

**7:00PM Board of Selectmen Meeting
Topsham Municipal Building
Donald A. Russell Meeting Room
November 2, 2017**

Pledge of Allegiance –

Roll Call of Board Members –

Town Manager's Report –

Board and Committee Reports and Updates –

- Update Conservation Commission- Victor Langelo- Chair

Public Comment –

Correspondence –

Adjustments to the Agenda –

Consent Calendar –

1. Approval of the minutes of the Regular Selectmen meeting 10-19-2017.

Public Hearing –

Unfinished Business –

Old Business –

New Business –

17-95- Consideration and any appropriate action on review of draft Town Meeting Warrant for December 6, 2017.

Executive Session-

17-84- Consideration and any appropriate action to enter into Executive session to discuss a personnel matter pursuant to 1 M.R.S.A. § 405 (6) (A).

Any public member desiring to address the Board shall be recognized by the Chair, shall state name and address for the record, and shall limit remarks to the question under discussion. All remarks and questions addressed to the administration of Town shall be addressed to the Town Manager or the Board of Municipal Officers through the Chair and not to any municipal town employee. No person other than members of the Board and the person having the floor shall enter into any discussion either directly or through a member of the Board without the permission of the presiding officer.

Public members attending Board Meetings also shall observe the same rules of propriety, decorum, and good conduct applicable to the members of the Board. Any person making personal impertinent and slanderous remarks, or who becomes boisterous while addressing the Board or those attending the Board meeting shall be removed from the room if so directed by the presiding officer. Aggravated cases shall be prosecuted on appropriate complaint signed by the presiding officer. In case the presiding officer should fail to act, any member of the Board may move to require the Chair to act to enforce the rules, and the affirmative vote of the Board shall require the presiding officer to act. 05/29/2003

Board of Selectmen Meeting

For the date of: 11/02/2017

Type of Item:

- Board or Committee Presentation
- Consent Agenda Item
- Public Hearing
- Unfinished Business
- Old Business
- New Business
- Executive Session
- Workshop

Type of Submission:

- Regular Submission
- Additional Agenda Item
- Additional Information

Agenda Number 1

(If this is unfinished business, please remember to research and enter the original agenda number above. For regular agenda items, the secretary will assign a number.)

Brief Title of consent or Agenda Item: Approval of the minutes of the Regular Selectmen meeting 10-19-2017.

Brief Description of Consent or Agenda Item: see attached

Submitted by Rich Roedner, Town Manager **Date:** 10-24-2017

MINUTES
TOWN OF TOPSHAM
BOARD OF SELECTMEN MEETING
OCTOBER 19, 2017 - 7:00 p.m.

MEMBERS PRESENT: David Douglass
Marie Brilliant
Ruth Lyons
William Thompson

MEMBER(S) ABSENT: Roland Tufts

STAFF PRESENT: Richard Roedner, Town Manager

A meeting of the Topsham Board of Selectmen was held on Thursday, October 19, 2017 in the Donald A. Russell Meeting Room, at the Municipal Building, 100 Main Street, Topsham, Maine.

CALL TO ORDER

Chairman 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 Selectmen were present, except for Selectman Tufts who had been excused.

TOWN MANAGER'S REPORT

This Saturday is our next Household Hazardous Waste collection day. If you haven't registered, you are too late, as all slots are filled. If you did register, don't forget to go.

Saturday, October 28 is the next Drug Collection day at the Topsham Police Department, from 10 until 2. No liquids or needles will be accepted.

On Tuesday, the 31st, is our annual Halloween Parade at the Topsham Fair Mall. It will start at 4:15 pm, so get there early for line up.

A couple of warnings: First, we are into hunting season, so be careful out in the woods, and make sure to have some blaze on. Second, we have seen a rash of vehicle break-ins, so please keep your cars locked at night and don't leave valuables inside.

The big news to announce is that our long-awaited, much-anticipated, never-to-be-duplicated Town Wide Comprehensive Plan Mega Kick-off event-appaloosa, has kicked-off. Tonight's baked bean supper was followed by a community discussion that will continue until about 8:30 tonight. I would encourage everyone to check out our webpage, www.topshammaine.com or the [planyourttopsham](#) face book page to find out about the upcoming schedule of activities. There are

multiple venues to provide information, including small group discussions, informal drop in periods, and more formal public meetings. There are also walking tours and a bike infrastructure workshop and ride. Plus, there will be fun activities, including a free movie, Wonder Woman, tomorrow night, a block party on Saturday and an Artisan's Market on Sunday. All events take place at the old Fire Station on Green St.

