

**MINUTES
TOWN COUNCIL MEETING
STANDISH, MAINE
TUESDAY, DECEMBER 10, 2019
STANDISH MUNICIPAL CENTER
6:00 PM**

CALL TO ORDER

The meeting was called to order by Chair Libby and the Pledge of Allegiance was recited.

ROLL CALL

Councilors present: Gaba, Leclerc, Libby, Nesbitt, Paul and Pomerleau.
Councilor Delcourt was excused.

MINUTES OF PREVIOUS MEETING (S)

Moved by Leclerc seconded Nesbitt and voted to approval minutes from the November 12, 2019 Town Council meeting. (Unanimous)

PETITIONS AND COMMUNICATIONS

The Clerk read a letter from Leo Robichaud thanking the Town Manager and Public Works Director for their efforts working to correct a dangerous area on Route 114.

REPORT OF THE TOWN MANAGER

Mr. Giroux noted that the Departmental Report would be provided by the Finance Department, noting that the Town auditors from Berry Talbot and Royer are here this evening to present the annual financial presentation.

Audit Insurance Director, Hadje Esmiller introduced staff accountant Justin Berg who worked with Scott and his team here at the Town Offices on the audit. Mr. Esmiller explained that the firm recently met with the Finance Committee to provide a review of the Town's finances. Mr. Esmiller said that tonight's presentation is an overview of the recent Finance Committee review. Mr. Esmiller compared past years assets and liabilities noting that the numbers have been consistent through the years. He did note that the Towns Fund Policy suggests that the unassigned fund balance has two to three months of worth funds to cover expenses, he noted at this time the unassigned fund balance is less than the suggested amount. He turned their attention to the letter from his firm that was handed out which explains their responsibility in regards to the audits financial statement, the scope of the audit, compliance with the firm being independent in their review, the aspects of the Town's accounting practices, and other aspects of the audit process. He pointed out that their review of the Town's finances are done to obtain a reasonable assurance that the Town's financial statements are free of material misstatement. He noted that since they only take a sampling of the Town's transactions, they cannot give absolute assurance of the statements. He noted that the Town did not adopt any new accounting policies and follows those that have been adopted. He highlighted the the financial statement including - depreciation on assets, tax collection and cost of road improvements. He noted that there were no aspects of fraud identified, however, their audit procedures are not designed to detect fraud. He announced that working with Scott and his team was very easy. He went on to review the Financial Statements by highlighting were various reports of interest can be found in the statements. He said that the Town is receiving an unmodified

opinion on its finances which is the best that can be received by an independent audit. He reviewed various aspects of the Financial Statement.

Councilor Nesbitt noted that there are two departments that will have to be addressed at the Town Meeting regarding overages. One department is Employee Benefits the overages are due to personnel who retired and were paid unused benefits and the other department is Public Works due to waste disposal costs. He also noted that the Finance Committee is working to build up the unassigned fund balance to be more consistent with Town policy.

Scott Gesualdi thanked both the front office staff and his staff for the efforts.

PUBLIC HEARINGS

104-19 Amendments to the Standish Town Code, Chapter 151, General Assistance Ordinance, Adopt Updated Ordinance and Tables for the Maximum Levels of Assistance as provided by the Maine Department of Health and Human Services [Libby]

Bill Giroux noted that these provisions are brought forward through the Maine Department Human Services based on population and other criteria for use in the General Assistance Program.

Chair Libby called for public discussion, hearing none, he called for Council discussion. Hearing none he called for the vote and the Public Hearing was closed.

The Town of Standish hereby ordains the following amendments to the General Assistance Ordinance, effective immediately upon adoption:

ORDERED that the new model ordinance and all tables for the overall maximum levels of assistance, which includes dollar figures, rates, percentages and tables, which are determined by the Maine Department of Human Services for use in the General Assistance Program, are approved by Council beginning October 1, 2019.

Note: A copy of the complete ordinance is on file at the Town Clerk's Office.

VOTE: 6 Yeas

COMMITTEE REPORTS

Councilor Leclerc – Portland Water District Steering Committee – the Committee is waiting to hear back from the District regarding questions that came up regarding a recent letter that was received regarding Portland Water District membership.

Councilor Leclerc – Recycling Committee – continues to monitor recycling data, a recycling container at St. Joseph's College was contaminated with non-recyclables causing a fee to be assessed. Educational information regarding recycling is being forwarded the college.

Councilor Gaba - Appointments Committee - No Report.

