

ITEM 1 - ROLL CALL

Present: Dennis Lentz - Chairman, Ed Cieleszko, Carmela Braun.

Also Present: Abbie Sherwin, Planner.

Absent: Melissa Horner, (excused); Casey Snyder – Alternate, (excused); Christine Bennett.

Voting members: Dennis Lentz, Ed Cieleszko, and Carmela Braun.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION

There was no public input.

NOTE: At this time, the PB agreed to move the workshop with the SB ahead on the agenda.

ITEM 9 – WORKSHOP

A. Adult Use Marijuana Ordinance Workshop with Select Board and Cannabis Committee.

Mr. Lentz summarized the history of the development of this ordinance

- Started May 15, 2018
- Looked at towns, cities, and some other states (ex: Colorado)
- Looking for simple but comprehensive
- We chose the ordinance from South Portland, Maine
 - Clear, concise, seemed to fit Eliot
 - Used as template – more cut-and-paste, not reinvent the wheel
- September when we had first legible document
- Ms. Horner in charge of document management
- Public Hearing in March

Mr. Lentz started the review with the “**Eliot Code – Planning and Development**” document. These are the draft performance standards for marijuana establishments (§33-190).

(e) Separation from sensitive uses – Mr. Lentz said that this is one we have issues with regarding the 500-foot buffer. “(1) No marijuana store structure shall be sited within five hundred (500) feet of the lot lines of a public or private school,”. He clarified that, when

we described this, our intent was from the face of the structure to the lot line of the abutter. He further read “and (2) no marijuana store structure shall be sited within five hundred (500) feet of the lot lines of any public facility, residential property, or childcare facility.” Mr. Lentz said that we used the term ‘public facility’ and this is exactly the same as what is in the medical marijuana ordinance. He explained that ‘public places’ was brought to our attention; that there is no definition in the ordinance of ‘public places’; that it could be a road, a street, and if that’s the case, we’d probably have no retail stores on Route 236. He added that our intent, when we used ‘public places’, was a playground, a swimming pool, a ball park, etc.; that we weren’t thinking roads but it is an issue.

Mr. (Ian) Shaw agreed that he thinks this does pose a problem. He clarified that he recently went through Site Plan Review with the PB in hopes of opening a caregiver storefront in the C/I Zone. He said that this exact provision is in the medical marijuana ordinance and that was an issue we ran into; that he gave this some thought and he does believe that, if the words ‘public’ and ‘facility’ were to be scratched from this, that this would actually maintain the original integrity of what’s going on here while actually allowing a feasible framework for people, such as himself, who are interested in operating in Eliot to actually come in and open up shop. He added that he does have copies of the definition for ‘public facility’ for the PB to look at.

Mr. Lentz said that he could leave the copies with the Land Use Assistant.

Mr. Shaw said that he also has a GIS map showing that, off of this definition, the entire C/I Zone is off limits; that these were materials he just wanted to provide.

Mr. Lentz thanked him and said to give those to the Land Use Assistant, as well, for the PB’s future review.

Mr. Shaw agreed.

Mr. Cieleszko said that, just for clarification, we do have a definition in our ordinance for ‘public facility’.

Mr. Lentz said that we use ‘public places’ in our ordinance but we don’t have anything like that in our definitions.

Mr. Cieleszko said that ‘public facility’ in our general definitions does reference roads.

Mr. Lentz said that, regarding ‘(f) Hours of Operation’, he isn’t sure this wording is good enough. He added that, if you look at what the State says, it is from 7:30AM to 9PM; that we may have to, and we could, put a different timeframe in there.

Mr. (Steve) Gannon said that our proposed hours of operation were going to be from 10AM to 8PM and Sunday it might be to 6PM; that we didn’t want the late-night crowd.

Mr. Lentz continued reviewing the standards, covering (i) prohibition of home delivery and drive-through and (k) inspections of marijuana establishments, which proposed would be done by the CEO and Fire Chief.

Mr. Lee said that, with regard to inspections, he understands that the State rules that came out require an industrial hygienist or engineer who has to go out and certify that it meets all the relative codes, asking if that would be something put in this ordinance, as well.

Mr. Lentz said that that is something on the back burner, since we saw that just last week.

Mr. Lee suggested that it may be that we reference the State rule.

Mr. Lentz said that that was a good idea.

