

Board of Selectmen

Dale C. Harmon, Chairman
Douglas W Burnham, Vice Chairman
Charles R. Cunningham
Steven C. Lewis
Stephen W. Ham

Town Manager

Daniel Bryer



**Town of Boothbay
Board of Selectmen Meeting
Wednesday, January 25th, 2017
7:00 PM
Agenda**

- 1. Pledge of Allegiance**
- 2. Public Hearings-**
- 3. Public Comment**
- 4. Approve Minutes-** January 11th, 2017
- 5. Reports**
- 6. Old Business-** 1. Question 1 (marijuana legalization) – follow up to moratorium discussion
- 7. New Business-** 1. Discussion regarding Ice Bear equipment- **Purchase Option.** Hosts may purchase the Ice Bear installed at their location for \$11,250 per Ice Bear, subject to a two-year warranty on major parts (compressor, pumps, fan motors). Ice Energy estimates that it spends approximately \$700 per year per Ice Bear on maintenance, consisting of winterization, spring de-winterization, and service calls. Maintenance would become the responsibility of the Ice Bear Host following the sale.
Removal Option. Ice Energy, at its expense, will remove the Ice Bear(s), terminate the mechanical and electrical connections, and leave in place any foundation or mounting pad.
2. Confirmatory Quitclaim Deed- A corrected quitclaim for the Clifton Tibbets property that was processed in 2013
- 8. Public Comment**
- 9. Review Warrants and sign**
- 10. Adjourn Meeting**

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**Town of Boothbay
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Wednesday January 11, 2017**

**7:00 PM
MINUTES**

Present: Dale Harmon, Douglas Burnham, Charles Cunningham, Steven Lewis, Town Manager Dan Bryer and Secretary Sherry Tibbetts

Pledge of Allegiance:

Approve minutes: Steve Lewis made a motion to approve the minutes of December 28, 2016 as presented and Doug Burnham seconded the motion. Vote: 3-0 in favor. (Chuck Cunningham was not in attendance yet)

Reports: The Public Works crew has been busy taking down Christmas lights and finishing up the work in the attic. The Code Enforcement office has two building and two plumbing permits pending, there has been one appeal of the CMBG permit so far and two more are expected this week. The Planning Board has no applications this month. The Business Office is busy with day-to-day activities. There have been many applications for the front office position and hopefully a person will be chosen next week. The CEO job will be posted next week. There was a Festival of Lights follow-up meeting, there was a lot of community buy in for the event. Now the talk begins on what to do going forward and logistics.

Discussion on marijuana legalization: Alan Bellows, chairman of the Planning Board was present to talk about this topic. He stated if a person walked in right now and applied for a marijuana sale place application, the board would have to use the current ordinance and it treat it as any other retail business.

Even if the State puts a one year moratorium on this, the applicant would already have the foot in the door and be ready has soon as the state allows.

There was a discussion about the Town putting a moratorium on this as well. There would have to be advertising, a public hearing and then a vote by the townspeople. The Selectmen cannot do one on their own. Dan was instructed to ask Sally Daggett about this. This would all take time and there would not be time to do a special town meeting. It could wait for the regular town meeting.

The town needs to decide many things, such as would they issue licenses, like they do now for alcohol and how much would they charge to do so.

Alan Bellows also said the Planning Board was working on ordinance updates. He said the comp plan wants the area around the common to look like a traditional village and it is hard to know just what that means.

Review warrants and sign: Chuck Cunningham made a motion to review the warrants and sign them and Doug Burnham seconded the motion. Vote: 4-0 in favor.

Adjourn meeting: Chuck Cunningham made a motion at 7:30 to adjourn the meeting and Doug Burnham seconded the motion. Vote: 4-0 in favor.



CONFIRMATION OF PURCHASE OR REMOVAL

On December 15, 2016, Thermal Energy Storage of Maine (TESM), acting as agent for Ice Energy Holdings Inc., notified all parties having Ice Bear thermal energy storage systems serving their premises in the Boothbay Region (the "Bear Hosts") that the Maine PUC-sponsored Non-Transmission Alternative Pilot Program had completed its three-year term and would not be continued. TESM further notified that all Bear Hosts have the option of either purchasing the Ice Bear(s) on their premises or having them removed by Ice Energy.

By signing and delivering an original of this Confirmation, the Bear Host identified below hereby indicates its choice as follows:

Please remove the Ice Bear(s) located at my premises. _____

I plan to purchase the Ice Bear(s) located at my premises. _____

TESM asks that you sign this Confirmation indicating your choice by January 31, 2017 and return it to TESM at the following address:

Kim Kenway, TESM
54 Richardson St.
Portland, ME 04103

TESM will be contacting all Bear Hosts either to arrange documentation of purchasing or to plan for removal, as the case may be. Please direct any questions by email to Kim Kenway at TESM kkenway@maine.rr.com

Bear Host: Town of Boothbay

Location: 1011 Wiscasset Rd., Boothbay

Number of Ice Bears: 1

I confirm the choice indicated above:

Daniel G. Bryer, Jr.