BOARDS AND COMMITTEE REPORTS AND UPDATES

UPDATE TDI/ECD – John Shattuck, Economic and Community Development Director, gave a thorough summary to the Board regarding the recent traffic test in the Lower Village. Mr. Shattuck covered:

- **Traffic Issues – Goals of Traffic Test**

To reduce rush hour congestion, especially during the afternoon commute

Increase safety by

Reducing unsafe turns onto Winter Street from Main Street

Reduce use of curb-side parking stalls as vehicle lane at that location

- **Traffic Test Pattern Change Consisted of...**

Eliminate left turns from Main Street onto Winter Street

Make last block of Winter Street one-way toward Main Street

Redirect such turns – 250 feet north to the intersection of Main and Elm Street

Where there is already a left turn lane and protected left turn signal

Create additional left turn lane storage capacity – stacking order can stock 5 cars

- **Traffic Tracking Data**

Summer Street

Before data unreliable – machine failures

After Data: 425 trips per day and average speed of 24 mph

Winter Street

Before data: Average trips per day: 2,500 and average speed 26 mph

After data: Average trips per day: 1,000 and average speed 27 mph

- **Public Feedback Via Phone, e-mail and Letters**

Support to oppose ratio: Approximately 60% to 40%

Support New Pattern

Less congestion on Main Street

Safer on Main Street

No risky turns at Winter Street and protected turns at Elm Street Ext

Slower speeds on Winter Street

Oppose New Pattern

Too much traffic on Elm Street Ext and speeding

Turns onto Elm Street Ext will be harder in snowy conditions

-NB: Slope steeper on Winter Street with sharp turn – speeding

Negative impacts to residents at two buildings at Main and Elm Street Ext

Charts were included in the Board package for the Board to review figures and numbers of the pros and cons. Those for noted less congestion on Main Street and considered Main Street safer with protected turn. Those opposed noted too much traffic on the Elm Street Ext, complained that individuals drive too fast and the two buildings on Main and Elm Street Ext. do not like the extra traffic.

Comments from letter dated 9/6/17 from Traffic Engineer Tom Errico (and filed with these minutes) was discussed. Chairman Douglass commented that anytime we do anything with traffic, all we do is push the balloon somewhere else. Mr. Douglass said he was not comfortable to make any changes with only 35 comments received and would like to add an agenda item (**17-94 CONSIDERATION AND APPROPRIATE ACTION TO EXTEND THE WINTER STREET AREA TRAFFIC CIRCULATION TEST TO SUNDAY, NOVEMBER 19, 2017 AND HAVE A WORKSHOP TO RECEIVE PUBLIC COMMENTS PRIOR TO THE SELECTMEN'S REGULAR MEETING ON NOVEMBER 16**) That motion was made by Chairman Douglass, seconded by Selectman Lyons and it was so **VOTED**.

Selectman Thompson noted the importance of the public meeting/workshop to be duly advertised to reach as many citizens as possible.

PUBLIC COMMENT – None noted.

CORRESPONDENCE – None noted.

ADJUSTMENTS TO THE AGENDA – 17-94 - CONSIDERATION AND APPROPRIATE ACTION TO EXTEND THE WINTER STREET AREA TRAFFIC CIRCULATION TEST TO SUNDAY, NOVEMBER 19, 2017 AND HAVE A WORKSHOP TO RECEIVE PUBLIC COMMENTS PRIOR TO THE SELECTMEN'S REGULAR MEETING ON NOVEMBER 16 (So voted above.)

CONSENT CALENDAR

1. Approval of the minutes of the Regular Selectmen's Meeting of 10/5/17.

Motion was made by Selectman Lyons, seconded by Selectman Brilliant, and it was unanimously (of those present)

VOTED

To approve the minutes of the Regular Selectmen's Meeting of October 5, 2017, as written.

