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Debby Willis, Chairperson  
Angelia Christopher, Administrative Assistant

## **ORDINANCE REVIEW COMMITTEE MINUTES**

**Monday, October 28, 2019 @ 5pm**

### **Regular Meeting**

#### **City Hall Council Chambers**

- 1.) Call the meeting to order-** Chairperson- Debby Willis called the meeting to order at 5:00 pm
- 2.) Roll Call-** Introduction of new member Rusty Greenleaf. Chairperson-Debby Willis, Clare Marron, Louis Sigel, Mayor Pat Hart, Kris McNeill- CEO
- 3.) Also in attendance:** Tracey Desjardins-EDD, Mark Eyerman- Planner- Patricia Buck-Welton- Health communities, Angelia Christopher- Admin. Assist. For Planning & Economic Development;
- 4.) Review of August 26, 2019 meeting notes –** Chair Willis asks for a motion to approve the minutes from the 8/26 meeting. Louis Sigel motions to approve, Clare Marron seconds as written all in favor. It appears that Kris McNeill= CEO is a voting member of this committee and will be moved into the roll call section from here on out.
- 5.) Marijuana amendments-**  
Mark Eyerman tells the group that the State has finally amended the recreational use marijuana law- which is now the adult use marijuana law. The rules for implementing that

program are almost final. The States Medical use laws were amended as well. Both sets of rules/laws include what is referred to as the 'opt in' provisions. A person who wants to obtain a State license to do any of the five kinds adult use marijuana can only do so if the municipalities, through affirmative ordinance provision, have provided for them to be located within the community through local ordinances.

A person who wants a state license to do any of the five kinds of adult use marijuana- can only do those if a municipality has provided for them to be located in the community through local ordinances. If a community has not provided provisions as to where they can operate within their community, the state cannot give them a license.

The revised Medical marijuana law did a couple of things. First it allowed for Medical retail caregiver stores in areas that have been identified in local ordinances. Second it added an opt in provision that applies to everything other than cultivation facilities in approved areas. Essentially the current moratorium that Gardiner has is moot under the new state law.

We had started talking about letting both Adult use and Medical in the city last summer. There was a task force developed to make recommendation to City Council about how they should deal with these changes. The group recommended that the City should allow retail marijuana adult use sales, in identified areas. It was also recommended that they should also allow production testing cultivation facilities in identified areas of the city. The overall consensus is that the city should not allow the marijuana equivalent of a 'bar' where products could be used right there. Other establishments that would be considered allowable such as cultivation, testing facilities, and retail establishments would be identified as well. ORC has put together drafts of 2 different approaches. One was to amend the land use code to define a whole range of medical and adult use establishments that could be allowed in the City of Gardiner. With these changes Performance standards were also developed. We also developed a review provision for new or

expanded facilities. All of these changes must go to Planning board to get approval for this before anything can be written into rule.

The second proposal was to create a City licensing provision. There will be a total three licensing procedures. One for renewal, one for new businesses, and one for a business that is moving from one location to another. The idea is very similar to an annual liquor license- the opportunity for City council for ask Police, Fire, Codes, etc., if there are any issues that need to be resolved before a license is approved. This will also allow oversight to make sure everything is working well for the community and the business itself. The Marijuana land use amendments went to Jon Pottle- Esquire for review, who offered no significant feedback just minor adjustments. He did question if the City wants to follow the State's licensing requirements, and the rules that are in place there. Mark Eyerman has not offered adjustments to the drafts for this yet, as he feels that State Level approval process could be very complex. With some changes in wording, we now have a revised Land Use Ordinance draft, for medical and adult use that we can present for review. Mayor Hart wants it to go to Planning Board- for preliminary approval. Medical marijuana laws do not specify however and the City could get some push back on whether it can regulate and monitor medical marijuana facilities. There seems to be gray area, about medical facilities, and whether or not municipalities can regulate them. At the end of the day, the municipality has the right to say what type of establishment goes where in town.

Ordinance review is ready to send Land Use Code, Performance standards, and Definitions to Planning Board so they can make their adjustments to it before it goes to City Council. Chair Willis asks for a motion to send Land Use Code to Planning Board- Louis Sigel makes a motion, and Clare Marron seconds, all are in favor. Due to scheduling this will have to be on December agenda for Planning Board. After Planning Board, it will go to City Council for review.

Marijuana Licensing will go to City Council. Mayor Hart and the rest of the board feel that due to the amount of information, perhaps Mark Eyerman should come to City Council to do a workshop, so they fully understand the material they are working with. Due to the schedule, the workshop will be held on December 4<sup>th</sup>.

