

**WEYMOUTH PLANNING BOARD
JOINT PUBLIC HEARING WITH TOWN COUNCIL
Town Council Chambers, Town Hall, 75 Middle Street
Monday, May 19, 2014 – 7:35 P. M.
Record of Minutes and Proceedings**

Present: Walter Flynn, Chairman
Sandra Williams, Vice Chairman
Mary Akoury, Clerk
David Chandler

Not Present: Paul Hurley

Also Present: Jim Clarke, Planning Director
Abigail McCabe, Principal Planner

Call to Order

Chairman Flynn called the May 5, 2014, meeting to order at 7:35 P. M.

Zoning Ordinance Amendment, Joint Public Hearing with Town Council – 7:35 PM

To hear a request for an amendment to the Weymouth Zoning Ordinance: **MEASURE # 14-078**. PRESENTED by the Weymouth Planning Board, to see if the Town will amend the Weymouth Zoning Ordinance to allow Registered Medical Marijuana Dispensaries in the Limited Industrial (I-1) zoning district.

14 078 - Amendment to the Zoning Ordinance - Registered Marijuana Dispensary

14 079 - Amendment to the Weymouth Code of Ordinances – Ordinance Sections 9-700-Licensing of Registered Marijuana Dispensaries

A Motion was made by Vice President Smart to open the public hearing on item 14 078-Amendment to the Zoning Ordinance - Registered Marijuana Dispensaries and item 14 079-Amendment to the Town's Code of Ordinances a new Ordinance Section 9-700-Licensing of Registered Marijuana Dispensaries and was seconded by Councilor Mathews. The first matter (the Zoning Amendment) was published on April 30 and May 7, 2014 and the second item was published on May 9, 2014. UNANIMOUSLY VOTED. The Council decided to take up the two related public hearing measures together.

On a motion made by Sandra Williams, and seconded by Mary Akoury, the Board voted (4-0) to open the public hearing and waive the reading of the legal notice on item 14-078 Amendment to the Zoning Ordinance to allow for Registered Marijuana Dispensaries and was seconded by Mary Akoury.

Mayor Susan Kay was invited to the table. She reported that despite her personal feelings, she is required to follow the laws and regulations. Since this is new to Massachusetts, they would be following the lead of the state. She gathered the appropriate staff to discuss, monitor actions and prepare the appropriate measures to implement the law in the best interest of the town. She included Police, Health, Legal, and Planning Departments and her office staff in the discussions. The first action, last year, was to pass the zoning moratorium. This gave the town time to wait for the state Health Department to come out with their guidelines for the selection process and allowed the town to speak to other communities to see what steps they were taking. Based on the review and analysis of the past year, she submitted two measures that meet the test of fairness and protection for this community. One measure is a new general Ordinance for licensing through the Board of Licensing Commissions and the other one is a Zoning Ordinance Amendment. She recommended these should be reviewed in tandem and that was the administration's approach in drafting them. The zoning measure provides appropriate but limited locations where such facilities may be located. It is clear from rulings by the Attorney General wherein ruled that a community cannot prohibit or exclude such facilities. Although no measure can be expected to address all of the concerns, the Planning Board's review of the draft has increased the prohibited distance from sensitive receptors.

The second measure addresses the licensing process for any such facility located in town. The Mayor noted that there was a lot of discussion and the administration felt bringing it to a licensing entity would have better control. There will be a local public hearing where police, health and building will scrutinize the application and will include public comment to any public application being given. These are the people who should be reviewing applications. The details were then provided. Jim Clarke, Planning Director, introduced Abigail McCabe, Principal Planner to present the zoning amendment. Ms. McCabe provided a power point presentation. She provided a summary of the background, from the vote on the ballot question, to the adoption of the moratorium, and the state regulations released in May 2014, to the MA Department of Public Health (DPH) released provisional approval for 20 locations. She indicated how the locations will be sited. The moratorium expired in May 2014. She reviewed the law regarding medical marijuana use and hardship provision allowing personal cultivation. She reviewed the state regulations defining dispensaries (Registered Medical Marijuana Dispensary (RMD)), licensing requirements and the application fees. Requirements were outlined for inventory, record keeping, waste disposal, signage, patient education, security, packaging and labeling and written operating procedures and storage. She summarized the process for obtaining a license – provisional to final certificate.

