

**Lebanon, Maine Planning Board
Minutes – Special Meeting
Monday December 12th, 2016**

Members Present

S. Bright – Vice-Chair
C. Lunderville
D. Harriman
J. Griffin- Clerk

Others Present

Christine Torno – Select Board Chair
Paul Nadeau- Selectman
Royce Heath – Selectman
Ben Thompson – Lebanon Town Assessor
Mike Beaulieu – Lebanon Code Enforcement
Deborah Wilson – Resident
Dana Coull – Resident
Bobbi Stormann- Farmington Resident

Due to a family emergency Chairman Philbrick was unable to attend this evenings meeting.

Vice-Chair Bright called for a motion to open the meeting. The motion was made by C. Lunderville and seconded by D. Harriman. The vote was taken and carried unanimously. Vice-Chair Bright opened the meeting at 6:05 pm.

There was a quorum of members present and there were no conflicts of interest with any of the posted agenda items.

Grandfather Ordinance-

Much discussion took place concerning this issue due to waterfront property being re-assessed this summer. All waterfront lots were assessed as being buildable lots even though many of them do not meet the current requirements of a minimum of 2 acres and 200 feet of road frontage in order to be considered buildable lots. These lots need to have a certain distance from abutting property as well as certain distances from the waterfront. Wells and septic also need to be so many feet away from one another. At this time these lots are not legal lots. Not updating/amending the lot size ordinance could pose an issue for the Town when waterfront land owners request building and/or expansion permits and they are denied due to the non-conformance of the property of which they thought were buildable. The Planning Board should draft the updated/amended ordinance to be presented to the Select Board. The document can then be forwarded to Legal for review prior to placing it on the Town referendum to be voted on in May. Having an ordinance written to be placed on the Town vote in May is highly recommended. The ordinance can always be amended in the future as needed. Not amending the existing Lot Size Ordinance to include provisions for non-conforming lots could result in the Town losing revenue from taxes if land owners make the decision to abandon their non-conforming lots due to it being unbuildable. This could also cause some issues with financial institutions. Land owners could go to the State for a variance if permits were denied by the Code Enforcement officer. Amending the existing lot Size Ordinance is especially important when considering the Shoreland zone. This takes precedence. Not adding provisions governing non-conforming lots could pose an issue with many septic systems, which were installed in the 1960's, because they are starting to fail and will need to be replaced. Wording for this ordinance must be carefully written. This is not to be named a "Grandfather ordinance" but rather as "Non-conforming Lot Amendment".

Marijuana Moratorium update-

After some additional research, it was discovered that a moratorium cannot be enacted unless it was voted upon by the residents. In order to accomplish enact a moratorium, a special vote would need to be taken. A special election would involve adhering to specific timing guidelines, creating a ballot, securing a venue for the vote as well as employing election officials for the vote. This would be a significant cost to the residents and create additional work for the Town Clerk. Select Board Chairman Torno would like to see the moratorium ordinance on the May Town referendum. Other Towns started working on moratoriums and ordinances in time for the November 8th election. Had this issue been researched sooner, a moratorium and ordinance could have also been included on the November 8th vote. It was also mentioned that other Towns are just starting to work on this matter and that it is not just Lebanon. This would provide the framework to build off of in the event that an amendment to the ordinance be proposed in the future. Planning Board Chairman P. Philbrick and Vice-Chairman S. Bright are working on an ordinance(s) to address the various aspects of retail marijuana and how these could affect the Town.

The question of ‘could the draft(s) be sent to legal for review’ was posed. Select Board Chairman Torno would leave the information on the desk of Sue Collins, the Select Board secretary. It was stated that the State would have up to 9 months to issue an applicant a license, however, the license could be issued 10 days after the application was submitted. There are many other aspects of retail marijuana that the Town needs to consider; such as:

- How many establishments should be allowed in Town?
- Should they be located a certain distance from schools, churches, daycares, abutting property, etc.?
- Should outdoor grow facilities be allowed or should the growth of marijuana be restricted to an inside facility?

There are other aspects to consider as well. This information needs to be communicated to the residents so that when the time comes for a vote, they are informed and have participated in the question and answer process as well as offering suggestions. C. Lunderville expressed the importance of this and the need for the Boards to have additional time to work on retail marijuana ordinances. This is not a matter that should be rushed.

