

JOINT ORDINANCE COMMITTEE AND PLANNING BOARD MEETING
Town Hall Council Chambers
May 27, 2014

Present: **Ordinance Committee**
Kenneth DiFazio, Chair
Michael Smart, Vice Chair
Arthur Matthews

Absent: Jane Hackett, Councilor
Patrick O'Connor, Councilor

Planning Board
Walter Flynn, Chair
David Chandler
Mary Akoury
Sandra Williams
Paul Hurley

Also Present: Jim Clarke, Director, DPCD
Abigail McCabe, Principal Planner
George Lane, Town Council
Daniel McCormack, Director of Public Health

Recording Secretary: Jody H. Lehrer (Legal Minutes)

Chairman DiFazio called the meeting to order at 6:30 PM.

Item 14-043 Rezoning Request Bridle Path

Chairman DiFazio: The first item on our agenda is Item 14-043 Rezoning Request Bridle Path submitted by Daniel Jancaterino, Map 34, Block 444, Lot 6 from Planned Office Park to Limited Industrial (I1). Tonight before each of the members is the recommendation provided to town council from Weymouth planning board that previously met on this. It is my understanding that the Planning Board has already called to order their meeting this evening. Are you going to report anything out on this?

Mr. Flynn: We had not planned on reporting on that matter.

Chairman DiFazio: Do you mind holding tight as we think we can resolve this rather quickly?

Mr. Flynn: We will sit at your pleasure, Mr. Chairman.

Chairman DiFazio: I ask that if you haven't already read the recommendation, I'd ask to review what we received, it is dated May 8 from the Planning Board. The public hearing was May 5, 2014, we deliberated once on this matter. Jim (Clarke), were you going to report anything new on Bridle Path?

Mr. Clarke: I can answer any questions that you have. We don't have anything new.

Chairman DiFazio: One issue that came up is the petitioner provided a letter from the trustees of the property that was sold unbeknownst to the town, but we did research and found out who it was and they have all agreed to the change from POP to I1. Other than that I didn't think there were other outstanding issues that I needed. So I ask if there is any further discussion on this matter or any questions.

Councilor Smart: I have one question. As I recall from a previous meeting, there was one discussion on the width of the road. That is the only thing I thought was important enough to bring up. I didn't know if Abigail had a chance to review that. I think Mr. Chandler brought that up. Has that been resolved through you, Mr. Chairman?

Chairman DiFazio: I have no further information than what we had from our previous meeting.

Councilor Mathews: Let the staff respond.

Ms. McCabe: I think the question was the width of the access easement that lead up to the property in the rear. Right now it acts more as a driveway. It is something that will be reviewed during the special permit process. If the applicant comes forward with a proposal it is lot storage use. It will be reviewed and have to be shown on a plan. The Zoning Board can put on any conditions. I didn't see on the plan the exact width. It wasn't to scale.

Councilor Matthews: I drove up there to look at it and it doesn't look greater than 14 feet. It is like a driveway. Literally it is a single use. So that would be something the ZBA would have to take care of

Mr. Clarke: It has been in use for -15 plus years for both of those buildings.

Councilor Mathews: That's all I had Mr. Chairman, thank you, gentlemen, ladies.

Chairman DiFazio: I will entertain a motion.

Councilor Smart: Mr. Chairman, I make a motion for favorable action to the full Town Council on matter 14-043 Rezoning Request Bridle Path.

Council Matthews: Second.

Chairman DiFazio: We have a second.

Chairman DiFazio: For the record for the recording secretary, we have received the May 8 decision of the Planning Board. We have it before us. All three of the members here tonight have reviewed it and taken into consideration that the Board did vote four to zero (4 to 0) to recommend favorable action on the measure. Any further discussion on the motion?

Councilor Matthews: I just want to speak favorably on this zoning change. We are asked as councilors how we can bring more commercial revenues into the town. We did vote a month and half to two months ago on another property. This is the second one in a couple of months to help. In the previous case it was to bring a business owner into town to bring a business from another municipality into this one. In this case, the gentleman is getting rid of his current property through a family estate and is looking to keep his business in Weymouth and to potentially build a new construction building, a garage for his vehicles. I think this is an important opportunity. It is not a lot in terms of revenue for the town but it certainly is something we are chipping away at to keep having business come into this community or retain business that come into this community. Therefore I will be supporting this motion.

Chairman DiFazio: All in favor? (All members said “Aye”). All opposed? (zero). The measure passes favorable action to the full Town Council, three to zero.

The next item on the agenda is item 14-078 Amendment to the Zoning Ordinance Registered Marijuana Dispensaries.

Item 14-078 Amendment to the Zoning Ordinance Registered Marijuana Dispensaries & Item 14-079 New Proposed Ordinance Section 9-700 Licensing Registered Marijuana Dispensaries.

Councilor Mathews: Mr. Chairman?

Chairman DiFazio: Yes, Mr. Mathews?

Councilor Mathews: Maybe a suggestion is that we open up discussion for both, like we do in the public hearing or do you want to do it consecutively? Actually the Planning Board is here just for the first one, not for the ordinance, so forget it.

Mr. Clarke: It might be helpful only because there were questions that the Board asked of the ordinance and I know Dan McCormack is here tonight to speak on the ordinance. It will be helpful in solving the problem.

Chairman DiFazio: All right, then I will open up both measures 14-078 and 14-079 New Proposed Ordinance Section 9-700 Licensing Registered Marijuana Dispensaries.

Mr. McCormack: I made some backup documents but I don't know if I made enough copies. The updated draft of the ordinance; the excerpt of Section 725 – regarding the security requirements that were a concern at the last meeting; the third item are proposed rules and regulations to be utilized by the licensing board. (Passes out copies).

Chairman DiFazio: (Addressing Mr. McCormack) Are you going to give a presentation now for both?

Mr. McCormack: No, I think they would want to do the planning section and then if there are specific questions while you are doing that for the ordinance I can certainly answer them. After that we will discuss more about the ordinance specifically if that's how you want to handle it.

Chairman Flynn: Our intent this evening is simply to get our report presented in a very timely fashion so the ordinance committee can discuss it, consider it and get to the Town Council in the time frames necessary and appropriate. We have not yet formally voted on the recommendation that you were provided with a copy. However, we are in unanimity though, you can rest assured, everybody is in agreement with it, so what you see is what we're going to vote on later on tonight formally, but we are here to answer any questions you might have in that regard.

Chairman DiFazio: So you have seen the new 9-700?

Chairman Flynn: Yes, we have.

Chairman DiFazio: Are you saying that although you have not voted on the zoning ordinance yet, you have reviewed the new 9-700 which appears to have two changes from the original that they sent to us. I see two changes in red.

Mr. McCormack: Correct, the items that are in red are the two changes that have been made since the last time we met.

Mr. Clarke: I think he should present the ordinance changes first and then we can go into the zoning.

Mr. McCormack: At the full town council and the hearing I know there was a lot of concern about the proposed number of dispensaries in addition to concerns about security requirements at these particular facilities. So if you look on the third page, item number 8, that had originally been three that we were proposing- to have a maximum of three in the town, again we heard all your concerns – and we reduced that to one. I hope that's okay - we didn't review it through the AG's office, or anything, but we assume that one is going to be sufficient for now, unless some legal action is taken in the future that says that one is not an allowable number. I don't think Mr. Lane believes that is going to happen. But again, there is always that concern that if you say that only one business can operate in the town there is some concern about a lack of competition. We understand we necessarily don't want more than one. We put three in there originally because there were three particular zones. We thought there was a potential benefit to have three.

Mr. Lane: When the committee met the original rationale was that there were three areas so what was stated at the committee level was perhaps three. We listened to the concerns that were addressed at the meeting before the council and the planning board and as a result we did (inaudible) again, so to speak, and felt it was worth the effort to reduce it down to one.

Should there be some sort of resistance legally that happens then we might want to take a look at it. But given the fact of what the sentiment was of the two boards or commission here, we reduced it down to one. We are willing to take the chance. Secondly, you've got to understand, I think we are pretty much pioneers on the East Coast in terms of where you've gone

recommending not only the ordinance but also regulations to back it up. We also have further work we have done coast to coast to indicate application process and some concerns there but basically on the ordinance we are willing to take the legal risk at this point in time for one license.

Councilor Smart: Mr. Chairman?

Chairman DiFazio: Mr. Smart?

Councilor Smart: So basically, even if we zone them for three locations it is really restricted to one regardless of how many areas we zone?

