

MINUTES
BOARD OF SELECTMENT MEETING
January 2, 2019 5:30 pm
at the Damariscotta Town Hall

Members: Roberta Mayer, Chairperson; Ronn Orenstein, Vice-Chairperson; ~~Mark Hagar~~, Amy Leshure; and Louis Abbotoni.

Members Absent: None

Staff Present: Matt Lutkus, Town Manager; Bob Faunce, Interim Town Planner, Jason Warlick, Chief of Police; Amanda Meader, Town Attorney; Stan Waltz, Code Enforcement Officer; Lynda Letteney, Recording Secretary

Others Present: Haas Tobey, Presenter; Penn Way; Al Trescott; Chris Covell; Jessica Breithaupt; Kate Martin; Lorraine Faherty; Mark Ferrero; Jonathan Eaton; Elisabeth Ferrero; Kelsey Wollen; George Betke; Robert Mattes; Patti Whitten; Jordan Bank; Jenny Begin, Brandon Kelsey, Alan Pinkham, Ryan Ellis, and Jessica Picard, Lincoln County News

I. Pledge of Allegiance

II. Community Conversation of Draft Adult-Use and Medical Marijuana Ordinances

Opening remarks were made by Robin Mayer, Chairperson of the Board of Selectmen. She welcomed everyone and thanked them for attending. She recognized **Matt Lutkus** for celebrating his 7th anniversary as Town Manager. She then stated that this meeting was intended to be a discussion/conversation regarding the town's commitment to "opt-in" for adult-use and medical marijuana sales based on the November elections. She then turned the meeting over to **Matt Lutkus**.

Matt gave an overview of what has been happening since the opt-in vote in November. He stated that Damariscotta was one of only a few towns to opt-in under state statutes. State regulations went into effect in mid-December 2018, and any town that opts-in has to have their own ordinances within the boundaries set by the state statutes. While recognizing that the Code Enforcement Officer and the Police will have a lot to do, Matt and town attorney, **Amanda Meader** worked on 2 draft ordinances (new and amended) to the Land Use Ordinances as it related to marijuana use in districts C-1, C-2, Commercial, Residential and Rural zones.

At this point, **Chairperson Mayer** again thanked those in attendance and those watching at home for their input. As she has done in the past, speaking order was designated as 1) residents, 2) business owners, and 3) interested parties not in the first two categories. She reminded participants that the Board was looking primarily at the big picture. Any questions people had tonight that couldn't be answered, would be posted on the web page when the answers were found. The main focus tonight was "how opt-in" relates to our town and how we want to implement it.

Lee Trescott was concerned about Land Use as he wanted to grow hemp on his property (8 acres) and was concerned he would be on the wrong side of School Street. Amanda Meader said she was not familiar with hemp regulations but would check. Buzz Pinkham questioned that if we were all-in, why have zones. There are no zone restrictions on selling alcohol. He also commented on medical marijuana

and felt the town should leave it alone as the state regulations require. (medical Care Givers and fees paid to state). His wife benefitted greatly from medical-use. As far as recreational use, he doesn't care. **Chairperson Mayer** interjected the voting results at this point stating 54% favored recreational use and 69% favored medical use. She also stated that state regulations allow three mature plants per person at any one time.

Penn Way (resident and C-1 district business owner) felt the restrictions were hypocritical given that there were already 9 liquor licenses in C-1, 6 on premises and 3 to-go. Why limit C-1? If adult-use sales are out of town, bigger issues may arise. It's an all cash business, security out of town may be harder, also don't we want to increase traffic downtown? As far as testing facilities, why would that have to be out of C-1? Cultivation not in C-1 ok, but C-2 should be okay. Most larger operations need more land space than C-2 would offer. He is okay with limiting the size of a grow operation or the number of retail establishments, but sees no reason to limit location when so many places can sell liquor. He feels these restrictions are short-sighted. If we are a Service Center for the area, we should not be choking it off before we start.

Dick Mayer, resident, asked who else has opted-in? Matt Lutkus said he knew Waldoboro, Bristol, Nobleboro, and Newcastle have not. He believes Damariscotta is one of the first in the state. Additionally, local area towns look to Damariscotta as the service center. Other questions from **Mr. Mayer**: 1) What are the advantages to other businesses already here? 2) What about the regulations of no retail near a Day Care Center or similar establishment? Amanda Meader stated that a pre-existing retail store would be grandfathered if a day care wanted to open nearby, by the same token an existing day care would prohibit a retail establishment from building/opening within the specified distance. 4) to make criminal cases how do you distinguish between mature and immature plants? Amanda stated that there is state statute definition – if lowering mature; if not, immature. 5) Being a cash business, he has concerns about the amount of time and expense the police will have to add to cover potential thefts? General response from some audience members was that these establishments have high quality security and usually have very high tech safes.

