

Town of Sumner - Select Board Minutes
October 8, 2019 after
Food Sovereignty Ordinance Special Town Meeting and Vote at 7:00

Members Present: Mary Ann Haxton, Edwin Hinshaw, Kelly Stewart, CEO John Evans, Town Clerk Susan Runes, and secretary to the Select Board Susan Strout.

Planning Board members: James McCarthy, John Allen, Eric Austin, and Don Berry

Marijuana Cultivation Ordinance committee: Charles Maddaus, Micha Emery, and Jonathan Leavitt, Don Berry

Public Present: Marty Elkin, Nettie Gentempo, Jessica Cooper, Glenn Hinckley, Linda Smith, Pauline Perron, Robert Gregory, Kristina Leitzel and Warren Lietzel, Bill Glass, Linda Glass, Ron Larrivee, Claudia MacKillop, Paul MacKillop, Laurier Perron, and Nettie Gentempo.

Reading and Approval of the Minutes from September 10, 2019 -
postponed until next meeting

Warrant #6

Checks 13441-13474 \$105,335.15
Receipts #1383-1410 In the amount of \$32,350.05
2018-2019 Tax collected YTD \$1,285,911.76 94%
2017-2018 Tax collection was 93%
6% liened 09-25-19 \$83,000 out of \$1.3 million

Warrant #7

Checks 13475-13494 \$99,605.27
Receipts #1411-1435 In the amount of \$27,256.19

Open Session:

The update on Marijuana Cultivation Ordinance was moved to Open Session.

The Marijuana Cultivation Committee (MCO) presented a draft of the ordinance on the date of the last Select Board meeting. The Select Board meeting scheduled for Tuesday, September 24 was canceled due to a lack of quorum with two members absent.

Charles Maddaus and Micha Emery objected that the draft ordinance was taken to the Planning Board for their input, especially without the committee being informed and invited. Haxton explained that since the meeting on the 24th was canceled that most of the business was delayed to the next meeting. Hinshaw had asked the town office staff to provide copies of the draft ordinance to the Planning Board for their input.

James McCarthy from the Planning Board said that there was no intent to do anything out of the expected order. Members of the Planning Board were just offering to give their input to make the ordinance the best it can be.

Leavitt asked that Hinshaw recuse himself from the ordinance process due to his personal feelings about the ordinance. Hinshaw was not in agreement. Hinshaw asked that if Leavitt feels that way, that there should be a vote. Hinshaw added that he feels there is conflict of interest of the cannabis growers.

The draft ordinance had been forwarded to MMA for comment at the request of one select board member. The MMA legal department was sent Beth Maddaus' cover letter and the ordinance draft at that time. MMA replied the same day that a review of that scope was not possible from MMA but they could suggest a local attorney. MMA added that they could help with a few specific questions.

Charles Maddaus asked what would be difference between a public hearing and a working session. The goal is to have the ordinance near to final form for a public hearing. Haxton added that the Select Board will need to come to a place that they feel the ordinance is one which they can support and bring to a public hearing.

Haxton stepped back to explain the process for an ordinance starts with a group of people who take on the responsibility of researching and writing an ordinance. The Select Board receives the ordinance. The Select Board then decides if they feel the ordinance is ready to be taken to a public hearing. Is it as strong as it can be; has all the information been researched and verified; and have similar ordinances been evaluated? Haxton continued by saying that revisions may still be needed and the whole process may take much longer than anyone expects. Haxton began then the process of going through each section of the ordinance.

Article VII: The first area of discussion was about "domicile." Maine regulations require permits to go to applicants that have had residency in the state of Maine for at least four years. Eric Austin asked what does someone do if they want to get into cultivation, but they have not been in the business of medical marijuana. Emery replied that the resident would have to work in the medical side for two years. Strout asked what if someone wants to sell their cultivation business. Several committee members replied that was in the document and that section would be covered. Emery said the committee felt the town would be more comfortable if the number of growers is limited, especially at the beginning.

Haxton asked if some of the information (such as laws and statutes) could be put in an appendix so the statutes details can be out of the regular text.

Haxton wanted an explanation about what happens first. . . conditional state permit or permit from town? She felt the ordinance can be clearer. Emery said that he felt that anyone who had gotten this far would have already come to understand the conditional permit from state.

The next section discussed was the "canopy" and the tiers. Emery felt the "area" probably needs a better definition related to canopy.

The definition of resident and the requirements of not being able to go directly to cultivation without doing medical marijuana first seems like it may be challenged.

QUESTION: If state requirements are challenged then will we have to change our regulations as well.

Article VIII - 2

Strout questioned whether the word Application or Permit should be used.

Article VIII - 7 : McCarthy asked if the wording excludes people who want to get into this business. And the term Nursery was explained as seeds, clones, cuttings.

Haxton asked how the town gets the needed information for the permits if information is confidential with HEPA. Emery says that caregivers have cards to verify. The state will provide the documentation to confirm to the town that the grower meets requirements.

Issuing the permits becomes an administrative responsibility of the town, including the verification of information provided. The logistics of this process will become more defined after ordinance specifics are solidified. Leavitt added that the state does background checks every year.

To address questions if there may be challenges that the ordinance creates restraint of trade??? Committee members focused on their reasoning that they were attempting to make residents comfortable by starting with known growers. The ordinance will limit the number of growers instead of putting a maximum number of permits that the town can issue.

Haxton verified with committee members that the conditional license from the state comes first BEFORE the application with the town. She also asked who will put together the application. Runes shared that Beth Maddaus felt this could be done by the committee.