Mr. Lane: That is correct. We were impressed by the rationale I think Mr. Chairman echoed the sentiment when he said, “wait a minute, 35 for the whole state five for the county.” We are going to put ourselves out for three. So we are willing to take the chance based on that evaluation of the number of license that are granted by the state.

Councilor Smart: I agree. Thank you.

Mr. McCormack: Just a quick addition to that, George had mentioned the number 35 which we have all been discussing, but I want everyone to understand that DPH said 35 in phase I, and if there is a need for additional, that number will be increased, so I know we continue to discuss that 35 number but in three years it may be 105 in may be 205-- it is all based on need. But for now we feel that one is going to work.

The other question that came up is about the security of the particular locations – I don’t have enough of these but it is the security section under state regulations. Again the security concerns came up, if you look through 725 there are almost four pages specific to security at these particular locations.

I will just point out a few of them that I think are important. It states under (a) that all RMDs shall implement sufficient security measures to deter and prevent unauthorized entrance in areas containing marijuana or theft of marijuana at RMD’s. Number 7 on page 36, they are required to keep all locks and security equipment in good order; number 10 ensure that the outside perimeter of the RMD is sufficiently lit to facilitate surveillance- I know that was a concern. Again this is all in the state requirements.

To ensure that trees bushes, and other foliage outside the RMD do not allow person or persons to conceal themselves from sight; number 13, develop sufficient additional safeguards as required by the DPH that presents special security concerns; so again DPH can require additional safety and security at any location that they deem necessary as part of the plan review.

Under C, under limited access areas that there is signage and requirements for “do not enter” for specific locations within these establishments; on page 38, number 4 on the top, it requires that all outside vendors obtain a visitor identification badge and are escorted at all times within the RMD’s; under security and alarm systems, they shall have adequate security systems to prevent

diversion and theft. Then it goes down in A through I -again perimeter alarms, duress alarms, panic alarms, video cameras, 24 hour recordings, date and time stamp embedded in all recordings, the ability to remain operational during power outages well, so if there were a power outage, they have to have backup generators to power those cameras and other operations there. On page 39, under 3, again back up alarm systems -they have to be dual systems, within these establishments with the capability of primary systems provide by company supplying commercial grade equipment -so these facilities can't go out to BJs and buy one of the \$200 camera systems, they have to be commercial grade. Number 5 security equipment shall be in good working order and shall be inspected and tested at regular intervals-- do not exceed 30 calendar days from previous inspection or test.

So, again, security requirements within the state law are very specific and within our ordinance on page four, under 17, it discusses a 24-hour surveillance requirement. But in addition to that, sorry to keep running through a bunch of different documents, but in the rules and regulations for BOLC, item number 22, allows the Board of Licensing Commissioners, it reserves us the right to change or add the terms or conditions of any license, so again if we felt that this licensee was creating a problem with either traffic or other security issues, we could require but that type of police detail that we discussed, but we think at this point a police detail is not specifically going to be required in the ordinance.

Chairman DiFazio: The ordinance included penalties for violation of the ordinance, if they violate your regulation is there any penalty?

Mr. McCormack: The state regulation?

Chairman DiFazio: The ones that you listed.

Mr. McCormack: The rules and regulations established at the Board of Licensing Commissioners, yes, again any violation of these rules goes into the ordinance for first offense, second offense, third offense the \$300 dollar fine, plus suspensions.

Chairman DiFazio: And the ones you just read from? The DPH regulations?

Mr. McCormack: That's a DPH regulation.

Chairman DiFazio: If they were to violate that how does that play into the town?

Mr. McCormack: It is thoroughly enforceable by DPH. They're going to have their own inspectors. So if we find that there is a problem at these locations I anticipate us contacting the DPH with their inspectors and they will go out and assess the situation there. Again, the question comes up, I think these facilities, because it's going to be a large portion of a cash business, I think these particular business owners, we will see what happens, because it's going to be like that, we assume they are probably going to have some of their own security personnel on site there, whether they're badged and have guns or something I am not sure, but again with a large cash business and that type of business, we assume there is going to be an additional

security component over and above the requirements, but as these entities apply to DPH their application includes a security requirement.

Councilor Smart: Mr. Chairman?

Chairman DiFazio: Mr. Smart.

Councilor Smart: Thank you Mr. Chairman. Dan, I know it talks about recordings of inside the building and the 24 hours of sales previous and then it talks about shrubs and stuff, but it does not mention a camera outside like on the roof or pointing out - I think that was discussed also. So that was one of the questions, so should we put it in item 17? It says "a camera," but it only lists a single camera.

Mr. McCormack: Right, again the facility that is proposed in Quincy is supposed to be 34,000 square feet; some of these facilities may be smaller. So I think that will probably be discussed at the Board of Licensing Commissioners, as we see what particular space they may be going into.

Councilor Smart: But Dan, I think it's important to have it in there, to say you are going to have one camera either on the roof, pointing out, and one inside, definitely, I mean that's a must.

Mr. McCormack: Under 725, I believe it is the requirement to have a camera both indoors and outdoors of the facilities.

Councilor Smart: Does it list the outdoor one? I didn't see the outdoor, that's why I was asking.

Mr. McCormack: It lists security and alarms.

Councilor Smart: As long as it's covered, and we have a camera outside.

Mr. McCormack: In view of cameras in all areas that may contain marijuana and any points of entry and exit- so yes there will one at the entry and exit on the doors, and in any parking lot. So yes, it is covered again under (D)(1)(d) on page 38 of the state regulations.

Councilor Smart: Is there going to be a requirement for CORI checks for the employees? Where this is such a heavily regulated new industry certainly to the state of Massachusetts to have background checks on the employees.

Mr. McCormack: They are defined as "Dispensary Agents," that's how the state has defined them. Anybody who volunteers or is an employee at any of these RMD's is going to be called a dispensary agent. They have to go through full vetting through the DPH and be issued a registration card to work at these facilities. Part of that is a CORI – SORI check and a background check before they will be issued a registration card to even work at a facility.

Councilor Smart: So there are requirements of employment?

Mr. McCormack: That's correct.

Mr. McCormack: There are training requirements, there's CORI/ SORI back ground checks, again this just a small section of the 72 page regulation but there is a whole section about the registrations process for a dispensary agent themselves.

Councilor Smart: So certain infractions of the law would not allow a person to be an employee of the dispensary? Is that correct?

Mr. McCormack: Yes, I think that's DPH's intention to view each applicant one by one.

Councilor Smart: Thank you – thank you Mr. Chairman.

Chairman DiFazio: Are there any other questions? Mr. Matthews?

Councilor Mathews: First I will talk about the ordinance. It was brought to my attention by someone about other municipalities and what they are doing in their ordinances. And what the City of Newton – my understanding - has done, is they added language to their ordinance that says people visiting in the shops should be by appointment only. I don't know if we can add that language in the ordinance.

Mr. McCormack: Are you saying patients who are qualified patients who are going to get medical marijuana?

Councilor Mathews: Correct. That they go in by appointment only. So that we don't have people just showing up there like it's a supermarket, thinking they can go in there and walk around.

Mr. McCormack: I know we had discussed this briefly before. I think we have to be careful with some of the HIPA related requirements. This is not a tobacco product; the state is pushing this as medical marijuana. So, by now saying that you cannot enter to get your prescription, I think we are stepping on eggshells. We want to really work with business owners to make sure they are safe business being operated. I think we have to be careful with talking about what we allow patients – what they can and can't do. I know we talked a little about growing in their apartments, as part of the hardship requirements. We have to be careful about this as it is a patient that has gotten a recommendation from a licensed doctor in the state of Massachusetts.

Mr. Lane: I think by appointment only is a tongue and cheek type of thing, Understand that we have the right under 725 to impose reasonable rules and regulations. I visualize that maybe that question will be asked in a licensing hearing. What we've produced here is an ordinance and a set of regulations that is workable by a licensing commission. The parallel to be drawn, although it is a different evil so to speak, is the alcohol beverage control (inaudible). That is an independent body of law and it is all comprehensive, and whatever, but it is subject to interpretation. So we function under the rules and regulations there, and try to impose reasonable regulations. But I think at this particular point, I would not recommend this by appointment matter only. The fact is it's been legalized, and once you start to impress that with certain restrictions I think you have got a problem. I think what we are doing now we are at a good point, and we are at good progress and whatever. If we see the need and we have the

opportunity and we can change things through our own regulations and an ordinance, if that is necessary, then fine, we will do it. I do look forward to the state further implementing their regulations as to what we can do on a local level. And I prefer that by-appointment only not to exist at this point.

