

EAST LYME BOARD OF SELECTMEN  
MEETING OF NOVEMBER 2, 2011  
MINUTESNov 3 20 11 at 10 AM PM  
Esther B. Williams  
EAST LYME TOWN CLERK

PRESENT: Paul Formica, Mark Nickerson, John Birmingham, Rose Ann Hardy.

ALSO PRESENT: Attorney Ed O'Connell, Director of Parks and Recreation Dave Putnam, Youth Services Program Manager Sarah Butterfield.

Mr. Formica called the meeting to order at 7:30 p.m. and led the Pledge.

Mr. Formica stated that Mr. Hogan was absent and that Mr. Wilson might arrive later in the evening.

1b. Additional Agenda & Consent Calendar Items

MOTION (1)

Mr. Nickerson moved to add Item 2d. Cost Estimates for Boardwalk to the November 2, 2011 agenda.

Seconded by Ms. Hardy. Motion passed 4-0.

1c. Delegations

The Board decided that there would not be a discussion with the presenters of Item 2c., Discussion – Drug Paraphernalia being sold in stores. They said they would listen to the presenters and ask questions, but there would be no give and take between the two entities.

Karen Rak of 27 Old Black Point Road said that she thought this was a joke when she first read about it in the paper. She asked how could the Selectmen ban something that is legal to sell. She said if someone is underage and purchases some of these items, it is against the law and the law should be enforced. She said that removing these items from stores will not stop drug abuse. She added that if the employee taking the pictures of these items in the stores was not a police officer, this was an improper use of a town employee.

Tara Wyatt said she wanted to speak to oppose the ban. She agreed that someone coming into a store and not identifying themselves and then taking pictures without the manager's permission was wrong. She asked why there was no contact with any of the store owners before this. She added that there should have been discussions with the business owners before it came to this step.

1d1. Approval of Minutes, Special Meeting of October 5, 2011

MOTION (2)

Mr. Nickerson moved to approve the minutes of the Special Meeting of October 5, 2011 as submitted.

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Seconded by Ms. Hardy. Motion passed 4-0.

1d2. Approval of Minutes, Meeting of October 5, 2011

MOTION (3)

Mr. Nickerson moved to approve the minutes of the meeting of October 5, 2011 as submitted.

Seconded by Mr. Birmingham. Motion passed 4-0.

1e. Consent Calendar

MOTION (4)

Mr. Nickerson moved to approve the Consent Calendar in the amount of \$12,455.45 for the meeting of November 2, 2011.

Seconded by Ms. Hardy. Motion passed 4-0.

2a. Certification Agreement – Historic Preservation

Chairman Lu Anne Lange of the Historic Properties Commission noted that the signing of this agreement was the next step to enable their group to apply for grant funding from the Department of Interior for historic preservation. She added that the state has already approved the packet and they have begun inventorying historical homes in town.

Attorney O'Connell said that he had reviewed the agreement to see if any town funds would need to be expended. He said that if the Board thinks it is a good idea, they could enact an ordinance making the Historical Properties Commission in charge of historical preservation. He stated that he wanted to make sure the obligation to review and prepare National Register nominations could be met by volunteer or donated time and therefore, no cost to the town.

Ms. Hardy noted #8., regarding the maintenance of financial management systems and asked if our Finance Office would be doing this.

Mr. Formica stated that it was like any other grant award received by the Town. The entity awarded would produce a budget and have it reviewed and distributed by the Finance Director.

Ms. Hardy suggested giving this group some money in the upcoming budget to attend seminars.

MOTION (5)

Mr. Nickerson moved to authorize the First Selectman to enter into a Certification Agreement between the State of CT Department of Economic and Community Development and the Town of East Lyme.

Seconded by Mr. Birmingham. Motion passed 4-0.

2b. Appointment – Don Danila – Niantic River Watershed Committee  
MOTION (6)

Mr. Nickerson moved to appoint Don Danila to the Niantic River Watershed Committee as an alternate to serve through January 6, 2014.

Seconded by Mr. Birmingham. Motion passed 4-0.

2c. Discussion – Drug Paraphernalia being sold in stores

Mr. Formica said that this item comes to us due to a growing region-wide interest to create an ordinance to stop the sale of drug paraphernalia. He said that Ledge Light had looked into this also and added that what we have been doing so far has not been working.