Haxton asked if SUMNER should be added to specify that application is for this town. (throughout document)

John Evans questioned what types of situations would create a denied application. Would a list be available from the state? It was also asked if there will be a physical review or inspection of the property during the application and the renewal process? Committee members felt this would happen if the grower changes tiers. Another question: the building notification process would trigger an evaluation of the property.

Emery added that the state will have staffing to do inspections. If the state inspection covers the same areas of evaluation, then the town will not need to repeat that process. More questions: How much time will this process take and how much staff time? Will additional hours of employees work need to be budgeted.

Article X:

The committee members said the fees listed in Article X are just place holders. Other town's ordinances have been examined but there has been no firm conclusion of what Sumner needs. Emery said that retail stores should be open in March so cultivation permits may be needed in early 2020. The fees selected may need to be adjusted at the Town Meeting in August depending on the knowledge of how many and what types of permits are requested. An

ordinance revision should take place at regular town meeting. Recommendations for change would need to be defined as early as May or June. It was agreed that the fee structure will need more discussion.

Haxton questions if parts 3 and 4 under Article X are redundant. Emery agreed that could be reevaluated.

Article XI: 2

Maddaus questions if 50 feet is a standard? Or sufficient?

Bodies of water **ARE or SHALL** be subject to shoreline zoning.

QUESTIONS were raised by many about fences, buffers, clearing, distance to boundary lines. And what difference of these boundaries for canopy and property line. State law needs to be examined for clarity and to determine if the distances are defined by the state.

Article XI: 3

Evans points out that Site Plan review will come into effect with change of use of land. Evans also suggests the word "security" be removed from XI: 3) a) to make it apply to all sections. "Included but not limited to".

QUESTIONS: What will be the impact of lights, cut-off lighting and cameras on neighbors?

QUESTION: Will notification be given to abutters?

Article XII:

Stewart had an issue with fire department requirement for inspections. She felt these inspections would put a burden on fire department. Emery indicated this was included from another town's ordinance for discussion. Stewart does not want that liability on fire department.

QUESTION: will electrical inspections need to happen every year? Will electrical inspection be needed with changes? What changes?

Article XIV: what is compliance? Needs to be identified.

Article XV: enforcement / land use. Evans is asked if anything in XV raise red flags? His answer is no.

Article XV.3 Appeals- does this 30 days written notice match what is used for Building Notifications and/or appeals. Evans feels other notices are 45 days. This needs to be verified. Is this 45 days standard state appeal?

Article XV: 4) ii) Question about the phrase "enter into administrative consent agreements" was answered that this is similar to penalty / fee with junkyards

QUESTION: What about abutters' notification. If notification is required in a situation with

Planning Board such as site plan review or building notification , then it would be required for a cultivating facility? Evans feels that notifying abutters would support transparency. Emery points out that for security it might be best if fewer people know. Evans rebuttal is that security of neighbor is also to be considered.

QUESTION: What if a potato grower wants to switch to marijuana then will that be allowed.

The discussion revealed specific areas that need more information and revision including:

Restraint of trade

FEES

Enforcement

Boundaries/fences/clearing/buffers

Abutters and notification

Penalties

Length of time for Appeals and Amendments

The Public Hearing is still set for Tuesday, October 22 at 7:00. The Town Meeting and Vote was set for Nov 26 which is the week of Thanksgiving. There was a suggestion for that meeting to be moved to December 10th. The Select Board members agreed that December 10th is a better date.

A break was added here before other issues came before the Select Board.

RSU #10 Report: Charles Maddaus

The state Board of Education is holding its monthly meeting at Rumford which is a positive for future building possibilities. RSU10 is still not fully staffed.

CEO/LPI Report: John Evans Nothing additional

Roads Report: Andrew Wickson. Wickson was not present but he had let office staff know that the Apparel Impact Box needs to be moved for plowing. Wickson has suggested that locating it between the red mailbox and highway 219. Hinshaw will contract Apparel Impact to have the box moved.

Forms, Reports, Correspondence:

General Assistance Ordinance 2019 - signed

Haxton makes a motion that the papers be accepted, Hinshaw seconded, with two votes only.

Municipal Tax Rate form -2 copies signed (4 signatures each). The MIL rate will be set at 20.35.

The proposed 2020 State Valuation information was shared.

Financials and Activity Report - moved ahead to next meeting

An opportunity to submit an efficiency Maine lighting grant was examined. A determination was made that the timing is too tight.

Information on AVCOG solid waste / recycling workshop will be forward to Joe Roach in Buckfield.

Information and registration of an AVCOG Planning Day for October 31, 2019 was distributed. Only Hinshaw wanted to be signed up.

Two Forest Operations were noted:

Carle Pelletier - Upper Sumner Hill Rd

Dennis Biron - nearest road 219

New Business:

Old Business:

Update on Broadband / Fiber: Mia Purell has asked Haxton to go to broad band summit two-day conference on October 28th to present information about the cooperative venture. Haxton will also attend Maine West broadband meeting on October 9th.

Discussion on where to hold Public Hearing and Town Meeting on Marijuana Cultivation Ordinance led to two choices: elementary school or fire station. This information needs to go into newspapers as soon as possible so the Fire Station is the default location for public hearing. Concerns about the Town Meeting at the Fire Station include the heat and the noise. That decision still needs to be made.

Upcoming events:

October 22: Public Hearing on Marijuana Cultivation Ordinance at Fire Station

December 10: Special Town Meeting and vote on Marijuana Ordinance. Location TBA

Meeting adjourned at 10:18 with a motion by Stewart, seconded by Haxton and voted.

October 8, 2019 minutes - submitted by Susan Strout

Approved: October 22, 2019