Councilor Mathews: I think we should look at what other municipalities have already done. Some that have not had the year moratorium and see if they have inserted that language in - because what I think could happen in my mind is that you're going to have people just showing up there just because it is the new thing - they want to go see it - that may not even have a medical documentation from the state that they can do that. They are just going to show up and try to get in there to say "hey I want to check out this new store to see what's in it." You are going to have people and if they don't have the proper security someone maybe a detail police officer sitting at the door telling them that if you don't have a medical prescription from the state, you can't even walk in the store.

But I can envision people walking in all the time saying, "hey I am here to check this place out." And then they go in there and try to get the requirements of what they need to get a prescription. What if they go in there not having one but they are going in there to try to get the information they need from their doctor to get a prescription? I am just trying to keep the people who shouldn't be - that may be interested in it -and some people that may not even belong in their - unless they are subscribed to get their documentation from the state, and I think making it by appointment only would eliminate all of those things. I can see that, and I have seen other businesses in the private sector that have done certain things. You can go to a golf course, if you want, it is one example, and you go and say "I want to play golf " but they will tell you "no, this golf course here is, you know, tee time only you have come and make an appointment in advance if you want to play golf." I can give you different analogies all night long but I am just trying to see what other municipalities do and see if we can eliminate some of the things I can see happening.

Mr. McCormack: Just to answer your concern about entry, both within 725 and our draft ordinance, it prohibits anyone from entering who is not a registered patient. You cannot enter any of these facilities and again it is a requirement that DPH will be reviewing how it is that this particular company is enforcing that. What types of safety mechanisms do they have in place again it will be part of the review of each individual RMD. The state (inaudible) on a one on one basis. It is not a general industry. So if someone were coming in to operate in Weymouth they would have to tell DPH exactly how they are going to allow only qualified patients, or caregivers into these facilities, or vendors. So it's going to be all spelled out within their application, which will have accessed review when they come to licensing. So again, you cannot enter any of these facilities unless you are a cardholder, a personal caregiver, or a vendor with id.

Councilor Mathews: I just - I envision - I still envision people coming to go right up to the door, and they better have something in place to turn them away, whether it be a detailed police officer or something. Because I can see someone walking in saying "I've got an issue and I want to get a prescription to do it and I need to talk to these people to get into the facility so I can tell them what I can put on my doctor's note" or whatever it might be.

Mr. McCormack: They won't be able to enter any of these facilities for the purpose of Q&A on a particular how do I get a prescription. The process has been established at the state. These individuals have to go their primary care physician or another licensed medical doctor. I don't – I don't think, you know we can certainly look at some other towns-
(Inaudible background)

Councilor Mathews:

I was just going to say one more thing, I think that Solicitor Lane and yourself will know all this to a "T" but I just don't think the regular constituents are going to – citizens you know - are going to know all these details.

Mr. McCormack: I think that until these businesses start to operate here in Weymouth that –not in Weymouth, but in Massachusetts in general – I think there is going to be a learning curve. We are all going to learn how these businesses are, what type of security requirements there are, so again this is a draft and if we adopt it in this format, we can certainly bring it back up for discussion if we feel that there is something additional that is needed in the ordinance or we can include it in the rules and regulations in the BOLC and have it there, and not have to bring it back to ordinance every time we want to make a minor change. We can add it to the rules and regulations, again stipulations through the Board of Licensing Commissioners for the one that is going to operate here in town.

Mr. Lane: Yeah, I think Dan has answered that well as to –you know- leave it in place the way it is with the restrictions. The state has done a very good job under 725 with imposing the regulations. So, that while I enjoy your concern, I think that where we have had all these committee meetings, and we have looked at it from a police stand point and every other stand point, certainly it is far and away from some chamber of commerce information center about marijuana. That is not what it is. It is very restricted entry, and whatever, and I think Dan has explained that well.

Chairman DiFazio: Point well taken, Mr. Mathews, can I ask you about number 13 and 14. It says no selling alcohol or tobacco.

Mr. McCormack: I am sorry. I handed a bunch of different things to you. What are we talking about - in the ordinance itself?

Chairman DiFazio: Yeah, in the ordinance; nicotine and no lottery dealers. So, tell me if I am right or wrong. Could I walk into one of these places, and see up on the wall 30 different bongs for sale, purple, green, orange, and with Jimmy Hendrix on the side? Is that what I am going to see?

Mr. McCormack: We don't believe that that is what is going to be there. We believe there is going to be some paraphernalia available for the use of this, but we don't think it is the intention of the state to allow for that type of display there. Again, there is paraphernalia and then there are pipes that are allowed for smoking tobacco and other things. As we may have seen, there is a facility that is opened up on Washington Street that is selling glass pipes to be used for tobacco only. There's a very grey area between what's drug paraphernalia and what is tobacco use

products. Again, we don't think the state is going to allow these places to open and have a full room of colorful bong with Bob Marley all over them. But there would be more of a medicinal use like pipe, but they have to use it out of something.

Chairman DiFazio: Is there any risk in prohibiting it? Why should we let them sell that stuff for now? Why don't you just say "here is your marijuana – here is your bag or your box." If you need – go find somebody else, go down and buy a bong down there somewhere. Why make this into a - because, I tell you, you will be walking in, music will be blaring, hey let me get my package, let me go over here now.

Mr. McCormack: These are patients entering into these establishments to get medical marijuana. It is not somebody walking in off the street to get recreational marijuana. And that is what we are hoping is going to be displayed at these facilities. It is going to look like a pharmacy.

Chairman DiFazio: I hope so.

Mr. McCormack: It is not going to look like Bob Marley's den, where things are just on a shelf with music blaring.

Chairman DiFazio: So the answer is yes.

Mr. McCormack: This is a professional business selling medicinal marijuana.

Chairman DiFazio: So the answer is yes, they could do it but you don't perceive it happening.

Mr. McCormack: There are going to be apparatuses allowed. I don't think the state is going to allow them to sell a four-foot water bong. I don't think that's the intent.

Chairman DiFazio: All right.

Mr. McCormack: We are working on a different level with a board of health regulation that is going to prohibit a lot of those items from sale at other retail establishments in town. It probably won't be impacted on these particular businesses.

Chairman DiFazio: I have one other question. George, on the zoning ordinance, you presented some - it was in your presentation before us. I think one of the slides that I thought was very important was your zoning objectives; you've got three of them. To allow – to limit potential locations; to exclude RMD's from residential use in zoning districts; and to limit visibility of RMD's to areas less subject to through traffic. To me, that is the crux of how you picked the places that you have picked, quite frankly.

Mr. Lane: I think that is true. One point that I would like to emphasize on that, I am also a graduate of the adult entertainment John Ponti district attorney school that was given some years ago. And one thing I learned about the construction of ordinances throughout the country is that you needed to have preambles that announced the specific purposes. And I think you are entirely

right, that by having those criteria of purposes you work that into your regulation. I think that is an excellent point.

Chairman DiFazio: Well the point -my further purpose is are you sure -you think that's okay to do that with this particular use? The adult entertainment -I thought it was a great idea.

Mr. Lane: It is good.

Chairman DiFazio: It doesn't expose us to potentially be in violation of zoning this thing properly and giving them the ability to have a place here in the town of Weymouth?

Mr. Lane: No.

Chairman DiFazio: No, that's fine, I have no problem with it.

Councilor Smart: Just a follow up, if I may, I know the Planning Board is waiting. The Dover Amendment, would this be something that the Dover Amendment could supercede our local ordinances and zoning regulations, and allow it to be put in a residential area? Which allows for religious, medical, and I forgot the third criteria, but there were three criteria that the Dover Amendment spoke specifically to. When we were fighting Spectrum up on Route 18 on Kirkland Street, that basically put that rehabilitation clinic, at the end of a residential street? Is that something you could look into, George.

Mr. Lane: Yeah, I think we could look into that a little more, but on the other hand, you may be dispensing a medical product but you are still running a business. And I think looking in that particular vein, I was thinking the other way, there is a child care center being put into one of these areas, and we want to move a medical marijuana facility next door to it, you know, whatever, that could be a problem. We can further look at that but yes, I have not been aware of any Dover Amendment problems with looking at what's been done in other places.

Councilor Smart: Okay, great.

Chairman DiFazio: Anything further? Mr. Mathews?

Councilor Mathews: Are we going to the zoning one now, – because my questions will focus more on the ordinance part. I do have some questions and concerns about the ordinance- I mean the zoning part. Do you want to yield to them first?