Director of Parks and Recreation and Youth Services Dave Putnam was present and introduced Youth Services Program Director Sarah Butterfield to review a Drug Paraphernalia Ban Proposal with the Board (identified as Attachment A).

Program Director Sarah Butterfield reviewed the proposal and showed pictures of paraphernalia available in stores in town. She said that children see what is sold in stores as “normal”. She said there will be an informational meeting at the High School on November 15<sup>th</sup> at 6:30 p.m. to continue the discussion.

Michelle Hamilton of Ledge Light Health District and a member of GASP supports the Alcohol and Substance Prevention’s proposal for banning drug paraphernalia in stores.

Michelle Devine of SERAC showed drug paraphernalia items that she had bought locally.

Karen Rak said that an ordinance for banning products which are legal is not getting to the deeper problem and that we should not be morality police.

Attorney O’Connell noted that he had briefly reviewed the proposed ban and said that municipalities are creatures of the state and have no real power of their own. He added that municipalities do have the right to enact public safety and public health laws. He said it was possible to craft an ordinance with a great amount of detail included that could accomplish what these groups wanted. He suggested that it should be done on a regional basis and then the costs could be shared.

Tara Wyatt of 325 Main Street said that she would like a packet of this material mailed to her. She stressed that contact with business owners should have been made before this point. She suggested these groups put together something positive that kids can do and a place for them to go.

Benedict Passacio of 150 Roxbury Road said that these items are legal and what a person chooses to do with them once they are purchased is up to them.

Mr. Formica said that no ordinance has been presented to the Board for passing this evening and a potential ban was presented for the purpose of discussion.

2d. Cost Estimates for Boardwalk

Mr. Formica noted that this item just came up today. He said we hope to recover funds from FEMA to return the Boardwalk to Pre-Irene status. He said that FEMA has additional funding available for improving a facility to withstand future damage. He added in order to get the figures that FEMA requires he was requesting passage of the enclosed expenditure.

MOTION (7)

Mr. Nickerson moved to approve an expenditure in the amount of \$18,200 from account 1-01-01-120-200-500 (Contingency) for the purpose of obtaining a "Cost Estimate to restore the boardwalk to pre-Irene conditions (\$6,300)" and a "Cost Estimate for improving boardwalk to 100-year storm condition design (\$11,900)" and forward this request to the Board of Finance for action.

Seconded by Mr. Birmingham.

Mr. Formica said that Amtrak's contractor Ciambro, could be hired to make the repairs since they are already there and have some of the product that would be needed. He reminded the Board that we have \$1.5 million from the lawsuit with the engineering firm from the design of the Boardwalk and if we add FEMA funds we will be able to create a fix to withstand a 100 year storm status.

Ms. Hardy said that she just read that FEMA is running short of funds and asked how much money we were hoping to get back from FEMA.

Mr. Formica said 75%.

Motion passed 4-0.

4a. Resignation – Shawn McLaughlin – Zoning Board of Appeals

Mr. Formica noted the resignation. He said that Shawn will be missed and that he would send a letter thanking him for his service.

5a. Ex-Officio

Mr. Birmingham attended the Harbor Management meeting where they reviewed mooring permits and had an ongoing discussion about a no-wake zone for the Niantic River. He added that the CT Harbor Management Association will have a meeting on December 6, 2011 with Senator Edward Meyer.

Ms. Hardy noted that Zoning would meet tomorrow and that there would also be a special meeting of the Board of Education where they will discuss the use of breathalyzers at extra curricular events.

She requested that the Samuel Smith House be placed on the agenda under Unfinished Business and discuss getting an appraisal for the property and finding out the cost of updating the appraisal for the grant submission.

Mr. Nickerson attended the Youth Services meeting and added that Dave Putnam and Sarah Butterfield were doing a great job of evaluating the programs. He said they were discussing kid coverage during snow days that he thought was a great idea.

5b. First Selectman's Report

Mr. Formica said that he wanted to establish a committee to review a COLA for Department Heads and added he would talk more about it at the next meeting.

He noted he would be bringing a tree ordinance to the Board in the near future.

He said the Children's Museum is in need of funding and requested anyone interested to contact Christine Hammond.

He said the drainage improvement bid for Walnut Hill Road should be in next week. He said that when it is awarded, the new drainage of Walnut Hill Road will be done and then repaving will follow.

