

Lebanon, Maine Select Board
Town Office Conference Room
Minutes – Meeting
January 6, 2022

MM
JSA
HD

Members Present

Paul Philbrick – Vice Chair
Ernest Lizotte, Jr. – Selectman EXCUSED
Jeffrey Adams – Selectman
James DuPrie – Selectman

Others Present

Dan Boivin - Public Hearing
Deborah Wilson – Both Meetings
Aaron Carvalho – Public Hearing
Melissa Warren – Both Meetings
Laura Bragg – Public Hearing
Tony Bragg - Public Hearing
Chris Gilpatrick – Public Hearing
Stephen Nugent – BOS Meeting

For complete meeting minutes please view the meeting in full at <https://www.youtube.com/c/TownofLebanon>

6:00 Richard Nass Moderator explained rules and guidelines. Mr. Nass opened the Public Hearing and read the wording Shall the Business Impact Fee be Repealed – Now Open for discussion

Deborah Wilson spoke of being in favor of keeping the impact fees and has discussed this with Chief Flynn and he is in support of them as well. Both want the fees in order to fund the fire department and with other infrastructure. Ms. Wilson is in favor of impact fees for all businesses. Asks if this is repealed can it be re-written more fairly? Selectman DuPrie stated that the impact fees passed last summer. The Marijuana Businesses are challenging the Business Impact Fees for 2 reasons - State guidelines for impact fees can be interpreted in different ways. There is wording regarding having a Comprehensive Plan in order to set impact fees – this can be interpreted that we must have or may have. Also, the timing of the fee structure of impact fees is unfairly targeting marijuana businesses as they are the only business required to pay them. Deborah Wilson asked if they can be re-written and put on June ballot? Selectman DuPrie advised that there would still be the issue of the Comprehensive Plan. Deborah Wilson is interested in infrastructure in this town for things other than just Fire Department. Ms. Wilson states that the roads are underfunded every year and they would help with this as well. Ms. Wilson would be in favor of the Town going to court to get a decision on the Comprehensive Plan issues. Dan Boivin, of Gateway Auctions, asked what is a Comprehensive Plan. Selectman DuPrie explained the purpose of a Comprehensive Plan and that it must be voted on by the voters to implement it. If there is something written in the Comprehensive Plan that isn't followed, the Town could be sued for not implementing it. Selectman Adams discussed that the Comprehensive Plan guidelines as far as impact fees hasn't been challenged in Court. Selectman Adams doesn't support a Comprehensive plan. Melissa Warren states that this can be looked at in June – she feels the impact fees need to be voted out – we have no comprehensive plan, not just marijuana businesses should be required to pay them and costs are too high. Ms. Warren would like to repeal the impact fees and revote on new impact fees in June. Make them fair for everyone. Dan Boivin asked if this could be looked at each year. Selectman DuPrie stated that a comprehensive plan wouldn't be looked at each year, more like every 3- 5 year. Chris Gilpatrick asked about impact fees for all business, Mr. Gilpatrick asked what if had a hairdresser who worked from her house, had a dumpster for her trash and no children. How would you decide her impact fee – since there doesn't seem to be an impact. Selectman DuPrie stated that impact fees are not ongoing – usually meant to raise an amount of money and once that is done, they go away. If you wanted ongoing impact fees that would usually consist of extensive background to justify them. The other type, which is for a specific purpose, means that once the amount of money needed is collected, it

is done. When structured, determine how to implement them and the amount of money needed. The fees would be structured in a number of ways. For example, new businesses, then new homes, etc. If the Impact Fees are not repealed and remains as is – this is discrimination. Deborah Wilson advised stated that newly licensed businesses are required to pay the impact fees, but the only businesses required to get licenses are Marijuana Businesses. Selectman DuPrie states there are other categories such as any new construction over so many feet. Dan Boivin asked why not just rename them Occupancy Permits. Selectman DuPrie stated that the State regulates how to collect fees and what is and isn't allowed. The lawsuit filed has a Stay until the issues are corrected.

No more comments regarding Impact Fees.

Mr. Nass opens discussion for the question to Amend the Lebanon Adult Use Marijuana Business ordinances be amended to remove residency requirements and to modify the fee structure.

