the Natural Resources Advisory Committee and the Marijuana License Fee Committee because they already voted on the first one.*

*Vote to Postpone to June 15, 2021:*

*In Favor: 2 (Nangle & Maxfield)*

*Opposed: 4 (Nangle, Kalogerakis, Morrison, Jones)*

*Failed.*

**A motion was made by Vice Chair Maxfield, seconded by Councilor Nangle to appoint Councilor Jones to the Natural Resources Advisory Committee. The motion carried by the following vote:**

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

[21-089](#) To appoint a Councilor to the Marijuana License Fee Committee.

**Attachments:** [21-089 Cover Sheet.pdf](#)

*Councilor Maxfield nominated newly appointed Councilor Ed Ohmott.*

*The Clerk will swear him in Wednesday morning.*

*Vote in Favor: 6-0*

[21-091](#) To set the Council's meeting schedule for June 15, July 13, and August 10, 2021.

**Attachments:** [21-091 Cover Sheet.pdf](#)

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

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

[21-092](#) To refer proposed ordinance changes to Chapter 199, Shoreland Zoning and the Official Land Use Map, as proposed by the Natural Resources Advisory Committee, to the Planning Board for its review and recommendation.

**Attachments:** [21-092 Cover Sheet.pdf](#)

[TC Memo ShorelandMap 05-07-21.pdf](#)

[TC memo\\_NRAC\\_Shoreland\\_Surface Water\\_04-06-21.pdf](#)

[Shoreland Zoning - Chapter 199\\_revised 04-05-21.pdf](#)

[shorelandzoningmap\\_wetlands\\_05-19-2021.pdf](#)

*Amanda Lessard Planner said attached to this order is the Natural Resources Advisory's Committee recommendations to change the text of the Shoreland Zoning ordinance, it does some kind of house keeping clean-up of referencing the Land Use map and making*

*some corrections that were listed in the memo.*

*She did revise the map to bring the Shoreland Zoning map into compliance with the requirements for how we map wetlands that are over 10 acres in size. They are also adding an Inland Waterfowl/Wading bird Habitat to the Resource Protection District. Both are required by the State and DEP.*

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

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

### 21-117

To refer proposed changes to the Official Land Use Map, Pleasant River Resource Protection District, as proposed by the Natural Resources Advisory Committee, to the Planning Board for its review and recommendation.

**Attachments:** [21-117 Cover Sheet.pdf](#)

[TC memo NRAC Shoreland Surface Water 04-06-21.pdf](#)

[TC Memo ShorelandMap 05-07-21.pdf](#)

[shorelandzoningmap Pleasant 05-19-2021.pdf](#)

*Amanda Lessard Planner said the Pleasant River, North of Ditch Brook to the Gray town-line is currently zoned as 100 ft on either side of the river as a Resource Protection District. This is a recommendation to increase that zoning district to 250 ft on either side. This would be consistent with the zoning that is down stream from Ditch Brook to where the Pleasant River meets the Presumpscot River.*

*There are about 65 properties that would be rezoned, and if the Council refers this amendment to the Planning Board, they would notify those property owners of that process. There are about 37 buildings that are in that area. Any existing structures that would be rezoned would become legally non-conforming structures, they could expand under the provisions in the ordinance with that 30% rule for expansion. Any vacant property entirely rezoned could permit a single-family home as a special exception with Planning Board approval.*

*This is a recommendation to ensure that we are taking it one step further to help improve that water quality.*

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

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

### 21-118

To refer proposed changes to the Official Land Use Map, Stream Protection District, as proposed by the Natural Resources Advisory Committee, to the Planning Board for its review and recommendation.