He said there was an article in the CT Mirror about the revival of the incentive based affordable housing zones.

He said he is waiting on the school's new vision plan and then the 20 / 20 Vision Committee would be meeting.

He met with Congressman Courtney and the heads of four towns about Route 11. He said that DOT has been instructed to complete the environmental study. He voiced concern about the bike path having to be built before the road.

He noted that the wood chipper was at Vets Field chipping the storm debris.

Winterfest – the expansion of the Light Parade would be from noon – 5:00 p.m. on December 11<sup>th</sup>.

He attended a lunch at White Gate Farm where there was a review of their program to recycle food waste for compost.

He attended a number of Council of Government meetings; one about CL& P and a 50<sup>th</sup> anniversary celebration of COG and a full day retreat where they discussed how the COG was to move forward.

He attended an event hosted by the Democratic Town Committee honoring Mary Broderick for her service to the Town through the Board of Education.

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He attended an open house of the Inn at Harbor Hill's new dwelling – the Captain Clark House.

He noted the bike race held on behalf of the American Heart Association.

He attended a Board of Finance meeting, a Pension Committee meeting and a SCRRRA meeting.

He served hotdogs at the Halloween Parade.

He reminded the Board about Opsail next July and added that he had attended a Military Breakfast hosted by the Chamber of Commerce.

6. Public Comment

There was none.

MOTION (8)

Mr. Nickerson moved to adjourn the November 2, 2011 meeting of the East Lyme Board of Selectmen at 9:27 p.m.

Seconded by Mr. Birmingham. Motion passed 4-0.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Darlene C. Stevens".

Darlene C. Stevens, Recording Secretary

Draft A

## Drug Paraphernalia Ban Proposal

DRAFT

To:  
From:  
Date:

Subject: Request for consideration of an ordinance prohibiting sale of drug-related paraphernalia

### 1. PURPOSE

The illegal use of controlled substances contributes to serious social, medical and law enforcement problems. The manufacture, distribution, display, sale and use of drug paraphernalia compounds the problem of illegal use of controlled substances. Ledge Light Health District strongly encourages the passage of an ordinance prohibiting the sale of drug-related paraphernalia in stores where minors are permitted.

### 2. DRUG PARAPHERNALIA DEFINED

As determined by the *DEA*, the term "drug paraphernalia" means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, possession of which is unlawful under this subchapter. It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, methamphetamine, or amphetamines into the human body, such as: <sup>1</sup>

- (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- (2) Water pipes;
- (3) Carburetion tubes and devices;
- (4) Smoking and carburetion masks;
- (5) Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- (6) Miniature spoons with level capacities of one-tenth cubic centimeter or less;
- (7) Chamber pipes;
- (8) Carburetor pipes;
- (9) Electric pipes;
- (10) Air-driven pipes;
- (11) Chillums;
- (12) Bongs;
- (13) Ice pipes or chillers;
- (14) Wired cigarette papers; or
- (15) Cocaine freebase kits.

For more information on drug paraphernalia follow this link to [www.justice.gov/dea/concern/paraphernaliafact.html](http://www.justice.gov/dea/concern/paraphernaliafact.html)

### 3. DISCUSSION

Drug paraphernalia displays normalize and in effect encourage the use of marijuana and other illegal substances. The National Institute on Drug Abuse (NIDA) has identified important principles for prevention programs in the family, school, and communities that include enhancing "protective factors" and reducing "risk factors." Protective factors are those associated with reduced potential for drug use. Risk factors are those that make drug use more likely.<sup>2</sup>

In 2007, staff and student interns at Ledge Light Health District first noticed drug paraphernalia being sold at gas stations and convenient stores when conducting a scan of tobacco marketing in Groton.

In 2010, the GASP\* (Groton Adolescent Substance Abuse Coalition) Street Team, a youth group of high school freshman, was formed to conduct environmental scans and found three convenience stores and gas stations selling drug-related paraphernalia. This included but not limited to pipes, water pipes, hookahs, grinders and scales. While these items are being marketed for tobacco use, they are most often used for smoking marijuana or cocaine. These items are displayed in plain sight and are visible to customers entering the store, including children. These stores are often in close proximity to schools. Tobacco stores were not included in this analysis as you must be 18 years or older to enter.