Municipalities can decide where the RMD facilities can be located as long as they don't conflict with state regulations. The Mayor created a working group to review the town's options. She reviewed the state requirements for buffers; 500 feet from a school, day care center or place where children commonly congregate in a scheduled, structured manner. Jim Clarke then noted that when they reviewed where these should be located, they determined it should not be located in any area where residential use is permitted. They also wanted to limit the visibility - keeping

away from highly visible streets. They propose allowing RMDs to locate within the I-1 (Limited Industrial) zoning district. He reviewed on the map those locations where the buffer zones would prohibit a RMD. The I-1 zoned areas are on Finnell Drive, an area on Mathewson Drive and one in Weymouth Industrial Park (Woodrock and Moore Road). Ms. McCabe reviewed a general map of the town that indicates where the 500 ft. buffer zones are located based on the town's existing parks, playgrounds, childcare facilities and schools. She reviewed a close up of each of the proposed locations and the aerial overview.

Director of Public Health, Dan McCormack, presented the measure for the proposed licensing of the facilities. He also provided a brief overview of the history. Twenty states have legalized and two have legalized recreational use. The regulation is specific to the licensing process; the application, verification and inspectional phases. There are no proposed business to be located in Weymouth at this time, but the administration felt the need to put the regulations in place. The state will regulate the business, but the municipalities can add their own as long as they don't conflict with state's. The draft ordinance has been reviewed by the Town Solicitor. He then reviewed what is included in the ordinance. The licensing will have to include a state registration that ensures the applicants were vetted at state level and will adhere to all state requirements. A public hearing will be held and if approved, licenses will be issued and will expire December 31st and must be renewed annually. They are non-transferable. No more than three facilities will be allowed in the town and limited to hours of operation between 7AM-7PM. Entry will only be permitted by qualifying patients or caregivers, licensing agents, outside vendors and contractors and Weymouth personnel. They will be prohibited from selling alcohol, lottery, tobacco products and must maintain closed circuit camera with recording capabilities, and they must allow police, health or other Weymouth agents entry any time they request.

He reviewed the definition of dispensary agent and noted their qualifications. They are required to obtain a registration card from the state DPH to work at these locations and a copy of the card will be on file with the Board of Licensing Commission. Cardholders can be caregivers, patients, or the RMD's and must carry the card at all times while in possession of medical marijuana and must present the card when asked by law enforcement agent. They may not possess more than a 60-day supply, defined as 10 ounces of medical marijuana. They may not sell to anyone. Marijuana use will be prohibited in those same areas governed under the state smoking law or in any area prohibited under the town's ordinances that prohibits smoking in public buildings, municipal parks and in a new regulation, on beaches. Violations are addressed in two sections; one for RMD's and one for cardholders. Violations of license holders will be heard before the Board of Licensing Commissioners. First offense is a \$300 fine (maximum allowable by law); second is \$300 fine and 7-day suspension; third offense is \$300 fine and 30-day suspension. Refusal to allow Weymouth representatives in to inspect will result in possible suspension and any illegal sales will allow for state and police to enforce over and above what the local Licensing Board will allow. Qualifying caregiver or patients in violation of the law will be subject to \$100 fine for the first offense, \$200 for second, \$300 for third, plus whatever is allowable by local police over and above can be enforced as well. If Weymouth does get a

facility, resident concerns should be brought to the Licensing Commission, which will send out a task force member to investigate.

Councilor Smart asked if any applicants have applied for licenses in Weymouth. Dan McCormack has responded no; no one has selected Weymouth at the state level.

Councilor Conlon suggested any RMD operating in Weymouth be required to hire a police detail. Capt. Fuller responded that it was discussed, but the task force has provided sufficient safeguards will be in place that it will not be necessary.

Councilor DiFazio asked if the zoning ordinance applies to dispensary and cultivation. Ms. McCabe responded that the definition includes both. Councilor DiFazio asked if they considered requiring a special permit to obtain a site within the I-1 district. Jim Clarke responded that it was discussed but because they were doing the licensing as well, they had the right people in place to handle it as the Board of Licensing Commissioners is comprised of staff from various town departments. Councilor DiFazio responded that he was glad that a licensing ordinance rather than a regulation governing it was proposed. He also asked how the group determined that three locations should be the limit in the licensing ordinance. Ms. McCabe responded that based on the availability of the I-1 zoning, the buffer zones and the population, three locations were a reasonable maximum.

