



Town of Windham

Town Offices
8 School Road
Windham, Maine

Meeting Minutes - Final

Town Council

Tuesday, September 13, 2022

6:30 PM

Council Chambers

To join the meeting remotely, use this link: <https://us02web.zoom.us/j/84215442810>.

You may also call 1-646-558-8656 and enter meeting ID: 842 1544 2810

I. Roll Call of Members.

Present: 7 - David Nadeau, Nicholas Kalogerakis, Jarrod Maxfield, Mark Morrison, Brett Jones, Ed Ohmott and William Reiner

II. Pledge of Allegiance.

Council Chair Maxfield led the Pledge of Allegiance.

III. Minutes to be Approved:

[CD 22-108](#) To approve the Minutes of the August 16, 2022 Council meeting.

Attachments: [Minutes-Council-8-16-2022.pdf](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

[CD 22-109](#) To approve the Minutes of the August 24, 2022 Special Council meeting.

Attachments: [Minutes-Council-8-24-2022.pdf](#)

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

In Favor: 7 - Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott, Councilor Reiner and Councilor Nadeau

IV. Adjustments to the Agenda.

V. Public Participation.

No public participation.

VI. Councilors' Comments.

Councilor Jones let people know about Windham's Historical Society's Open House and concert on Saturday, September 24 from noon to three. It will be held at the Village Green. They are featuring their old/new grocery store.

Councilor Maxfield said school is back in session, and if you see a school bus and their lights are on, please do not go around. He said he saw a guy almost take out a whole group of kids.

VII. PUBLIC HEARINGS.

22-146

To receive public comment and act on a new application submitted by Joseph Ferri d/b/a Kind & Co. to be located at 8 Heathwood Drive, for a Marijuana Manufacturing Facility.

(Application received in the Clerk's Office on July 21, 2022.)

Attachments: [22-146 Cover Sheet.pdf](#)
[Kind & Co's Council Memo & Addendum.pdf](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

22-156

To receive public comment and act on a renewal Marijuana Manufacturing License issued to Jackson Banks at 639 Roosevelt Trail in accordance with Chapter 128-8 (H) of the Code of the Town of Windham.

Attachments: [22-156 Cover Sheet.pdf](#)
[Email re Business License Withdrawal.pdf](#)

This Order was removed from the agenda; the application has been withdrawn.

22-160

To receive public comment and act on Adult Use Marijuana Stores and Medical Marijuana Caregiver Retail Stores renewal license applications for a term of one-year in accordance with Chapter 128 of the Code of the Town of Windham.

Attachments: [22-160 Cover Sheet.pdf](#)
[Marijuana Inspection Memo & Retail Store List.pdf](#)
[Addendums for Adult & Medical Stores.pdf](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

22-172

To hear an appeal for a Towing and Towing Businesses Ordinance notice of violation received by H & Y Best Towing and act to reverse, nullify, or sustain the decision of the Chief of Police.

Attachments: [22-172 Cover Sheet.pdf](#)
[Windham PD Notice of Towing Ordinance Violation.pdf](#)
[H & Y Best Towing Appeal Hearing Request.pdf](#)
[CH 215 Towing and Towing Businesses.pdf](#)

Hooman Yazdanpanah from H&Y Best Towing said he had a call from the Windham P.D., and he told me they needed someone to winch out on Route 115 (Tandberg Trail). He got there and the officer said they didn't need him and he could leave. He then called the police department and told them that the call they sent him to was all set. He said this was not the first time that had happened to him.

Then he got a call for a winch out on Windham Center Road. This car was going into the ditch, and there was a cable poll and one side of the bumper and tire was stuck. He said the back of the car was damaged too. It took him a half hour to winch him out of the ditch and put him on the side of the road, and then winch him on to his flatbed. The Officer said he could not drive the car because of the damage and it would have to go in storage. The customer said no problem.

The customer called Monday and he asked him what was the charge? Mr. Yazdanpanah told him that this happened on Saturday and he told him \$130 for the hook up and tow, \$90 for the winch out, and everyday is \$50 for the storage. The customer then asked how much to tow the car to his house? Because the bumper was attached to the tire he would have to use a dolly and his flatbed, and it would be \$150 to tow to his house. The customer said it was too much. Then the customer complained and asked why it was going to be \$420? Mr. Yazdanpanah explained that \$130 was for the tow, \$90 for the winch, \$50 for the storage. Saturday is free until Sunday, then Sunday to Monday is \$50. The customer did not tell him when he wanted to pick it up. Mr. Yazdanpanah told him before 5 o'clock is going to be \$50 so it will be hundred dollars, and he did not count that one. After that at 10 o'clock the customer comes to his base and he told him he was working for City Hall, and after he went to see his car. He tried to help him for 20 minutes to push the bumper off the tire; he fixed it a little bit and the customer said he wanted to drive it two or three miles to his home. Because he works for City Hall he told the customer he would not charge him for the winch and only \$50 for one day storage. The customer gave him two hundred dollar bills, and Mr. Yazdanpanah told him he did not have any change, and he said leave it at that, he did not ask for his \$20 change back. He seemed happy, and signed the paper.