PUBLIC HEARING

17-90 – CONSIDERATION AND APPROPRIATE ACTION ON THE GENERAL ASSISTANCE ORDINANCE APPENDIX (A-D)

Linda Dumont, Town Clerk and General Assistance Director asked the Board to adopt MMA's new October 1, 2017 to September 30, 2018 General Assistance Appendix A – D, which is required annually.

The Public Hearing was declared open. There being no one wishing to speak, the Public Hearing was declared closed.

Following a brief review, motion was made by Selectman Lyons, seconded by Chairman Douglass, and it was unanimously (of those present)

VOTED

To adopt MMA’s new October 1, 2017 to September 30, 2018 General Assistance Ordinance Appendix A-D.

UNFINISHED BUSINESS – None noted.

OLD BUSINESS – None noted.

NEW BUSINESS

17-91 CONSIDERATION AND ANY APPROPRIATE ACTION TO SEE IF THE SELECTMEN WILL APPROVE EXTENDING THE CONTRACT WITH SAPPI COMPANY FOR THE SOLID WASTE FACILITY TO FOLLOW THE 2012 FORESTRY PLAN FOR THE FORESIDE RECREATION FACILITY AS OF NOVEMBER 1, 2017

Pam LeDuc, Parks and Recreation Director asked the Board to consider extending our contract with SAPPI for an addition 6 months. She said in this time, the harvesting will be moved to the Foreside Recreation area. The current contract with SAPPI allows us to extend the agreement and adjust the area with mutual agreement. Currently, SAPPI has completed the harvest at the Solid Waste Facility and is requesting to begin harvesting the identified trees in the plan starting in November. Ms. LeDuc said that prior to the harvest, a meeting will be held at the library with all property owners who are adjacent to the field so their concerns can be addressed. A plan will be developed that will have limited impact to the neighborhoods.

During discussion between the Board it was noted that Forester Paul Larrivee did an excellent job with the harvesting at the Solid Waste Facility. Motion was made by Chairman Douglass, seconded by Selectman Brilliant, and it was unanimously (of those present)

VOTED

To extend the contract with the SAPPI Company for the Foreside Recreation Facility for a period of up to 6 months.

17-92 CONSIDERATION AND ANY APPROPRIATE ACTION ON ELECTRICITY PURCHASE AGREEMENT

Town Manager Roedner told the Board he has been working with Maine Power Options over the past several months, monitoring electric rates. He said rates have dropped as the summer has moved along and the split service concept was also dropped, allowing us to be on a single rate, which has been dropping consistently from \$.067 down to \$.0667 as of October 11. This is for a fixed rate four-year contract. The rates are slightly higher for shorter terms, and would then likely be renewed at even higher projected rates when renewed. This would represent an increased cost to us of about \$4,447 (based on past usage) from our current rate of \$.062/kwh.

Mr. Roedner recommended that the Board enter into a four-year contract. Motion was made by Chairman Douglass, seconded by Selectman Lyons, and it was unanimously (of those present)

VOTED

To authorize the Town Manager to sign a four-year Electricity Purchase Agreement with Maine Power Options.

17-93 CONSIDERATION AND ANY APPROPRIATE ACTION ON ADOPTING A PROPOSED MORATORIUM ON MEDICAL MARIJUANA STORE FRONTS, AND CONSIDERATION OF A SPECIAL TOWN MEETING

Town Manager Roedner said a week or so ago, we had the grand opening of a “Glass Shop” in the Topsham Fair Mall. This retail use, which required no permits other than building-type permits, has, as an accessory use, a marijuana clinic with a nurse in residence. These clinics are allowed by State Statute with up to five clients. Mr. Roedner said since the approval of the recreational marijuana legislation, we have seen a proliferation of retail-style clinics across the State, which have perhaps four permanent clients. The fifth slot is held open for people who show up, sign up as a client (or obtain a card if needed), obtain their product and then leave as a client. The resulting vacancy is then open for the next person to come through the door. The sense is that these establishments are trying to get ahead of the retail facilities that will be opening over the next year or so.

The Town has expressed a level of concern over retail operations (hence the moratorium and the thought of perhaps having local regulations) and following the grand opening at the Mall, we have been contacted by three other “clinics” about opening up in Topsham. Mr. Roedner said Brunswick has recently adopted a moratorium on store front clinics. He said he has asked our attorney for advice on avenues that may be open to us. In general, local governments cannot regulate clinics based on the statute. However, according to our attorney, DHHS has been allowing local regulation at the zoning level. This will allow us to regulate the store front business model – locations, hours, etc.

