

# MARIJUANA AD-HOC COMMITTEE

## Meeting Minutes – September 28, 2017

**Members in Attendance:** Edward (Ted) Haley – Chairman, Linda Carp, Patricia Neary, Eric Desrochers, Matthew Rushton, and Patrick Hohman

**Members Not Present:** Irving Smith, Karen Peabody, Betsy Chouinard, Peter Robillard

**Officials in Attendance:** Kimberly Williams, Assistant Town Manager and Jason Rawlins, Town Attorney

**Meeting Called to Order:** 6:02PM

**Approval of Minutes.** Minutes of 09.07.17 are deferred for the current meeting

### **New Business**

The Chair asks the Committee to move Public Comments to the end of the current meeting agenda in order to allow the Town Attorney to brief the members. The Committee agree with the request, discussion of new business begins.

### **Committee Meeting with Town Attorney**

Per a request from the Committee during their meeting of September 7<sup>th</sup>, (09.07.17) the Town Attorney, Jason Rawlins, has been asked to meet with members to discuss an informational memorandum they distributed relative to the updates to Massachusetts General Laws with respect to recreational retail marijuana. The Town Attorney has also been asked to further elaborate on points in the memorandum per questions from members during the current discussion.

Mr. Rawlins begins his discussion with the Committee. Mr. Rawlins notes that his purpose in meeting with the Committee is to provide guidance on the matters being discussed by the Committee; they cannot offer legal advice or influence decision-making. The Town Attorney then asks that the Committee submit any questions they have to the Town Manager's Office. Procedurally, this should be the practice when seeking information from his counsel.

The Town Attorney goes into detail about the memorandum. The memorandum provides input and guidance from the Attorney General's Office (AGO) as it relates to retail recreational marijuana, including delivery, gifting and growing which are legal in Massachusetts.

The Town Attorney notes that the issue of retail recreational marijuana may come down to a zoning issue. A moratorium or ban is restrictive, but does not address the issue of zoning.

A question is asked about regulations to the Town Attorney, "do the state's regulations on dispensaries apply if the Town does not limit or prohibit recreational marijuana?" Mr. Rawlins notes that if the Town did not create rules, any party interested in applying for a retail marijuana license could apply for one.

Presently, up to one hundred (100) towns have enacted moratoriums. However, Mr. Rawlins notes that the moratorium process is too vague and it is difficult to determine how to proceed forward; some directions have been offered locally in the way of two proposed ordinances which will be discussed on in a public hearing in early November. Mr. Rawlins notes there is a need to understand how the Town wishes to proceed on the matter and work from there; legislative timelines could play a role in how the Town Council moves forward on their votes.

The Town Attorney states that the main goal of the Committee has been achieved: to provide a recommendation to the Town Council. While a moratorium and a ban are being developed, ultimately only one proposal can move forward.

Ms. Carp asks the Town Attorney, “does the Town need to have a proposal in order to move forward?” Mr. Rawlins notes that if nothing else, the Town ultimately needs regulations for guidance.

An additional question is asked, “aren’t the state’s regulations only for towns that voted ‘yes’ in the 2016 ballot vote?” Mr. Rawlins states that the regulations would apply to all towns regardless of a ban or moratorium; marijuana sales are legal in the Commonwealth of Massachusetts.

Mr. Rushton asks the Town Attorney, “what would happen if a moratorium or ban are not vote?” Mr. Rawlins suggests it is possible that legislation to allow zoning-by-right would be necessary. Mr. Rushton further inquired, “is it entirely possible that both the moratorium and the ban could be killed/voted down?” Mr. Rawlins states that is possible.

Ms. Neary asks if the Committee can revoke its prior recommendation to propose a moratorium; although it provided a recommendation, can it offer a new one?

Mr. Desrochers asks about the timeframe for the two proposals. The Chair states that the timeline will depend on the actions of the two committees scheduled to hear the proposals. Ms. Neary notes that the Planning Board and the Council’s Community & Economic Development Committee will be meeting to discuss the two proposals on November 1<sup>st</sup>. The Chair suggests that the public should attend the hearings and share their input. It is the Chair’s hope that the public hearings will yield positive discussions.

Ms. Carp shares with the Committee that the Commonwealth’s Cannabis Control Commission (CCC) will be conducting a public hearing tour across Massachusetts. However, who decides on a community’s legislation? The Town Attorney notes that the existing democratic process is the best way to address the issues.