Then after a few days a Police Officer went to his house around 9:30 pm and harassed him. He asked why you charge the customer, and he was sick of coming to his house all the time. He told the Officer he was charging only \$200, not \$420. A couple of days later the Officer called him again. Mr. Yazdanpanah offered to go to the Police Station to explain things, and the Officer said he didn't want him to go there.

Chief Schofield read an outline he prepared. He said they are working with the town's tow ordinance, and this specific towing question is what is defined in the ordinance as a non-preference tow. That means the person who was driving the vehicle needed a tow and had no choice, so they called who was next on the rotation. That happened at 9:30 at night on August 6. From 6pm to 6am they allow a higher fee of \$130 to be towed for a night time tow, and it was applied.

The Chief said the other component being talked about is storage fees. The ordinance allows for a wrecker company holding a vehicle for more than 24 hours can charge \$50 per day for outside storage for each subsequent day. In this case, the car was towed at

9:30 pm Saturday night and was picked up Monday morning on August 8. So, after 9:30 pm Sunday, August 7 is when the \$50 storage fee applies. If you add \$130 plus \$50, that would be the appropriate charge for this tow. He was made aware of this after sergeant Burke received a call on Monday from either the registered owner of the car or that person's father to express concerns that the initial quotations from the tow company were \$420 to receive the car back. There was some reported negotiations down to \$320, and the customer eventually paid \$200 to get his car back, which is above what he feels should have been charged.

Mr. Yazdanpanah uses the expression of a "winch fee". The majority of the time the tow companies have to use a winch to pick up the car to winch it onto a flatbed truck. Our ordinance allows for additional fees, \$90 for an hour and then \$22.50 for each 15 minutes for an extraction fee. He gave an example where they allow for an extra fee, i.e. a car went down over an embankment. In this case, this car is slightly off the Windham Center Road, on a slight embankment. He would not expect an experienced tow truck driver with the equipment to have any challenges what so ever. The owner of the car was able to drive the car home after he paid the \$200. He feels this is a clear violation. The Chief said his significant concern is that for a citizen to complain and express concerns is not terribly common, and hear of the negotiations of \$420 is concerning to him.

Councilor Maxfield asked if somebody requested for him to bring it from his facility to another place, would they be allowed to charge a fee? The Chief said yes but the person drove the car off the storage lot.

Councilor Kalogerakis asked if this was the first time the Chief had to do this with Mr. Yazdanpanah, and the Chief said it was the second time, and there have been two other written warnings. Councilor Maxfield asked when the two week suspension would start, and the Chief said they can't do it until after this hearing.

Councilor Reiner asked if there was an invoice supplied from the towing company or was it word of mouth? The Chief said there is an actual invoice that was eventually for \$200. The Councilor asked if there was anything showing that he was actually trying to charge \$420 or was it just a verbal exchange? The Chief said it was a verbal exchange, but the person wrote them a statement in the form of an email to explain the discussions, negotiations and to complain about it.

Councilor Maxfield asked if the two week suspension was prescribed by ordinance or how is that time frame determined? The Chief said in section 215-9 there is no guidance on how long a suspension can or cannot be; it is arbitrary and the responsibility of the Police Chief.

Hooman Yazdanpanah said the \$20 was not a charge towards the customer. The guy was happy, he signed the paper, they shook hands and he helped him to push the bumper away from the tire for 20 to 30 minutes in his driveway. He was happy that he helped him fix the bumper. He told him he didn't have any change to give him back, and he told me to just keep it; he did not charge for the winch.

Councilor Maxfield asked Mr. Yazdanpanah if people sometimes give him tips? He said yes. The Councilor then asked if he include the tip on the receipt as the total? He said the customer came and he helped him out with the bumper and he saved money for a tow to his house.

Councilor Morrison asked him how much time was involved with this from beginning to end. He said all together 45 minutes, he believes.

A motion was made by Councilor Nadeau to sustain the decision of the Chief of Police, seconded by Councilor Kalogerakis, the Order failed. The motion carried by the following vote:

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

VIII. CONSENT AGENDA.

IX. UNFINISHED BUSINESS & GENERAL ORDERS.

[22-151](#) To appoint Austin Coco to the Natural Resources Advisory Committee, for three-year term to expire August 15, 2025.