Chairman DiFazio: Do you have any further questions regarding the second of the two?

Chairman Flynn: Mr. Chairman, the Planning Board is here tonight to comment solely on the zoning ordinance. Now, there are members of the Planning Board who have issues with the ordinances and it is your pleasure, you may allow them to speak, as you desire. But for the zoning issue, the Planning Board is here for that purpose and that purpose only.

Chairman DiFazio: Okay, then I would like – before we dive into item 078, would you mind if we heard your comments on 079, any members of the Planning Board?

Chairman Flynn: I don't think that– I have asked - I polled members of the Planning Board before we started and their desires, the Planning Board's desires are as expressed in the May 27th letter that you have received a copy of and that is our recommendation to the ordinance committee and to the town council.

(Inaudible)

Chairman Flynn: That is just the power of persuasion.

(Inaudible)

Ms. Akoury: 079 is what you guys were just addressing, correct?

Chairman DiFazio: Yes.

Ms. Akoury: So we do have comments on those.

(inaudible)

(Planning Board and Ordinance Committee members read 079 to themselves)

Chairman DiFazio: So have you already voted favorable action?

Chairman Flynn: We will vote favorable action on that within two minutes after we adjourn to the Kelly Room.

Chairman DiFazio: Okay, all right, I got you.

Councilor Smart: So, Mr. Chairman, through you, all of these comments here, Walter, are all regarding 78? And 79, we heard the comments at the public hearing.

Ms. Akoury: You haven't heard the comments tonight.

Chairman DiFazio: Well, that's what I previously asked, I would like to hear- before we go back to 78 - we'd like to hear your comments on 79, now at this time.

Chairman Flynn: I'll let them arm wrestle to decide who goes first.

Chairman DiFazio: Go right ahead, you're in charge.

Mr. Chandler: I just got a couple of questions. On the security cameras, I think we should state that security cameras should be inside and outside.

Mr. McCormack: It states that in 725. Again, we didn't want to be redundant on what the state requirements are under the excerpt that I have given you under 725.105 CMR 725.

Mr. Chandler: As long as it's required- on the outside.

Mr. McCormack: It is- the entry and exits.

Mr. Chandler: And as far as Councilor Mathew's question on the people just walking into the place, why can't we have a regulation that they must have (inaudible) at the front door?

Mr. McCormack: There is. Again, under that excerpt section, there is a section for signage that says, "Do not enter." And there is signage requirements on the building that unless you are a personal caregiver, cardholder, or a vendor you cannot enter

Mr. Chandler: Is that state law?

Mr. McCormack: Yes, 105(7).

Mr. Chandler: The state will just change the law, honest and you won't even know the difference.

Mr. McCormack: I understand your concern. Again, we didn't want to be redundant in this regulation. Our regulation can be more stringent than the state's. We are allowed to enforce those particular items in 725 so we didn't want to rewrite 725. We just wanted to make the ordinance.

Mr. Chandler: (inaudible)

Mr. McCormack: Well, I think a lot of eyes are on this industry right now. I think they are going to do the right thing to start off with. Again, if we feel there is lax security we can certainly in our board of licensing commissioners bring them in and require anything we deem necessary under stipulations of the license to be issued.

(Inaudible)

Mr. McCormack: Curiosity is going to be a huge factor, absolutely. I think it is going to be a good thing to make sure, as that curiosity grows, is their security system working? If not, we can bring them back in and we could temporarily suspend them and, say you know we are concerned about the operations there and let's reconvene and figure out.

(Inaudible)

Mr. McCormack: What do we want to add specifically? Again, the state has four pages of security requirements, do we want to be redundant and add all of those four pages of security requirements? I don't like that, again I have to enforce 150 regulations every day, I hate to have redundant language within regulations.

Mr. Lane: What about an incorporation by reference of those specific security regulations in the state, put that into the ordinance as a supplement so that in the regulatory process of the issuance

of licenses or the policing of it, then the licensing commission must pay attention to those regulations (inaudible). Will that be helpful?

(Inaudible)

Councilor Smart: I think Dave, your comment is about the cameras and the entry, but why can't it just say "applicant is required to maintain closed circuit cameras inside and out per 725" and then continue on with it.

Mr. McCormack: To George's point, why don't we under, section 17 then add, where it is talking about 24 hour period of surveillance and to be compliant with section 725.11100 security requirements. I am more than happy to add that language so it will cover everything in the state's security requirements.

Chairman Flynn: Mr. Chairman, maybe I am confused - I thought that Mr. Lane said that if we start out in our ordinance with the preamble that says that the town will enforce all the requirements of 725.000 and in addition the following specific ordinances. That way that makes them effective as town law just as much as it is state law. And, if so, would that not only make it eligible for our finding rights, in case the state has a different of lower level of fines?

Mr. Lane: Well I think there are two, if I may, two questions. Number one is the incorporation by reference which brings in the criteria, Secondly, Dan, on the penalty, we have already incorporated that in the ordinance, have we not?

Mr. McCormack: I don't think phases are included in the ordinance. There is no penalty section within the state regulations.

Chairman Flynn: But if we as the *(inaudible)* has indicated, include that in our document, then the penalty indicated is there.

Chairman DiFazio: If I may, it's a good idea but you need to make sure that the regulation now doesn't conflict with your ordinance. You follow me? If you're going to incorporate the entire regulation - and you said the entire regulation - I thought we were going to potentially incorporate by reference just 725.110, which was the security part of the regulation. You know, and I figured we could probably do that and make sure there is no conflict between what we already have in our ordinance to what the state regulates, okay? Now if you are going to do the whole thing, and you're going to incorporate the whole thing, then just make sure that there aren't any conflicts, and I have no problems with your recommendations Walter, at all. You see what I am saying on that, George?

Mr. Lane: You talking to me?

Chairman DiFazio: Yes.

Mr. Lane: The trouble is you've got to have a commission that is going to be working with this stuff. All this junk that I have here is just what I have received at these committee meetings on

it, but you've got to make it workable. Even though we have a very bright commission (inaudible), nevertheless it's got to be a process that works. They will become experts in this. But you've got the state regulations; you've already talked about those areas of concern that you are incorporating by reference. So you can be sure that the ordinance, initially and the state regulations, are going to be part and parcel. So I think it's covered, I believe.

Chairman DiFazio: Dan, what do you think about incorporating the entire regulation into our ordinance?

Mr. McCormack: I have been reviewing the draft regulations for the past eight, nine months. It is lengthy – it's 71 pages. It's a good regulation; it's thorough. Again, I think when we met at committee we didn't want to reinvent the entire regulation. It is a solid regulation. There's going to be a lot of enforcement through DPH. There are inspectors who are being trained specifically for this industry. None of our inspectors have been trained in this industry and the police haven't been trained in this industry.

So, again, I think we have to rely a little bit that the state is going to be really enforcing this. Our intention was to make it over and above what is existing with specific concerns that Weymouth may have. I think that is what we attempted to do. We didn't attempt to rewrite the regulation. Again, there is no requirement that municipalities do anything. The state says, "Municipalities, you don't have to do anything." This is our regulation; we are going to enforce this business. We'll do everything. We're inspecting, we're issuing the permits. You don't have to do anything if you don't want to. Again, for your concern that the state may not be able to handle the entire business, that is why we are bringing in the licensing, that's why we were discussing it, that's why we are giving us the ability to inspect these facilities and issue fines and suspend them and to other things that give us some enforcement mechanism. Again, I am just concerned about recreating an entire 71 page regulation that is going to be enforceable by a board of licensing commissioners.

Again, if we get one phone call in concern about something that is in violation of this, we are contacting DPH and they are sending out inspectors and they are verifying conditions. The town is not the only one who is regulating this business; they are not the only one who is inspecting. I think it is important for people to understand this.

Chairman DiFazio: Further comments at this time?

Ms. Akoury: (Inaudible). So there is a difference in philosophy I think amongst us. Some of us want very restrictive regulations and others say we must abide by the DPH regulations and we can go from there if necessary. My feeling is you make it as restrictive as possible. If they get challenged, then they get challenged. I think Mr. Mathews comments in regards to what Newton's ordinance has stated in regard to appointments – that is restrictive yet the town of Newton has done that. It is a way of saying we need to have structure; we need to have tight regulations. Why hasn't that been challenged?

Councilor Matthews: If I may, Mr. Chairman, just a point of clarification, this has been brought to my attention, I have not seen it in writing yet. But this was brought up in conversation. I am trying to further investigate.