A Draft Moratorium on Medical Marijuana Storefronts which was modeled on a version recently approved by Brunswick, and reviewed by our attorney, was included in the Board package. The Board discussed if this issue constituted an ‘emergency’ under the law, and if a Special Town Meeting to present the Moratorium for adoption should be held. Time wise, 2 or 3 weeks advance notice would be required for a Special Town Meeting. Suggestion of a workshop to be held on the 8th of November was made. Selectman Lyons said, if a Special Town Meeting was held, she would like to see Official Business Directional Signs included on the agenda.

Following discussion, motion was made by Chairman Douglass, seconded by Selectman Lyons, and it was unanimously (of those present)

VOTED

That we start the process of a Special Town Meeting for an Emergency Moratorium Ordinance on Medical Marijuana Storefronts, and Official Business Directional Signs following a timing that the Town Manager can work out as soon as feasible.

17-94 - CONSIDERATION AND ANY APPROPRIATE ACTION TO EXTEND THE TRAFFIC TEST PATTERN AT MAIN AND WINTER STREETS TO SUNDAY, NOVEMBER 19, 2017 AND HAVE A WORKSHOP TO RECEIVE PUBLIC COMMENTS PRIOR TO THE SELECTMEN’S REGULAR MEETING ON NOVEMBER 16)

Chairman Douglass said he agreed with Tom Errico’s e-mail, T.Y.Lin, saying if we are going to keep the test up, do so, don’t take a couple weeks break and reinstitute again, as that would be confusing to the public. Also, we have only had 28 and 35 comments.

Motion was made by Chairman Douglass, seconded by Selectman Lyons, and it was unanimously (of those present)

VOTED

To extend the test until Sunday, November 19, with a plan of reaching a final determination at the Board of Selectmen meeting on Thursday night, November 16 of permitting it or doing away with it and holding a workshop session on Wednesday, November 8 at 7:00 p.m. in the Donald A. Russell meeting room to received additional feedback.

ADJOURNMENT

Motion was made by Selectman Thompson, seconded by Selectman Lyons, and it was unanimously

VOTED

To adjourn the meeting at 8:00 p.m.

Respectfully submitted,

Patty Williams, Recording Secretary

Board of Selectmen Meeting

For the date of: 11/02/2017

Type of Item:

- Board or Committee Presentation
- Consent Agenda Item
- Public Hearing
- Unfinished Business
- New Business
- Executive Session
- Workshop

Type of Submission:

- Regular Submission
- Additional Agenda Item
- Additional Information

Agenda Number: 17-95

(If this is Unfinished Business, please remember to research and enter the original agenda number above. For Regular Agenda items, the Secretary will assign a number.)

Brief Title of consent or Agenda Item: Consideration and any appropriate action on review of draft Town Meeting Warrant for December 6, 2017

Brief Description of Consent or Agenda Item: See attached

Submitted by: Rich Roedner, Town Manager

Date: 10-24-2017

WARRANT FOR SPECIAL TOWN MEETING

Topsham, Maine
December 6, 2017
Sagadahoc, ss

TO: Chris Lewis, a Constable for the Town of Topsham
FROM: Municipal Officers of Topsham

GREETINGS: You are hereby required in the name of the State of Maine to notify and warn the Inhabitants of the Town of Topsham, qualified by law to vote on Town Affairs, to assemble at Topsham Public Library on the 6th day of December, 2017 A.D. at 7:00 o'clock in the evening.

Article 1 - To elect a **Moderator** to preside at said meeting.

Article 2 - To see if the Voters will adopt an Ordinance entitled "Town of Topsham Emergency Moratorium Ordinance on Medical Marijuana Storefronts".

(Exhibit 1)

Board of Selectmen Recommendation:

Ought to Pass

Article 3- To see if the Voters will adopt an ordinance entitled "Amendment to Town Code §225-33 to permit Official Business Directional signs in colors other than green subject to the requirements of MaineDOT, current requirements do not permit other than blue background signs on Rt196, it is likely in 2020 all signs will be required to be blue background. This change will not make green background signs nonconforming.