Planning Board Vice-Chair S. Bright concern is that if a moratorium cannot be called to vote via special election and instead goes on the May ballot and then fails, that there is a possibility of things getting out of hand.

C. Lunderville stated that, realistically speaking, in order to have retail marijuana ordinances ready for the May ballot, it would need to be written, sent to legal, and approved to be ready no later than February. This does not allow enough time to write a comprehensive ordinance or allow for possible editing. If there were a special election for a moratorium, this would allow 180 days in which the Boards could work on the ordinance collectively with legal council.

Code Enforcement Officer Mike Beaulieu added that once the moratorium is voted on and approved by the residents, the Select Board may extend the moratorium if additional time is needed. A Town vote would not be required.

Select Board Chairman Torno added that a show of hands at a special meeting would not be appropriate for a moratorium vote. All residents should have the opportunity to vote on this, which would include the absentee ballot process. Select Board member Royce Heath agreed.

Code Enforcement Officer Mike Beaulieu questioned as to why an absentee ballot should be used prior to the Town referendum vote in May. Select Board Chairman Torno explained that there are certain timeframes which need to be met in order to have an election. Items to be voted upon must be submitted

45 days prior to the election in order to meet the timeframe for having the ballots printed not only in time for the election day, but also for the absentee ballots to be available prior to the vote.

Vice-Chairman S. Bright stated that the special election held in June, which sought to seek approval for the 3 budgets that were voted against in the May Town referendum election, was conducted by show of hands. The vote by a show of hands was with the exception of 1 budget which was conducted via secret hand written ballot. Board Vice-Chairman S. Bright also questioned the validity of the vote.

Select Board Chairman Torno stated having elections back to back, a special election for the moratorium in March and then the regular election in May, would be a tremendous amount of work for the Town Clerk. Not that it could not be done, however, once again, the time guidelines are the final factor to consider when deciding if a special meeting should be held or not. Planning Board Vice-Chairman S. Bright understands the additional work load and the expense a special election would involve, however, if the vote is in May, the State could already be issuing licenses. A moratorium would give protection and allow time for special informational meetings to be held to educate the residents. It would also allow the time needed to create a proper ordinance. Doing this would not only protect the Town but it would also protect potential businesses.

C. Lunderville added that if the Town waits until May to place the moratorium on the ballot, there is still the possibility that someone may obtain a license and because there are no restrictions or guidelines in Town, the Town cannot deny approval for various establishments to open in Lebanon. If the applicant was denied, they could challenge the decision in court and could potentially be granted approval because we have nothing to stand on.

Resident Deb Wilson stated that if all moratorium information was ready no later than January 15, 2017, a special election could be held in March. Select Board member Royce Heath offered that if an early vote on the moratorium was held it could have a negative effect in the May election also. Planning Board Vice-Chairman S. Bright mentioned that the majority of the residents in Town actually voted in favor of Question 1 for the right to grow and smoke recreational marijuana, not thinking of the retail aspect and the various situations that could arise in the Town. He added that Towns smaller than ours already have a moratorium in place. Select Board Chairman Torno was hopeful that they would have the authority to enact a moratorium. Due to the delay waiting for a reply from legal there is not enough time to comply with the time guidelines for a special vote. Other Towns were able to put a moratorium in place because their town government is different from ours.

Planning Board Vice-Chairman asked if the Planning Board had the authority to contact legal. He also questioned in reference to holding an informational meetings and if there was a process that needs to be followed. Select Board member Royce Heath feels that a special meeting would only attract those with a special interest in this matter. Planning Board Vice-Chairman S. Bright replied that holding informational meetings prior to a special meeting could boost the amount of residents who would come out to vote. Information could also be presented at a Public Hearing 10 days prior to a special Town meeting vote. C. Lunderville added that Planning Board members, Code Enforcement, and the Fire & Rescue Chief would be in attendance to answer questions that residents may have as well as offer their input/feedback. Planning Board Vice-Chairman S. Bright stated that a power point presentation has been started for this purpose. Select Board member Royce Heath stated that there needs to be basic rules.

Planning Board Vice-Chairman S. Bright then presented a proposed moratorium that was drafted by Planning Board Chairman P. Philbrick and reviewed by the Planning Board. This draft was copied and given to the Select Board members for review.

