

STERLING PLANNING BOARD MINUTES – January 11, 2017

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Present: John Santoro ~ Chairman
Michael Pineo ~ Clerk & E. D. C. Member
Russ Philpot ~ ANR Agent
David Shapiro ~ Member
Betty Kazan ~ Administrative Assistant
Absent: Charles Hajdu ~ Vice Chairman

Mr. Santoro called the meeting to order at 7:00 PM in Room 202 of the Butterick Building.

Discussion regarding Medical Marijuana Dispensaries

Mr. Pineo moved that the Board approve starting their meeting with a discussion regarding medical marijuana dispensaries. Mr. Philpot seconded the motion. The motion passed unanimously.

Mr. Philpot recapped that the election was held last November and the legalization of recreational marijuana was passed. The Town of Sterling was one of the eleven central Massachusetts Towns that did not support the legalization of recreational marijuana. Municipalities are now trying to decide what to do and how best to prepare for this.

Mr. Philpot mentioned that he had spoken with Carolyn Murray of KP Law, Chief Chamberlain (in attendance) and Selectman Rich Lane about this. There are loopholes in the law such that if we have a medical marijuana establishment operating in our Town, we may not prevent recreational establishments. On the other hand, the Recreational Act authorizes imposition by “ordinance or bylaw by a vote of the voters of that city or town” of additional limitations on recreational marijuana establishments.

Mr. Philpot also stated that in one part of the law it states that municipalities may not adopt an ordinance or bylaw prohibiting an establishment that “cultivates, manufactures or sells marijuana products in any area in which a medical marijuana treatment center is registered to engage in the same type of activity”.

Mr. Philpot stated that a year ago in September, the Board of Selectmen voted unanimously to send a letter of support to the Commonwealth in favor of Prime Wellness putting their marijuana growth and processing center to be located on Chocksett Road. At first glance it appeared that the Town could not prevent a growth and processing center from coming into Town. But in another section of the same Law, the Act defines a marijuana establishment to include (1) cultivators; (2) testing facilities; (3) product manufacturers; (4) retailers; and (5) other license marijuana-related businesses. So there’s the loophole.

Mr. Philpot stated that on one side of the law it says we can’t stop something of the same sized or shape (so to speak) from coming in and on the other side of the law it says it’s any size or shape as long as it is touching marijuana. And then further on it says and I clarified this with Carolyn Murray, they (KP Law) are keying on a phrase “a vote of the voters”. The most conservative position is you can go to Town meeting to enact a Bylaw (if you have to) but the way in which this is written, KP Law is taking it to mean you have to have a ballot. It is more

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than just a Town Meeting, you have to have a written ballot. This would be the most conservative position.

Mr. Philpot also quoted the topics that may be regulated under this section are:

1. Prohibiting the operation of one or more types of marijuana establishments within the municipality;
2. Limiting the number of marijuana retailers to fewer than 20 percent of the number of licenses issued within the municipality for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws; or
3. Limiting the number of any type of marijuana establishment to fewer than the number of medical marijuana treatment centers registered to engage in the same type of activity in the town.

Mr. Philpot also quoted the **Regulation Prohibited or Strictly Limited** Law; ‘A municipality may not adopt an ordinance or bylaw prohibiting the transportation of marijuana or marijuana products or making such transportation “unreasonably impracticable”.’ “Similarly, a municipality may not adopt an ordinance or bylaw prohibiting an establishment that “cultivates, manufactures or sells marijuana products in any area in which a medical marijuana treatment center is registered to engage in the same type of activity”. The Act contains no definition of “area”.

Mr. Philpot confirmed with Carolyn Murray that if the Town has a medical facility such as Prime Wellness going forward as a growth and processing center and they anticipate making edible products, the Town could also end up with one just like it for recreational.

Mr. Philpot then stated the next link: Act defines a marijuana establishment to include (1) cultivators; (2) testing facilities; (3) product manufacturers; (4) retailers; and (5) other marijuana-related businesses. Carolyn Murray (KP Law) confirmed that because the town would then have a medical growth facility it could end up with a retail business.

Mr. Santoro thanked Chief Gary Chamberlain for taking time out of his busy schedule to attend the Planning Board’s meeting to discuss the medical marijuana dispensaries.

