

MINUTES
TOWN OF TOPSHAM
BOARD OF SELECTMEN MEETING
DONALD A. RUSSELL MEETING ROOM
DECEMBER 5, 2019 – 7:00 P.M

MEMBERS PRESENT: David Douglass
Marie Brilliant
Ruth Lyons
Matt Nixon
Roland Tufts

MEMBER(S) ABSENT: All present

STAFF PRESENT: Town Manager, Richard Roedner; Assistant Town Manager Derek Scrapchansky

A meeting of the Topsham Board of Selectmen was held on Thursday December 5, 2019 in the Donald A. Russell Meeting Room, at the Municipal Building, 100 Main Street, Topsham, Maine.

CALL TO ORDER

Chairman David Douglass called the regular meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE/ROLL CALL

All present were invited to stand and recite the Pledge of Allegiance to the Flag. The recording secretary took the roll call and noted that all members were present.

TOWN MANAGER'S REPORT

With the change in the recycling market and with Christmas coming, this year wrapping paper will not be accepted at the transfer station. Wrapping paper includes some foil paper, various types of ribbon and tape which poses a contamination issue.

BOARD AND COMMITTEE REPORTS AND UPDATES – None noted.

PUBLIC COMMENT – None noted

CORRESPONDENCE – Selectman Nixon asked if wrapping was accepted at the transfer station last year. Chairman Douglass responded that it was not due to the possibility of containments.

ADJUSTMENTS TO THE AGENDA – None noted

CONSENT CALENDAR

1. Approval of the minutes of the Special Selectmen meeting November 18, 2019.

Motion was made by Chairman Douglass, seconded by Selectman Lyons, and it was

VOTED

To approve the minutes of the Special Selectmen's meeting of November 18, 2019, as written.

2. Approval of the minutes of the Regular Selectmen's Meeting of November 21, 2019.

No action was taken on the minutes of November 21, 2019.

PUBLIC HEARING

19-94 CONSIDERATION AND ANY APPROPRIATE ACTION ON APPROVING A MARIJUANA BUSINESS LICENSE APPLICATION SUBMITTED BY SUND OG CAREGIVING, LLC FOR A TIER 2 REVIEW. MARIJUANA CULTIVATION FACILITY LOCATED AT 248 AUGUSTA ROAD, TAX MAP R05, LOT 089-B

The Public Hearing was declared open. Planning Director Rod Melanson spoke to the application saying Ryan Holmes is applying for a Marijuana Business Cultivation license from the Town under his company, Sundog Caregiving LLC. Mr. Holmes is the sole owner of the business and is licensed in the State of Maine as a registered caregiver. Sundog Caregiving LLC is applying for the cultivation license to grow up to 2,000 s.f. of marijuana. Currently, the State of Maine has yet to provide licensing to entities other than caregivers. In order to receive a state license (when the time comes) the applicant will need to have proof of authorization from the municipality where they would like to locate.

It was noted that the Public Hearing was duly advertised. The applicant has received approvals from Planning and Codes for building/site improvements prior to applying for the Marijuana Business License.

During a period of questions from the Board, Chairman Douglass questioned page 2 of the application where it says the business is an LLC and not sole proprietor. Mr. Holmes responded that he is the sole proprietor and explained why that particular question was checked. It was noted that a complete Security Plan was submitted to the Planning Office with the application, but for obvious reasons is not made public information.

The need to require a background check was discussed and the Board was in agreement that the background check completed by the State of Maine would be sufficient. Communication between the Town and the State needs to be established. Question arose of what would be involved with a transfer of ownership of the business. Response was that there cannot be a transfer of ownership without the new owner coming back before the State and the Town. Each license will be issued on an annual basis and come before the Board of Selectmen.

Mr. Holmes explained the process of how the State releases applications and how the licensing process works for cultivating and said there is tracking from seed to sale. He said this is a completely new industry and he hopes to become a role model grower and provider.

Selectman Lyons said she was glad Mr. Holmes was the Town's first case to process and wished him well. Selectman Nixon added that the process began at the 2016 referendum and he was glad Mr. Holmes stepped in, became knowledgeable with the process and stuck with it.

Chairman Douglass asked to receive comments from members of the public. With no comments to be heard, the Public Hearing was declared closed.