Councilor Nesbitt – Finance Committee – met to hear the auditor's report. He noted that revenues and expenditures are on track. He said that tax payments are coming in.

Councilor Nesbitt – Community Center Steering Committee – met with the consultants to review various aspects of the proposed plan.

Councilor Pomerleau – Public Safety Committee – met to finish up the Public Safety Fair program for the season.

Councilor Paul – Personnel Committee – met with Joe Merry, Roger Mosley and Jen DeRice to get input from these departments for upcoming budgetary needs. An all employee meeting will be held on December 11, 2019 to receive input from employees for the budget process.

Councilor Libby – Ordinance Committee – has a few items on the agenda this evening.

CONSENT CALENDAR

There were no Consent Calendar items at this meeting.

UNFINISHED BUSINESS

There were no Items of Unfinished Business at this meeting.

NEW BUSINESS

116-19 Amendments to Standish Town Code, Chapter 181, Land Use, Regarding Solar Energy Systems (Introduction) [Libby]

The Chair dispensed with the reading of the ordinance amendments.

Bill Giroux said private landowners and solar energy developers have interest in solar energy provisions being available in Standish. The Town attorney developed the language for the ordinance amendments which have been reviewed by the Ordinance Committee and town staff. These amendments will have the Planning Board Public Hearing in January. He noted that his comments cover the next order as well.

Chair Libby called for public discussion, hearing none, he called for Council discussion.

Moved by Nesbitt seconded by Leclerc and voted to amend the timeline to reflect the Planning Board Public Hearing to be held on January 6, 2020. (Unanimous)

Chair Libby called for discussion on the order as amended.

Councilor Nesbitt voiced his concerns that solar equipment would be allowed in Standish Corner District. It was his opinion that the equipment should be placed in the back of the lot or on the building.

Councilor Leclerc thanked the Ordinance Committee under the leadership of Council Libby for bringing this forward.

Hearing no additional discussion, the Chair called for the vote on the order as amended.

Moved seconded and voted to move this order to the January meeting of the Town Council. (Unanimous)

117-19 Amendments to Standish Town Code, Chapter 237, Shoreland Zoning, Regarding Solar Energy Systems (Introduction) [Libby]

Moved by Libby seconded by Pomerleau to dispense with the Clerks reading of the order. (Unanimous)

Chair Libby said that the Shoreland Zoning provisions are more restrictive than other areas of town.

Bill Giroux noted that Planning Board members did have concerns and there may be some amendments brought forward for this order.

Chair Libby called for public discussion, hearing none, he called for Council discussion.

Moved by Nesbitt seconded by Leclerc and voted to amend the timeline to reflect the Planning Board Public Hearing to be held on January 6, 2020. (Unanimous)

Chair Libby called for discussion on the order as amended.

Hearing no additional discussion, the Chair called for the vote on the order as amended.

Moved seconded and voted to move this order to the January meeting of the Town Council. (Unanimous)

118-19 Amendments to Standish Town Code, Chapter 181, Land Use, Regarding Adult Use Marijuana Establishments (Products Manufacturing Facilities, Testing Facilities & Cultivation Facilities) and Medical Marijuana Dispensaries (Introduction) [Libby]

Moved seconded and voted to dispense with the reading of the order. (Unanimous)

Chair Libby noted that this is a new section to the Land Use Ordinance, the language was developed by the Town Attorney.

Moved seconded and voted to move this order to the January meeting of the Town Council. (Unanimous)

Joseph Albert asked that they table this order until the next Town Council.

Chair Libby explained that this is a process that takes a few months.

Chair Libby called for called for Council discussion.

Councilor Nesbitt said that this ordinance would allow current medical marijuana growers to continue to do business in the industrial zone and it allows several operations in one building. He noted that this does not address retail growers or social clubs.

Councilor LeClerc said that he too supports this order. This will provide layer of safety in the cultivation process and perhaps some economic development.

Moved by Nesbitt seconded by Leclerc and voted to amend the timeline to reflect the Planning Board Public Hearing to be held on January 6, 2020. (Unanimous)

Chair Libby called for discussion on the order as amended.

Councilor Paul said just because we can, doesn't mean we should. He said that he didn't see a big benefit for the Town with this since we already have medical. He said that he had no problem with medical or personal use. He said that he was unable to support this.

Hearing no additional discussion, the Chair called for the vote on the order as amended.

Moved seconded and voted to move this order to the January meeting of the Town Council. (Yeas -3 Gaba, LeClerc and Nesbitt – Nays -3 Libby, Paul and Pomerleau) Under the Town Council Rules of Procedure a tie vote lays on the table until the next meeting.