Town Manager

Date: _____

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

SECTION I. MORATORIUM DECLARED.

WHEREAS, a ballot initiative to legalize, regulate and tax marijuana for non-medicinal purposes known as the "Marijuana Legalization Act," to be codified in the Maine Revised Statutes in Title 7, Chapter 417 (the "Act"), was adopted by the voters at a State-wide referendum election on November 8, 2016; and

WHEREAS, the Act is scheduled to take effect on January 30, 2017 if not delayed by action of the Maine Legislature; and

WHEREAS, the 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 local option to prohibit or limit 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 Act requires the Department of Agriculture, Conservation and Forestry (the "CAF Department"), as the State licensing authority for retail marijuana establishments and social clubs, to adopt rules within nine months of the effective date of the Act; and

WHEREAS, the Act authorizes municipalities to impose a separate local licensing requirement as part of their restrictions on time, place, manner and number of retail marijuana establishments and social clubs; and

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

WHEREAS, the Town's current Zoning Ordinance does not include any land use development regulations related to retail marijuana establishments or retail marijuana social clubs; and

WHEREAS, the unregulated location and operation of retail marijuana establishments and retail marijuana social clubs within the Town of Boothbay raises legitimate and substantial questions about the impact of such establishments and social clubs on the Town, including questions about the compatibility of retail marijuana

establishments and social clubs with existing uses and development in residential, business and commercial zoning districts; the potential adverse health and safety effects of retail marijuana establishments and 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; 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 the Town's public safety departments; and the adequacy of the Town's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs; and

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

WHEREAS, the Town needs time to review the Act and CAF Department rules proposed to be adopted pursuant to the Act and to review its own Zoning Ordinance to determine the implications of future proposed retail marijuana establishments and/or social clubs to develop reasonable ordinances governing the location and operations of such establishments and social clubs to address the concerns cited above; and

WHEREAS, the Town's current ordinances are insufficient to prevent serious public harm that could be caused by the unregulated development, location and operation of retail marijuana establishments and social clubs and other uses authorized by the changes in law voted on at the November 8, 2016 referendum election, thereby necessitating a moratorium; and

WHEREAS, the Board of Selectmen, with the advice and assistance of the Planning Board and such professional advice and assistance as it deems necessary and appropriate, shall study the Town's current Zoning Ordinance to determine the land use and other regulatory implications of retail marijuana establishments and 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 social clubs and other uses authorized by the changes in law voted on at the November 8, 2016 referendum election, being located in the Town; 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 on retail marijuana establishments and retail marijuana social clubs;

NOW, THEREFORE, the Inhabitants of the Town of Boothbay does hereby ordain that the following Ordinance be, and hereby is, enacted, and, in furtherance thereof, the Town 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 Ordinance shall take effect upon adoption by Town Meeting and shall be applicable as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of adoption of this Ordinance, unless extended, repealed, or modified by the Board of Selectmen, for the express purpose of drafting an amendment or amendments to the Town's current Zoning Ordinance to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments and social clubs with existing and permitted uses in residential, business and commercial zoning districts; the potential adverse health and safety effects of retail marijuana establishments and 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; 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 the public safety departments serving the Town in responding to the same; and the adequacy of the Town's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or social clubs in the Town.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to 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 to be codified at 7 M.R.S.A. §§ 2442(35), (36), (38), (39), (40) and (41), that may be proposed to be located within the Town on or after the 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 social clubs for which an application for a building permit, certificate of occupancy, site plan review and/or any other required approval has not been submitted to and granted final approval by the Building Inspector, Code Enforcement Officer, Planning Board, Board of Appeals or other Town 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 social club within the Town on or after the applicability date of this Ordinance without complying with whatever ordinance amendment or amendments Town Meeting may enact as a result of this Ordinance; and

BE IT FURTHER ORDAINED, that during the time this moratorium 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 building permit, certificate of occupancy, Planning Board review, conditional use review, site plan review and/or any other required land use approval or any permits, licenses or approvals related to a retail marijuana establishment or retail marijuana social club under the Zoning Ordinance; and

BE IT FURTHER ORDAINED, that those provisions of the Zoning Ordinance 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 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 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.

SECTION II. APPLICABILITY DATE.

The applicability date of this Ordinance is the date of its adoption by Town Meeting.