Mr. Rushton states that regardless of regulations and policies from the Commonwealth, there will be a considerable amount of marijuana available in Massachusetts. There still remains a large potential for the non-retail, medical marijuana industry according to Mr. Rushton.

The Chair indicates that the CCC has a lot of work ahead to provide regulations, but there is a possible dark market that could occur absent regulations.

Mr. Rushton asks what becomes of the Marijuana Ad Hoc Committee if one of the proposals is approved? The Town Attorney states the Town Council, or the Town Manager could move to disband the group, its overall work completed at that point.

Mr. Desrochers asks, “can the Town impose regulations?” The Town Attorney notes that outside of zoning, the Town does have leeway in creating local regulations; a municipality can make regulations and rules which are stronger than the Commonwealth’s, similar to alcohol licensing. Mr. Desrochers asks if the host agreements that the Town has with two marijuana dispensaries can be used as regulations. The Town Attorney notes that host agreements only provide for income, they do not set forth rules for any local fees or zoning that the Town may wish to impose.

The Town Attorney states the regulation and rules process for retail recreational marijuana is still in a conjecture stage due to the Cannabis Control Commission’s recent establishment and lack of guidelines at present. The Commission still needs to conduct its work first in setting forth guidance before any regulations can be put in place.

Ms. Neary asks if there is a statewide moratorium, noting that it was reported in the local newspapers that one was in effect. The Town Attorney answers that a statewide moratorium was not in effect; only select towns have opted for the moratorium at the present time.

Ms. Neary asks for clarification on the updates to Massachusetts General Law Chapter 94G, which was amended by House Bill #3818 (now Chapter 55 of the Acts of 2017). Ms. Neary is concerned with Ch 94G, Section A, which relates to regulations; her concern is that the law is not clear on whether towns require regulations if they ban sales. The Town Attorney cross-references with the former version of Chapter 94G with the now amended law; Mr. Rawlins confirms that the law is now clear if a town prohibits sales, it must develop regulations.

Mr. Desrochers asks, "is it appropriate to have the Town Council hold off on voting either proposal (moratorium or ban) until regulations are in place?" The Chair states the Town Council could table both proposals, but that it is not very likely to occur. Mr. Desrochers further asks, "would ballot questions instead be possible?" The Chair notes that putting both proposals to ballot is possible, but only if the Town Council or general public desired that scenario.

The Chair and Committee conclude their discussion with the Town Attorney and thank Mr. Rawlins for his time and information.

### **Continuing Business**

The Chair and Committee engage in a discussion of continuing business.

### **Marijuana Ad Hoc Committee Research and Chair's Report**

The Chair and Committee continue their discussion of its ongoing research.

The Chair provides a discussion point relative to the example of marijuana sales in the Netherlands; the country sought to address an existing dark market (illegal sales). The Netherlands is currently working on regulations that open up the marijuana industry and prevent the dark markets from dictating customer demands.

Ms. Neary asks about the legislative process for the two proposed ordinances. What are the timelines for them? The Assistant Town Manager and Chair state that the proposals must have two weeks advertising before the scheduled public hearings, hearings must be held, then the matter is brought before Town Council, then advertised a second time before a final vote.

### **Public Comments**

The Chair opens up the floor to comments from the public.

A non-resident asks the Chair if they may speak during the public comments portion of the meeting. Per town rules, a non-resident cannot speak during open comments unless allowed by the board, committee or commission. The Chair asks the Committee members if they wish to hear from the non-resident. The group allows the speaker by unanimous consent.

Mr. Bob Andrews, 99 Main Street, Plympton addresses the Committee. Mr. Andrews asks what the purpose of the Committee's meeting. The Chair notes the meeting purpose is to discuss retail marijuana and the legislative matters related to it for the Town.

A town resident is next to speak during public comments.

Dr. Fred Kern, 77 South Street speaks to the Committee. Dr. Kern notes that he wishes to provide additional data to the Committee from findings in Colorado. According to Dr. Kern, the State of Colorado experienced an 11% increase in crime including illegal marijuana usage, theft, and burglary. In addition, more youths were cited testing positive for marijuana than in previous years. Dr. Kern displays visual data through graphs that show the increases in the aforementioned data and major crimes such as prostitution and assault. Dr. Kern asks the Committee to take this data into consideration as retail marijuana poses a risk of higher crime in the Town.

Mr. Andrews of Plympton speaks again to the Committee. Mr. Andrews states that marijuana is oldest crop under human cultivation and was the number one cash crop on the planet before prohibitions were put into place. Mr. Andrews states that marijuana currently has a \$46 billion dark market, but that the legal industry is \$6 billion. Legalization will reduce the dark market value.

