

**Fryeburg Planning Board Meeting
February 27, 2018 – Town Office**

Members in Attendance: Patrick Emery (Chairman), Barry Woodbrey, Edy Kizaki (Secretary), Rob Ricks

The meeting was called to order and it was determined that there was a quorum.

Approval of Minutes: Woodbrey made a motion to accept the Jan. 28 meeting minutes and Kizaki seconded the motion. The motion passed unanimously.

Public Hearing on Marijuana Ordinances: CEO started by explaining and copies of the two ordinances were provided for those who had not seen them. The Select Board and Planning Board have been working together. One of the two ordinances will be included in the land use ordinance and the other is a stand alone ordinance. Some aspects of these are:

- that social clubs and retail sales are to be not permitted
- don't have impact on existing "Medical Marijuana" legislation
- cultivation will be allowed; tiered permitting based on size
- does not affect home cultivation for personal use

Public Comments:

1. Sean Witt (lives on Maple St) 2 comments, 1. use term cannabis rather than marijuana; 2. retail store idea has merit and questionnaire last summer was fairly equally divided so should be pursued further. Retail store is powerful way to make money, people will either pass through Fryeburg on the way to purchase elsewhere, or if we have retail they will stop and spend their money here.
2. Jolene Barker: "Can I grow it in my backyard now, as it stands?" (CEO answered yes, that is now allowed and legal, up to 6 plants for personal use but not for sale.) Stated that we say we are open to business but we seem closed to this business and there should be nothing to be afraid of. It's a business and it's helpful mentally and physically for a lot of people. We need to open up.
3. Tom Kingsbury, (Pleasant St.): Agreed with everything but retail stores, should have some but maybe limit it to 3 and keep it away from the town areas.
4. Kimberly Clark (Select Board): Helped write ordinance and wanted to explain why retail stores are left out. We felt until we saw the state ordinances for retail stores we were not ready to write our own to draft the ordinance. If you want any businesses in the town this cultivation and processing would be the first step, and retail would follow as Step 2 after the state had put forward its requirements. We were not comfortable with retail before we saw the state ordinances.
5. Kizaki commented that this will be the first of several Public Forums on the topic as we need to gather public opinion. Also that we did work on ordinances but then the state guidance shifted resulting in being necessary to rework some of what had been written, therefore it will be necessary to get the state's information before moving forward on what points we can even vote on.

6. Ricks clarified that the medical programs for people who need it are already in place and that we are now discussing the recreational aspects of production and sale, and it does not impact those who need it or are using it medically. We currently have 6 caregivers in the Town of Fryeburg and we don't have anything to do with regulating them, that is done by the state.
7. Ken Bloomberg (owns garden supply store Four Seasons in Fryeburg); many customers come in and ask when they will be able to buy cannabis there. Thinks the ordinance with signing rules and location regulations takes care of eliminating undesirable effects. Says feels crime would be unlikely (seems to understand "crime resulting" as the sales point being broken into and the product stolen, whereas "crime" has been discussed as difficulty of police stopping inebriated drivers and the troubles with determining competence, areas with legalization have found their police costs go way up, as well as incidence of accidents). Asks police chief if people break into stores and steal beer and chief answers "Yes, commonly it happens." Says a cannabis business would be required to have a lot more security so would be less vulnerable. Retail would also provide municipal tax, like the 3% municipal tax in Oregon. This would provide revenue for the town. Also comments we should limit the larger businesses to possibly one each tier and allow the smaller businesses to flourish because there won't be room for any small ones if there are sufficient large ones to overflow the market. Also since we are in a rural environment having a store would be helpful as the medical system we have is more suitable for an urban environment.
8. Chris Whitaker: Explained he has a coalition which is looking at substance abuse in children and within the community. "We have a responsible group of people involved and we are totally against any retail of marijuana." He has done a lot of research and finds retail is bad for the community. Not only break-ins at the store but those driving under the influence. In the states it's legalized (OR, WA, CO) 65% increase in school expulsions, and increases in arrests. He suggested having 2 ordinances ("all or nothing") and let the townspeople vote on whether they want retail stores and warehouses or they don't.
9. Witt: Stated the reason why DUIs increase is the testing methods of how much is in people's system and what is a legal tolerance level is not developed properly. Added another idea for revenue: a temporary social club license such as in a B & B inn they could have a smoke room, or a restaurant like 302 to allow it for a temporary time period. That would enable other town businesses to gain financially from the situation where it is becoming legal.
10. Clark: Suggested proceeding with the ordinance as written for approval but then also put forth the question / survey to see if the majority supports retail operations. The last survey was only answered by 90 people. We have almost 2,000 registered voters in town so the survey is possibly not the true picture of opinion by the majority. It's not a good indicator of the support in the town. Suggested we move forward with the ordinance as written as the first step for a vote then find out what the town sentiment is on retail.
11. CEO: Pointed out this is a public hearing, there will probably be a couple more then this has to be voted on at Town Meeting, which is in June.
12. Woodbrey: "We are trying to get as much input as we can."
13. Whitaker: Said he forgot to talk about the edible products of the cannabis retail. They come in various shapes and sizes and some look like gummy bears and candy. What is that saying to our children? Is it good to be portraying it like candy? He would hate to have one of his