Councilor Nesbitt questioned if the Planning Board Public Hearing should move forward?

Mr. Giroux explained that their Public Hearing has been scheduled. It was also mentioned that the Planning Board should hold their Public Hearing prior to the Town Council adoption of the ordinance.

119-19 Amendments to Standish Town Code, Chapter 181, Land Use, Regarding Adult Use Marijuana Establishments (Products Manufacturing Facilities and Testing Facilities Only) and Medical Marijuana Dispensaries (Introduction) [Libby]

Mr. Giroux said that this is similar to the previous order, however it doesn't allow adult cultivation. It allows the testing, medical dispensary, but not adult cultivation. It does not allow retail sales.

Chair Libby called for public discussion, hearing none, he called for Council discussion.

Moved by Nesbitt seconded by Leclerc and voted to amend the timeline to reflect the Planning Board Public Hearing to be held on January 6, 2020. (Unanimous)

Chair Libby called for discussion on the order as amended.

Councilor LeClerc questioned if this moves forward will it preclude order 118-19.

Chair Libby said it would not.

Mr. Giroux suggested that they consider postponing this order until the January meeting, so the orders are moving forward simultaneously.

Councilor Nesbitt said that its similar to the previous order, but it doesn't allow adult cultivation, which he said that he is in favor of.

He said that he would support postponing this but wanted to learn more about what the other Councilors opinion is on this issue.

Moved by Leclerc to table this order.

Chair Libby noted that the motion should be to postpone the order.

Councilor Leclerc withdrew the motion.

Moved by Leclerc second by Nesbitt and voted to postpone this order until the January Town Council meeting. (Unanimous)

120-19 Amendments to Standish Town Code, Chapter 220, Retail Marijuana Establishment and Retail Marijuana Social Clubs (Introduction) [Libby]

Mr. Giroux said that this removes the previous band and makes it more consistent with the law. He suggested that this order be postponed until January.

Moved by Libby seconded by Nesbitt to postpone this order until the January Town Council meeting. (Unanimous)

121-19 Authorizing the Town Council Chair to Send Notice of Proposed Discontinuance of a Portion of Middle Road to Abutting Property Owners [Libby]

Mr. Giroux said that he would discuss the next order at the same time since they are both related to road matters. He said that these are roads that the Town has not maintained, and they are not improved roads. If approved, this order would allow the Town Councilor Chair to send a letter to the abutters initiating a process to allow abutters build on that section of the road.

Chair Libby called for public discussion, hearing none, he called for Council discussion, hearing none he called for the vote.

ORDERED, that pursuant to 23 M.R.S.A. § 3026-A, the Town Council Chair be, and hereby is, authorized and directed to provide notice to all abutting property owners, and to file a copy thereof in the Town Clerk's office, indicating the Town's intention to discontinue approximately 2.125 miles of Middle Road as shown on the attached Tax Maps 8 and 9 [the same section that is currently subject to a winter closure order], which discontinuance is proposed with the retention of a public easement and without monetary damages; and

BE IT FURTHER ORDERED, that a public hearing before the Town Council shall be held at least one year after the date the notice is sent, i.e., after December 11, 2020.

VOTE: 6 Yeas

122-19 Authorizing the Town Council Chair to Send Notice of Proposed Discontinuance of a Portion of Moody Road to Abutting Property Owners [Libby]

Chair Libby called for public discussion, hearing none, he called for Council discussion, hearing none he called for the vote.

ORDERED, that pursuant to 23 M.R.S.A. § 3026-A, the Town Council Chair be, and hereby is, authorized and directed to provide notice to all abutting property owners, and to file a copy thereof in the Town Clerk's office, indicating the Town's intention to discontinue approximately 0.49 miles of Moody Road as shown on the attached Tax Maps 13 and 14 [the same section that is currently subject to a winter closure order], which discontinuance is proposed with the retention of a public easement and without monetary damages; and

BE IT FURTHER ORDERED, that a public hearing before the Town Council shall be held at least one year after the date the notice is sent, i.e., after December 11, 2020.

VOTE: 6 Yeas

123-19 Application Submitted by Stephanie Biggs for Renewal of a Combined Massage Establishment/Therapist at Kosmetikos Spa and Wellness Center located at 15 Ossipee Trail West, Suite 2 [Libby]

Chair Libby noted that this is an annual renewal.

Chair Libby called for public discussion, hearing none, he called for Council discussion, hearing none he called for the vote.