E. Official business directional signs (OBDS): ~~signs indicating to the traveling public the distance to public accommodations, facilities or commercial services which are located within the Town of Topsham. Such signs shall meet the requirements of the Maine Department of Transportation regulations for the installation and location of official business directional signs.~~

1. Permit application forms are provided by MaineDOT

2. No official business directional sign OBDS shall be permitted on any residential street that is not an arterial or collector street as defined in § 185-31 of the Topsham Code of Ordinances. Any existing official business directional sign that is located on a residential street as of May 21, 2008, shall not

~~be permitted to be renewed upon expiration of its current MDOT permit and shall be removed. MDOT sign applications shall be approved by the Codes Enforcement Officer.~~

- 3. ~~Such signs~~ Size shall not exceed 12 inches by 48 inches.
- 4. ~~and shall be green in eColor~~ shall be green background with white letters or as required by MaineDOT regulations. ~~-A~~
- 5. A colored logo is permitted only within the eleven-by-eleven-logo area designated by MaineDOT regulations.
- 6. The total number of such signs per business shall be limited to four.

Planning Board Recommendation:

Ought to Pass

Article 4- To see if the Voters will re-adopt the Ordinance "Town of Topsham Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Stores and Retail Marijuana Social Clubs" for 180 days.

(Exhibit 2)

Board of Selectmen Recommendation:

Ought to Pass

GIVEN UNDER OUR HANDS THIS 16th DAY OF November, 2017 BY THE BOARD OF SELECTMEN:

David Douglass, Chair

William Thompson, Vice-Chair

Marie Brilliant

Roland Tufts

Ruth Lyons

The Registrar of Voters office located at the Municipal Building is open Monday - Friday during regular Town Hall business hours, for the purpose of accepting new registrations and to make address, name and /or enrollment changes. In addition, the Deputy Registrar will be present at the Special Town Meeting from 6pm -7pm on December 6, 2017.

A true copy of the warrant.

Attest: _____

Clerk of: Topsham

TOWN OF Topsham, Maine

**EMERGENCY MORATORIUM ORDINANCE
ON MEDICAL MARIJUANA STOREFRONTS**

WHEREAS, the Town enacted an Emergency Moratorium on Retail Marijuana Stores, Facilities and Social Clubs on May 17, 2016; and

WHEREAS, medical marijuana storefronts are a new type of use which is not specifically regulated under the Maine Medical Use of Marijuana Act, and which causes the same questions and concerns set forth in the Emergency Moratorium on Retail Marijuana Stores, Facilities and Social Clubs (such questions and concerns being included herein by reference); and

WHEREAS, the Town has seen a medical marijuana store front open via a loophole in our existing Zoning Codes; and

WHEREAS, the Town needs time to review regulation being considered by the State and to review its own Code of Ordinances to determine the implications of future proposed medical marijuana storefronts in order to develop reasonable ordinances governing the location and operations of such establishments;

WHEREAS, the Board of Selectmen, with the professional advice and assistance of the Town Manager, Planning Department and Police Department, as well as legal and medical professionals and stakeholders shall study the Town's current Code of Ordinances to determine the land use and other regulatory implications of medical marijuana storefronts and to consider what locations, if any, and approval and performance standards, if any, might be appropriate for such uses; and

WHEREAS, it is anticipated that such a study, review, and development of recommended Ordinance changes will take at least one hundred and eighty (180) days from the date the Town enacts this Moratorium Ordinance on Medical Marijuana Storefronts;

NOW, THEREFORE, be it ordained by the Town of Topsham, as approved by Town Meeting, that the following Moratorium Ordinance on Medical Marijuana Storefronts (the "Moratorium Ordinance") be, and hereby is, enacted, and, in furtherance thereof, the Town of Topsham, as approved by Town Meeting, does hereby declare a moratorium on the location, operation or licensing of any medical marijuana storefronts within the Town, with an effective date of October 19, 2017.

For the purposes of this Moratorium Ordinance, a medical marijuana storefront is defined as an establishment which resembles a retail storefront in terms of signage, hours of operation and accessibility to patrons, and which is operated by one or more registered Primary Caregivers as defined by 22 M.R.S.A. § 2422(8-A) for the sale of marijuana and marijuana products to Qualifying Patients as defined by 22 M.R.S.A. § 2422(9).