Ms. Akoury: I suspect if you look at other towns, you will see very, very tight regulations, as well. So my feeling is you go with the tightest as possible. And I appreciate the work that has gone into this. It is a great document but I think it's a difference in maybe approach and philosophy. The other question I have is in regards to the lighting. Now, I know we talked about security cameras and all of that. Where does the lighting come in? I am thinking of the outside area of parking lots. If you have dark sections – is there anything in here that, maybe I missed it, that talks very specifically as to how the outside area needs to be well lit?

Mr. McCormack: Yes, under page 37, under 105 CMR, number 10, refers to ensure that the outside perimeter of the RMD is sufficiently lit to facilitate surveillance. Then under 11, it refers to ensure that trees, bushes, and other foliage outside of the RMD does not allow for a person or persons to conceal themselves from sight.

Ms. Akoury: What is meant by sufficiency, sufficiently lit?

Mr. McCormack: Having done some surveillance with security camera and equipment and monitoring some locations in town, you need to have pretty adequate lighting to get any type of image for outdoor cameras.

Ms. Akoury: But the outdoor cameras would be just within the immediate area of the building?

Mr. McCormack: Parking lots, exit doors, and entry doors.

Ms. Akoury: But if it is a large parking lot, and there are wooded areas? (*inaudible*) I guess what I am saying is does that have to be a little bit more specific? Is sufficiently lit going to cover that whole area including the boundaries of a large parking lot?

Mr. Clarke: I have a couple of comments. One, I understand what you are saying, but even under zoning, we use the phrase “sufficiently lit” because the board of zoning appeals and the planning staff and others, have the technical knowledge to understand what that means.

One of the great things about having a licensing process is look who is on it? The director of health, who just stated that he already does surveillance so he's familiar with the process; the police, who certainly know about surveillance and what lighting should be where it should be; you've got the fire chief; you have the building inspector; and then town clerk. Those are the people you want, you have 800 pages if you try to determine every single little thing. You have got to have some faith. You mention Newton, okay so Newton just started to do this. They don't have any experience yet because there are none. So that doesn't mean that what Newton is doing is the right way to go.

And just saying appointment, who's going to know that? If you go to a golf course, I can drive down there, I don't have an appointment, and if they don't have a space for me, I leave. If

someone is going to come we have already said this place is locked, it's secure, you have to have a badge to get in. That is what is going to happen. If someone comes off the street, drives down there and tries to get in, they're not going to be able to get in.

And it is going to be clear- as Dan said – it is going to be either on the door, or adjacent to the door, that its admittance by – you know - some kind of certificate only. I think the idea of including the reference to security makes some sense, but I think you have got to have a little faith, particularly with the licensing board. They spend a lot of time talking about how to do this. I firmly believe that the Zoning Board could have done it- but I think the Town of Weymouth is better off having the licensing board do this. I think you will see – as time goes by - if we ever get one, that that will be the appropriate way to make sure that if one does come into this time, that it is properly regulated, and is regulated over time on an annual basis.

Ms. Akoury: I am thinking of a comment -one of the citizen's names at the public hearing - in regards to currently what's happening on the dark areas of their side streets and cul de sacs. And okay, it's a different situation but what happens there can also potentially happen in these RMD areas. And I hear what you are saying. I am just stating my opinion right now. And again it is more of a philosophical difference.

The other question- it is more of a question, the \$300 fine, is that still going to be (inaudible) to see- you know I know it's a state regulation but are they looking at – is there a way to advocate for a change in that amount? Because it's just such a small amount. It's mainly to look at (inaudible).

Mr. McCormack: Again Attorney Sbarra felt that the \$300 was the maximum allowable at this point. As I had mentioned before, I think the bigger thing is the suspension and revocation of a permit to operate. And we have issued fines throughout town for different issues. (Inaudible) that's really when you get compliance. I think the suspension will be more beneficial than a \$300 fine. Even if it were a \$2000 fine, these businesses may be making \$5 million dollars a year. So is \$1,000 any better than \$300? I don't think so.

Ms. Akoury: Is there a way we can say to the state either through a letter or throughout legislators, that this is a concern -that there isn't enough of a fine? Or the issue of the license and the suspension, that something has to change in terms of this regulation. I guess that's what I am asking. As a town can we make this statement very loud and clear that this is our concern?

Mr. Lane: You certainly can make your views known through your legislators. Remember, we are talking about regulations of the Department of Public Health of the state. Regulations are not quite as iron clad as the frame of law; they are one step below that. So it is always possible to have the views made that this is questionable.

Ms. Akoury: And is this something that town council could look at and advocate to the legislators in a formal approach that this is something that really needs to be looked at?

Councilor Smart: Are you talking about hire fees- I mean higher fines?

(Inaudible)

Ms. Akoury: The issue of revoking the license, the fines in general. This really needs to be looked at if there are going to be controls within this industry.

Chairman DiFazio: If I may, my notes from Sandra's comments were that she was looking for an automatic suspension for illegal sales to allow an inspection – if they didn't give you a timely inspection. So those two right there, those are just fines right now?

Mr. McCormack: No, there is a stipulation in the ordinance itself. Again the language says "may be suspended," and I think that was a particular concern. But again, as I mentioned at the council meeting, if someone is coming in for a hearing on a violation, the Board is going to listen to what the particular violation is and make an opinion or agree all together what is the best mechanism to offend (sic) this violator.

By allowing the "may" as we have in licensing violations, it gives us some leeway to issue a violation or citation, based on the occurrence of what had happened- based on the violation. You know, if there is a sale to a minor, we could potentially give a one-day suspension or three-day suspension on a first offense. So it gives us some flexibility based on the severity of the violation, and I think this kind of structure allows us to do that as well.

Mr. Lane: There is a parallel as far as alcohol regulations is concerned.

Councilor Smart: Yeah, it seems consistent.

Mr. Lane: The Town of Weymouth has been commended by the alcohol, beverage, and control commission, its legal staff and whatever, for our set of guidelines in terms of appropriate fines and punishments for infractions. We have it here -maybe it should be more severe -but whatever, but you need to have those types of guidelines for the infractions. We do have it with alcohol and we have it here.

Mr. McCormack: Again, under the violations sections, you know, they are similar- you know a lot of this language is based on tobacco-like regulations because it is somewhat of a similar situation.

Councilor Smart: Yeah, it seems consistent with what we already have.

Mr. McCormack: Again, there is a first offense for the fine structure; second offense for the suspension, and it is specific to seven days; and a third offense with a 30-day suspension. Again, these are much more stringent than the sale of alcohol. So, these are stringent; 30 days is pretty stringent. But again, I think it allows some flexibility and leeway to either make it more stringent than that or not. If we have a bad operator in town, there are going to be hearings, it is going to be heard, we are going to bring the hammer down.

Councilor Smart: Whether it says, "shall" or "may" you are still going to come down on them.

Mr. Lane: As far as the present appropriateness of it, we have dealt with Attorney Cheryl Sbarra, who specializes in tobacco regulation and whatever. We have worked with her for years on that, and in terms of the appropriateness of the punishment here. And we respect her judgment and I think it found its way into these regulations. Do you agree, Dan?

Mr. McCormack: Yes I think it was all based on a conversation with her. She helped draft the language. You know, I understand your concern, but about the fines – I think that can certainly be upped--- but I think the Board of Licensing Commissioners does need some wiggle room within the regulations on what we are doing once we hear any of these violations.

Chairman DiFazio: Further comments from the Planning Board?

Ms. Williams: I just have a few. I am kind of disjointed – I am just making my notes as I go. I think the appointment is a fantastic idea– HIPAA has nothing to do with that. Because with HIPAA you have your prescription, you come in (inaudible) within the pharmaceutical setting. So HIPAA is not in violation by making an appointment. So I think that's an invalid argument. I think we should have appointments. I think that's a fantastic idea.

CORI checks- I think that should be in our regulations also. I don't care if we are redundant. You know why? Because the state will all of the sudden repeal something that we want and all of a sudden it's gone and we don't know it's gone. And I think there are certain things that are important to this town, and I don't think we should be afraid to stand up and say and "yeah, I am going to support this town and watch this town and if you don't like it, too bad, take me to court." I heard somebody make a reference- let's be like Hingham; and say "no" to everything, and if you don't like it you can sue us. Well you know what, sue us. Let's make it as restrictive as we can. Let's protect the people of this town. Let's not be afraid of these dispensaries. I think we should have the CORI check be part of our regulations. I think there should be other things that maybe that we think that are important and maybe make them more restrictive than the state that should be part of our regulations so if the state does change something, well, you know what- the people in Weymouth are still covered. And that is why we are all sitting here – we are looking out for this town and its citizens.