ORDERED that the application submitted by Stephanie Biggs for renewal of a Combined Massage Establishment/Therapist License at Kosmetikos Spa and Wellness Center located at 15 Ossipee Trail West, Suite 2, upon the recommendation of the Code Enforcement Officer, Fire Chief, Health Officer and Town Manager, is approved by Council, to expire December 31, 2020.

Chair Libby called for public discussion, hearing none, he called for Council discussion.

Moved by Nesbitt seconded by LeClerc and voted to vote on orders 124-19, 125-19 and 126-19 collectively. (Unanimous)

Moved by Nesbitt seconded by Leclerc and Voted to take orders 124-19, 125-19 and 126-19 collectively. (Unanimous)

Chair Libby called for public discussion on orders 124-19, 125-19 and 126-19, hearing none, he called for Council discussion, hearing none he called for the vote.

124-19 Application Submitted by Xiong Tran for Renewal of a Massage Therapist License at Kosmetikos Spa and Wellness Center located at 15 Ossipee Trail West, Suite 2 [Libby]

ORDERED that the application submitted by Xiong Tran for renewal of a Massage Therapist License for employment at Kosmetikos Spa and Wellness Center located at 15 Ossipee Trail West, Suite 2, upon the recommendation of the Code Enforcement Officer, Fire Chief, Health Officer and Town Manager, is approved by Council, to expire December 31, 2020.

125-19 Application Submitted by Bryan Bizer for Renewal of a Massage Therapist License at Kosmetikos Spa and Wellness Center located at 15 Ossipee Trail West, Suite 2 [Libby]

ORDERED that the application submitted by Bryan Bizer for renewal of a Therapist License for employment at Kosmetikos Spa and Wellness Center located at 15 Ossipee Trail West, Suite 2, upon the recommendation of the Code Enforcement Officer, Fire Chief, Health Officer and Town Manager, is approved by Council, to expire December 31, 2020.

126-19 Application Submitted by Amy Bragan for a New Combined Massage Establishment/Therapist at Hummingbird Haven and Wellness located at 1 Northeast Road [Libby]

ORDERED that the application submitted by Amy Bragan for renewal of a Combined Massage Establishment/Therapist License at Hummingbird Haven Massage & Wellness located at 1 Northeast Road, upon the recommendation of the Code Enforcement Officer, Fire Chief, Health Officer and Town Manager, is approved by Council, to expire December 31, 2020.

VOTE ON ORDERS 124-19, 125-19 and 126-19: 6 Yeas

127-19 Amendment to the Town of Standish Policy on *De Minimis* Consent Agreements [Libby]

Moved Libby seconded Nesbitt and voted to dispense with the Clerks reading of the order. (Unanimous)

Mr. Giroux explained that recently a De Minimis consent request was presented to the Town and upon review it was determined that the request was beyond the scope of the policies provisions. However, the applicant's attorney had wanted to submit wording which then would have had to been reviewed by the Town's legal counsel and a discussion regarding legal costs followed. So, these amendments came forward to have legal fees and administrative costs paid by the applicant.

Chair Libby called for public discussion, hearing none, he called for Council discussion.

Councilor Nesbitt noted that any unused legal fee would be returned to the applicant. He noted that the Finance Committee reviewed these fees.

Chair Libby called for additional Council discussion, hearing none, he called for the vote.

ORDERED that the Town of Standish Policy on *De Minimis* Consent Agreements is amended as follows (additions are underlined, and deletions are struck out):

TOWN OF STANDISH

POLICY ON *DE MINIMIS* VIOLATIONS OF LAND USE ORDINANCE

It is the general policy of the Town of Standish to consent to *de minimis violations* of the Standish Land Use Ordinance dimensional requirements when the conditions described herein are met, and the procedures described herein are followed. However, adoption of this policy does not preclude the town's right to full enforcement of any aspect of this ordinance at any time, to include *de minimis violations* of dimensional requirements.

Conditions:

- 1) The *de minimis* violation question is limited to a violation which does not exceed 25% of the dimensional requirement.
- 2) The violation is neither a use violation, nor a space/density violation of the Land Use Ordinance.
- 3) The violation involves residential property.
- 4) The violation involves an existing structure.
- 5) The violation is not willful in nature, as determined by the town council
- 6) Both the property owner(s) and the builder/general contractor responsible for the violation shall be made parties to the consent decree or agreement and each responsible for a fine, subject to the discretion of the Town Council.