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302, or any other statute to the contrary, this Moratorium Ordinance, when adopted by Town Meeting, shall prohibit the permitting, construction or operating of any Medical Marijuana Storefront that was not in operation by October 19, 2107. Any applications made after October 19, 2107 shall be stayed for the life of the moratorium. The moratorium shall run concurrently with the Emergency Moratorium

on Retail Marijuana Stores, Facilities and Social Clubs and shall expire one hundred and eighty (180) days after the effective date as adopted by Town Meeting, unless extended or repealed by the Board of Selectmen, for the express purpose of drafting an amendment or amendments to the Town's current Code of Ordinances to protect the public from health and safety risks including, but not limited to, compatibility of medical marijuana storefronts with existing and permitted uses in residential, commercial and industrial zoning districts, the potential adverse health and safety effects of medical marijuana storefronts on the community if not properly regulated, and the adequacy of the Town's infrastructure to accommodate the presence of medical marijuana storefronts in the Town.

BE IT FURTHER ORDAINED, that this Moratorium Ordinance shall apply to medical marijuana storefronts that may be proposed to be located within the Town after October 19, 2017, the date at which the Board of Selectmen first considered and reviewed this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a medical marijuana storefront within the Town on or after the enactment date of this Moratorium Ordinance without complying with whatever ordinance amendment or amendments the Town Council may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Town shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to a medical marijuana storefront unless the application under review was filed with the Town prior to the enactment date of this Ordinance; and

BE IT FURTHER ORDAINED, that those provisions of the Town's current Code of Ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if medical marijuana storefronts are established in violation of this Moratorium Ordinance, each day of any continuing violation shall constitute a separate violation of this Moratorium Ordinance, and the Town shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Moratorium Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Emergency Declaration¹

The Topsham Town Meeting declares the existence of an emergency because the existing Code of Ordinances is insufficient to prevent serious public harm that could be caused by the unregulated development of medical marijuana storefronts, thereby necessitating a moratorium to provide an opportunity for the Town to review the potential impacts and harm that may be caused by such storefronts, and to amend its Code of Ordinances to mitigate the potential impact and harm on the Town and its residents.

This Moratorium, in compliance with applicable State Statutes, shall be enacted as both an emergency and a regular ordinance. It shall be effective as of October 19, 2107 immediately upon adoption by Town Meeting, and shall remain in effect for one hundred eighty (180) days from the effective date unless it is terminated or extended in accordance with this Ordinance.

Proposed: October 19, 2107

Approved: _____ (EMERGENCY)

¹ Section 212. - Emergency ordinances.

- (a) To meet a public emergency affecting life, health, property or the public peace, the council may enact one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, or authorize the borrowing of money.
- (b) An emergency ordinance shall be plainly designated an emergency ordinance and, after the enacting clause, it shall contain a declaration stating the existence of an emergency, which shall be described in clear and specific terms.
- (c) An emergency ordinance may be enacted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least 6 councilors shall be required for enactment. After its enactment the text of the ordinance shall be published and printed in a newspaper having a general circulation in the community, where it is reasonable to do so in the opinion of the council, and posted in at least 2 public places. Otherwise, the notice must contain a reasonable summary of the enacted ordinance. It shall become effective upon enactment, but it shall automatically stand repealed as of the 50th day following the date on which it was enacted unless it had been enacted as a regular ordinance according to sections 210 and 211 of this article at the time it was adopted as an emergency ordinance.
- (d) An emergency ordinance may be repealed by the enactment of a repealing ordinance in the same manner specified in this section for the enactment of emergency ordinances. An emergency ordinance may become a regular ordinance by its reenactment according to sections 210 and 211 of this article.