Mr. Lee said that there will still be the issue of an occupancy permit but we may be able to do that on the heels of the industrial hygienist or engineer who certified that the facility meets all applicable codes.

Mr. Ciesleszko said that he wanted to make a point of order. He said that this is a general discussion of our upcoming ordinance; that you guys are referencing your case that's before us. He recommended that all comments be general to the ordinance and not try to plead your case in front of us.

Mr. Shaw said that that's not his intent; that he's simply using it as a reference. He said that, regarding home deliveries, one of the things he's hearing about the draft rules that did come out is that one of the amendments that's being talked about is home delivery.

Mr. Lentz said eventually.

Mr. Shaw said that he had recommended to the Adult Use Committee is that, perhaps, you guys use something similar to what Mr. Lee just addressed with inspections, something that references, essentially, what the State issues; that if the State allows it, then the Town may allow but contingent on State approval.

Mr. Lentz covered the change to the **Land Use Table §45-290 and definition** for Marijuana Establishment §1-2.

Mr. Lentz reviewed **Chapter 11 Marijuana Establishments** draft proposal. He said that that these are from the State and some from South Portland; that the first few pages are definitions. He added that this is separated because it will go in a different part of the code book. He said that, from Line 90 (§11-4), most of these are very general; that we didn't even try to go into detail. Regarding license requirements, he said that this is where it really got cloudy because there still was not document out from the State that really told us how this was supposed to happen; that now we see a little more of it starts 'there', comes 'here', goes back 'there' and, eventually, comes back 'here'; that that is kind of the overall process.

Mr. Lee agreed; that the State will be doing the criminal background checks, inspections of facilities, etc.

Mr. Lentz said that there is a State license, a local license, local classes of licenses; that we decided to have one. He added that, until this gets reviewed, we don't know who is going to do these things but we don't see the PB issuing permits and licenses. He added that we see the Selectmen and, probably, the Town Clerk, perhaps, under the Town Manager.

Mr. Lee said that the Town Clerk did express some concern about being the licensing authority. He added that, when we talk about liquor licenses, it's actually the SB that makes that final decision; so, he would recommend the SB and, if you have to reference another person in there to be a party to it, it would probably be Code Enforcement because they do generally issue permits. He said that he would be happy to issue a memo to the PB on how he thought it would best work internally.

Mr. Cieleuszko said that the PB thought that it would be the SB and, then, the paperwork would be done by the Clerk but not the actual decision.

Mr. Lee said that it may be that the paperwork is better handled by Code Enforcement and ultimately approved by the SB, reiterating that he could put that in writing and he knows our Cannabis Committee has discussed the local process, too, and that the Town Clerk may not be the right entity.

Mr. Lentz said that that would help us. He further reviewed the Chapter 11 document, reiterating the need for processing parameters; that this whole document needs to be finalized so, the more help we get on that, the better off we are. He added that we think the structure [of the document] is good.

Mr. Lee said that the Cannabis Committee had sent over to the PB a memo "Key Findings, Thoughts and Recommendations that we had come up with, which he reviewed. He clarified that he typed the first part of the individual comments and additional ideas/comments are in bold. He said that one of the things the Cannabis Committee was thinking may be worth consideration is whether cultivation might be allowed other than in the C/I Zone, still indoors; that that is potentially one that may be want to be off the Route 236 corridor or allowed off the Route 236 corridor. He added that we would like the PB to consider what the down side would be to allowing indoor growing in the Rural Zone.

Mr. Lentz said that he would be concerned, right off, with transportation, asking how he would get it from 'here' to 'there'.

Mr. (Hughes) Pope said that there are a number of ways you can handle that; that you could use an armored vehicle, if you really wanted to be out in the open about it; that he would personally recommend something that was a lot more discreet, done internally, and

managed with the police department so that they are aware of what particular vehicles are being used and the product taken from the cultivation facility to the manufacturing facility or on to other processing entities.

Mr. Lentz asked if that would take a permitted or licensed person to do that transportation.

Mr. Pope said that it would.

Attorney Ryan said yes; that that is also captured by the 'seed-to-sale' tracking system that they are about to have in place; that there will be trip tickets, with every trip documented of what went out, who was doing it, where it went, when it arrived down to the granular detail.

Mr. Lee asked if the biggest fear would be that somebody would intercept that vehicle and commit a crime.