Jen Begin spoke stating that Maine has very few testing sites, and she thinks a high quality testing center would be a good source of employment and a good business for the town to seek out. Why would we want to limit that? Question asked: Why are we rushing to do this? Why do we have to be the first? Matt Lutkus responded that the law passed 2 years ago and state has dragged its feet on getting the regulations established. Why delay any further? A resident responded she was in favor of both recreational and medical use. Retail stores are necessary if you want to do it right. She felt testing needs to be done and to be accurate, especially for medical use. She is a cancer survivor, and after going the chemo route, has had success with medical marijuana. She favors adult-use with testing.

Bob Mattes asked **Chief Warlick** if he had any concerns about the town becoming a mecca for pot users. Would an influx overburden our police force in their duties? Patty Whitten asked for a rationale for distinguishing between C-1 and C-2 zones. Matt explained that a Survey Monkey was put out to town residents last year regarding this issue and the responses indicated a desire among residents for clear distinctions among C-1, C-2, residential and rural. Ms. Whitten stated that since there are residential

areas within C-2, for this issue C-2 should be the same as C-1. **Penn Way** commented that slicing and dicing districts creates other problems. He doesn't believe there should be an exclusion for C-1. **George Betke** asked if the selectmen were "all in", with the potential of 30 licenses? **Robin Mayer** stated that the staff recommendation was for 30; **Matt** said he believed if 28 were available but they were not all retail. For example: A medical provider may was a small grow operation in a rural zone, and a retail adult-use license in addition to his/her medical-use license. **Matt** continued saying that he recommended being conservative to start as it is very difficult to "step back" afterwards. **Buzz Pinkham** expressed concern that "we are stigmatizing clients and customers. More people doesn't necessarily mean more police are needed." **Lee Trescot** said that it seemed we were expecting more violence, when in fact, he didn't believe there would be much, if any, difference. **Chief Warlick** felt it may lead to more impairment, but his concerns were more about 1) "smell issues" - noxious odors- and 2) edibles – state statutes say edibles and baked goods cannot look like kids' candy. He felt OUI's would go up but determining in the field if it is marijuana or opioids has not been perfected.

Ryan Ellis, business co-owner of the Caregiver Storefront in town, felt that stigma attached to marijuana use is often perpetrated by those who don't use, or don't know someone who has benefitted from use. They have been open about 6 months and all types and classes of people use it – professional to homeless. As far as additional services, he asked the Board what has been provided that would not have been required or used by any other business. Board response: Nothing. As far as security, the further away from the regular police routes, the more likely to be an increased risk. He can't see why C-1 is excluded. Additionally, he raised the issue that if it is a retail establishment, should they be required to offer medical marijuana as well. The medical use is highly regulated as far as pricing, licensing, charging of fees, etc. He feels it is imaginary that the town will become a "mecca" – a farce - anyone who wants to use knows where to go.

Christopher Covell, a non-resident, likes downtown. C-1 is important but as a 100% disabled veteran who started on oxycodone, medical marijuana has been a welcome relief. We are a diverse community and he feels sales should be permitted in C-1. A gentleman from Dresden said he was a recovering addict and without marijuana he would not be sober. **Mark Ferrero**, business owner Caregivers)and Nobleboro resident, stated that the state has regulations regarding packaging that they follow. They have 6 parking spaces and an attractive storefront. Most customers are 45+ in age. They talk to patients individually, provide educational materials and currently it is non-restrictive to get a medical marijuana card. Seeing Damariscotta become a "mecca" is a fallacy. They have no need for extra town services and have 2 public bathrooms on premises. They have room to expand and would like to be able to offer recreational marijuana in their C-1 location.

With no other comments from the public, **Robin Mayer** asked if the Board had any comments. **Amy Leshure** felt we were too small to limit space available and should consider C-1. **Lou Abbotoni** referred to a Portland Press Herald article that was discussing testing and its importance to make sure that there are no foreign ingredients. **Matt** said that the state regulates testing, but the town can add additional requirements. The same goes for proximity to schools- state regulations say no closer than 1000 ft., but local ordinances can make it more.

Ryan Ellis asked how licenses would be granted. He felt “a lottery” was a poor way to do business. He would prefer to see a “weighted” application which defers to the medical community who has already established itself in the marijuana community (Compassionate Caregivers of Maine). Anyone seeking a recreational sales license would in essence be secondary to an established medical provider who wants to do retail recreational sales. A lottery similar to the shellfish licenses may not be appropriate or in the best interest of the community with regard to recreational marijuana licenses.