**Attachments:** [21-118 Cover Sheet.pdf](#)  
[TC Memo ShorelandMap 05-07-21.pdf](#)  
[TC memo NRAC Shoreland Surface Water 04-06-21.pdf](#)  
[shorelandzoningmap streams 05-19-2021.pdf](#)

*Amanda Lessard Planner said this is a map change recommended by the Natural Resources Advisory Committee that would include all streams that are shown on the USGS map to be included in the Stream Protection District.*

*The Shoreland Zoning definition of a stream is very specific but not all mapped streams are in the Stream Protection District on our zoning map.*

*It is a 100 ft district on either side of the stream. It would require a 75 ft setback from the stream and within that 75 - 100 feet there are uses that are permitted, i.e. residential uses, agricultural uses, commercial uses, but there are standards that would need to be complied with related to the amount of vegetation clearing that is permitted in that area.*

*This expansion of the Shoreland Protection Zone would impact 501 properties and there are about 53 buildings that fall within the new zoned Stream Protection District.*

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

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

[21-112](#) To appoint Allan Phinney to the Long Range Planning Committee.

**Attachments:** [21-112 Cover Sheet.pdf](#)

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

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

[21-113](#) To appoint Kayla Desmond for a three-year term to the Parks and Recreation Advisory Committee, to expire August 15, 2024.

**Attachments:** [21-113 Cover Sheet.pdf](#)

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

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

[21-114](#) To approve an application submitted by Gilberts Chowder House II located at 61 Tandberg Trail for a renewal Special Amusement permit.

**Attachments:** [21-114 Cover Sheet.pdf](#)  
[Gilbert's Chowder-Special Amusement.pdf](#)

*Councilor Nangle asked if this was one of those permits that they could delegate the authority to the Clerk?*

*Linda Morrell said it was talked about when she took over the renewals for Liquor, Coin-Op, etc.,. She said the Clerk's Office could take this over too, and would go to the Council if there were any concerns. She noted that it is signed off by the Police Chief and Director of Code Enforcement Chris Hanson.*

*Councilor Nangle said that he would like the Manager to bring this forward and make the ordinance change. All Councilors were in favor of this change.*

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

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

### [21-116](#)

To accept Forsythia Lane as a public way and provide consent to accept a five-foot easement from said public way through to the property line to Donnabeth Lippman Park; and to further authorize the Town Manager to take any other necessary action related thereto to finalize the action.

**Attachments:** [21-116 Cover Sheet.pdf](#)  
[Forsythia Lane- Public Road Acceptance Memorandum.pdf](#)  
[Public Acceptance of Streets 2017](#)

*Manager Tibbetts said this is a project that is in North Windham, and it does have connections to the Donnabeth Lippman Park. It is off Angler's Road, and it is basically a horse shoe drive. They have met all of the requirements for acceptance, and the Engineer is here tonight.*

*Today staff talked about recommendations for parking under our traffic ordinance. It will come back on June 15th. There are a couple of options they would like to add into this land.*

*Councilor Nangle asked how long has this road been constructed, and has it been through a full one year cycle? Mark Arienti said the surface pavement was put down last fall and base pavement was last spring, it has gone through a winter and a year from now there is a guarantee posted for issues that arise during the next year.*

*Councilor Nadeau said the one fear he has with this in the new standard is if the traffic volume was higher.*

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

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

## **X. Council Correspondence.**

*None.*

### [CD 21-093](#) Financial Reports.

**Attachments:** [Revenues April 2021.pdf](#)  
[Expenses April 2021.pdf](#)



**XI. Town Manager's Report.**

*Manager Tibbetts reported on:*

*The town is on track with street sweeping, they are about 99% done.*

*The road striping around town is almost done.*

*The Fire Chief said there is a moderate draught, and no burn permits are allowed.*

*The Memorial Day Parade is on at 9 a.m. at the High School.*

*Next Friday, June 4th the Clerk's Office will have extended hours until 6 pm for absentee voting.*

*The Dundee Park playground is finished, and the storage building for the Donnabeth Lippman Park is being upgraded with a new roof.*

*The basketball and volleyball courts at the Community Park will be started in June.*

*The Assessing Department is out doing field inspections, things are moving along and are on track.*