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## **6.) Food Sovereignty-**

We have three proposals- This is a grass roots movement that started out as a group of people who successfully lobbied to exempt certain foods from food safety laws. This does apply to certain kinds of products, etc. There is a clear difference of opinion between MMA and certain sponsors. The proposals have been sent to John Pottle-Esquire, for feedback. The feedback was developed with the MMA guidance in mind and states that the transaction of exempt foods can only take place where the product is being produced. Sponsors of the Food Sovereignty Bill, disagree with this mindset and want to be able to take their products elsewhere and still be exempt.

Mark has come up with three options for this possible Ordinance. One option is doing nothing and leave this alone. The second option is to have the provisions set up so that purchases can only be exempt when purchased where the product is produced. The third option was that identified products would fall under exemptions anywhere even at a farmer's market. The idea of Food Sovereignty got started with raw milk and allowing the direct sale from producer to consumer. This is a practice that is already happening, it's just not regulated. This practice will continue, even if the ordinance doesn't get passed. Board members agree that there should definitely be a notification, that they are buying something made under exempt laws, in different safety fashion. Food Sovereignty does not cover meat or poultry products. The board decides that we will send all three proposals to City Council to let them offer their opinions and how it should

be handled. Chair Willis asks for a motion and Clare Marron makes the motion to send the proposals to Council. Louis Sigel seconds the motion. All are in favor.

#### **7.) Review and discuss nonconforming provisions-**

This got started because of a structure being too close to property lines. A permit was requested to move it, but the move would have caused it to be less non-conforming, leaving it out of the required set back requirements. This was brought up because of a couple of cases that we had recently seen in Code enforcement where permits were requested to improve property, but it would still be non-conforming. The question has come up - Do we allow physical non-conformity to be improved? But still not 100% conforming? The universally legal framework of nonconformity is to make nonconformity go away. This was brought to ORC because of an issue with a property already being nonconforming, and a request to do work that would improve the property and make it less nonconforming, but still nonconforming. The Board wanted to discuss this, because if something is being improved, but still being left nonconforming, can we still refuse it? Many ordinances have a provision that state that you can do things with a nonconforming structure that doesn't meet the setback requirements as long as you are making it more less nonconforming. Ordinance Review Board would like to see a provision for improvements built in. Mark Eyerman will start working on this and present a draft at a future date.

#### **8.) Other-**

Tracey Desjardins- EDD, and Kris McNeill- CEO have developed a list of items that need to be addressed by ORC. Mayor Hart, states that typically Council sets priority, and next time, the list should be given to the City Manager.

- Tiny Homes - this is a constant question, we get at least one call a week with people inquiring about tiny homes and we don't have any info to give to them. There is nothing

that says we can or can't issue permits for them. Can they be on wheels? Can they be hooked up to water and sewer? Is it considered a mobile home, or is it permanent? Is it a motor home? Etc. We don't allow single wide, but do we allow Tiny homes? All of these questions, and many more, would need to be addressed with a Tiny house ordinance.

- Treatment of large-scale solar arrays/ farms- there has been lots of interest- to have light, needs to face the right direction to get the proper amount of light- need at least 5 acre lots/city owned or private sale. This is a big topic at Gardiner, -several inquiries about it, and Gardiner has no laws in place. The City needs to address and develop rules surrounding this.
- Breweries and tasting rooms- Gardiner now has 3 Tasting rooms, and no Ordinance in place for the rules around them.
- Food trucks – this needs to be addressed as well. Food Trucks are very popular with the Tasting rooms, and more and more are coming into the City.
- Demo delay- used in many towns and Cities. Allows for a 2 week waiting period to check for historic value of a building before demo- checking for asbestos, etc.
- Multifamily units in Shoreland
- Dresden St. Hospital- Now that it is empty, what do we do with it? There is interest in using it for office space, or a multi-family, but it cannot be office space in HDR. It also can't be a AROD- likely because of the date of the property. The biggest problem with it, is traffic on the street, and need to be cautious about what gets put in there.
- Adding a Residential Historic District. This came up because the stone wall on Brunswick Ave, that let go after a rainstorm recently. There has been discussion of replacing it with concrete. At one time there was a study done, to expand the historic

district, which would include the hill on Brunswick Ave, the whole area of the Common, and over 100 homes on the streets surrounding the area. This would qualify this whole area for the National Historic Register...Mark Eyerman reports that this has been brought up before, and was met with considerable flack. Home owners did not want this in place. Kris McNeill states that maybe a second try would warrant better results. Rusty states that the fountain committee has found that if these houses end up on the Historic Register, that could threaten the fountain project, which is currently being worked on. This could hold this project up. There is work going on right now, to get the Common and the Fountain on the Historic Register.

The group discussed what topics are priority:

- Solar is top priority.
- Tiny homes would be next as we get many calls about it.
- Food trucks

**9.) Next meeting – November 18, 2019 - at 5 pm**

**10.) Chair Willis asks for a motion to adjourn-**

Louis Sigel motions to adjourn- Clare Marron offers a second motion. All are in favor.

Meeting was adjourned at 6:44 pm