Code Enforcement Officer Mike Beaulieu reiterated the fact that if an ordinance was adopted, it could always be amended at a later date. Select Board member Royce Heath stated that the lawyers would have to edit anything to be brought before the people. He also feels that residents will feel “rail-roaded” and does not like the idea of a special meeting. Code Enforcement Officer Mike Beaulieu countered by stating residents would not feel “rail-roaded” if informational meetings were held prior and the information was presented properly.

It was mentioned that a public hearing would need to be held 10 days prior to a special meeting. At this meeting someone can make the motion to for a paper vote instead of a show of hands. The concern is that if vote was taken by a show of hands the attendance could be minimal. Both Select Board Chairman Torno and C. Lunderville feel that a clear explanation of the moratorium is needed. Deb Wilson added that the residents need to know that this would not deny the right to smoke marijuana privately or growing the allotted 6 plants in their homes; that the moratorium would affect the business aspect only.

The mention of informational mailers was brought up. It was mentioned that this is a costly avenue in which to reach the residents. There are other ways to get the information to the residents such as flyers/posters at the schools, Town office, local establishments, e-mail, public notice, website etc.

Planning Board Vice-Chairman S. Bright stated that perhaps the Town should consider more stringent restrictions for businesses, the reason being that currently the fees in Maine are very low and gives incentive for people from out of state to open businesses in Maine. Code Enforcement Officer Mike Beaulieu mentioned that medicinal marijuana has priority over recreational marijuana establishments. Deb Wilson offered perhaps the ordinance could state that Town residents have priority to open establishments before non-residents. Bobbi Stormann stated that legally you cannot deny a business because they do not live in town. Select Board Chairman Torno agreed that issuing a license to a resident before a non-resident is prejudice. Code Enforcement Officer Mike Beaulieu reiterated the fact that the potential revenue for the Town could be significant.

Bobbi Stormann stated as she had attended a previous Planning Board meeting and that she and her husband had planned on living in Town if approved for a retail establishment. She also stated that this could bring jobs to Lebanon.

Deb Wilson asked if the growers of marijuana would be limited to growing inside due to the ‘awful’ odor that is emitted from the plants. Residents and/or a business would not want to have an outdoor growing facility next door because of the odor. It was mentioned that we may want to consider restricting establishments such as Social Clubs or Retail Stores to Route 202. It was also mentioned that perhaps on meeting agendas that the first 15 minutes or so be dedicated for presenting information as well as answering questions and listening to concerns/suggestions from residents.

Other Business-

The Planning Board reviewed and approved the corrected copy Town Report which will be signed by all members at the next scheduled Planning Board meeting, January 5, 2017. Vice-Chair S. Bright called for a motion to accept the Town Report as corrected. The motion was made by C. Lunderville and seconded by D. Harriman. The vote was taken. The vote carried unanimously.

C. Lunderville feels that there should be at least two informational meetings pertaining to recreational marijuana establishments. The first meeting could review the legislation with the residents, outlining what is Question 1 is, what it entails, and what it means for the Town. The second informational meeting could take place a couple of weeks thereafter, giving residents the time needed to do more research on their own and/or compile a list of questions and/or suggestions that they might have. Holding a second

informational meeting a couple of weeks after the first would also give residents time to consider how decisions made now could affect the town in the future.

The suggestion of a poll was made to see what days/times would best serve the community for the informational meetings. The survey site 'Survey Monkey' was recommended. The Planning Board Clerk will create a survey to place on the Town website to compile the information. Once the information has been collected, the Planning Board Clerk will contact Ms. Gilley at the Lebanon schools in order to request a day/time for the meetings.

Mike Beaulieu, the Code Enforcement Officer made mention the Planning Board is required to monitor the Growth Ordinance. The most current Growth Ordinance has expired. The Growth Ordinance was re-written in 2014, presented to the Select Board and went before legal, however, it was not approved to place on the Town referendum vote in June/2014.

Minutes-

The minutes of the 11/18/2016 workshop were reviewed and regular meeting 12/1/2016 will be reviewed at the next scheduled meeting on January 5, 2017.

Vice-Chair Bright called for a motion to adjourn the meeting. The motion was made by D. Harriman and seconded by C. Lunderville. The vote was taken and carried unanimously. The meeting was closed at 7:50 pm by Vice-Chair Bright.

Minutes were reviewed on 2/2/2017

Chairman Philbrick called for a motion to accept minutes as written.

The motion was made by C. Lunderville and seconded by D. Harriman.

The vote was taken. The vote carried 3 in favor – 2 abstentions.