

8.c.

11 October 2016

The Board of Selectmen, Town of Kennebunk
Barry Tibbetts, Town Manager

I'm here tonight to ask you to endorse forming a committee to develop a plan for a skateboard park with membership along the lines as outlined on your agenda with one suggested addition as I believe there should be an adult skateboarder on this committee as well as the two youth members noted. I realize this creates an even numbered committee which is frowned upon but you could easily designate the "staff member" there to write the "RFP" as a non-voting member or add a second resident at large for a committee make up of 9 – which isn't too large recognizing that not all members will make all the meetings all of the time.

I am also here to ask you to edit the last sentence in the suggested charge to the committee and to change it read **"This company would work with the committee and interested residents to develop a plan for a skateboard park including designating an appropriate budget and location for said park."**

The reason for this change would be to give the committee that latitude that we would any other committee of the town with regard to developing what is needed or desired and then determine whether it can be done or not within existing budgets, additional voter allocations or independent volunteer fund raising. I believe the town has one more shot to get this skateboard business right and if you spend one dime of that \$100,000 without the necessary planning and design you will do a disservice to the taxpayers and to the skateboarders. Kennebunk has provided a site that is a disgrace and is "off limits" to a large number of skate board "want to be's". I disagree that the vote to use \$100,000 to improve the skateboard park meant that the park has to remain at its current location. It was not my understanding when I cast my vote that I was condemning the participants in this sport to this sub-standard site. The vote simply stated to allocate funds to improve the park. The biggest and most important improvement that could be made would be to move it from its current despicable location.

It won't matter if you put in sidewalks and plant flowers, you cannot change the grade of Factory Pasture Lane. You cannot change the fact that this road is utilized by utility trucks and is a heavily used by-pass around Main Street from Memorial Day to Columbus Day. Every foot you take away from that land space equals less for the park and there wasn't enough room the last time a proposal was made – the park would have to be so small as to not even bother. You are no doubt aware that the Sewer District intends to expand its facilities back to property it owns closer to this so called "park". This will not only impact long term use but will certainly impact use during construction. KLPD will no doubt continue to have its pole yard in the current location. I assume you are aware that the Economic Development Director plans to promote "business park" use of the property acreage across the street – potentially more traffic, more shipping and receiving. You cannot change the fact that this area is a mosquito ridden, bug infested swamp – period! Is this an area you really want to point to with pride and say – this is a recreational and athletic facility that our town provides for our residents? I've talked with numerous kids and adults who skateboard over the past 18 years – despite what you hear from some of them that "they like being out of sight and out of mind" that is not the majority – the majority would like a good facility – a great place to skate. I spoke with one 13/14 year old about that many years ago who said to me "lady, it doesn't matter what I want, I'll be married and have kids of my own before the town will do anything for me and my sport." I assured him that wouldn't be the case. Well here we are and he no doubt may well be married and have kids of his own. I'm ashamed we didn't do better. I urge you to take a real or virtual tour to the skateboard parks in Portland, Westbrook and beyond. You won't find them in a heavily trafficked yet "isolated" swamp. They are located where the users can be seen and appreciated and offered better protection and maintenance. I had the privilege of speaking with a young college graduate in his 30's who visited Kennebunk from out of state and even brought his skateboard on

vacation. He "hung" at our skateboard park and had these comments: I still enjoy skateboarding. My mom didn't want me to learn to skateboard for fear I would be hanging with a bunch of "punks" but I did it anyway as I wanted to learn the sport and it has made me an excellent snowboarder, and I am sure Maine's 2 time Olympic gold medal winner Wescott knows how to skateboard. Kennebunk's skate park is in a bad, tucked away spot - it encourages the stigma you attach to skateboarders! I live in a town with 2 outdoor and one indoor skate board parks. I have adult friends who still skateboard and are teaching their sons, it is a family outing. One of these parks allows skateboards, scooters and bikes. You are denying a whole lot of folks from using that park because of its location. It's not a healthy environment; you are encouraging the "rebel" attitude to cause a mess because the users think no one cares."

If you think that Factory Pasture Lane is such a great location for a recreational/athletic area then think outside of the box and move a basketball court or a tennis court from Parson's field and place it at Factory Pasture Lane in the location of the existing "park". Then place the skateboard park in Parson's field. Measure it out and trade space for space so you don't take any "green space" per the alleged purpose of the straw vote. I don't expect this to happen. But I remind you when that vote was proposed, the Town did little or nothing to promote its proposal. There was no fixed design; there was no fixed budget; no one really knew what the final design might look like. No one reminded the residents that Parsons field was donated to and dedicated for the purpose of providing recreational and athletic facilities for the youth of Kennebunk. Do you, as Mr. Cluff said, have the political will to disregard this straw vote? Probably not. But I hope you have the will to form this committee, give them direction but NOT restrictions that determine the outcome even before the first meeting.

I ask you to take off the blinders and recognize that skateboarders are athletes. They have the strength and maneuvers of a gymnast, the stamina of a runner and can seemingly take as much, if not more, bruising and pounding than a football player or boxer. These athletes shouldn't be treated like trash. They should be provided with a facility that will challenge them, that will make them proud and give them the opportunity to improve their skills. You just might be surprised by what you'll receive in return.