\*Established in 1999, GASP is a multi-faceted community-based coalition with initiatives that enhance a protective community structure, aim to build resiliency in youth and address substance abuse among Groton's adolescents (12-18 years of age). Over the past 11 years GASP has become a recognized and essential partner working to provide a drug-free community.

#### **4. SUPPORTING EVIDENCE/DOCUMENTATION**

According to the National Survey on Drug Use and Health, 2006, marijuana initiation occurs at a younger age than for most drugs of abuse.

A 1997 convenient store study notes that 80% of teens say that they are likely to visit a convenience store at least once a week.<sup>1</sup>

More information on trends in marijuana use can be found at:

[http://www.cadca.org/files/policy\\_priorities/The\\_Greatest\\_Cause\\_of\\_Illegal\\_Drug\\_Abuse.pdf](http://www.cadca.org/files/policy_priorities/The_Greatest_Cause_of_Illegal_Drug_Abuse.pdf)

According to the results of the 2010 Groton Youth Survey:

- 30-day use of marijuana has increased two-fold in grades 11-12 since 2008, and use by 7<sup>th</sup>-8<sup>th</sup> graders has almost tripled.
- There is a 10 percent decrease in perception of risk of great harm from regular marijuana use among youth in all grades surveyed.
- Marijuana was reported easy to obtain by 50% of Groton high school youth and.
- Among high school youth, 17-21% reported having bought drugs.
- Marijuana users believed that easier availability of marijuana is an important factor in a decision to start using, especially middle school youth.

According to National Institute on Drug Abuse surveys daily marijuana use among young adults is at its highest levels since 1991. A national survey released last month shows that 17 million Americans — mostly teens or young adults — used pot in 2010. About 40% of those used it on 20 or more days in the past month, up from 36.7% in 2009.

The GASP Coalition has determined, through an analysis of survey data, that most parents think it is “wrong” or “very wrong” to use marijuana.

It is the goal of the GASP Coalition to transform social norms in the community through environmental policy change strategies which have proven to be effective in reducing substance abuse. For more information on environmental prevention strategies go online to:

<http://wch.uhswisc.edu/docs/SIG/fisher-EnvironmentalPreventionStrategies.pdf>.

**5. FEDERAL LAW:**

The *Controlled Substances Act* Statute U.S. Code Title 21 Section 863 says "it is unlawful for any person to sell or offer for sale drug paraphernalia; to use the mail or any other facility of interstate commerce to transport drug paraphernalia; or to import or export drug paraphernalia." The law gives specific guidance on determining what constitutes drug paraphernalia. According to the *Federal Drug Enforcement Administration (DEA)*, drug paraphernalia does not include any items traditionally used with tobacco, like pipes and rolling papers.<sup>1</sup> Many convenient stores avert federal laws by posting signs near presumable paraphernalia saying "For tobacco use only" or "Not for use with illicit drugs."

**6. POLICY DISCRETION**

Communities across the country have successfully adopted drug paraphernalia ordinances. Communities are strongly encouraged to implement these types of ordinances at their discretion, subject to state and local law. Two communities in particular have passed such an ordinance in Tacoma, Washington and Vista, California. In 2008, Fall River, Massachusetts instituted mandated retailer training sessions on drug paraphernalia for tobacco merchants at the Fall River Police Department Headquarters. This training session was to be completed before the issuance of their Tobacco Sales permit.

In 2004, Pierce County Council of Tacoma, Washington adopted a drug paraphernalia ordinance (ord. no. 2005-103). Area stores are held accountable through fines and frequent store visits. The PREVENT Coalition in Tacoma, WA organized this ban to end the sale of drug paraphernalia. The new ordinance, now one of the strictest in the State of Washington, prohibits the use, manufacturing, distribution, display and sale of any drug paraphernalia within the city limits of Tacoma. The Tacoma City Council unanimously passed this ordinance on October 5, 2004.

The Community Anti Drug Coalition of America's (CADCA) Public Policy Department has obtained actual ordinances that have passed in communities. Follow this link below from their Policy Change Toolbox:

[http://www.cadca.org/policyadvocacy/prevention\\_works/policy\\_change\\_toolbox/ordinances-and-regulations](http://www.cadca.org/policyadvocacy/prevention_works/policy_change_toolbox/ordinances-and-regulations).

See attached addendum regarding communities across the country that has banned drug paraphernalia.