Ms. Carp notes to the public that the incidences of crime referenced correspond to the increase of the opioid epidemic being experienced in the country.

The Chair notes there is a lot of data the Committee will need to look through. The Chair notes that ultimately the issue of recreational retail marijuana may end up being a zoning issue should the Town not be willing to act as noted by the Town Attorney. The Chair states there are joint committee meetings coming up that will be discussing the issue; the first will be on November 1<sup>st</sup> and be a joint meeting of the Town Council's Community & Economic Development Committee and Planning Board. The Chair encourages members to attend the meetings.

Ms. Carp notes to the Chair that she was interested in having a resident come before the Committee who has been to Colorado and had a positive research experience with the retail marijuana industry. However, the resident was nervous about addressing the committee unannounced. The Chair notes the individual is more than welcome to address the Committee and to send correspondence if they do not wish to be at a meeting; any correspondence can be provided to the Town Manager's Office. The Chair echoes that he may take a trip to Colorado to further his research work.

Ms. Neary notes to the Chair that any research should focus on talking with public safety officials; while a community may look as if it is not affected by retail marijuana, public safety officials can provide insight into how a community is actually affected.

Mr. Rushton expresses concern about the possibility that a member of the Committee could speak during the upcoming public hearings and express views that may be counter to the Committee's current views. Ms. Neary notes to Mr. Rushton that whenever they attend a public meeting, they state they are only in attendance as a resident, not as a member of a Committee or group. As such, their personal opinions do not reflect those of a Town Committee, nor should they be seen as the opinions of a Town Committee. Ms. Neary provided this as a point of reference.

The Chair states that public comments in any meeting are open, and that members are able to comment as they wish. The Chair further states that if Committee members do wish to speak in their capacity, that they should be reviewing data and research they have shared with the Committee.

Mr. Desrochers asks if the Committee should set a deadline or goal to provide an additional recommendation to the Council. Should the Committee have more direction than just providing recommendation on the moratorium? Should the Committee be prepared to submit an additional set of recommendations before the end of the year?

Ms. Neary notes that most towns have already voted for a moratorium

Mr. Desrochers asks, what is the Committee's ultimate direction? What other work is being asked of the Committee?

Mr. Rushton states they're in agreement with Mr. Desrochers; the moratorium was only a first step for the Town, is there more that is required of the Committee?

The Chair states that the Committee could have a discussion on various aspects of the issue and whether to provide more input or guidance.

The Chair expresses interest in having the Committee take tours of the two existing marijuana dispensaries in the Town; asks that the Town Manager's Office look into scheduling tours with Theory Wellness and Alternative Compassion Services to see if Committee members can view the facilities to learn more about commercial marijuana practices. The Chair also asks if the website statistics for the Committee's page can be provided in the next meeting.

Ms. Carp asks, why can't the Town put the issue of retail recreational marijuana to another ballot vote? The Chair is supportive of another ballot vote if the Town requested it, but that it needs to be detailed and organized so voters can make an informed decision. Mr. Rushton notes a ballot question is a good idea.

The Chair observes that it appears there is a will of the Committee to see an eventual ballot question be offered. However, the moratorium should be elaborated upon before any ballot question is set forth. The Chair further notes that the next major elections are the annual town election in April 2018 and the gubernatorial/state elections in November 2018.

Mr. Desrochers expressed a concern about the Commonwealth's Attorney General (AG) ruling against moratoriums. If the AG ruled against the moratoriums, then licenses for recreational marijuana could be issued without actual regulations in place.

Dr. Kern speaks again to the Committee. Dr. Kern asks the Committee to consider if more marijuana in a community will be a better option for it; while it is appreciated that the Committee is reviewing the issue, they should look at what has happened in other states. Dr. Kern notes he has dealt first-hand with patients who have experienced issues with use of marijuana. Dr. Kern concludes with the statement that the commercial marijuana market is an "unethical industry using its customers for profit".

Mr. Andrews of Plympton speaks again to the Committee. Mr. Andrews states to the Committee that "marijuana plants are safe, and to deny a whole industry based on social stigma or lies should be a concern of the Town. Regulate the industry so it is like other ones (i.e. alcohol, tobacco, etc). More restrictions though, are not helpful."

No further public comments are provided.

With all discussion concluded a motion is made to adjourn.

**Meeting Adjourned: 7:50PM**