*The Police are in the final stages of hiring a couple of Officers to fill a couple of retirement vacancies.*

*In regard to Masks per the Governor's Orders, we are not requiring our employees to wear a mask unless they choose to. Folks coming in are not required unless they choose to. Masks are available at the entrance. The Library and the Community Park Programming will have different rules for kids who are 12 and under.*

**XII. Committee Reports.****A. Council Subcommittees.****1. Appointments Committee.**

*No report.*

**2. Finance Committee.**

*No report.*

**B. Other Committees.****1. Long Range Planning Committee.**

*Councilor Nadeau said they met last week.*

**2. Parks & Recreation Advisory Committee.**

*No report.*

3. Windham Economic Development Corporation

*No report.*

4. Highland Lake Leadership Team.

*No report.*

5. Natural Resources Advisory Committee.

*No report.*

6. Public Easement Advisory Committee.

*No report.*

**XIII. Discussion Items.**

*Minutes are not taken for Discussion Items.*

[CD 21-089](#) Proposed Amendments to Tax Acquired Property Policy.

**Attachments:** [Proposed Tax Acquired Property -Disposition of - Policy 5\\_3\\_2021 KMC TH format.pdf](#)  
[Proposed Tax Acquired Property -Disposition of - Policy Final Clean 052521.pdf](#)

[CD 21-084](#) Proposed Pawnbrokers and Secondhand Dealers Licensing Ordinance.

**Attachments:** [DRAFT Pawnbroker and Secondhand Dealer Licensing Ordinance Ch. 174 KMC edit TH 2021 0520.pdf](#)  
[DRAFT Pawnbroker and Secondhand Dealer Licensing Ordinance Ch. 174 KMC edit TH 2021 0520 CLEAN.pdf](#)

[CD 21-088](#) Agreement with R.S.U. 14 for Manchester Fields Project.

**Attachments:** [Agreement re easement \(002\).pdf](#)  
[C7- site layout.pdf](#)

[CD 21-091](#) Growth Permit Ordinance.

**Attachments:** [Growth Ord Information1 \(002\).pdf](#)  
[Growth Ord discussion points Bat 5\\_23 \(002\).pdf](#)

**XIV. Agendas & Scheduling.**

**XV. Executive Session.**

[21-108](#)

To enter into executive session under 1 M.R.S.A. §405(6)(D) for “discussion of labor contracts and proposals and meetings between a public agency and its negotiators” on the collective bargaining agreement with Teamsters Local 340 for the Windham Public Works Highway Division.

**Attachments:** [21-108 Cover Sheet.pdf](#)

A motion was made by Councilor Kalogerakis, seconded by Councilor Jones, that the Order be approved. The motion failed by the following vote:

[21-119](#)

To enter into executive session in accordance with Title 1 M.R.S.A. §405 (6) (C) for the discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein since premature disclosures of the information would prejudice the competitive or bargaining position of the Town.

**Attachments:** [21-119 Cover Sheet.pdf](#)

A motion was made by Councilor Kalogerakis, second by Councilor Jones that they enter into executive session for Order 21-108 and Order 21-119. The motion carried by the following vote:

In favor: 5-0 at 9:46 p.m.

Absent: 1 (Nangle)

A motion was made by Councilor Maxfield, second by Councilor Morrison that they return from executive session. The motion carried by the following vote:

In Favor: 5-0 at 10:26 p.m.

Absent: 1 (Nangle)

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

## XVI. ADJOURN.

A motion was made by Vice Chair Maxfield, seconded by Councilor Morrison, that they be adjourned. The motion carried by the following vote:

In Favor: 5-0 at 10:26 p.m.

Absent: 1 (Nangle)

**In Favor:** 5 - Council Chair Nadeau, Councilor Kalogerakis, Vice Chair Maxfield, Councilor Morrison and Councilor Jones

**Absent:** 1 - Councilor Nangle

Respectfully submitted,

Linda S. Morrell  
Town Clerk, CCM