Attachments: [22-151 Cover Sheet.pdf](#)
[Natural Resources Advisory Committee Charge](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

[22-153](#) To appoint Alex Lopes to the Windham Economic Development Corporation, for a two-year term to end February 15, 2024.

Attachments: [22-153 Cover Sheet.pdf](#)
[WEDC By-Laws](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

[22-155](#) To appoint Mindy Schwartz to the Natural Resources Advisory Committee, for three-year term to expire August 15, 2025.

Attachments: [22-155 Cover Sheet.pdf](#)
[Natural Resources Advisory Committee AMENDED20210615.pdf](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

[22-157](#) To appoint Tom Bartell, representative from the Windham Economic Development Corporation, to the Branding and Wayfinding Signage Committee.

Attachments: [22-157 Cover Sheet.pdf](#)
[Branding & Wayfinding Signage Committee.pdf](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

[22-158](#) To appoint Robin Mullins, representative from the Sebago Lake Chamber of Commerce, to the Branding and Wayfinding Signage Committee.

Attachments: [22-158 Cover Sheet.pdf](#)
[Branding & Wayfinding Signage Committee.pdf](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

[22-159](#) To appoint Elizabeth McDougall to the Library Board of Trustees, for three-year term to expire February 15, 2025.

Attachments: [22-159 Cover Sheet.pdf](#)
[Windham Public Library ByLaws - Board of Trustees](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

[22-161](#) To appoint Charlotte Mace to a two-year term on the WEDC, to expire February 15, 2024.

Attachments: [22-161 Cover Sheet.pdf](#)
[WEDC By-Laws.pdf](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

[22-162](#) To appoint Shawn Hardy for a three-year term to the Parks and Recreation Advisory Committee, to expire August 15, 2025.

Attachments: [22-162 Cover Sheet.pdf](#)
[Parks and Recreation Advisory Committee Charge](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

[22-164](#) To accept the public easements for Shore Road, identified by the Town as

Designated Private Ways and that have met the criteria set forth by private and special law L.D. 1975, for the purpose of the Town's continued winter maintenance services on the defined public easement area.

Attachments: [22-164 Cover Sheet.pdf](#)
[Shore Road Easement Agreements \(35 MB\).pdf](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

[22-165](#) To approve a purchase and sale agreement for approximately 2.0 acres of what is referred to as the Taylor parcel, which abuts the Town's North Windham Sewer Project, and to authorize the Town Manager to take any other action related thereto to finalize the sale.

Attachments: [22-165 Cover Sheet.pdf](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

[22-166](#) To authorize the disbursement of funds to public health and safety programs as recommended by the Marijuana License Fee Committee.

Attachments: [22-166 Cover Sheet.pdf](#)
[2022-07 Natural High Program Grant.pdf](#)
[MLF Committee Grant Approval.pdf](#)

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

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

Opposed: 1 - Councilor Ohmott

[22-167](#) To authorize the Town Treasurer to negotiate the terms of an Equipment Lease Purchase Agreement and related documents providing financing of an estimated \$837,000.000 plus interest, equipment cost inflation, maturity, and other terms and conditions with whatever financial institution the Treasurer deems appropriate and to award the Equipment Lease Purchase Agreement to such financial institution as they deem to be in the best interests of the Town in order to provide the Town with the following budgeted items; 1) Fire Dept. Car 3, 2) Ambulance # 1, 3) Fire Dept. Unit 8 Pickup, 4) Dump Truck #3, 5) Firewall Switch Replacement, 6) Fire Dept. ATV and equipment, 7) Public Works Pickup #82, 8) Public Works Pickup #98, 9) Police Crime Scene Crash Reconstruction Truck, 10) CPR Compression Units and 11) Animal Control Officer Truck.

Attachments: [22-167 Cover Sheet.pdf](#)
[Equipment to be Leased.pdf](#)

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

[22-169](#) To accept the resignation of Councilor Reiner as a member of the Ordinance Committee.

Attachments: [22-169 Cover Sheet.pdf](#)

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

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

Abstain: 1 - Councilor Reiner

[22-170](#) To appoint a Councilor to the Ordinance Committee.

Attachments: [22-170 Cover Sheet.pdf](#)

Councilor Kalogerakis was appointed to the committee.

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

[22-171](#) To identify Town-owned tax acquired properties to dispose of and to authorize the Town Manager to take any necessary action related thereto.

Attachments: [22-171 Cover Sheet.pdf](#)
[Disposition of Tax Acquired Property Policy ADOPTED 2021 0615.pdf](#)
[Tax Acquired Properties to Dispose.pdf](#)

Manager Tibbetts said there are six properties and four are related to a condo unit all at one location, one is a private condo and the other non occupied camp. He feels they should be put out to a sealed bid, and we can put them on the website with a description and any information we have, sell them as is. The minimum bid we are looking for is current taxes and fees that are owed on the property. Whoever comes in as the highest bidder the Council would decide who to award the bid.

