

## ***SELECTMEN'S MEETING - TUESDAY, APRIL 9, 2019***

Present: Chairman Karl Ekstedt, Selectmen John Howarth and Tim Roche, and Town Manager Jon Carter

Excused: Selectmen Dan Hobbs and Kathy Chase

Also present: Town Attorney Durward Parkinson

### ***6:00 PM SELECTMEN'S MEETING***

#### ***MUNICIPAL OFFICERS BUSINESS/PUBLIC HEARINGS***

##### ***1. Open to the Public***

Several business owners in the vicinity of the proposed "adult store" spoke against having this type of business in a family neighborhood with many children. There were concerns about the impact on adjacent businesses and the potential loss of customers. Residents were disturbed that Wells' reputation as a family-friendly, vacation destination town would be destroyed. Issues discussed included: sex trafficking, child pornography, family breakdown, mental health issues, increased crime, adverse effect on the housing market and tax revenue, the loss of long-time businesses. We should adhere to our Town Charter's reference to the health, safety and general welfare of our citizens. There were concerns about moving a business from one part of town to another; why can't we have a total ban? Emergency ordinances can be amended. Once a single business is operating here, it opens the door for similar enterprises.

Mr. Carter said the Town was just notified about this last week. In order to get emergency legislation on the June Town Meeting ballot, the deadline is April 12. Selectmen cannot amend the Land Use Ordinance, only Town Meeting can do that. Section 2.14 of the Town Charter gives the Selectmen the authority to enact a 61 day ordinance. The second motion at tonight's meeting would let them put the ordinance on the ballot for a vote by the residents to limit these businesses to the Light Industrial Zone. A total ban on these establishments is a constitutional question involving free speech, similar to the marijuana issue we addressed recently. The emergency ordinance creates a definition for adult business establishments and provides for a retroactive ballot question. The applicant has filed a permit for the business and we have not acted on it. If the motion passes tonight, that part of the business would be prohibited. The applicant would have to file an amended application to do something else with her business.

Mr. Parkinson explained that our Charter allows the Selectmen to enact emergency ordinances. Courts tend to oppose outright bans, but allow municipalities to set limits by licensing, zoning, etc. and minimize the impact on the residents. We want a strong ordinance to protect the Town and also withstand a legal challenge. Mr. Parkinson complimented Mr. Carter and the staff for their work over the weekend on preparing this draft. At Town Meeting, the residents may adopt the ordinance which defines adult business establishments and limits them to the Light Industrial District. Retroactivity this has been upheld by Maine case law in other instances.

Mr. Roche asked why we can't have a total ban. Mr. Parkinson said the Constitution allows free expression, and the Supreme Court allows reasonable regulations of land but not a taking of land. It isn't practical to create an area so small that a business would be impossible to locate there. There was a question about the health and safety issues. Mr. Parkinson said the statistics on quality of life and community impacts such as criminal activity could be used to support the ordinance if it were challenged.

Mr. Ekstedt asked about an outright ban vs. moving the business to another neighborhood. Mr. Parkinson said a ban could be challenged by an outside group at great expense. Mr. Carter recommended passing the emergency legislation to get this on the ballot and give us time to work on other solutions. We are up against the deadline for Town Meeting. The deadline for the November ballot is in September. A moratorium would have taken more time and required a public hearing and 10-12 day notice. An emergency ordinance seemed to be our best option. After 61 days it can be renewed on June 5 before the vote on June 11.

The public hearing was closed.

### ***CURRENT AGENDA ITEMS***

#### ***1. Update, discussion and action on Committees, Projects, Issues, Purchases and Personnel:***

***a) Discussion and action on enacting an emergency ordinance under Section 2.14 of the Town Charter "An Ordinance to Amend Chapter 145 (Land Use) of the Code of the Town of Wells, Pursuant to §2.14 of the Town Charter, to Define Adult Business Entertainment and Permit Adult Business Establishments within the Light Industrial District."***

Motion by Mr. Roche, seconded by Mr. Howarth, to enact the emergency ordinance to amend Chapter 145 (Land Use). Passed 3-0.

***b) Discussion and action on placing on the June 11, 2019 Annual Town Meeting Ballot an Amendment to Chapter 145 (Land Use) Zoning Question: Shall the Ordinance entitled "An Ordinance to Amend Chapter 145 (Land Use) of the Code of the Town of Wells, to Define Adult Business Entertainment and Permit Adult Business Establishments within the Light Industrial District retroactive in its adoption to April 8, 2019." Be enacted?***

Motion by Mr. Roche, seconded by Mr. Howarth, to place the Zoning Amendment Question on the ballot for June 11, 2019 and enter the draft ordinance into the record. Passed 3-0.

### ***NEW BUSINESS***

#### ***1. Open to the Public***

Public comment was solicited and there was none.

**2. Town Manager's Report**

~We were able to send 7 officers to today's funeral for the State Trooper who was killed on the Turnpike last week.

**3. Adjournment**

Motion by Mr. Roche, seconded by Mr. Howarth, to adjourn. Passed 3-0.

Respectfully submitted,

Accepted by,



Cinni Davidson,  
Meeting Recorder