The Board found the following **FINDINGS**:

1. The applicant is Sundog Caregiving LLC (Ryan Holmes owner/operator), with Business location at 248 Augusta Road, identified by Map R05, Lot 089-B.
2. The use is a permitted use in the RCU Zone.
3. The applicant has received site plan and the necessary codes permits to operate.
4. The license being sought allows up to 2,000 square feet of cultivation area.
5. The applicant (owner of Sundog LLC) is a licensed caregiver in the State of Maine and is identified as the operator of the business.
6. The applicant attests to comply with the operating requirements within the licensing code sections found in Section 150-11:
 - (1) If a State License is required for the proposed use, a copy of the Applicant's State License Application and supporting documentation as filed with the State Licensing Authority and any amendments thereto. *Applicant has submitted a State Medical Marijuana Caregiver License.*
 - (2) Evidence of all State approvals or conditional approvals required to operate a Marijuana Business, including, but not limited to, a State License as defined by this Article, a State Retail Certificate or a State Health License. *Applicant has submitted a State Medical Marijuana Caregiver License, State Resale License and a Retail Certificate.*
 - (3) If not included in the Applicant's State License Application, attested copies of the Articles of Incorporation and Bylaws if the applicant is a corporation, operating agreement if the applicant is a Limited Liability Company, evidence of partnership of the applicant is a partnership, or Articles of Association and Bylaws if the applicant is an association. *The applicant has submitted the Certificate of Formation for Sundog Caregiving LLC, Ryan Holmes is 100% owner.*
 - (4) If not included in the Applicant's State License Application, an affidavit that identifies all owners, officers, members, managers, or partners of the applicant, their ownership interests and their places of residence at the time of the application and for the immediately preceding three years. *The applicant has submitted the Certificate of Formation for Sundog caregiving LLC, Ryan Holmes is 100% owner. A notarized affidavit is included in the application.*
 - (5) Evidence of a property interest in the premises in which the Marijuana Business will be located, along with the written consent of the owner of the premises for such use if the applicant is not the owner. *The applicant has provided proof of Lease Agreement with the property owner of 248 Augusta Road.*
 - (6) A description of the premises for which the Local License is sought, including a floor plan of the premises showing how the floor space is or will be used, parking for the premises, total floor area of the building(s) and the nature and location of

any existing or proposed exterior lighting and signage. *The applicant has submitted a basic floor plan and site layout. The applicant received a site plan approval for minor upgrades to the property prior to submitting this license application.*

- (7) A copy of the applicant's Security Plan and Operations Manual. *The applicant has submitted a Security Plan and Operations Manual.*
 - (8) Evidence that operating requirements of Section 150-14 are met. *The applicant attests to meet all operating requirements of this section by signing their application submission.*
7. The Board of Selectmen has determined that on the application that the company is an LLC and not a sole proprietorship and this has been reviewed by the Board as such.

Motion was made by Chairman Douglass, seconded by Selectman Nixon, and it was unanimously

VOTED

To approve the application of Sundog Caregiving, LLC Marijuana Cultivation Facility Tier 2 based upon the Findings of Fact as listed in a memo from Town Clerk Linda Dumont dated September 4, 2019 with the following Conditions of Approval:

1. The applicant/facility may not operate as a State licensed cultivation facility until such time the State marijuana cultivation licenses are approved, delivered and reviewed by the Town Clerk's office.
2. No changes to this approved license are allowed to occur. The applicant must return to the Board of Selectmen for any license renewals and/or amendments.

UNFINISHED BUSINESS – None noted

OLD BUSINESS – None noted

NEW BUSINESS

19-95 CONSIDERATION AND ANY APPROPRIATE ACTION WRITING OFF UNPAID NON-SUFFICIENT FUNDS (NSF) FOR 2014 AND 2015 PROPERTY TAX AND TO CONSIDER ADOPTING A POLICY FOR FUTURE REVIEW AND WRITE OFF UNPAID NSF. TOTAL AMOUNT OF REQUEST IS \$563.29 AS SHOWN ON THE ATTACHED UNPAID NSF LIST

Finance Director Debbie Fischer spoke to this item saying the Town's auditors recommended writing off the past 10 years of unpaid property tax. The original request was to write off \$563.29 but Ms. Fischer amended her request to \$1,598.40 to include unpaid taxes from 2007 through 2010. She also requested a policy be written to go by to writeoff future unpaid taxes.