I do feel there should be a police detail there. I don't like the idea of armed guards that have no regulations so much per se or strict training as our police force. Also, regarding - everything I am hearing tonight is like "after they're up and running we will see how it goes." No, we don't do "after it's up and running;" we put the restrictions in ahead of time. Because then, you know what the first thing they're going to say? This how we have been doing it. Why do we have to change now? It's been working fine. That's the way we have been doing it. I have heard that so many times in so many things, whether it is work or business or whatever. So I don't think that is a valid argument.

And the other thing, on the doors, on allowing people in, is it set up- I don't know, for example, at a jewelry store, you know how at the first door there is a buzzer you go through, then there is a waiting area, a second buzzer, you go through. I don't know, is there anything specifically stating on how those are supposed to be set up for security purposes as to limiting how somebody can come in? I don't know.

Mr. McCormack: Again, those security requirements are all within the application that gets submitted to the Department of Public Health through their phases.

Ms. Williams: Okay, so things like that could be then put on them saying we don't like the way people are buzzed in or not buzzed in – or whatever. Or if it's a security guard with a clipboard, they are checking off whether - you know, looking at the paper work. To me there should be a secure waiting area where they have to submit their information before they're even allowed in - but you don't want to leave them outside in the elements either. You know, if it's snowing or raining, you could pass a piece of paper through the door or whatever. I don't know, these are things I am thinking of.

Mr. McCormack: You have valid concerns and there are a lot of questions about how these businesses are going to operate. I wish I had the answer to every single one, I don't.

Ms. Williams: But I feel we should be more restrictive. We should have a lot of restrictions put on and not "let's see how it works out and then do it." I feel that we should have a Weymouth police officer there at all times during operating hours. If there is- I know there may be you used the word "may" –well you know what, suspend first ask questions later, if there is a violation. Because they know they can get away with it. All right, that's it.

Chairman DiFazio: Any further comments on 079 from the Planning?

Mr. Chandler: I got one question (*inaudible*). How much is the license going to cost for the year? Does that come out of the licensing board? (*inaudible*)

Mr. McCormack: All fees are set by the Mayor according to ordinance section 5-301, I believe. So the Mayor is going to set a fee. It hasn't been set yet, so again there will be a fee for the license, an annual license. Again, we have had discussions about what is a true and accurate fee. Fees set by municipalities have to be backed into with actual costs associated with that. So the Mayor is looking at what is the cost for police, what is the cost for health department, what is the cost for fire department, what types of costs are going to be associated with this license for the inspectional process. So we're still working on that number.

(*Inaudible*)

Mr. Chandler: What if you have an application fee and a license fee? I don't want to bleed them dry but then again...

Ms. Williams: Why not?

(*Inaudible*)

Mr. Lane: That's a good point, have an application fee and a license fee. You have that with alcohol.

(Inaudible)

Mr. McCormack: Again, fees aren't set in the ordinance because then you would have to come back every time to change the fees.

Mr. Chandler: They should be in there.

Mr. McCormack: It is in there – it specifies that all fees are set by the Mayor in accordance with the ordinance section 5-331 and that allows us flexibility to change fees.

Councilor Mathews: Some of the fees, if I may Mr. Chairman, some of the fees are set by ordinances--parking, traffic.

Mr. McCormack: And in order to change it you have to bring it back to full council.

Councilor Mathews: Correct, right, dog license, correct.

Mr. Lane: But the others are not.

Councilor Mathews: But I think what Dave is saying is that we have an opportunity to make a decision whether we want it in the ordinance or leave it to the Mayor. Or the state would not allow that even if we wanted to?

Mr. McCormack: No, no I think all the ordinances we have created in the last couple of years don't include a fee structure because from time to time the Mayor likes to review the fees as we are doing right now by each department. So if there were a fee set in this ordinance, we would have to meet with the Mayor to discuss that and then bring each individual ordinance back to full town council to make any edits to the ordinance- including a dollar change to the fine. By leaving it as arbitrary as that section it allows the Mayor flexibility.

Councilor Mathews: With all due respect, that's what the legislative branch is supposed to do. So, let's just have that discussion later.

(Inaudible)

Chairman DiFazio: Further comments?

Mr. Lane: Under section 5-305, any municipal agency which is otherwise authorized to issue a license, certificate, or permit, etc. may from time to time fix a reasonable fee for the license etc. under 40-22f as I mentioned. The fee that's charged needs the prior review and consent of the *(inaudible)*.

Chairman DiFazio: So theoretically, if the council – if we were to refer something to the council we could tell the council, as a committee, that we also recommend that the Mayor knew that she could assert an application and a fee and that we suggest that she do so and make it appropriate – as high as possible.

Mr. Lane: I think that's a very good idea.

Mr. McCormack: I think it's a great idea. I just don't know that it needs to be in the ordinance or whether it's in the rules and regulations of the licensing.

Chairman DiFazio: I personally wouldn't have any problem making it out of the ordinance. I do know what the problem is because when we did the body art ordinance, initially we took all the Quincy stuff and they had numbers in it and we took the numbers back out at the end because we wanted to be able to change the numbers without changing the ordinance all the time.

Mr. Lane: What do you want to put into the ordinance? Do you want to put in the ability to set a fee or do you want to put a number in there?

Chairman DiFazio: I think the ability to set a fee is definitely required –an application fee and a license fee and then I'd let the Mayor set the fee. That's my proposal.

Chairman DiFazio: Further comments?

Mr. Flynn: I don't believe so sir.

Chairman DiFazio: Thank you very much on 079. So our next course of action is, Artie, is that we are going to deliberate on- we are going to go back to 14-078 given what you've given us thus far. You can potentially adjourn now, if you'd like. Or did you want to ask them questions regarding 078?

Councilor Mathews: I did.

Chairman DiFazio: Okay, so I am going to go back to 14 078.

Councilor Matthews: and if they don't mind.

Chairman DiFazio: While you are here, 14-078, Mr. Mathews.

Councilor Mathews: Thank you Mr. Chairman. I wanted to know- because I believe the Planning Board was part of the process of choosing the locations, am I correct? The three locations that were discussed? I am sure the Planning Board had input in those. Since the public hearing, I have received numerous phone calls and correspondence from constituents of mine who are not fans of the two locations on Mathewson Drive and the other one on Moore Road - Woodrock specifically the day care, the Kindercare came up as a huge issue. I have gotten calls from people who send their kids there who don't like it at all, that don't like that there are two areas that are in such close proximity and that was of course before the change this evening that we saw it go down to one.

But still, in any event they don't like it. They have concerns - some of the concerns that were outlined to me were regarding that some of these areas about wooded areas -if there is lack of

security in terms of lighting, as we just talked about a few minutes ago, lighting in parking lots. You've got wooded areas with Brad Hawes Park. You've got wooded areas at the end of Mathewson Drive going towards Brad Hawes Park and some of the surrounding side streets. As well as some of the people on Pleasant Street had expressed their concern – not too pleased that they weren't informed– that they weren't aware of it until after the public hearing and reading it in the newspapers, that was one of the complaints I received. And secondly, that they have concerns about the choosing of the location.

They don't like the secluded location idea is what the constituents had outlined to me, because they felt that may produce more criminal activity, give them an easier conveyance of conducting criminal activity. They suggested Libby Industrial Park, but I said to them well there is residential at the northern end as well, when you go to Malcomb Road, Dixon Street. You know that is residential up there, and the northern end towards Middle Street as well.

So, I don't have ideas of any location in town- I think all of us would not like to see any location in town. But I certainly can speak to those two locations that I alluded to that I received correspondence, both through email and through phone calls that people are not too thrilled about those locations. I don't know, people ask well I say that its been developed – I said to them that its been developed by the town for some time now. They seemed as though that they weren't - wish there was more involvement, as there should have been more citizen participation is what was outlined to me regarding this.

They asked me if I had any input into the locations, of selecting them. I told them I did not. This was presented to us so I am kind of venting their concerns that were expressed to me subsequent to the public hearing, because they did not see it until after they read the newspapers. So, I don't know if the Planning Board has any comments to that. I have concerns about it now that it is has been put into my mind I wasn't thinking about it during the public hearing. But, since talking to all these people, and getting back to them, as their district councilor I am speaking on their behalf, to say that I share some of their concerns.

