

**Fryeburg Planning Board Meeting
February 26, 2019 – Town Office**

Members in Attendance: Patrick Emery, Ed Price, Robert Ricks, Barry Woodbrey, Edy Kizaki

The meeting was called to order at 6:00 and it was determined that there was a quorum.

Public Hearing- Medical Marijuana: Emery reviewed the purpose of the draft ordinance revisions related to medical marijuana and asked for public comment. Kimberly Clarke noted that the proposed table of uses allows medical marijuana retail stores. CEO Katie Haley explained that there are 2 ordinances; one is the Adult Use Marijuana Cultivation, Products Manufacturing, and Testing Ordinance and the changes made to that were to clearly differentiate between recreational adult use marijuana and medicinal. The other changes are to add sections to the Land Use Ordinance for medical marijuana.

Clarke believes the fees for the adult use permit is too low. Haley explained that this section of that ordinance is proposed to be revised under a separate warrant article along with other town ordinances to allow the selectmen to more easily revise the fees. The Selectmen have begun that process. It is pointed out that this change needs to be made in 2 locations in the ordinance.

Clarke stated that the town originally said there would be no retail marijuana stores. These medical stores do not have a 6 patient limit as initially believed and are therefore similar to any other retail store. The village residential (VR) and village commercial (VC) districts should not have retail due to the proximity to other buildings and due to lack of parking. A retail store business in the center of the village would take all of the parking. These retail stores should be in zoning districts with larger setback requirements where there are buffers. Medical marijuana retail stores and cultivation should not be in the VR and VC and the table should be changed.

Clarke also thought that the ordinances included a setback from churches and parks as well as schools, athletic complexes, libraries and day care centers and she would like to see that added to the ordinance. It's not appropriate to have recreational marijuana next to a church. Kizaki noted that this had been discussed. Ricks asked Clarke for clarification about this setback related to medical uses. Clarke believes that it is retail regardless since there is unlimited customers and should have setbacks.

Clarke continued on to note that parking is not addressed. There are usually standards in the ordinance and marijuana retail stores will have a high number of visitors. She stated that this kind of retail use should not be in the VC area since there is limited parking and she thought this was decided previously. Kizaki pointed out that parking was discussed at length when the existing medical marijuana stores were approved. The Board looked at number of parking spaces proposed and anticipated. Haley asked if Clarke thinks that all retail uses should not be allowed in the VC and Clarke responded no, just medical marijuana retail store should not be allowed because it is a high traffic use of 30-50 people per day. She does not want this type of use to take up existing on street parking. Kizaki noted that the Planning Board really scrutinizes parking. Clarke again noted the lack of setbacks between buildings and uses and does not think that marijuana retail stores should be the dominate business in the village.

Tom Klinepeter spoke and he disagreed 100% with Clarke. No one in the VC got approval based on their parking and based on having too much business. He noted a specific business that was very busy the past weekend and had many cars parked along Main St. The town should encourage business in this area. He

noted that he can park on Main Street and walk to a store and buy beer and that there is no difference. The town should be open for business. Clarke rebuts that there are thousands of places to buy beer or liquor and only a few to buy marijuana and that this is a specialty that will bring more traffic.

Greydon Turner spoke about the number of visitors at Spice & Grain and other village stores and believes that you cannot differentiate between uses and say who can use parking spaces and who cannot. He then asked if the 1000 ft. buffer was a state or town regulation. Price responds that it is the town's rule. Turner asks why this is necessary. Price responds that it was to keep it consistent with the adult use regulations. Turner noted that pharmacy professionals sell controlled substances to customers which is that same as medical marijuana being sold to qualifying patients. Pharmacies can operate within 1000 ft. of schools so why is this being treated differently?

Ricks responded that the goal was to make the medical standards consistent with recreational to allow for easier conversion from one use to another as a change of use. Turner suggested changing the adult use then. He commented that it is desirable to have medical stores in areas that are easily accessible for patients and that putting stores outside of town centers makes it difficult for patients with certain conditions. This use needs to be thought of as a medical use.

Kizaki noted that some of the reasons for limits on location and setbacks is based on the odors from cultivation and that some of the previously approved medical stores also cultivate. Clarke stated that the setback originated from the state. Haley clarified that the state requirement of 1000 ft. was for adult use and not medical marijuana. Clarke believes that retail is retail since anyone can easily get a medical marijuana card. Price points out that legally we are talking about 2 different things between adult use and medical marijuana.

Tom Kingsbury recalled that the 1000 ft. setback was designed to keep marijuana away from the schools and kids and he was specifically supportive of it. He also believes that the setback would limit the available space for these uses in the VR/VC. Turner asks where these uses are allowed. It was discussed that medical stores are along areas of Route 302 in the general commercial zones.

Emery asked if there were any other questions. Sarah Lloyd asked if applications for medical uses were currently being accepted. Price explained that there is a moratorium in effect. This will be renewed in March and the goal is to have a vote on the medical ordinance provisions at June Town meeting.

The public hearing was closed.

Approval of Minutes: Woodbrey made a motion to approve the January meeting minutes. This was seconded by Kizaki and passed unanimously.

Budget Request: Haley noted that at a previous meeting the Board had a discussion about looking at the zoning in Fryeburg and that Price mentioned having Southern Maine Planning and Economic Development Commission help facilitate the process. Haley has reached out to Lee Jay Feldman of SMPDC for an estimate to assist the board with this project so that the Board could submit a budget request if wanted. The estimate for services was between \$5,000 and \$7,500. Kizaki asked what the role of SMPDC would be. Haley said that during the comprehensive planning process Feldman helped facilitate meetings, draft maps, and make sure everything was done properly. There was some additional discussion about the estimate and fees for the services and budget process.