granddaughters come across one of these cannabis gummy bears on the floor where it was dropped and eat it thinking it was candy.

14. Tom Kleinpeter, Select Board: "We mentioned this would be voted on at Town Meeting but it's actually going to be at the polls so people have all day to get in there, so everyone in town will have a chance, and it's also primary day with everyone running for Governor. There should be a great turnout that day so we get a good idea of the real town positions. Last time we had a vote the Select Board thought we knew how it was going to go and it didn't go that way. So this is another case where we have to have the vote and see how it turns out.. The state referendum was real close, the questionnaire we put out was real close, so we really have no idea how the town's going to go on this."
15. Ricks: Commented that one of the concerns he had in regard to retail operations arises from something called jurisdictional diversity. That means that because we are next to New Hampshire a great deal of the purchases will come from NH and go back with the product. NH has decriminalized it but not legalized it. Any time a controlled substance crosses state lines, that's "trafficking." Once this occurs you have a liability that could become a federal level issue. If a transaction were to become a federal case it puts the legalization effort at jeopardy. So to do this could be making ourselves vulnerable to Federal scrutiny which he does not like. We have to be careful and don't want to dive into having the "Tijuana" effect in Fryeburg because there are too many chances for it to end badly. It could result in having crime scene tape in some places here that we had no intention of having happen.
16. Witt: Said it's been illegal since 1933 to purchase alcohol in NH and drive over the state line but it's been advertised for decades.
17. Ricks: Commented alcohol is not illegal so it puts it in a different category of offense. Clarified the "don't purchase alcohol" law has a large quantity involved so people aren't avoiding Maine tax. Pointed out that since Federal law prohibits purchase of marijuana we can't take it for granted that it will just fall into place.
18. Witt: Reminded us that Vermont legalized it so NH may within this year also legalize it now that they are surrounded and NH is now the only state in New England that is not "recreational."
19. Ricks: Commented that is possible but we don't want to be in a position of forcing NH to do something it doesn't choose to do on its own.
20. Bloomberg: Whether they bought it in Bridgton or Fryeburg they would still be taking it back to NH and we would suffer all the traffic passing through. This is a rural place and is unlikely to have the problems they would have in some larger states like CA and NV but we have not had this problem from those places so it's unlikely to happen in our small state.
21. Ricks: Commented it's not about likelihood, as much as about what could happen were it to go wrong, and there are going to be special restrictions for border areas yet none of those have been provided by the state yet. Felt we need to get to retail sales incrementally.
22. Chet Charette (in group with Whitaker): Commented he applauds the town, thought they would be more liberal and is glad to see caution. He thinks the ordinance we have in front of us is a good starting point. His two sisters both started with medical marijuana, got severely addicted to opioids and both are dead today. Both started with cannabis and told him altered senses were the reason they used it. As a fireman he sees the problems and accidents that arise from that use. "At some point you have to draw the line. We are trying to get our people and kids away from drugs

and here we are willing to sell our soul for a few tax dollars to bring this into our town. Is this what we want our town to be known for, 'Go to Fryeburg, you can get cannabis there.'? That's not exactly what I want the town to be known for. How do we promote staying free of drugs to our kids in school and yet offer it up to everyone who comes through. This is a separate issue from medical marijuana which I do believe should be kept separate and continue to be studied."