Discussion ensued with concerns expressed by Board members on how to prevent businesses with unpaid taxes to apply for future licenses. Selectman Lyons asked why we even have personal property taxes and said it is unfair to those individuals who pay their taxes faithfully when others don't pay theirs. The Board asked the Town Manager to develop a policy for Board consideration addressing write off of unpaid NSF accounts.

Following discussion, motion was made by Chairman Douglass, seconded by Selectman Lyons, and it was

VOTED

To write off \$563.29 of NSF funds and that the new total of \$1,598.40 for those that are 10 years old.

19-96 CONSIDERATION AND ANY APPROPRIATE ACTION TO DISCUSS FUNDING OPTIONS FOR MAIN STREET CULVERT REPLACEMENT

Memo is in file from Town Manager Roedner to the Board dated November 27, 2019 explaining the history on this item. Low bid for the project is being considered from St. Laurent & Sons Construction in the amount of \$468,885.

The Board discussed funding options noting there is approximately \$245,000 remaining the budget from FY18. Two possible sources were considered to fund the balance, one being FY2021 allocation through the budget process, effective July 1, 2020 and the other to draw from the Economic Development reserve which had \$475,455 in it as of June 30, 2018 in TIF funds.

Following further discussion, motion was made by Chairman Douglass, seconded by Selectman Tufts, and it was unanimously

VOTED

To award the culvert replacement project to St. Laurent & Sons Construction with the amount not to exceed \$468,885. The funds for this will come from the fiscal year 2018 with the remaining balance to come out of the TIF Economic Development Reserve Fund.

19-97 CONSIDERATION AND ANY APPROPRIATE ACTION ON ADJUSTING THE START TIME OF THE BOARD OF SELECTMEN MEETING FROM 7:00 P.M. TO 6:30 P.M.

Following discussion of this item, motion was made by Chairman Douglass, seconded by Selectman Tufts, and it was unanimously

VOTED

That effective January 1, 2020, the Board of Selectmen meetings will begin at 6:30 p.m.

19-98 CONSIDERATION AND ANY APPROPRIATE ACTION ON APPOINTING DEREK SCRAPCHANSKY AS THE INTERIM TOWN MANAGER TO BE EFFECTIVE JANUARY 6, 2019

Following discussion, motion was made by Chairman Douglass, seconded by Selectman Lyons, and it was unanimously

VOTED

To appoint Derek Scrapchansky as Topsham's Interim Town Manager effective January 2, 2020 at 5:01 p.m. with a salary of \$2,000 a week.

EXECUTIVE SESSION

At 7:56 p.m., motion was made by Chairman Douglass, seconded by Selectman Lyons, and it was unanimously

VOTED

To move into Executive Session to discuss agenda items 19-99 and 19-100. All Board members were present, as was Town Manager Roedner, Assistant Town Manager Scrapchansky, Public Works Director Dennis Cox, Planning Director Rod Melanson, and Economic and Development Director John Shattuck.

19-99 CONSIDERATION AND ANY APPROPRIATE ACTION TO ENTER INTO EXECUTIVE SESSION PURSUANT TO 1 M.R.S.A. §405 (6) (C) TO DISCUSS ACQUISITION OF REAL PROPERTY OR ECONOMIC DEVELOPMENT

When the Board returned to regular session at 9:05 p.m., motion was made by Chairman Douglass, seconded by Selectman Nixon, and it was unanimously

VOTED

To instruct staff to undertake survey work of the subject property.

19-100 CONSIDERATION AND ANY APPROPRIATE ACTION TO ENTER INTO EXECUTIVE SESSION PURSUANT TO M.R.S.A. §405 (6) (D) TO DISCUSS LABOR NEGOTIATIONS

In regular session, which included the Town Manager and Assistant Town Manager, motion was made by Chairman Douglass, seconded by Selectman Brilliant and it was unanimously

VOTED

To approve the proposed collective bargaining contracts with the IAM Supervisory and Operations units, effective July 1, 2019 for a period of three years, conditioned on Unit approvals.

ADJOURN

Motion was made by Selectman Brilliant, seconded by Selectman Nixon, and it was unanimously

VOTED

To adjourn the meeting at 9:06 p.m.

Respectfully submitted,

Patty Williams, Recording Secretary