Mr. Flynn: The Planning Board shares the concerns too. In its deliberations, the overarching philosophy was that there be no residential building allowed within the zone that we have this and that narrowed it down to I1. The other thing, when originally proposed it proposed a 300-foot buffer and the Planning Board voted a 500-foot buffer.

You have heard three of the members of the Planning Board vociferously objecting to any kind of lax or loose regulation. No, in fact, if they had their way on the vote, which unfortunately they didn't because it was a zoning measure, they would have voted that you put in on Pluto, and nowhere else. No, there was, all of those issues were addressed. I mean it's regrettable that your constituents, Mr. Mathews, were such that they didn't get the information or perhaps they weren't active enough in the process to get the information prior to.

Councilor Mathews: Not all. I will say not all - some of which said they had prior commitments and couldn't make it to the public hearing. So I can't speak - but I am saying several of them didn't know until after the fact. So I am including parents of kids that have Kindercare and they alluded to the playground that's behind the building, which is even closer to the 500-foot buffer

zone. They are trying to say to me if you take the 500-foot tape measure out and if, were they going by the property line or are they going by the building itself --because the playground is a pretty large area? I don't know that answer but that was brought to my attention.

Mr. Flynn: The zoning indicated that the straight line will be from the edge of the property wherein, so it would be the fence line, 500 feet, not the building itself. It's where the children congregate regularly for matters. And at the Kindercare playground -would be from the fence at that site 500 feet.

Councilor Mathews: Question about --because it was asked of me about Libby Industrial Park and why- since this conversation came up, it started for me to start looking at other municipalities and what they're doing. I have seen some municipalities that have decided that they wouldn't mind it on the main roads at all. That haven't selectively said we are going to only put it in X, Y, and Z. I understand the idea of it -- we have -I can't think of any area around town --like a lot of my constituents have said Libby Industrial Park. I thought well, the other constituents that I represent that live at Dixon and Malcomb towards the Middle Street end are not going to like that at all because the 500 feet from there, you know. So, was any thought given to Libby Industrial Park at all?

Chairman Flynn: Yes it was, but in Libby it's a planned office park.

Councilor Mathews: It allows medical office -- we could change the zoning to allow medical office use there.

Mr. Clarke: As I stated in the public hearing, you're going to have a problem no matter where you the zoning, the ideal location (*inaudible*). You mention Malcomb and Dixon, but also remember on Pleasant Street you have residents there, and you have residents on Woodside Path.

So no matter what location we chose, we knew we would have some. So we tried to pick one that had the least. And certainly one of the things that made it easier to think about was that with the I1, residential is not permitted in that zone. So we recognize that it is not perfect and I am very clear on that.

Councilor Mathews: I totally agree.

Mr. Clarke: What we did do, though, the Planning Board prior to the submittal had at least three meetings where we went over the drafts at the staff level. Those are non public meetings with agendas posted with the information on it. We also made sure that we had it on the website. It was the first thing in the key area where you look.

Ms. McCabe: We did send the public hearing notice to all of the property owners within the industrial zoning district. That was 250 notices that we did mail out.

Councilor Mathews: Only in the industrial property district but not in the surrounding R1?

Mr. Clarke: That's rig

Ms. McCabe: In the affected areas.

Mr. Clarke: In the affected areas. That's not required by regulation.

Ms. McCabe: And that was on April 24th and we also took advantage of the new website and directed everyone to the website there where we did have that posted with all information that had gone to you as it came. Planning board minutes and agendas were also posted there.

Councilor Mathews: So if I may Mr. Chairman, a business like Kindercare did not get a notice about it?

Mr. Clarke: And none of the others did. You saw the map.

Mr. Clarke: There are a number of daycare centers throughout the town. So (*inaudible*) other than that, would have had a similar problem, if not worse. Our feeling was that— trying to choose another area would be more problems than the ones we chose. We had to pick – and I use the term kind of walking a tight rope. You have to pick enough so that you were not excluding by limiting the options but we certainly didn't want to open it up to certain areas in town.

Chairman DiFazio: Anything further on that subject, Mr. Mathews?

Councilor Mathews: No, I am looking for the - there was a constituent that said they had a residential house on Moore Road that sent me an email. I'm just -were they notified?

Mr. Clarke: She spoke at the hearing. She was here. She spoke and she asked two or three questions and we responded to her questions. And, in fact, by the fact that Kindercare is there, that excludes the whole section of Moore Road from Pleasant Street down to the intersection of Woodrock Road. Her house is maybe the second or third lot in off of Pleasant, so in her immediate vicinity it is prohibited to apply for one of these RMD's.

(*inaudible*)

Chairman DiFazio: Did Mr. Chairman want to state something?

(*inaudible*)

Councilor Mathews: Just to make note, I want to have this discussion on public record, in a public meeting, in a public forum so people can see that the Planning Board did discuss this and deliberate. This is what I am trying to have this discussion for, and ask the questions that were asked by my constituents of me so if they ever want to know, they can grab the minutes of these meetings and see that it was discussed by - you know, that you guys did meet in a public forum. It was on the website. It was wherever else. I am trying to make sure that's for the record.

Chairman DiFazio: Mr. Smart.

Councilor Smart: Thank you Mr. Chairman. Dan I've got one question on 7-25. It talks about delivering the medication to homes. How – I know we're in the training process – but how do we anticipate – how do we keep an eye on that - regulate that?? Basically, the way I see it is an employee of the dispensary is going to transport to a home?

Chairman Flynn: Do you envision any other questions from the committee on 78?

Chairman DiFazio: Nope.

Chairman Flynn: Then, if you have no objections we will adjourn to the Kelly Room. And by the time you're done you will have a report from us.

(inaudible)

The Planning Board adjourned and recessed to the Kelly Room to vote on amending the Zoning Ordinance by adopting MEASURE # 14 078 "The Weymouth Zoning Ordinances to allow Registered Medical Marijuana Dispensaries in the Limited Industrial (I1) Zoning District."

Councilor Mathews: It's just a question on transporting.

Chairman DiFazio: Thanks again.

Councilor Mathews: How do we – obviously we have enough trouble regulating it and policing it when it's a facility, but now we are putting it in a vehicle and we're going to somebody's home. And we're relying on that employee to check cards and age restrictions.

Mr. McCormack: Under 725, again there's a full section about the transportation requirements: an unmarked vehicle; two officers in the vehicle at all times; two agents in the vehicle at all times; paper work trail that's required; drop offs pick ups; anything that they did along the way; they cannot stop anywhere along the way during transportation. Obviously, there are going to be concerns even with that regulation.

Councilor Mathews: Even with those restrictions.

Mr. McCormack: Captain Fuller agrees to that. But how else do you make it safer? I don't know. These people are going to be transporting marijuana and cash. You don't want them in a marked vehicle.

Councilor Matthews: No, no, I agree and 725 stipulates that.

Mr. McCormack: It does. It has a full transportation section requirement under that. What our intention was on that - requiring transportation is to reduce the number of hardship cases that can be requested at the state level. If we are requiring that these RMD's deliver to any patient or personal caregiver, it reduces the population that may request a hardship to grow in their apartment, in their house, in their garage. So that was our intent is to reduce the number of

hardship cases. It has nothing to do with any specific transportation requirements over and above what's in 725.

Councilor Mathews: Okay, I just see it as a challenge, that's all. It's a learning curve and it's, you know, clearly going to be.

Mr. McCormack: This whole piece is going to be a challenge. But absolutely, the transportation is a huge one.

Councilor Mathews: And the way I envision this – not to think that's what's being done in Colorado and the other states – but they do have documentaries that they have on the local cable in our area here where they go into the dispensaries. Here's how I envision it, that it's not set up like a general store, where you can just walk up in and out of aisles. There is a front section, and I am not calling it a back room –don't get me wrong - but, yeah, where you have a restricted area, where then they can go and bring it to you and you can look at the medicine and things like that. I hope that – and I think we all agree that it's not going to be set up like a general store - and you walk in just picking and pulling without some type of supervision. Is that how you envision it?

Mr. McCormack: Absolutely. I do and I think that the language of the regulation reads to that effect. It doesn't specifically say that the retail area can be 12 feet and has to have three foot shelving. Again, the way I read the regulation it does have that component of it. It has to be a very secured area. It's a controlled environment with limited access areas. And there will be different types of activities going on in these facilities. There's going to be growing activities, there's going to be processing activities, and there's going to be distribution of the marijuana. So there are basically three types of activities going on within these establishments.

Chairman DiFazio: Is there a prohibition of smoking or ingesting the marijuana at that site? So they could actually smoke it?