Councilor Smart asked about the discussions that included where medical marijuana could be consumed. Dan McCormack responded that aligning it to the state and local smoking regulations were within the legal reach. Nothing in the workplace, public areas, restaurants, parks etc. were within their rights to prohibit. Councilor Smart asked if the state regulations prohibit places specifically. Mr. McCormack responded no.

Councilor Conlon asked if inspectors have the right to go in to enforce the regulation. He wants to see Weymouth to be active- an open-door policy to gain access for inspectional purposes.

Councilor Haugh asked the price of a 60-day supply; she is concerned with the safety aspect of an elderly sick individual going to a location in an industrial park to purchase medical marijuana. Mr. McCormack responded he did not know.

Councilor DiFazio asked if the state regulations are going to regulate cultivation in private homes. Mr. McCormack noted that if an RMD comes to Weymouth, owners will be required to have a delivery component attached; hopefully to reduce the hardship cases and avoid private cultivation. Councilor DiFazio noted his concern is for the safety of individuals cultivating in a confined space with high intensity lamps and creating a fire danger. He asked the town to be vigilant in the process of granting hardship applications.

Vice President Smart asked if RMD's are tax exempt. Jim Clarke responded that they are not for profit, but are taxable. Solicitor Lane responded that they may be some level of tax exemption, but they have to apply for tax-exempt status. There is an additional qualifying process. Councilor

Conlon suggested that any tax-exempt dispensary be required to have a pilot program. Mayor Kay responded that it could be discussed but it is not a mandate.

President O'Connor opened the discussion up to the Planning Board. Mary Akoury asked Dan McCormack why the licensing board is opening this up to three locations identified. Mr. McCormack responded that the draft identifies three possible areas in town where they would be permitted through zoning. It creates a level playing field. Ms. Akoury respectfully requested the number be scaled back. She also asked what the process is to increase the fines for violations. Mr. McCormack responded that the fines are statutory and cannot be changed by the municipality.

Sandra Williams asked if refusal to inspect is possible suspension and recommended it should be automatic. Dan McCormack responded that the Licensing Board will review if refused entry. She also suggested violations of illegal sales should be subject to automatic license revocation. She also asked if a landlord can prohibit cultivation by a tenant who qualifies under the hardship exemption. She noted that landlords have a vested interest in their property. Dan McCormack responded that it could be trampling rights of individuals. Private owners can have their own rules, but the town should not necessarily try to regulate it.

The public hearing was then opened up for public comment. The following were the comments from the public:

John Deady, 407 North Street asked about the town application costs and licensing fees. Mr. McCormack responded that the Mayor sets the fees and they have not been determined yet. Mr. Deady suggested they be as restrictive as the state's fees.

Ken Bechis, 46 Waterford Drive, asked if there is anything that prohibits more than one in each zone. Mr. McCormack responded that there currently is no restriction. He also asked about the restrictions for operating under influence in the vicinity of an RMD and what guidelines are in place and suggested locations in I-1 zone furthest away from residential areas. Capt. Fuller responded that the police are entering uncharted waters and they are beginning to address officer training in detection, but there are and have been laws in the book in this state. .

Wayne Mathews, 33 Whitman Street, asked if there will be other items for sale in the dispensaries, and if there will be an age limit for customers. Mr. McCormack responded the age limit will be 18, and he outlined that other items will be prohibited, as he indicated in his presentation. Mayor Kay responded that the MIP's (marijuana-infused products) are being explored at the state level and in the regulatory advisory board she serves.

Council President O'Connor reminded the public that no vote is being taken on these measures at this time-the matters are still in discussion in committee; the purpose is to gather comments at this public hearing.

Dominic Galluzzo, 86 Candia Street reported that the town has three supermarket chains and asked what the rationale is to allow up to three dispensaries. He asked the committee to consider restricting it to fewer. He suggested bisecting and citing one in each section of town.

Ann Hilbert, 45 Doris Drive suggested the result of the vote on the ballot question speaks to the mindset of the people of Weymouth and should be addressed. She suggested people did not know what they voted for. She can't imagine parents watching this are in favor and she urged the Council not to vote for it.

Meredith Carrol 693 Pleasant Street asked if the Moore location is chosen, would Moore Road be the access point. She asked what controls will be taken to prevent accidents at Moore Road. She suggested access from Libbey would be better since it has medical facilities located along it. Mr. Clarke responded that traffic studies will be conducted to determine if supplementary work needs to be done if it goes forward. Ms. McCabe responded that the locations they considered are those that by zoning do not allow residential development, outside of the buffer zone and only allowed in the Limited Industrial zone. The Medical Services zoning district allow for residential as a by-right use. Mayor Kay responded that they chose to look at keeping proposed locations to isolated areas, away from residential areas. There will be lighting and surveillance requirements. The reason they chose three locations is to prevent the state from enforcing the hardship requirements.