**7. CALL FOR ACTION**

Why support a ban on selling drug paraphernalia that is obviously intended to be used with illegal drugs?

- Local, State and Federal organizations such as the Southeastern Regional Action Council (SERAC), Community Anti-Drug Coalitions of America (CADCA), Department of Mental Health and Addiction Services (DMHAS), and Substance Abuse Mental Health Services Administration (SAMHSA) all support policy change initiatives (environmental) such as drug paraphernalia bans in communities.<sup>3</sup>
- Legislation has been introduced in the state of Connecticut regarding many substance abuse related items (K-2, Spice, etc.) and shows wide spread support.
- Items sold in neighborhood stores are perceived and accepted as "societal norms."
- Youth who believe drug use is accepted and common in their community are more likely to use drugs themselves.

- Drug Paraphernalia is sold in neighborhoods and near schools. The prevalence of drugs in a neighborhood increases the likelihood of violence and crime.<sup>5</sup>
- In addition to enticing youth, easy access to paraphernalia may serve as a trigger for recovering addicts and hinder their continued sobriety.
- Allowing the sale of drug paraphernalia sends the message that the community considers drug use to be acceptable behavior.
- Stores selling drug paraphernalia are disproportionately located in lower income neighborhoods as demonstrated by the attached map.

### 9. OPTIONS FOR CONSIDERATION

1. Pass an ordinance banning the sale of all paraphernalia in retail establishments. This ordinance would exempt tobacco shops (where minors are not allowed) that sell paraphernalia intended to be used to smoke tobacco.
2. Encourage consistent and stringent enforcement of the Federal Law.
3. Do nothing and allow stores to continue selling paraphernalia.

### 10. GASP COALITION'S RECOMMENDATION:

The GASP Coalition recommends Alternative #1. It is expected that our community can change the attitudes toward the more dangerous behaviors of our youth, can help our youth to recognize the dangers of marijuana use, and can increase the recovery prospects for former drug users. In order to affect behavioral change we believe it is necessary to first change the environment.<sup>3</sup>

If the proposed ordinance were to be passed, the GASP Coalition would offer drug paraphernalia education to retailers and would request voluntary removal of drug related paraphernalia before any enforcement by Groton Town and City Police.

**11. FURTHER INFORMATION:** For information regarding this proposal, please contact Michelle Hamilton, Senior Health Program Coordinator, Ledge Light Health District at 860-448-4882 ext. 305.

#### Citations:

1. Turett Ross W, Chanil D. 1997 Convenience store news proprietary foodservice study. *Convenience Store News*. March 24, 1997.
2. "Drug Paraphernalia." *U.S. Drug Enforcement Administration*. N.p., n.d. Web. 6 Jul 2011. <<http://www.justice.gov/dea/concern/paraphernaliafact.html>>.
3. National Institute on Drug Abuse (NIDA). (2002). Risk and protective factors in drug abuse prevention. *NIDA Notes Drug Abuse Prevention Research Update*, 16 (6). Retrieved December 15, 2009 from: [http://www.drugabuse.gov/NIDA\\_Notes/NNVol16N6/Risk.html](http://www.drugabuse.gov/NIDA_Notes/NNVol16N6/Risk.html).
4. Fisher, D.A. (n.d.). Environmental prevention strategies: An introduction and overview. Retrieved December 15, 2009 from <http://wch.uhswisc.edu/docs/SIG/fisher-EnvironmentalPreventionStrategies.pdf>.

## Drug Paraphernalia Ban Proposal

DRAFT

5. Haines, M.P., & Spear, S.F. (1996). Changing the perception of the norm: A strategy to decrease binge drinking among college students. *Journal of American College Health*, 45(3) 134. Retrieved December 12, 2009 from PsychINFO Database.
6. Hawkins, J.D., Herrenkohl, T.I., Farington, D.P., Brewer, D., Catalano, R.F., Harachi, T.W., et al. (2000). Predictors of youth violence, Office of Juvenile Justice and Delinquency Prevention: *Juvenile Justice Bulletin*, 1-12. Retrieved December 17, 2009 from:  
[http://www.ncjrs.gov/html/ojdp/jbul2000\\_04\\_5/contents.html](http://www.ncjrs.gov/html/ojdp/jbul2000_04_5/contents.html).



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