**TOWN OF TOPSHAM MORATORIUM
ORDINANCE ON RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL
MARIJUANA STORES AND RETAIL MARIJUANA SOCIAL CLUBS**

WHEREAS, the "Marijuana Legalization Act," has become law in Maine, codified in the Maine Revised Statutes in Title 7, chapter 417; and

WHEREAS, the Marijuana Legalization Act (hereinafter, "Act") authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the Act, as well as providing the option to prohibit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities, within their jurisdiction; and

WHEREAS, the proposed Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421 - 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications; and

WHEREAS, the Municipality's current ordinances do not include any regulations related to retail marijuana stores, retail marijuana establishments or retail marijuana social clubs under the proposed new Act; and

WHEREAS, the unregulated location and operation of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs within the Town of Topsham raises legitimate and substantial questions about the impact of such establishments, stores and social clubs on the Municipality, including questions about the compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing uses and development in residential, commercial and industrial zoning districts; the potential adverse health and safety effects of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the Act; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on Topsham's police and fire departments; and the adequacy of Topsham's streets and infrastructure to accommodate the

additional traffic and/or population that may result from the presence of retail marijuana establishments, retail marijuana stores or retail marijuana social clubs; and

WHEREAS, the possible effect of the location and operation of retail marijuana establishments and/or retail marijuana stores and/or retail marijuana social clubs within Topsham has potentially serious implications for the health, safety and welfare of the Municipality and its residents; and

WHEREAS, Topsham needs time to review the Act and to review its own ordinances to determine the implications of future proposed retail marijuana establishments and/or retail marijuana stores and/or retail marijuana social clubs to develop reasonable ordinances governing the location and operations of such establishments and stores and social clubs to address the concerns cited above; and

WHEREAS, Topsham's current ordinances are insufficient to prevent serious public harm that could be caused by the unregulated development of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and other uses authorized by the Act, thereby necessitating a moratorium; and

WHEREAS, the Topsham Board of Selectmen, the administration and the planning board, with the professional advice and assistance of the police department, shall study Topsham's current ordinances to determine the land use and other regulatory implications of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and other uses authorized by the Act, being located in the Town of Topsham; and

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Town of Topsham enacts this Moratorium Ordinance on retail marijuana establishments and retail marijuana stores and retail marijuana social clubs;

NOW, THEREFORE, be it ordained by the legislative body of the Town of Topsham, that the following Moratorium Ordinance on retail marijuana establishments and retail marijuana stores and retail marijuana social clubs be, and hereby is, enacted, and, in furtherance thereof, the legislative body does hereby declare a moratorium on the location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the town.

This Moratorium Ordinance shall take effect, once enacted by the legislative body, but shall be applicable as of as expressly provided below. The moratorium shall remain in effect for

one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended, repealed, or modified by the legislative body, for the express purpose of drafting an amendment or amendments to Topsham's current ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing and permitted uses in residential, commercial and industrial zoning districts; the correlation of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with medical marijuana cultivation facilities and dispensaries, all as defined in the Act; the potential adverse health and safety effects of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving Topsham in responding to the same; and the adequacy of Topsham's infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or retail marijuana stores or retail marijuana social clubs in the Town of Topsham.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to retail marijuana stores and retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the Act, codified at 7 M.R.S.A. §§ 2442 (36), (38), (39), (40) (41), that may be proposed to be located within the Town of Topsham on or after the May 18, 2017 applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed retail marijuana establishments or retail marijuana stores or retail marijuana social clubs for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other Municipal official or board prior to the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a retail marijuana establishment or retail marijuana store or retail marijuana social club within the Town of Topsham on or after the effective date of this Ordinance without complying with whatever ordinance amendment or amendments the legislative body may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Town of Topsham shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to a retail marijuana establishment or retail marijuana stores or retail marijuana social club; and

BE IT FURTHER ORDAINED, that those provisions of Topsham's ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and

BE IT FURTHER ORDAINED, that if retail marijuana establishments or retail marijuana stores or retail marijuana social clubs are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the Town of Topsham shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Board of Selectmen Meeting

For the date of: 11/02/2017

Type of Item:

_____ Board or Committee Presentation
_____ Consent Agenda Item
_____ Public Hearing
_____ Unfinished Business
_____ New Business
 x Executive Session
_____ Workshop

Type of Submission:

_____ Regular Submission
 x Additional Agenda Item
_____ Additional Information

Agenda Number: 17-84

(If this is Unfinished Business, please remember to research and enter the original agenda number above. For Regular Agenda items, the Secretary will assign a number.)

Brief Title of consent or Agenda Item: Consideration and any appropriate action to enter into Executive Session to discuss a personnel matter pursuant to 1 M.R.S.A. § 405 (6) (A).

Brief Description of Consent or Agenda Item:

Submitted by: Rich Roedner, Town Manager

Date: 10-18-2017