Mr. Lentz said that that is part of it; that we have talked about it before and, again, it's the process, back and forth, and how do you deal with all that.

Mr. Ciesleszko said that he would like to see odor control actually working before we start putting it in residential neighborhoods.

Mr. Lee said that that makes some sense.

Mr. Lentz said that, as a long-term solution, that probably wouldn't be bad; that we could do that but he wouldn't recommend it initially.

Mr. Lee said that he noticed that the draft hasn't limited the number of such facilities in your work and he thinks that's good because our feeling is that, not only the Route 236 lack of land and other restrictions in terms of setbacks, and the market itself, will self-regulate how many will exist in this Town.

Mr. Lentz asked if Mr. Lee thought that would be a question to put on the ballot for the voters to decide.

Mr. Lee said no, that he thought we would put it out the way we believe it to be but what would probably be a good idea is to put out a newsletter, like we do in front of any election, saying that although there are no limitations on dot, dot, dot, we believe the market, the limited land space, etc....

Mr. Lentz said yes, that he sees his point.

Mr. Lee said that one of the strong thoughts that was shared on the Cannabis Committee that, without State sharing of the revenues that will be generated, the allowance of recreational stores is likely to only cost the Town money, even if we put our local fees

quite high. He added that the good news is that there are a number of bills active and looking positive that they're going to go back to sharing 25% of sales and excise tax revenues with the host communities; that that could mean a significant amount of money for the Town.

Mr. Lentz said that he thinks this may be a good thing once we understand what our real (internal) process is going to be and try to put a cost on it.

Mr. Lee said that that's what we are focusing on, the internal process and how that is actually going to work from this person to that person, who stamps it, etc.

Mr. Lentz said that if we have an idea of what that cost is going to be, that would give us a better idea about #3 (State-sharing revenues).

Mr. Cieleuszko asked about other ramifications to #3, asking if there were reservations about police, etc. He asked what cost was he was talking because there can't be that much to set it up license-wise.

Mr. Lee said not the license set-up but, for example, our Fire Department has been called three times, now, down near a facility where they are smelling odors and they think it has something to do with some other odor because it sits next to a place where we do have odors escape, now and again, so people become a little leery when there is an odor coming out of that particular section of Town. He added that it will be enforcement, random calls from people suspecting problems happening and wanting the police to check, or Code Enforcement complaints; that there could be some ongoing costs. He also added that you would have the public hearings to be conducted, etc., so he would like to roll all that into a pretty decent fee that would cover some of that. He said that, if the State is going to give us revenue, that will be a big help. He said that that is covered in #8 – wanting to 'ensure that local fees are calculated based on the true costs of the licensing process but not so high as to price legal sales of cannabis well above black-market prices.

Mr. Lee said that one of the things we feel very strongly about on the Cannabis Committee is the presence of an application called "weedmaps"; that it is an app where people who are sort of illegally selling marijuana – they advertise in various papers and on this app and kind of leads you to the black market folks; that one of the things he would want to do, in deference to the people who do go through the process, is shut down any black market in this Town. He added that one of the things is to bring this above-board and make sure it's a quality item, not a black-market item and put them out of business so these legitimate ones can succeed, and do seed-to-sale tracking.

Mr. Cieleuszko asked if that would be Code Enforcement.

Mr. Lee said yes. He said that another thing we discussed is that we want this to very much be an "information-forward" type of thing from the businesses; that when a proposed marijuana business comes in, one of the things that we discussed was to advise users (especially new users) of the potential risks through educational consultations,

pamphlets, etc.; that it's not just about sales but about caring about the person who comes in that they know what they are getting into.

Ms. Braun suggested having a public information meeting so that people who want to know about the product in Town can come to the meeting to ask questions and gain knowledge, to make information available.

Mr. Lee said that we could do that; that it might be that the folks in Town who do end up with marijuana stores may want to jointly present that they are all concerned about public health and well-being and, although recreational, it's not intended to damage us any more than over-drinking and driving. He added that, with each store, we are going to try to impress upon people lots of information.

Mr. Lee said that he noted in this that until banking regulations follow suit in the State, there are only a couple of institutions (a credit union, a small bank) that are allowing medical marijuana businesses to do banking.