Councilor Maxfield asked if there would be any value in trying to send them to an auction house? The last time we put them out to bid we ended up with most of the properties.

The Manager said he has had interest in at least one property. If we do not get any bids,

we could try an auction. Councilor asked if we can advertise in the local papers? The Manager said we can do that as well as the local brokers.

Tom Bartell said the last time properties went out to bid there was a minimum set on every property that was much higher than the taxes owed, and he thinks that was a problem when nobody bid on them. He thinks this way is better.

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

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

X. Council Correspondence.

Councilor Nadeau said on council document 22-112 the status update showed them that there is a whole bunch of roads who have not responded. He does not know how they get it across to these roads that if they do not respond, they are not getting plowed. He would suggest that the first snow storm of this year we do not plow those roads, and when the phone starts ringing you tell them "we will be down to plow them, but after this year, if you do not form a road association, we will not be plowing them."

Councilor Tibbetts said it was a creative idea, but he would rather send them another letter, perhaps a registered letter, because he does not want to create an issue where we have been obligated to do something, and we are failing to do it and something happens on that road and it falls back to us.

Councilor Nadeau asked if they can post the roads who have not done this yet? It was agreed to put a notice up on every road who has not formed a road association.

Councilor Maxfield asked if the town was asking the roads who do not want to do this to sign something that says they want to opt out? The Manager said that was a great idea, and they will do that. They will also explained to them that 51% of them need to acknowledge that they want to opt out.

[CD 22-110](#)

Junkyard inspection reports.

The Council will review the inspection report from the CEO for the Town's currently licensed junkyards. A public hearing and vote on the license renewals is scheduled for the meeting of September 27, 2022.

Junkyards and automobile graveyards are not permitted uses under Windham's Land Use Ordinance. The junkyards licensed by the town are grandfathered (i.e. existed before the town adopted zoning in the 1970's) and operating under permits granted by the Council under the provisions of Maine statute.

Please see attached report.

Attachments: [Junk Yard Inspection Memo -2022.pdf](#)

[CD 22-111](#)

Social Service Agency Funding Correspondence.

Attachments: [Northern Light Home Care & Hospice Thank You.pdf](#)
[The Opportunity Alliance Thank You.pdf](#)
[The LifeFlight Foundation Thank You.pdf](#)

[CD 22-112](#) Designated Private Ways - Status Update.

Attachments: [Designated Private Ways STATS.pdf](#)

XI. Town Manager's Report.

Manager Tibbetts said next Tuesday, September 20 is a workshop to talk about garbage pick up.

They have been talking with MDOT about the rear access road, and they have migrated to the position that they think all the projects in that area should be combined, which is good news. He thinks it will be better for us in how the project moves forward. There are two different sidewalk projects up there, and in stead of having three different project managers, there would be just one. That is a good thing for us.

The Cumberland County Soil Water Conservation District parking lot, the pavements, lines, and grass is in, and it looks great.

XII. Committee Reports.

A. Council Subcommittees.

1. Appointments Committee.

No report.

2. Finance Committee.

No report.

3. Ordinance Committee.

No report.

B. Other Committees.

1. Long Range Planning Committee.

No report.

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.

Councilor Jones said they met on August 17, and the majority of it was on the Black Brook Watershed Management Plan.

6. Public Easement Advisory Committee.

No report.

XIII. Discussion Items.

[CD 22-114](#) Proposed Land Use Ordinance Amendments to Industrial (I) District.

Attachments: [TC memo I amendmend 09-09-22.pdf](#)
[Industrial District \(I\) draft 09-2022.pdf](#)

[CD 22-115](#) Proposed Land Use Ordinance Amendments to Commercial I (C-I) Related to Marijuana Cultivation Facilities.

Attachments: [Cultivation \(C-1\) Amend 09-2022.pdf](#)

[CD 22-116](#) W.E.D.C. Study for North Windham Business Development.

[CD 22-113](#) North Windham Sewer Project Update.

XIV. Agendas & Scheduling.

XV. ADJOURN.

A motion was made by Vice Chair Morrison, seconded by Councilor Kalogerakis, that they be adjourned. The motion carried by the following vote at 8:55 p.m.

In Favor: 7 - Councilor Nadeau, Councilor Kalogerakis, Council Chair Maxfield, Vice Chair Morrison, Councilor Jones, Councilor Ohmott and Councilor Reiner

Respectfully submitted,

Linda S. Morrell
Town Clerk, CCM