Price made a motion to request up to \$7,500 to be budgeted for rezoning. This was seconded by Ricks and passed unanimously.

Price asked about the potential of budgeting for future water study updates. Haley said that this is already being done by the Selectmen and that there will likely be a reserve account set-up for water study/monitoring purposes.

Kizaki supports the idea of having a reserve account but has issues with the town paying for studies and monitoring without the specific companies that are benefiting from water sales bearing the burden of paying for the studies. Ricks stated that the town is being responsible in monitoring their resource. Kizaki rebutted that if no water was being sold then studies would not be needed and that it should be a cost of doing business for the companies. Haley pointed out that each of the companies do monitoring. A discussion and debate continued about who should be responsible for paying for water studies.

Property Maintenance continued discussion: Woodbrey thought the Board was on hold waiting for the Selectmen. Haley stated that she has yet to send the Selectmen a memo because there were differing opinions on what the memo was supposed to say and she did not want to send the Selectmen something that did not accurately reflect the Board's wishes so she is looking for clarification. Copies of the draft letter were made.

The third paragraph of the draft letter was debated. Haley noted that there were email discussions about the conversations that took place at the January meeting and that she had adjusted the minutes after listening to the meeting recording but was still unsure what the specific outcome of the meeting was since there were varying opinions expressed at that meeting.

Kizaki said that the Board made a determination and voted on it so Haley should have done what was asked. Price noted that there was not an agreement on the wording. A debate continued about what was discussed at the previous meeting and what was supposed to be written to the Selectmen. Haley noted that she was uncomfortable using someone else's words in her letter when she was not sure that was what was entirely represented at the meeting. Haley offered to let someone else write the letter. Price reviewed the email sent by Kizaki about the draft letter and noted that he did not quite agree with Kizaki's wording.

A conversation continued. Woodbrey understood that there would be no work on the property maintenance until the Selectmen took action. Haley asked if the input sought from the selectmen is to form a committee or to further direct the Planning Board. It was decided that the purpose is to have the Selectmen form a committee.

Price believes Haley's letter as written accurately conveys what the Board asked; Woodbrey agrees, but Kizaki feels that the wording to "not inclined to further pursue" is not true. She believes that it had not been decided whether the Board would continue to work on property maintenance ordinances. Haley reiterates that numerous opinions were bounced around at the meeting and then the motion was to send a memo to the selectmen with the minutes and a note about the conversation and she just wants to get it right.

The discussion continued about how to appropriately edit the draft letter. Haley asked if the purpose of the Selectmen created committee is to draft ordinances or to serve as a sort of neighbor helping neighbor committee, since both of those ideas were mentioned at the last meeting. Kizaki believes the committee should work on an ordinance and come back to either the Board or the selectmen and make recommendations. Ricks generally agreed with this with the caveat that he does not necessarily believe property maintenance is the purview of the Board.

It was decided to remove the first sentence of the third paragraph of the letter to the Selectmen that Haley drafted. Price made a motion to send the revised letter. This was seconded by Woodbrey and approved unanimously.

Public Forum: Clarke stated that she believes only 2% of the town is in favor of a property maintenance ordinance. Having a standalone ordinance is problematic and she thinks it might be more effective to insert language into various parts of the Land Use Ordinance. In regards to water testing or monitoring, Clarke would rather have independent testing done and fundraise or raise town funds to pay for it. She is in favor of additional monitoring. Clarke again spoke against having medical retail stores in the village because it does not align with her view of Fryeburg. Lastly she stated that she is in favor of looking at rezoning.

CEO Report: The CEO presented a spreadsheet of permits issued and violation notices sent and answered specific questions. Price made a motion to accept the CEO report which was seconded by Ricks and passed unanimously.

Other Business: The next meeting will be March 26th.

The public hearing comments related to the medical marijuana ordinances was discussed. Price began the conversation by opening a discussion about having caregiver retail in VR and VC. He thinks the 1000 ft. buffer almost rules out downtown. Bea's property is specifically brought up as to whether retail or cultivation would be allowed there. Setbacks from churches and daycares were discussed. Price brought up cultivation and it was discussed whether there could be limitations on where caregiver cultivation could take place. Ricks noted that this type of cultivation has been allowed with no permits. Kizaki followed up with a comment that if this is being done and it not a problem then it should be ok to proceed. It was discussed that people can grow and manufacture for their own uses. There was continued debate about whether caregiver cultivation should be allowed in the VR and VC. Haley confirmed, via past correspondence with MMA attorney, that there could be limitations on caregiver cultivation as long as it is not does not entirely prohibit.

The Board considered and debated revisions to the land use table and where which types of medical use marijuana operations should go. The public hearing and town meeting timing and process was discussed. Price wants to continue to allow cultivation in the VC but then add that there needs to be a 1000 ft. setback from churches and public parks in all sections of the applicable ordinances.

Public parks were discussed. Haley asks for clarification on what areas are defined as public parks. This was debated and it was ultimately decided that there would be a list of public parks added from the Comp Plan to the ordinance so that setbacks can be clearly established.

Kizaki brought up the thought that we are never going to make everyone happy so the Board should be ready to present something at town meeting that the board feels is the best for the town even if there are negative reactions to it.

Price made a motion to revise the draft to not allow caregiver cultivation in the VR and to add a setback requirement from churches and public parks. This motion was seconded by Woodbrey and passed unanimously. There will be a public hearing on these revisions at the March meeting.

Woodbrey made a motion to adjourn which was seconded by Ricks and passed unanimously. The meeting adjourned at 7:21 p.m.