Mr. Lee said that the final thing that we have is that we have a 'No Town Liability' statement; that this particular one is pretty long-winded but, something similar, perhaps, at the bottom of our local application form that says whatever the case, don't come back on us.

Ms. Braun asked what kind of insurance is required of the stores by the State.

Attorney Ryan said that he's not aware of any specific insurance requirements at this point. He added that there is a certain amount of general commercial liability but, when you get into a high-risk industry that we are still classified in the insurance, we are pretty much soup-to-nuts; that we are covered in the eventuality of virtually anything; that we are ridiculously covered. He explained that, when they put you in a high-risk pool, you are subject to higher standards for them to even cover it.

Mr. Ciesleszko said that that would be a good question to add to the license form – to show adequate insurance coverage.

Mr. Murphy said that he had several edits to the Chapter 11 document and passed them to the PB.

Mr. Orestis said that, as far as help, the majority of the help seems to be on Chapter 11, asking if that was correct.

Mr. Lentz said that that's the hardest part for us; that we are not sure of how that's all going to happen.

Mr. Orestis said that, as far as the SB goes, what the licensing and permitting looks like is where the PB would like help.

Mr. Lentz said licensing, yes, that process.

Mr. Orestis said that that was on Mr. Lee as far as a memo to bring to us and then the PB is going to critique it from there, asking if that was the idea.

Mr. Lee said yes; that the idea is to propose the fees, propose the internal process, who is best to issue the permit, maybe create that form we're going to be using, with the liability statement on it, and those things; that that's the kind of work he feels falls to our group to try to create some of that and help the PB with some of those details.

Mr. Lentz said that that would be great.

Mr. Orestis said that it may be a different discussion but, as far as the timing goes on something like this, are we looking to move quickly.

Mr. Lentz said that we weren't sure you were going to put that on the ballot or it wasn't going on the ballot; that we are trying to get as much done as we could.

Mr. Orestis said that it was his understanding that it was going to try to be on for June and then it got bumped to November, asking if that is the timeline we are looking for.

Mr. Lee said that that is what he has expressed as hopeful; that that means we have to have our work wrapped up essentially in late August, early September.

ITEM 5 – REVIEW AND APPROVE MINUTES

Mr. Cieleuszko moved, second by Ms. Braun, to approve the minutes of April 16, 2019, as written.

VOTE

3-0

Motion approved

ITEM 6 – NOTICE(S) OF DECISION

A. 279 River Road (Map 18/Lot 11) PB19-3; Shoreland Zoning Permit

Mr. Cieleuszko moved, second by Ms. Braun, that the Planning Board accept the Planning Board Notice of Decision on Case #PB19-3, Shoreland Zoning for a Permit Application, Residential Pier, dated April 16, 2019.

VOTE

3-0

Motion approved

B. 495 Harold L. Dow Highway (Map 53/Lot 6) PB19-4; Amendment to previously-approved Site Plan

Mr. Cieleuszko moved, second by Ms. Braun, that the Planning Board accept the Planning Board Notice of Decision on Case #PB19-4 for an Amended Site Plan, dated April 16, 2019.

VOTE

3-0

Motion approved

ITEM 7 – OLD BUSINESS

There was no old business.

ITEM 8 – NEW BUSINESS

There was no new business.

ITEM 10 – CORRESPONDENCE

There was no correspondence.

ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING

Mr. Lentz introduced Ms. (Abbie) Sherwin, who is with Southern Maine Planning and Development Commission (SMPDC), saying that she would be filling in for us as the Planner.

Ms. Sherwin said that, as far as she knows, this is a year-long contract; that she or someone from SMPDC will be the Interim Planner for a full year.

The PB welcomed Ms. Sherwin.

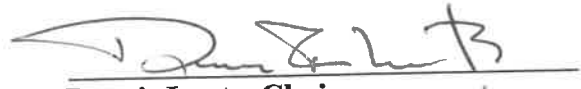
Case #PB19-6 is pending.

It was agreed to put the draft marijuana ordinance on the agenda under Old Business.

The next regular Planning Board Meeting is scheduled for May 21, 2019 at 7PM.

ITEM 11 – ADJOURN

There was a motion and a second to adjourn the meeting at 7:55 PM.


Dennis Lentz, Chair
Date approved: 5/20/19

Respectfully submitted,

Ellen Lemire, Recording Secretary