President O'Connor reported that standard operation hours will be 7 am-7pm.

Brian Kelley, 43 Old Colony Dr. (behind Finnell Dr) is concerned that if a dispensary is built, and this is a quick place to get a supply and pass it off in an area that is surrounded by quiet streets.

Mark Kilban, 12 Clinton Road, recommended a police detail to show force from the start.

Tricia Pries, 15 Woodbine Road, noted that the opiate epidemic in this country is phenomenal and the gateway drug is oxycontin, which is a prescription medication. Medical marijuana is a helpful product for people who need it and treating them as criminals is not right. She understands the concerns for the location of the dispensaries, she suggested locating them near medical facilities. To hide them away and not handle as medical issue is a concern. She believes that we should treat this as a substance that is very helpful medically.

Councilor Harrington questioned the development of the zoning criteria and consideration for the traffic going to these facilities. He suggested that trying to bury it locates it to an area easily accessible from the highway. Mr. Clarke responded that there were multiple aspects for the criteria, but wherever it is located, it is easily accessible from the highways.

Jim Martin, 15 Winter Street, suggested that the town impose fees as high as legally possible to keep the dispensaries out of the town.

David Chandler, Planning Board member, asked why the town is even considering three dispensaries when only five are allowed in the entire county. He also suggested that discrimination is not a factor; applicants are turned down for multiple reasons. One per town should be the driver; it should be taken out. The maximum allowed to be licensed through the Board of Licensing Commissioners was not discussed among the Planning Board.

Sandra Williams, Planning Board member, recommended that police details should be required during operation hours to deter illegal activity.

Mary Akoury, Planning Board member, suggested that the town and the state are treading uncharted territory and need to make the regulations as restrictive as possible and this should be an ongoing process. Hopefully it will be looked at again a year after enacted to see what revisions are needed.

Councilor DiFazio asked if the town could impose a host community agreement that could offset potential adverse impacts to a neighborhood. Mr. Clarke responded that the fee structure is still being evaluated through the licensing and it will be the Licensing Board that will suggest any additions. They are also looking to see how other communities are structuring their fees. Councilor DiFazio also noted the tone of Ms. Hilbert's comments; just because this was voted does not mean any Councilor condones it. The action is being taken because the state law requires it.

A motion was made by Vice President Smart to close the public hearing on item 14-078 for the Amendment to the Zoning Ordinance and Measure 14-079 for a new Licensing Ordinance Section 9-700-Licensing of Registered Marijuana Dispensaries, and was seconded by Councilor Mathews. Councilor Harrington suggested before voting, other criteria be explored. There are other ways to locate these, particularly the Finnell Drive location, which is surrounded by residential areas and he suggested taking the matter back to the drawing board. Councilor Conlon recommended requiring a police detail to prevent public nuisance. UNANIMOUSLY VOTED.

On a motion made by Sandra Williams, seconded by Mary Akoury, the Planning Board voted 4-0 to close the public hearing.

Chairman Flynn announced that the Planning Board meeting would adjourn and reconvene in the Kelly Room at 8:55 PM.

Chairman Flynn called the Planning Board meeting together in the Kelly Room at Town Hall at 8:57 PM.

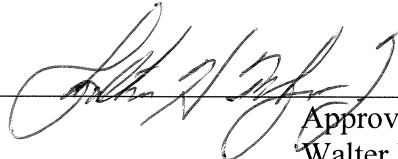
Board members had some concerns mainly concerning the licensing ordinance measure and other concerns brought up at the public hearing such as the maximum number of RMDs allowed, security, lighting, limitations as to what landlords and property owners can and cannot allow especially for renters and multi-family developments, traffic, the I-1 zone's accessibility and conditions of the roads.

On a motion made by David Chandler, seconded by Sandra Williams, the Board voted 4-0 to take the zoning amendment measure 14-078 under advisement.

Adjournment

On a motion made by Sandra Williams, seconded by David Chandler, the Board voted 4-0 to adjourn the meeting at 9:15 PM.

Respectfully Submitted
Abigail McCabe

 7/15/14
Approved by:
Walter Flynn, Chairman