Chairperson Mayer thanked everyone for coming. The Board will be taking all information under advisement. Frequently asked questions will be posted on the website with answers forthcoming. Check the website for future meetings. Tentative schedule for these ordinances is:

January-Community Conversation

February –Public Hearing

March- vote at Special Town Meeting.

The exact dates are yet to be determined.

An audience member asked, “Who writes the ordinances?” **Robin Mayer** responded that Matt, Bob Faunce and Attorney Meader will be drafting them.

The Community Conversation portion of the meeting ended at 6:40 p.m.

III. Call to Order:

Regular portion of the Board of Selectmen’s meeting was called to order at 6:42 p.m. by **Chairperson Mayer**

IV. Minutes:

On motion (Mayer/Abbotoni) to approve the minutes from the December 19, 2018 meeting

Vote: 4-0-0

V. Financial Reports

Because of the switching of banks to Damariscotta Trust only the payroll warrant is available at this time. Others will be done at the January 16, 2019 meeting

1. On motion (Abbotoni/Leshure) to approve Payroll Warrant #35

Vote: 4-0-0

VI. Presentations: None

VII. Citizen Comments and General Correspondence: None

VIII. Town Manager Items

1. Matt asked what direction, if any, the Board wanted to give Bob Faunce and Amanda Meader on how to proceed following tonight’s community conversation. **Amy Leshure** felt there should be concentration of facilities for law enforcement management. Matt asked if she wanted all of it in the downtown area. **Chief Warlick** stated that it is a small geographic area and short response time is the norm no matter where the police are at any given time. Smell is still a concern for him, but otherwise no huge concerns. Frankly, he felt most of these establishments have very high tech security themselves.

Statistically, with both grow operations and stores, burglary and theft are minimal. **Robin Mayer** stated she was not in favor of all operations being in one area (creating a "red light district"). **Amanda Meader** asked about addressing the odor. **The Chief** felt a high quality ventilation system was necessary. **Bob Faunce** stated that odor regulation has to be absolute or a standard must be enforced. He said there are actually professional "sniffers" who can declare "no discernable odor". Unlike a bakery or retail store, the biggest threat to violating an odor ordinance are the growers, depending on indoor grow ventilation. **Robin Mayer** said she felt it might be self-correcting. A noxious smell decreases my property value. She also felt the state definition of mature and immature plants should be referenced. **Matt** said he would make up a list of questions based on tonight's input. He will get input on # of licenses and if that # should be by zoning districts for the next meeting.

Haas Tobey asked if there should be "clustering" by district: i.e. retail/medical/dispensary in one group and cultivation/manufacturing in another. Testing by state statute has to be its own category separate from the others. **Bob Faunce** replied that the planning Board agenda was addressing this under Land Use/Zoning. He felt there was no need to be ready for March- slow and careful was a better approach. The State is still working on legislation. **Matt Lutkus** asked if the current medical-use shop would need to get another license. **Bob** felt not as they were grandfathered-in before December 15th.

To summarize, **Robin Mayer** said they needed:

- 1) a list of questions to be answered from community conversation;
- 2) a list of questions the Board has – both of which are to be sent to **Matt**.
- 3) Additionally each correspondence should be marked "DRAFT" with the date and the # of the draft.

2. **Chief Warlick** is requesting permission to apply for a grant to purchase a new laptop for one of the cruisers. The grant would be for \$1611, the cost of hardware and installation.

On motion (Abbotoni/Orenstein to grant Chief Warlick permission to apply for a cruiser laptop grant not to exceed \$1611.

Vote: 4-0-0

IX. Official Action Items – none

X. Selectmen's Discussion Items

Ronn Orenstein brought up the issue of the light at the church and the bank. Apparently it has been flashing for a week or so. It should be blinking after 10 p.m. and stop before 6 a.m.; it has been blinking 24/7. The Chief said there is only one company in Maine that fixes them and the call is in; they are just waiting for them to come. It was also noted that a green light at Biscay Road is out. **Robin Mayer** again wished **Matt Lutkus** Happy Anniversary with the town.

XI. Adjournment

On motion (Orenstein/Abbotoni) the meeting was adjourned at 7:08 p.m.

Vote: 4-0-0

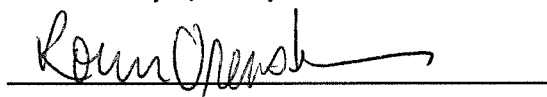
Respectfully submitted,

Lynda L. Letteney
Recording Secretary

We, the undersigned, do hereby approve as written, or with corrections as noted, the minutes of the above-designated Board of Selectmen meeting.



Roberta Mayer, Chairperson



Ronn Orenstein, Vice-Chairperson

Mark Hagar



Amy Leshure

Louis F. Abbotoni

Town of Damariscotta, Board of Selectmen, signed this date: _____