Mr. McCormack: I don't believe there is – there was talk about sampling products and learning how to use product. I think that's the intention. It is not to have a smoking room there and "Oh, you got your marijuana lets go over here and sit down and have a discussion and smoke." I think it's to review what types of product are available for your particular condition. Again, there are going to be different products. There are going to be edible products. There's going to be different types of marijuana strains that are available.

Chairman DiFazio: So you are not aware of a state regulation which prohibits them from sitting there and smoking the marijuana.

Councilor Mathews: Or eating or digesting.

Mr. McCormack: There is and there isn't.

Chairman DiFazio: Excuse me?

Mr. McCormack: The state workplace law prohibits tobacco use in an environment. So you can't smoke where you know there are employees who are subject to it. So, there is going to be a very fine area I think where there is going to be some training in use of this marijuana product and an explanation on how it has to be used. Again, you know it is going to be considered a medicine so your doctor would have to say that, you know, you can have two brownies over a two-day period. So there is going to be some of that discussion happening. Whether there is eating and smoking of it, again I think there's you know they can't give out free samples but I think there is going to be a sampling component to it. I might be mistaken, but I think that's the way it goes. But on the other side of that, the workplace smoke free law is effective and in effect for marijuana.

Chairman DiFazio: I wouldn't want Jim calling Joe "hey, I will meet you down at the dispensary"

Councilor Mathews: Get our medicine and - did you say that all hardship cases are registered not only with the state but also with the town?

Mr. McCormack: No, we didn't want to get involved with the particular hardship cases. It had been discussed - obviously there is concern--that want to know where these people are growing, but there was also the discussion about are we imposing on personal rights.

I know there has been concern about, and a lot of people are saying it's not medicine. It's marijuana and they are growing marijuana in their home. You know, obviously, I think there are some people who would debate that saying that it is going to help their cancer condition or it is going to help some other ailment that they may have. So, I think when this first came in front of the council months ago there was a lot of support for it, being a medicine or something that might be beneficial to people. So we discussed it at committee but I think posing this type of regulation in private property would be quite difficult.

Councilor Mathews: Making that like a public record that, you know, such and such Main Street has is, has a hardship and they are -yeah, I agree.

Mr. McCormack: Yeah, again, if you injured your leg and had to have Oxycontin should you have to tell the local health department that you're on Oxycontin?

Councilor Mathews: And that you're storing it in your medicine cabinet.

Mr. McCormack: Yeah, so we had some concern about that. What type of information we really need.

Chairman DiFazio: So is there a state regulation for cultivating at home that permits the police to inspect, or a health board to inspect?

Councilor Mathews: Or the fire department?

Chairman DiFazio: Or the fire department, for safety reasons, or are they just like every other single person?

Mr. McCormack: No it's private property. If Officer Patrick comes to your private property and says "can I enter?"

Chairman DiFazio: No.

Mr. McCormack: No, not if you don't have a warrant.

Chairman DiFazio: So there is – that's the way it sits right now as far as you know?

Mr. McCormack: I believe that's the way it is. Again, it's private property.

Chairman DiFazio: Well, that's a little - I am patient enough to see where this goes. But that's a little scary that people are going to be doing things like that.

Mr. McCormack: And that was our whole intent by eliminating - by creating that transportation requirement. That now these people cannot apply to the state and say, "well I want to grow in my house." And they'd say, "well the dispensary is two miles up the street, and they can deliver to you, why do you need a hardship permit?" So that was our whole thought process of hoping to eliminate any hardship cases.

Councilor Mathews: How about deliveries, are those going to be registered? Like, they're obviously registered with the dispensary but do they have to tell the board of health --they we have X number of clients that are being delivered to?

Mr. McCormack: They have to keep that record on file there and have it available for review but we are not requiring that daily they submit that information to the Board of Licensing Commissioners so we know where they're going to be that day.

Chairman DiFazio: Mr. Mathews.

Councilor Mathews: I just – I hear the conversation and I get worried about what people are doing in their own homes, and the fire department not knowing people are running extension cords on those lights. That concerns me.

Councilor Smart: This is new, I am sure this is not the last time we visit this ordinance or the - it certainly is the first time, but it will not be the last time, that we look at this and review it again.

Mr. McCormack: I have said that same thing a couple of times. I think some people are taking it as we just want to get this thing passed. I think it's a starting document that we can build on. That's important that that's what we are trying to do.

Chairman DiFazio: If I could, as a comment, not as a recommendation, after listening to what I heard tonight, I'd ask you to just potentially revisit three areas. One: having a requirement of

CORI checks of these people that work at these places in the town ordinance or the licensing board check their CORIs.

Mr. McCormack: Just to clarify on that, now we're doing CORI and SORI on any dispensary agent and owner.

Chairman DiFazio: In the dispensary.

Mr. McCormack: Is that where we're going? Not the personal caregiver?

Chairman DiFazio: No not those people- the ones that are working there.

Mr. McCormack: Dispensary agents.

Chairman DiFazio: And that was brought up by Mr. Smart as well.

Mr. McCormack: Let me do one other thing as well, let me read back through 725 about that specific requirement.

Mr. McCormack: CORI and SORI checks. It's not included in that stuff I gave you. It's in a whole other section under 725 but it has the full application process for those agents as well.

Councilor Smart: If I may, it's important, the CORI check is important. Listen, when I work at a school, in a construction project, before I even get my foot on there -and I am not selling any medical, medicine, I'm there working as an employee for the company I work for. I need a CORI and a SORI check, so don't all the workers that work for me when they enter that site. We have daycare. We have any teacher in the town and now we're asking for this. I think it's important Dan, that we make sure that we do have it covered, if it's not covered already.

Mr. McCormack: 100% I think it is required under section 725 and by reference if we want to bring it the ordinance just to highlight it, I am more than happy to do that but let me read through that section again.

Chairman DiFazio: I'd ask you to consider and maybe do a little research on requiring appointments to go in and pick up their medicine. And I like the idea of incorporating by reference 725.110, just the security.

Mr. McCormack: It's already been done.

Chairman DiFazio: Unless any other members of the committee have any other questions. And we have already talked about the Mayor with the application fee and the license fee.

Mr. McCormack: I have already put a note in there under number -- there will be an application fee and license fee.

Mr. Lane: I would also like a copy of the minutes as soon as she can get them. Ms. Lehrer, the minutes I have reviewed in the past have been very accurate and very complete. I think that would be of assistance to both ourselves and the council.

Councilor Mathews: Mr. Chairman, if I could through you to the recording secretary, if we could make those minutes verbatim, and not – like make them very specific and not generalizations.

Councilor Smart: Legal.

Mr. Lane: She's done that in the past.

Councilor Mathews: I know she has, I know. But some of the minutes done at the council are summaries, which sometimes they need to be but I think tonight we should get them verbatim. Thank you.

Chairman Flynn returned to the chambers to inform the Ordinance Committee that the Planning Board voted favorable action on 14-078.

Chairman DiFazio: Thank you very much Walter. I want to thank Mr. Lane for coming tonight. He wasn't required to be here but I thought it was a good idea after we collaborated that he be here for tonight's meeting.

Mr. Lane: I hope I have been somewhat helpful.

Mr. McCormack: George is always helpful.

Chairman DiFazio: Are there any more questions for Dan, Mr. Lane or Walter Flynn? I have one. Does anyone know specifically where we are in the time frame for getting back to the Town Council with this from this committee?

Councilor Mathews: I believe it's 45 days after the vote from the Planning Board.

Chairman DiFazio: I can check that.

Councilor Mathews: So we are only a few days into that and certainly one of them we are only one day.

Chairman DiFazio: I have that. Okay, no problem.

Councilor Mathews: I believe. So I think we have time, Mr. Chairman, if we want to still review and consider this and maybe have some of our members here before the committee and to have Dan maybe possibly bring back some of those considerations.

Mr. McCormack: So I will look at all the comments that we have had, check the minutes, and make sure everything and any edits that I made to the draft and then we're proposing to come back to committee and discuss this again.

Councilor Mathews: Wouldn't you agree Mr. Chairman that Dan's going to review and come back to the committee one more time?

Chairman DiFazio: and could you do that somewhat expeditiously maybe in a week or two?

ADJOURNMENT

At 8:10 PM, there being no further business, a motion was made by Councilor Smart to adjourn and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

Respectfully submitted by Jody H. Lehrer as Recording Secretary

Approved by Chairman Kenneth DiFazio, Ordinance Committee

Voted unanimously on 14 July 2014