Selectman DuPrie summarizes what this is. Selectman DuPrie states that when this passed it has 2 sections of concern. The first is a residency requirement that has been determined, by lawsuit, (not Lebanon) that the residency requirement is illegal. We have a severability clause that gives us the authority not to enforce this. By removing the wording, it cleans up the Ordinance wording but the voters must vote to change an Ordinance. The second issue is the fee structure. The BOS made mistakes when writing this as far as what could be included in the fees. The only things this money could be used for are Administration and Enforcement. The fees are too high for justification – in 2021 these were modified and presented to the voters at which time 2 marijuana ordinances with changes passed but not this one. Adult Use with new fee structure was voted down. The marijuana businesses that filed the lawsuit gave the Town a 90 day stay to present a revised version to the voters. This vote does not repeal the ordinance, it will only change the fees if it passes. The Town has already admitted that the fees are not supportable. Aaron Carvalho asked if the new fee structure is approved will businesses that overpaid get refunds or if they aren't part of litigation will they not get refunded. Mr. Carvalho also asked if they could join the lawsuit. Selectman DuPrie stated he doesn't know if you could join lawsuit, would need to consult with an Attorney. Mr. Carvalho asked if a new business wanted to open, what fees would they pay. Selectman DuPrie stated that there are no more licenses available Selectman DuPrie advised that the court ordered that litigant pay the lower fee until the case is solved. Anyone that isn't a part of the litigation must pay the amounts in the Ordinance, because that is what the people voted. Mr. Carvalho asked if someone wanted to pay the old fees would they need to file a lawsuit? Selectman DuPrie stated that the BOS is bound by the Ordinance and the Judge's Order.

6:50 Mr. Nass closed meeting as there were no more questions. Hearing Closed.

BOS MEETING AT TOWN OFFICE

7:10 Pledge of Allegiance

7:11 Selectman DuPrie motioned to accept the Minutes of 12-30-2021 as written. Selectman Adams seconded. Vote taken; vote carried. Selectman DuPrie motioned to accept the Minutes of 1/3/2022 as written. Selectman Adams seconded. Vote taken; vote carried. Selectman DuPrie motioned to accept the Minutes of 1/4/2022 as written. Selectman Adams seconded. Vote taken; vote carried.

7:12 Paperwork processed – BOS signed the Transfer Station Fees effective 2/1/22; Purchase Order for animal control - \$425 for cage and \$79.99 for scanner. There is \$1000.00 in the budget to cover this. Two winter road contracts signed.

7:16 Reviewed the Old Business List.

7:23 Individual Selectmen Items – Selectman Adams none. Selectman DuPrie advised the board that he is looking into building off the Town Office sideways. Selectman DuPrie is going to look into if that is wetland and will reach out to DEP. Would like to expand 40-50 feet. Chair Philbrick asked Stacie Hartley, Treasurer to update the BOS about Chick Road. Ms. Hartley stated that there is a foreclosed property because taxes for 3 year (2017, 2018 & 2019) were not paid. The amount was \$3774.20 for land. No assessment for 2020 or 2021 because the property is owned by the Town. But would be due if the previous owner were allowed to pay this and fees back. However, there is a new 4-bedroom home built on the property since then and there is no building permit or occupancy permit. The Property would need to be assessed and any fines/violation fees added as well. The Town currently owns all of this property. Selectman DuPrie would like to see the entire file and go through this before the BOS decides what to do. The BOS will readdress this next week. Chair Philbrick would like to discuss the Town Office closing early on 1-13-2022 for the Town Meeting. The Town Clerk must be there to run the meeting. The Town Clerk would like to use the Treasurer to assist as the Deputy Clerk will be there to vote. The Town office will close at 5:30pm on Thursday 1-13-2022. Chair Philbrick showed the BOS the mailer, the wording remained the same but the formatting is a bit different. The cards are at Staples getting cut and should be ready tomorrow 1-7-22 and delivered at the post office on 1-10-2022. Chair Philbrick advised the BOS that the Treasurer is searching for alternate leasing for the fire truck. The Attorney gave her a list of names to reach out to. Either they don't have leasing or very high interest rate. The Treasurer reached out to Kennebunk Savings, our bank, and they offered a LOAN not lease for 2.5%. The Ordinance states the BOS can enter into a lease. The Trust documents state lease or loan. Article 3 could be amended on the floor – not approved yet. The payments for a loan would start immediately. Chair Philbrick and Selectman DuPrie will write up the wording – both written and explanation. Chair Philbrick advised the BOS that the Budget Committee Meeting on 1-12-22 will be with Fire not Highway. Selectman Adams is concerned about Chief meeting with the Budget Committee right before the election. Chair Philbrick advised that he spoke with the Chief and the Chief is okay with this. Chief is currently on vacation.

7:45 Public Participation & Good of Town – Deborah Wilson wants people to be aware that fees of \$29000.00 paid were for dispatch not for unstaffed ambulance. Ms. Wilson advised people that if they need assistance, reach out to the Fire Department and they can assist. Selectman Adams & Deborah Wilson thanks the highway department for the great work during the unexpected ice storm. Ms. Wilson states the BOS and the office staff have done a great job with all that is going on.

8:15 Selectman DuPrie motioned to enter into Executive Session for Personnel Matters pursuant to 1 MRSA § 405(6)(A). Selectman Adams seconded. Vote taken; vote carried.

9:30 Selectman DuPrie motioned to exit Executive Session. Chair Philbrick seconded. Vote taken; vote carried. Chair Philbrick motioned to adjourn the BOS Meeting. Selectman DuPrie seconded. Vote taken; vote carried.