Please allow this committee to be formed. Please change the charge to the committee. The budget for a proper facility has not yet been determined. The funds already allocated may be enough, they may not. Provided there is a comprehensive plan, artistic/engineered rendered drawings, and a fixed proposed budget, there should be no reason to prevent additional, voted allocations, private contributions and fund raising.

You've got nothing to lose and everything to gain. And more importantly, a segment of our community that has been ignored and disenfranchised could be lifted up and treated as the athletes they are and those that wish to learn and participate in this sport would have the opportunity to do so.

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9.e.

Board of Selectmen, Oct. 11, 2016, Article 9.e

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

WHEREAS, a ballot initiative to legalize, regulate and tax marijuana for non-medicinal purposes known as the “Marijuana Legalization Act” proposed to be codified in the Maine Revised Statutes in Title 7, chapter 417, will be voted on by a State-wide referendum election on November 8, 2016; and

WHEREAS, the proposed 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 proposed Act, as well as 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 its 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;

WHEREAS, the outcome of the State-wide referendum vote is yet to be determined and the Town’s current Code of Ordinances does not include any regulations related to retail marijuana establishments or retail marijuana social clubs under the proposed new Act, nor any regulations related to products or merchandise associated with the use, cultivation, retail sales, manufacturing or distribution of marijuana and retail stores that specialize in offering such paraphernalia for sale to consumers; and

WHEREAS, the unregulated location and operation of retail marijuana establishments and retail marijuana social clubs within the Town of Kennebunk raises legitimate and substantial questions about the impact of such establishments and social clubs on the Town, including questions of the compatibility of retail marijuana establishments and social clubs with existing uses and development in residential, commercial and industrial zoning districts; the possible connection of retail marijuana establishments and social clubs with medical marijuana cultivation facilities and dispensaries; 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 agencies 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; and

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

WHEREAS, the Town needs time to review the proposed Act in anticipation of the election and to review its own Code of Ordinances 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, under its home rule authority, its police power generally, and under 30-A M.R.S.A., chapter 187, subchapter 3 ("land use regulation"), as provided by the proposed new Act, or as otherwise provided by current law, has the authority to impose reasonable restrictions, conditions, and limitations on such retail marijuana establishments and social clubs; and

WHEREAS, the Board of Selectmen, with the professional advice and assistance of the York County Sheriff's Office and the Maine State Police, the Planning Board and the Planning Department, shall study the Town's current Code of Ordinances 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, the Town's current Code of Ordinances and other applicable local laws are not adequate to prevent serious public harm that could be caused by the development of retail marijuana establishments and social clubs and other uses authorized by the proposed changes in law to be voted on in the November 8, 2016 referendum election, thereby necessitating a moratorium; 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 proposed changes in law, if passed, to be voted on in 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 Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs;

NOW, THEREFORE, be it ordained, at a Kennebunk Town Meeting, that the following Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs 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.

In addition, the Town does hereby declare a moratorium on the location, operation or licensing of any new medical marijuana cultivation facilities or dispensaries under the terms of the Town's Zoning Ordinance, within Kennebunk.

This Moratorium Ordinance shall take effect, once enacted by Town Meeting, in accordance with the provisions of the Town Charter, but shall be applicable as of October 11, 2016, 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 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 retail marijuana establishments and social clubs with existing and permitted uses in residential, commercial and industrial zoning districts; the correlation of retail marijuana establishments and social clubs with medical marijuana cultivation facilities and dispensaries; 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; 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 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.

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 proposed "Marijuana Legalization Act" to be codified, if passed, at 7 M.R.S.A. §§ 2442 (36), (39), (40), that may be proposed to be located within the Town on or after the October 11, 2016 applicability date of this Moratorium 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 Moratorium 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 or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other Town official or board prior to October 11, 2016, the applicability date of this Moratorium 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 October 11, 2016 applicability date of this Moratorium Ordinance without complying with whatever ordinance amendment or amendments the Town may enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a business that engages in retail or wholesale sales of products or merchandise for which a substantial portion of its business is to prepare, cultivate, distribute or ingest marijuana or retail or wholesale sales of such products or merchandise of the kind that are commonly offered for sale or used at so-called head shops, retail marijuana social club or retail marijuana establishment, including, without limitation, water pipes, hashish pipes, glass pipes, pipe screens, bongs, vaporizers, scales, rolling papers, hydroponic equipment and grow lights and general tobacco products in so-called smoke shops; 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, certificate of occupancy, special exception review, site plan review and/or any other permits or licenses related to a retail marijuana establishment, retail marijuana social club, a new medical marijuana cultivation facility or dispensary, or the expansion of an existing medical marijuana cultivation facility or dispensary; 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 Moratorium 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, retail marijuana social clubs, new medical marijuana cultivation facilities or dispensaries, or expansions of existing medical marijuana cultivation facilities or dispensaries 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.

Applicability Date: October 11, 2016