Procedures:

- 1) The property owner, whose property is in violation, shall make written application for a consent decree on a form prescribed by the town and pay an application fee per town schedule (~~currently \$40~~), said funds to cover town-incurred costs for abutter notification and subsequent filing of an approved consent decree at the Cumberland County Registry of Deeds.
- 2) The property owner shall submit a copy of a Class D survey of the property depicting *de minimis* violation(s) in question.
- 3) The town shall notify only those owners of properties which physically abut the property in question. Notice shall be made to abutters, via first-class mail of the U.S. Postal Service, to the address as listed on records of the Standish tax assessor. This notice shall briefly describe the violation in question, and state that the town council will consider consenting to a *de minimis* violation at a public meeting to occur at date/time/place stated in the notice.
- 4) The Standish Town Council shall be the sole authority to approve consent decrees on behalf of the town.

5) The applicant shall pay for costs incurred for town staff time required to prepare materials for presentation to the Town Council, filing of the Consent Agreement at the Cumberland County Registry of Deeds and cost of legal review if required, the costs shall be payable at the time the application is submitted as follows:

- Cumberland County Deeds Filing Fee \$40
- Staff time to prepare documents including postage to mail abutter notices\$50
- Legal review deposit\$200

If legal review cost is higher than the deposit, the applicant shall pay additional legal fees. If the legal review cost is lower than the deposit, the applicant will be refunded the balance of the deposit. The Consent Agreement will be filed once all applicable fees have been paid to the Town of Standish.

Fees in this policy are shown for reference only. Fee are adopted by order of the Town Council by a separate Town Council action.

VOTE: 6 Yeas

128-19 Amendment Fee Schedule – Various Fees [Nesbitt]

Chair Libby called for public discussion, hearing none, he called for Council discussion.

Councilor LeClerc said that he was opposed to the fee.

Chair Libby called for additional Council discussion, hearing none the called for the vote.

ORDERED that the Town of Standish Fee Schedule is amended as shown below, effective immediately:

	EXISTING FEE	PROPOSED FEE
CONSENT AGREEMENT FEES		
Recording Fee	\$40	\$40
Staff time	None	<u>\$50</u>
Legal Review Deposit	None	<u>\$200</u>

VOTE: 5 Yeas – 1Nay, Leclerc

129-19 Authorize the Maine Department of Transportation to Exceed the Weight Limit Allowed on Certain Roads During the Road Construction Project on Route 113 over Page Brook [Libby]

Chair Libby called for public discussion, hearing none, he called for Council discussion.

Chair Libby noted that this is a common occurrence during state construction projects.

Councilor Leclerc said that when he initially read the materials, he was worried that there may be damage to the roads. He said that further reading confirmed that that they would be bonded, and any damages would be taken care of.

Chair Libby called for additional Council discussion, hearing none the called for the vote.

ORDERED that the Standish Town Council grants approval for the Maine Department of Transportation and it's contractors to haul loads in excess of the limits specified in Title 29, M.R.S.A § 2382(7), on certain roads in Standish during the road construction project, the section of highway under construction in Standish is:

Project No. 021703.00:

(a) The section of highway under construction in the Town of Standish, Cumberland County on Route 113 over the Page Brook.

(b) (Pequawket Trail) over Page Brook statuo90+95.00 to station 94+94.00 of the construction plus approaches.

VOTE: 6 Yeas

130-19 Authorize Utility Location Permit – Central Maine Power Company and Northern New England Telephone Operations, LLC – Route 25 Near the Intersection of Randall Road

Chair Libby said that this is a standard order.

Chair Libby called for public discussion, hearing none, he called for Council discussion, hearing none he called for the vote.

ORDERED that the application by Central Maine Power Company and Northern New England Telephone Operations, LLC to install and maintain poles on Route 25 in accordance with the attached application (Work Order 801000237771), is approved by the Town Council, and

FURTHER ORDERED that the Town will collect a \$25 excavation permit fee from the applicant.

VOTE: 6 Yeas

PUBLIC ITEMS

There were no public items at this meeting.

ANNOUNCEMENTS

Upcoming meetings were announced.

EXECUTIVE SESSION

Moved by Libby seconded by LeClerc and voted to move into an Executive Session to discuss a real estate matter pursuant to 1 M.R.S. Section 405 (6) (C). The Town Manager, Bill Giroux will join them in the Executive Session and no additional business will take place after the Executive Session.

Moved seconded and voted to arise from the Executive Session. The Council arose from the Executive Session at 7:45 p.m. and the meeting was adjourned.

Submitted by: Mary Chapin
Clerk/Secretary