23. Bloomberg: Addressed the gateway drug idea. Said some people believe it is the first step on a path to destruction.
24. Charette: Commented that as a fire department, to study it, they had conversations with about 20 young people rehabilitating at halfway houses in the state. The respondents were very helpful. Almost to a single person they said their drug addictions were created starting out with pot. It's not a widespread study but almost all those 20 did say that this is how it all started. Not everybody's the same so it won't happen to everyone but the fact that so many told their group this seems significant.
25. Whitaker: Mentioned he has met with counselors at Fryeburg Academy and pot is in the schools. We have cultivators around at other towns like Brownfield and the kids are harvesting it, they can easily take some. They come into school and they're smelling of it. They've also brought it into school as edibles. It's here now.
26. Witt: Presented more arguments against Marijuana being a gateway drug. Questioned that the idea of drinking alcohol is led to by drinking coca cola, rather than the person's interior makeup leads to using strong drugs. Talked about how we allow alcohol, and teenagers die from it, but never from marijuana use. Drug dealers are not regulated and have both marijuana and hard drugs. These criminals will sell anything to anyone, even young kids. Having marijuana regulated is taking it out of the control of the people who will hurt kids and will illegally provide hard drugs to young people.
27. Clark: Commented she supports this ordinance but retail operations in this town will not lead to any funds for the town and will cost us a lot. The town cannot collect taxes. Therefore to be able to afford and regulate it properly a phased approach is wise.

47:00 time signature... Chairman asks for any more comments and as there are none closes the public hearing on Marijuana Ordinances.

Public Hearing on Section 16 Revisions Related to Significant Wildlife Natural Areas: CEO gave brief overview: This language is the result of a citizen who came to the Planning Board and noted that there are significant wildlife habitats and unique natural areas in portions of town, significantly this case was in the industrial district that seems to have minimal protection. One of the thoughts was that we could change part of the industrial district location and another thought -- summarizing the discussions of the Planning Board---was to adopt ordinance standards that would serve to protect those unique habitats. So that's what this language is. Chairman asked for questions and comments.

1. David Hastings, lawyer. Asked if this is only being aimed at the industrial district. CEO: "No, this would be town wide, the way it's currently written." Hastings: Commented that as they are performance standards it seems the way it's written they will apply to all new or expanded uses of land or buildings in the town. CEO: "That is correct." Hastings: Wondered if this is aimed at Nestles. Commented the proposed standards seem to be overly concerned with the dangers to the

environment. There are several different overlay areas that you would have to examine to see the effects of a project. There are areas identified by the Department of Inland Fisheries either as “rare,” “threatened” or “endangered” wildlife that you would have to avoid affecting. There are areas identified as “essential” wildlife habitat, “significant” wildlife habitat. Asked if we have a map showing each of these together? CEO: “Yes, the map on display shows them all together.” Hastings: “Then we talk about areas designated as unique by the comprehensive plan. Are these shown on the map?” CEO: “Yes, they are all there on the displayed map.” Hastings: Commented the ordinance mentions unique natural areas designated by the Maine Natural Areas program. Asked if these areas are shown on the map? CEO: “Yes, they are.” Hastings: Asked if we (in the town) have any “say” over that? Kizaki: “It’s a state designation.” Hastings: Asked if the Maine Natural Areas Program is a state agency? Ricks: “Yes, it is.” Hastings: Commented that also mentioned are rare plants designated by [Beginning With Habitat](#). Asked what is that agency? Is it a state agency? CEO: “I believe it’s a state agency.” Hastings: Are these things designated by them also on this displayed map? CEO: “The map was done by Beginning With Habitat.” Hastings: Accepted this answer. Commented that even though all these areas are clearly shown on the map, it seems a large-scale development would require a DEP permit and they have an environmental process they go through to permit the projects. And that is an expensive process. Hastings was concerned that we are bringing something similar to the local level. And asked if that is really necessary. He stated his concern that if you had a plan located in this sensitive area and want to do something then you would have to make sure it didn’t impact these endangered species, even go to the Department of Fisheries and Wildlife or get a wildlife biologist to make recommendations of how not to damage the endangered wildlife. His understanding is that if you are building, your plan should provide for the protection of these species if they would be impacted by your building or addition. And this would be approved by the Planning Board. He pointed out that it’s going to be up to the Planning Board to make these decisions. And he does not see any standards for the Planning Board who must act as experts.. Ricks: “I take exception to that. We don’t present ourselves as experts. What we’re saying is that we need to make sure that whenever we have a significant development that could potentially impact a habitat that is federally and state protected, that we advise the business that they might want to get an opinion prior to actually beginning work on the building operation. I think that’s responsible development. I don’t see it as being overbearing. Hastings: Nothing here says it needs to be a significant development. Ricks: That would be a good suggestion to rewrite it to include that. Hastings: I’m concerned that the state already governs significant development under the site location law. Ricks: Here’s a good example. Just last month we had a business come in. They bought a property and ended up moving a CNC operation into the industrial zone... it’s great, it’s wonderful. But then when we approved the operation based on exactly what they brought for us and what they needed to do, the very next conversation was, oh, and by the way that happens to be in an area that could impact an endangered species. And we didn’t even give the people discussing their permit that notice; Look, if something happens to damage a protected species, you could potentially be liable. You could be sued by US Fish and Wildlife. And we didn’t give them a heads up on that. That’s the point of this ordinance. If we give people seeking to develop the information they need to responsibly develop, then by all means, that’s our job. We as the Planning Board have to be able to do that. We can’t just have people come in and