Mr. Philpot asked the Chief if any law enforcement community established an opinion. Chief stated that the Massachusetts Chiefs of Police were against Question 4 but at this point the voters have already spoken so now they are just trying to figure out how they are going to deal with the law mostly like driving under the influence, school zone, selling, transferring and have opened up an enormous amount of questions which need to be dealt with. Chief also stated that whatever positions the Town takes, he will be against recreational marijuana. His office has witnessed many fatal opiod overdoses.

Chief also mentioned that some Towns have put moratoriums on this for at least a year. Chief Chamberlain stated that there is so much confusion about this topic and he will be having frequent discussions with Town Counsel. He also clarified that the Board of Selectmen’s letter of support was for a medical growth dispensary not a recreational facility.

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Mr. Philpot stated that he would define ‘Adult Uses’ as marijuana and quoted the Town of Sterling Protective Zoning Bylaws, Section 2.3.4 ‘Adult uses shall be allowed only by a special permit and only in the Light Industrial (LI) District. No Adult Use shall be located less than 750 feet from the boundary of a Rural Residence (RR) or Neighborhood Residence (NR) District’.

Mr. Pineo mentioned that the Town has specified (only two) Zoning Adult Use Districts in the Town (228 Leominster Road and 29 Legate Hill Road).

Mr. Philpot stated he was in support of limiting this to a point where it becomes commercially unfeasible. Mr. Philpot also commented that the Board can look at setback and buffer zone distances and hours of operation.

Mr. Philpot suggested that the Board establish a position; neutral, for or against and come up with tools that the Board can bring to this effort.

The Board agreed to continue their discussions at their next meeting.

Minutes

The Board agreed to postpone approving minutes for December 14, 2016 until its next meeting.

Warrants & Payroll

Board members reviewed vouchers for two payrolls, Haley & Ward and WB Mason.

Chairman Report/Notices/Discussions

Mr. Santoro acknowledged an email from MRPC dated December 27, 2016, regarding DLTA Request for service delivery.

Administrative Assistant’s Report/Notices

Ms. Kazan mentioned to the Board that she had received an email from Amrith Kumar (IT Committee) indicating that the former Town Administrator had been asked (back in September) to follow up and provide Ms. Kazan with information regarding website training. As this was never done, Mr. Kumar provided Ms. Kazan with information on online ‘self-paced’ training offered by VTH which is offered throughout the year. The Board suggested that Ms. Kazan investigate these self-paced training videos and report back. If the training was not useful they would seek alternate/additional support/training for her.

January 16th Holiday

Ms. Kazan reminded the Board that Monday, January 16th was a Holiday.

8:05 P.M. Adjourn ~ Change of Venue

Mr. Philpot moved that the Board change its meeting venue (meeting location) to the Board of Selectmen meeting room 205 so the Board may, if necessary, take part in a discussion involving medical marijuana. The Board would reconvene in regular session (Room 202) as soon as the discussion is over. Mr. Santoro seconded the motion. The motion passed unanimously.

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8:06 P.M. Reconvene

Administrative Assistant's Report/Notices

Fee Schedule

The Board asked Ms. Kazan to check to see when the last time the fee schedule was updated. The Board also asked Ms. Kazan to contact Scott Miller, Haley & Ward, to find out how they determine the Site Plan review fee amounts.

Annual Town Report

Mr. Santoro moved that the Board approve the 2016 Planning Board's Annual Town Report as revised. Mr. Philpot seconded the motion. The motion passed unanimously.

ANR Procedures & possible future public hearing

The Board agreed to postpone discussions until Mr. Philpot has gotten answers to discrepancies in the revised ANR Procedures/documents updated by KP Law.

E.D.C. Recommendations

A copy of Mr. Shapiro's draft memo regarding E.D.C. recommendations will be emailed to Board members for their review. In the meantime, the Board agreed to have a discussion and formulate a response at their next meeting scheduled for January 25, 2017.

8:52 P.M. MOTION TO ADJOURN - Change of Venue

Mr. Philpot moved that the Board change its meeting Venue (meeting location) to the Board of Selectmen meeting room 205 so the Board may, if necessary, take part in a discussion involving medical marijuana. Mr. Philpot noted the Board would adjourn immediately thereafter. Mr. Pineo seconded the motion. The motion passed unanimously.

APPROVED BY:
