

# ***Town of Bourne Planning Board***

## ***Meeting Minutes***

Bourne High School Library  
75 Waterhouse Rd Bourne, MA 02532

March 22, 2018

This meeting may be televised and recorded. If anyone in the audience is recording or video-taping, they must acknowledge at this time. Chm. Clegg acknowledged Mr. Genter, Mr. Rausch and Ms. Mitchell were recording the meeting.

All items within the meeting agenda are subject to deliberation and vote(s) by the Planning Board.

**Members Present:** Elmer Clegg, Steve Strojny, William Grant, Lou Gallo, Jeanne Azarovitz, Sandra Goldstein, Elizabeth Brown and Dan Doucette.

**Excused Members:** Robert Gendron

**Also Present:** Coreen Moore, Jennifer Copeland, Attorney Robert Troy, Carol Mitchell, Ethan Genter, Michael Rausch, Stephen Mealy, Judith Froman, Peter Meier, George Slade, Amy Sharpe, Dennis Woodside, Brendan Mullaney, Thomas Guerino (7:11), Amy Kullar, Kat Brennan, Chase Terrio, Ronda Jones Tobey, Jim Mulvey, Jack Mulkeen and Denise Cloonan.

At 7:00 PM, Chm. Clegg announced the Planning Board adjourned the Executive Session and reconvened in Open Session.

- 1. Cumberland Farms court remand** – Chm. Clegg explained that there's an appeal of a Planning Board decision currently in Land Court. The judge has issued a partial remand to the Planning Board which consists of one question. He asked Ms. Brown to read the question word for word. The question read as follows; must CFI construct the drive thru referenced in Condition #2 in the decision dated January 25, 2017, to comply with the terms of the Special Permit granted by the Planning Board. Chm. Clegg stated in order to comply with the remand order from the judge, each member is being asked to state when they voted their vote or would have voted their vote; if they had been a member of the board at that time, whether they considered the drive thru to be a mandatory requirement or an option that was being granted. Mr. Strojny started the voting because he was the acting chair of the board at the hearing in January 2017.

Mr. Strojny offered a brief explanation of how he arrived at his decision when casting his vote at the hearing on January 25, 2017. Stating with regard to the drive thru, his feeling is that it was always optional. Chm. Clegg reiterated that Mr. Strojny's vote was based on the drive thru always being optional.

Chm. Clegg stated Mr. Doucette was the individual at the hearing who made the motion and asked for his position on the matter. Mr. Doucette stated his position is that the drive thru would have been optional.

Chm. Clegg stated Mr. Gallo was also a voter at the January 25, 2017 hearing. He asked Mr. Gallo for his position. Mr. Gallo stated his position is that the drive thru was mandatory.

Chm. Clegg noted that Mr. Grant was a participant of the vote and asked for his position on the matter. Mr. Grant stated he considered the drive thru to be optional.

Mr. Clegg stated he was also a participant in the vote held on January 25, 2017, but as chair he'll state his position last.

He then directed the question to three new members of the board who were not present at that hearing but have taken the time to review the documentation regarding the case.

Ms. Brown announced after reviewing the information, she sees the drive thru as optional.

Chm. Clegg directed the question to Ms. Goldstein, who is also a new member, but has had the opportunity to review the material. Ms. Goldstein sees the drive thru as optional.

When asked, Ms. Azarovitz stated she reviewed the material and feels the drive thru was optional.

Chm. Clegg stated since the board was not presented with a plan that showed a drive thru the night the vote was taken; his position is that the drive thru was an option.

2. **81P: 5 Sea Lane. 2 lots.** – Mr. Doucette announced it meets all of the requirements of ANR. **Mr. Doucette moved to approve the 81P for 5 Seal Lane for 2 lots. Mr. Strojny seconded.** Brendan Mullaney of Bracken Engineering briefly summarized the project.

Chm. Clegg explained under an 81P, the subdivision control laws only allow the board to review lot size and frontage. This project meets both requirements. With no further discussion, the motion carried. 8-0-0.

3. **Request for Temporary Occupancy Permit:** Convention Data Services. 3 Technology Park Dr. – The project manager, Chase Terrio, addressed the board stating the project has been completed. The scope of work is complete with the exception of a few landscaping punch list items noted by the Cape Cod Commission Certificate of Completion.

Mr. Gallo stated there is some top coat (asphalt) needed in some areas, loam needs to be applied to some shoulder areas and shrubs need to be planted at the entrance. Mr. Gallo recommended granting the Temporary Occupancy Permit; but asked for a timeline of when the remaining work will be completed. Mr. Terrio stated he anticipates the work to be completed by the end of May for reinspection.

**Mr. Gallo moved to grant the Temporary Occupancy Permit with a condition that the landscaping be completed by the end of May.** Mr. Doucette suggested extending the timeline of completion until the first Planning Board meeting in June. After a brief discussion, Mr. Gallo modified his motion. **Mr. Gallo moved, Mr. Doucette seconded to grant the Temporary Occupancy Permit with a condition that all landscaping and paving be completed by the board's first meeting in June. Mr. Gallo will reinspect the site prior to the first meeting.** Ms. Moore asked once Mr. Gallo reinspects, as long as the work is complete, will he sign off on the Occupancy Permit and the representative will not have to come back before the Planning Board. Chm. Clegg stated that's correct, Mr. Gallo will sign off then. With no further discussion or public comment, the motion carried. 8-0-0.

4. Public Hearing for Amendment to the Zoning Bylaw: Article 1: To see if the Town will vote to amend the Bourne Zoning Bylaws as follows, or to take any other action in relation thereto: a. Non-medical Marijuana Establishment.

Chm. Clegg opened the public hearing and asked Ms. Brown to read the amendment, which she did. Chm. Clegg asked if any board members would like to make a statement or ask any questions relative to the article prior to allowing input from the public.

Mr. Gallo questioned whether the passing of this article would prohibit the sale and cultivation of medical marijuana. Chm. Clegg explained voting in favor of this article would only prohibit recreational marijuana facilities of any nature in the Town of Bourne, not medical marijuana facilities.

Ms. Goldstein asked, besides The Haven Center, Inc., are there any other pending medical marijuana dispensary applications in Bourne. Chm. Clegg recognized Town Administrator Guerino who indicated currently, there is just that one. He explained that they've applied to the Department of Public Health, where the regulations fall. It is his understanding that they are provisionally licensed but are not in operation yet, nor has a Community Host Agreement been implemented. Mr. Guerino stated The Haven Center is the only provisionally licensed company that was endorsed by the Board of Selectmen with a motion to support. Chm. Clegg questioned when the company received their provisional license. Mr. Guerino stated he'd have to go back in the record. Selectmen Slade stated he believes it was issued some time in June 2016.

Ms. Goldstein opened a brief discussion regarding buffer requirements for both medical and recreational facilities.

Chm. Clegg explained that the medical dispensary regulations that were implemented and are currently enforced by the Department of Public Health, will transition to The Cannabis Control Commission by December 31, 2018. This commission will also oversee the recreational regulations.

Ms. Goldstein questioned whether a medical marijuana dispensary will have the option to obtain a recreational license. Chm. Clegg stated yes, a medical marijuana facility may apply for one or more recreational licenses.

Ms. Goldstein questioned the number of liquor stores in Bourne. Mr. Guerino stated there are nine retail, all alcoholic package stores. Chm. Clegg stated by a vote at Town Meeting, the number of marijuana retail establishments could be restricted to 20% of the number of retail liquor licenses that are authorized in the town.

Ms. Brown questioned whether a retail establishment is one that sells to the consumer. Chm. Clegg stated a retail establishment is one that sells and could deliver to a retail customer or to another retailer. Ms. Moore stated M.G.L., Ch 94G Sec. 1 defines what an establishment is. So, if the vote is to prohibit the establishment, the vote prohibits all that applies under the general law.

Ms. Goldstein questioned whether the prohibition would prevent a medical marijuana facility from cultivating their own marijuana. Chm. Clegg reiterated that if the article passes, it would only prohibit a medical marijuana facility from engaging in recreational marijuana activities. They would be permitted to grow their own medicine under their medical license. A discussion ensued.

With no further board comment, Chm. Clegg accepted public comment.

Jim Mulvey discussed the terms processing and manufacturing. He cautioned that those terms will legally allow for the development of oils and edibles. Chm. Clegg stated the terminology, “other manufacturing”, is included in the definition as other types of establishments under the licensing.

Mary Jane Mastrangelo, chair of the Finance Committee, spoke of the discussion the Finance Committee had about the two Planning Board articles. She explained typically, when considering a Planning Board article, the Finance Committee will invite the Planning Board members to appear before them to discuss the article in detail, but that did not happen in this instance. Ms. Mastrangelo stated many Finance Committee members are interested in the financial aspects of regulating vs. prohibiting and feel that input from the community needs to be received. She discussed the need for a financial analysis, revenue possibilities; not only on direct sales but also on investment of property, impacts on property taxes, costs of regulating vs. costs of prohibiting, as well as the need to understand the Cannabis Control Commission regulations, address public safety and social concerns. Ms. Mastrangelo stated because there hasn’t been a discussion of options, the Finance Committee feels it is unable to make an informed decision and voted to indefinitely postpone Articles 1 and 2. She hopes the Planning Board takes the position that they would like to look at the matter more deeply before they commit to prohibition.

Chm. Clegg explained Article 1 was proposed by the Board of Selectmen and it is sponsored at Town Meeting by the Board of Selectmen. Since this is an article for a

Zoning Bylaw change, the Planning Board is required to tell the moderator at the Town Meeting whether they have a positive motion on this article. He urged all members to take a position on the matter versus abstaining from voting.

Mr. Grant stated if the members think there should be more discussion and involvement by the community, then a no vote will in essence trigger that process. He expressed his frustration that this matter wasn't addressed sooner and thinks the town leadership was asleep at the wheel with the handling of this issue.

Chm. Clegg recognized Chief Woodside who discussed the importance of the vote transpiring prior to April 1<sup>st</sup>, the date that the state will start accepting recreational applications. He agreed that there's a lot of unanswered questions but recommended that the voters be allowed to vote on both measures.

Chm. Clegg clarified that the Cannabis Commission will accept an application on April 1<sup>st</sup> if it meets their filing requirements. One of the requirements is that it include a Host Community Agreement. Meaning, any applicant would first have to have a public outreach meeting with the residents of the town and negotiate a Host Community Agreement with the leaders of the town. That agreement could include a licensing fee that represents the reasonable costs to the town for accommodating the presence of a marijuana facility. A brief discussion transpired regarding the possibility that The Haven Center may have the ability to convert to recreational sales under its provisional license even if the prohibition passes.

Chm. Clegg opened a brief discussion regarding enforcement concerns.

Ms. Brown read an ordinance regarding a medical dispensary's right to convert to recreational sales if they received their provisional license prior to July 2017. A discussion ensued.

Chm. Clegg opened the hearing up for public comment.

Jim Mulvey expressed his opposition with endorsing a product that has the ability to alter psychological process. He voiced his concern that marijuana is addictive and will create many of the same sociological issues that surround alcohol abuse.

Kat Brennan, a strong proponent of marijuana use, provided data surrounding marijuana use and its cost. She feels tax revenue generated from marijuana sales will benefit the town. Chm. Clegg asked Ms. Brennan for a constructive opinion on how the town should proceed. Ms. Brennan provided a few examples of how she feels the town should proceed after the Special Town Meeting.

Amy Kullar discussed her experience living and working in the Netherlands, where marijuana use is not prohibited. Chm. Clegg asked if there is an age restriction to purchase marijuana in the Netherlands. Ms. Kullar stated the age requirement is 18.

Jack Mulkeen discussed the Finance Committee's vote to indefinitely postpone Articles 1 and 2. He feels their decisions typically carry a lot of weight with the voters and questioned what the next course of action will be should the indefinite postponement carry. Chm. Clegg asked Mr. Guerino to respond. Mr. Guerino discussed the steps that will be taken should the town vote not to prohibit retail establishments.

Ms. Brown opened a brief discussion regarding the moratorium that passed.

Mr. Grant discussed attending a previous Board of Selectmen's meeting where Selectperson Froman pressed timetables so if the vote is no, this issue won't fall between the cracks again. Mr. Guerino responded stated as a result of the outcome of that meeting, he has forwarded to Ms. Froman a draft template of a work plan and schedule for her review. If she finds that to be an acceptable template, then he'll submit it to the entire board for further discussion. Chm. Clegg asked Mr. Guerino to forward him a copy of the draft as well because regardless of the Special Town Meeting vote, the board will still need to begin working on this issue. He agreed with Mr. Grant's perception that the issue should have been dealt with sooner. A discussion ensued.

Chm. Clegg acknowledged Ronda Jones Tobey, a proponent of marijuana use. She discussed her background, education and experience as a licensed addiction specialist. Additionally, Ms. Tobey discussed an injury she sustained in her 20's and her decision to treat the pain with marijuana vs. with opiates. She feels the stigma attached to cannabis as a gateway drug or that it's addictive is inaccurate and volunteered to gather information from other cities and towns with recreational marijuana facilities.

Former Selectperson Mealy stated despite the urging of the April 2017 issue of The Beacon, a monthly publication by the Massachusetts Municipal Association for leaders of towns and cities of the Commonwealth to address the potential legalization of recreational marijuana, the leaders of the Town of Bourne did not do that. Mr. Mealy voiced concern that Bourne will become the gateway for marijuana for Cape Cod because many of the surrounding towns have prohibited recreational sales and feels the character of the town will change if recreational marijuana sales is allowed. Although he feels more information is needed and doesn't feel now is the time to permit the sale of recreational marijuana, it will be a disservice to Town Meeting if the voters aren't allowed to decide.

Further discussion transpired regarding the moratorium that was passed and whether it will be upheld by the Cannabis Control Commission.

Ms. Tobey returned to the podium to address Mr. Mealy's remark regarding the character of the town changing.

Chm. Clegg discussed the possibility that other businesses in town will see an increase in revenue because recreational marijuana retailers will bring more people into town.

Mr. Mealy offered clarification regarding his previous remark regarding the town's character. A discussion ensued.

Ms. Brown and Ms. Azarovitz discussed the potential number of outlets that could be allowed and the expense to the consumer. Ms. Azarovitz questioned Mr. Mealy on how his opinion was formed concerning recreational facilities.

Ms. Mastrangelo returned to the podium to explain the process when approving / indefinitely postponing an article at Town Meeting. She also discussed the criteria set forth by the Cannabis Control Commission that must be met by an applicant in order to be granted a license.

Selectperson Froman approached the podium to speak; however, due to the presence of a quorum and a select board's meeting not being posted, she was unable to speak.

Ms. Brennan returned to the podium to discuss the strict regulations set forth by the Cannabis Control Commission.

*Mr. Slade exited the hearing 9:00 PM*

Chm. Clegg acknowledge that the select board no longer had a quorum and invited Ms. Froman to the podium. Ms. Froman agreed that the matter needs to be decided by the voters. She expressed her excitement in having a common cause where there will be a collaboration between various committees and departments.

Denise Cloonan, a Sandwich resident and an opponent of marijuana use addressed the board. After a brief presentation, she encouraged voters to ban recreational marijuana facilities.

Chief Woodside reminded voters that the issue at hand is not to legalize marijuana use but rather to prohibit the sale of recreational marijuana in the Town of Bourne.

Ms. Brown noted that people have different ideas where this will lead.

Ms. Goldstein asked how many plants an individual is allowed to grow. Ms. Cloonan stated 6 plants per adult is allowed, 12 plants capped per household. Ms. Goldstein stated her point was to show that an individual is able to grow their own marijuana even if the prohibition passes.

Ms. Tobey argued that not everyone has the ability to grow their own marijuana.

Mr. Mulvey expressed his opposition with home growers.

*Mr. Slade returned to the hearing 9:15*

Chm. Clegg informed the audience he invited the superintendent of schools to attend tonight's meeting; however, due to a scheduling conflict, Mr. Lamarche was unable to

attend. Chm. Clegg read a letter from Mr. Lamarche into the record. Chm. Clegg then commented on the letter.

Chm. Clegg thanked the audience for their participation. He entertained a motion to close the public hearing.

**Mr. Grant moved, Ms. Azarovitz seconded to close the public hearing.** With no discussion, the motion carried. 8-0-0.

Mr. Grant moved to oppose Article 1. After a brief discussion surrounding the validity of the motion, Chm. Clegg asked Mr. Grant to repeat his motion. **Mr. Grant moved to oppose Article 1.** After a brief discussion, **Mr. Strojny seconded.** Further discussion ensued. Roll call vote as follows:

Ms. Brown – yes   Mr. Grant – yes   Mr. Strojny – yes   Mr. Gallo – yes

Ms. Azarovitz – yes   Mr. Clegg – yes   Ms. Goldstein – abstained   Mr. Doucette – no

The motion carried. 6-1-1.

Mr. Mealy complimented the board on a calm and beneficial discussion.

5. Committee Reports – Mr. Doucette provided an update on the CPC Articles that will be presented at Town Meeting.

Adjourn – **Mr. Grant moved, Mr. Strojny seconded to adjourn.** With no discussion, the motion carried. 8-0-0.

Minutes submitted by: Carol Mitchell