we approve their plans with no reference to these designations, then something happens and we say “Oh, too bad for you.” That’s not what we are here to do. We are here to make sure we all make proper decisions that adhere to federal and state laws. Hastings: I think that the fact that an area has been designated as something overly complicates the permit process. The ordinance covers when people want to build a house. And I suppose the CEO would have to deny a building permit until these things are accomplished. Ricks: It’s a valid concern that we don’t want to discourage someone building a house. Now, one of the things you run into when you buy a ranch in Wyoming, as an example, and you didn’t figure out that it was a grizzly habitat, or the habitat of a protected eagle, and the state comes in and does something that constitutes a “taking,” well that is the loss of the property owner who bought it, because the buyer didn’t do their research and find out about those restrictions. Hastings: Well, those are my public comments, I don’t need to debate it with you. My comment is this could create an unnecessary burden of regulation that would make it difficult for anything to happen.”

2. Kimberly Clark: “I think the problem is in the first couple words. “any portion of a property.” Let’s take for example a farmhouse that sits on Main St but goes back 200 acres and has land in current use. If they’re doing something to that house on Main St they are certainly not affecting the wildlife habitat that may be 100 acres in. So perhaps if you change the wording so that it reads “any development in the protected area” rather than any development on the property as a whole, it would be fair and easy to work with. If I want to build right in the middle of the habitat, the restrictions make sense. But not if a building is outside of the habitat but happens to be part of the same property.”
3. Elbridge Russell: “These areas are “identified areas” not “protected areas.” Along the Saco river everything is significant habitat, and hardwood plain habitat. We could end up regulating them when it is not really required. I am not in favor of adding them to the ordinance.”
4. Donald Thibodeau (Fryeburg): Commented that in his opinion we have enough oversight at the state level so we should not feel compelled to add levels of regulation. His feeling is that the town should leave this to the state. Ricks: Asked how we communicate with the state? How do we have the conversation with the state about what we want to protect and what’s not eligible for protection? Thibodeau: He thinks we’re doing fine in this town and don’t need to change anything. He doesn’t know why people want to change things. He commented it also makes more work for the Planning Board. If we leave it at the state level the Planning Board doesn’t have to think about it. There’s enough regulation now and this would add more.
5. Ricks: Commented that we ask for federal government expenditures and oversight on a lot of activities. At some point things that we used to depend on the federal government to do, they are no longer able to do, because we continually cut government programs at the federal level. And the governance at that points goes straight through state and down to local, because many programs that were overseen at the federal level don’t really translate that well at the state level and so local communities have to put into place things we used to take for granted would be managed at the federal level. So “governance,” taking the actions to guide and guard our community, needs to happen. You can’t just get rid of it. If you cut federal spending, that oversight needs to happen somewhere else, that is, locally. “ It’s a balancing act. So since we’re reducing spending and therefore oversight at the federal level it has to happen somewhere. Local communities might have to take it upon themselves to do what they didn’t do before. And if

someone is violating what are essentially timed and judicially legislated acts like the Endangered Species Act, the Clean Water Act, all these other very powerful acts, if they are no longer going to be able to enforce those federal rules like they used to be able to, enforce something that was protecting us and protecting our families, that's protecting the natural beauty of the area, sometimes local communities have to step up and do that. You want to leave the responsibility to the state? Sometimes the state doesn't see everything it needs to see, and it's got to be us. We've got to look out for our own. As the Planning Board, this is what we do. You can't just reduce government at all levels, because it doesn't work that way."

6. Kizaki: "I'd like to comment that the world does change. Things change. This map is very interesting to me because it shows species that were probably not endangered not very long ago. Maybe 20 years ago there would be no need to guard them. The map shows specific points of vulnerability. As a Planning Board, we need ordinance guidelines that point out the areas we need to take into account. Say someone comes and wants to change the use of a house on a certain street. We go through our list of questions, what has to be covered to approve a change or a building permit. And that checklist is determined by the ordinances. If the ordinance prohibits putting something that makes too much noise in a residential area, we ask the questions to make sure their project won't make too much noise for the surroundings. And in the same way if there happens to be a very sensitive area, the Planning Board would have it on their list to ask the questions to make sure they have a plan to put something appropriate to that area there, or have a good way to assure the impact won't damage an endangered habitat. It doesn't mean they can't, it means they need to take it into account in their plans. What is the effect on that stream that's 100 feet from whatever? Oh, OK, you've covered that? Right, move on. It's not meant to limit and stop people from doing valid things, but certain things are going to get them into trouble eventually. And we need to be able to say "you need to cover this." Build a fence there, mitigate the impact. So it is actually an assistance to the Planning Board to know where the danger points are."
7. Nels Liljedahl (Fryeburg). "It would be a good idea if there's another public hearing on this to invite one or two biologists from Beginning with Habitat Organization to come and give a presentation because I believe that the spirit of their whole organization is to work with communities to get good answers and not cause a lot of divisiveness, enable the community to discuss everything with everybody and find the answers. I think there're a lot of assumptions that are being spoken and unspoken here, due to lack of information. If we can get someone who's involved with this program and produced these maps to come and speak on it more thoroughly, people will be more educated and perhaps not be so afraid. It might also give the Planning Board more information to draft an ordinance that might be more acceptable to everybody. I think the whole idea is to work in harmony with nature. That's important in the long run for the entire planet. We happen to be in an area, in Fryeburg, that's very rich in these species. And I think we kind of owe it to the species. You know, we're the dominant species on this planet. We have the brains, we're totally screwing up the world. But we have an opportunity here. We have some more knowledge about our home. We have the knowledge and I think we should explore it to see how future developing could work with the riches we have here. Not replace the beauty with development but work with it and not against it, and still make the developers understand and appreciate it, (as it adds to their bottom line too). So maybe the Planning Board can contact them

and they can come and give their presentation, because that's really what they want to do. I think we may have jumped the gun on this going straight to the ordinances without giving ourselves, our whole community, the opportunity to understand what it all means and how it can work, by taking advantage of the information available."

Chairman asks for any more questions and comments and as there are none, the public hearing on Section 16 is closed (time signature 1:08:03).

CEO's Monthly Report: CEO provided board with report and asked for questions: Ricks asked what TEJJ was. CEO replied it was a use that delved into retail and didn't have Planning Board approval. She believes it may no longer be operational. They were notified they either needed to discontinue the retail use or come to the Planning Board to get it approved. Kizaki asked about "life safety issues" notation. CEO answered those were general apartment issues, smoke detectors, stairways, broken things that don't meet standards and are actually safety problems. Emery asked if the problems had been corrected. CEO made contact but no resolution has been achieved yet, it may take more time. She has sent a handful of notices and they are working on the problems. Chairman closed CEO report as there were no more questions or comments.

Public Forum: Ricks told the 3 people left in the room, "You're the public!" and everyone enjoyed a laugh. No one had anything to say, so Chairman closed Public Forum.

Other Business: CEO commented the meeting of 3 boards with the Water District Trustees, Planning Board, and Select Board has been postponed. Emery asked, "Indefinitely?" CEO: "Indefinitely might be the word for it, yes. There was no date given to reschedule." Kizaki: Was wondering why that was postponed, what was the issue or problem? CEO: was not in attendance so would not want to comment on something I was not present for. The town manager was present and would know. Tom Kleinpeter: I was at a fire call and missed the meeting, so it was my fault. Woodbury: We knew it!

Chairman called for a motion to adjourn, Woodbury made the motion and Ricks seconded it. All members voted in favor. The meeting was adjourned at 7:12 p.m.

Submitted by Edy Kizaki (Secretary)
March 21, 2018