

TRURO PLANNING BOARD

MEETING MINUTES

August 22, 2018 – 6:00 p.m.

Truro Community Center

PLANNING BOARD MEMBERS PRESENT: Chair-Steve Sollog, Vice-Chair Peter Herridge, Clerk-Jack Riemer, Karen Tosh, Bruce Boleyn, Paul Kiernan, Mike Roderick

OTHER PARTICIPANTS: Town Manager-Rae Ann Palmer, Interim Town Planner-Jessica Bardi, Town Counsel-Katherine Laughman, Jan Worthington, Joanne Barkin, Shawn Pfeiffer, Drake Cook, Amy Rolnick, Peter Burgess, Daniel Holt, Stephanie Rein, David DeWitt, Elaine Reilly, Andrew Smith, David Neskey, Ann Greenbaum, Regan McCarthy, Kathy Ho, Chris Clark, Michael Fee, Maureen Burgess, Peter Staaterman, Jane Clark, Skip Hakala

Chair Sollog called the meeting to order at 6:07pm.

Public Comment Period

No public comment.

Continued Public Hearing – Draft Marijuana Bylaw

Chair Sollog suggested starting the meeting with the slide presentation and then they can go through what is in the Draft Marijuana Bylaw, and what they are confronted with.

Structure for Tonight's Meeting

- Part 1 – Basic Information
- Part 2 – Major Topics for the Bylaw Review
- Part 3 – Discussion (Questions, comments, suggestions etc.)

Purpose

- Establish Zoning Regulations that provide for the “time, place & manner” of Marijuana Establishments in locations suitable for such uses,
- Which will minimize adverse impacts on adjacent properties, residential neighborhoods, schools, playgrounds and other sensitive locations
- By regulating the siting, design, placement and security of such uses.
- Maintain the residential and rural character of Truro

Other items summarized through the slideshow were; “How we got here”, “Current Regulations”, and “Town Meeting”. A summary of what would happen if the Bylaw fails was defined. Definitions were given for “Craft Marijuana Cultivator Cooperative” and “Canopy”. Other items reviewed:

- Aspects of Marijuana Establishments in Truro that Bylaw could Regulate
- Aspects of Marijuana Cultivation that Bylaw could Regulate
- Major Topics for Bylaw Review

Question by Jan Worthington – She thought, as far as Truro Center, an establishment or cultivator would need to be at least 500 feet away from a park. Ms. Laughman answered, stating there was proposed language in the bylaw in regard to buffers. Right now that does include playgrounds. The only State regulation which is in place in respect to buffers is 500 feet of a school. There could be a buffer zone for a park where children may play at, however it is up for discussion.

Question by Joanne Barkin – She asked if 20 percent of Truro alcohol retail licenses theoretically means that if there were 100 alcohol licenses in Truro then the 20 percent would be 20. Chair Sollog confirmed that was correct. Ms. Barkin proceeded to ask if the marijuana licenses would be added to the existing alcohol licenses. Chair Sollog stated that they will not be added to existing alcohol licenses, nor will they be subtracted from existing alcohol licenses. The marijuana licenses will be separate from alcohol licenses.

Mr. Kiernan wished to point out that the Draft Marijuana Bylaw being discussed was a product of the ad-hoc committee, not the Planning Board, and he was not sure the Planning Board could legally amend it. Town Manager Palmer stated she would defer the legal question to Town Counsel; however, she reminded the Planning Board that the ad-hoc committee consisted of two Board of Selectmen members, three Planning Board members, and staff that developed the draft at the request of the Planning Board. Ms. Laughman stated that there is authority by the Planning Board to make changes to the draft. Since the warrant has not been closed, there is the opportunity for the Planning Board to make changes and recommendations at this point in time.

Chair Sollog stated that there are several topics the Board would like to hear from the audience on, those being;

- Craft marijuana co-ops would be limited to two (2) in Truro
- Micro businesses would be limited to two (2) in Truro
- Any type of marijuana establishment would be limited to one (1) license in each category and each license would be limited to a specific location (Product Manufacturing, other non-Co Op cultivation establishments, Medical marijuana treatment center, Third party transporter, research lab or testing facility)

Question by Jan Worthington – She is not sure she understands what it is that's being presented. Is what's being presented what the cultivators would like? Or is a draft of what the ad-hoc committee wants? Chair Sollog stated that this last grouping of items to discuss are what the cultivators are presenting, to see if the Town has interest in minor changes to the language to ease the permitting for the Craft Cooperative. Ms. Worthington would like to see the # of establishments kept at one.

Question by Shawn Pfeiffer – He narrowed in on one point which stated "One story buildings with harmonious appearance in keeping with the neighborhood." He had heard from one person on the Planning Board that if one of these businesses is growing marijuana it must have an eight foot fence. He wanted to know if that were true. Chair Sollog stated that the fencing is required for security reasons. Fencing has not been completely discussed as to what it will look like. Fencing can be put in and screened with shrubbery to hide it, but there is required fencing for outdoor growing. If the growing is being done in a space which can be secured then the fence is not required. Mr. Pfeiffer asked how a fence makes harmonious appearance. He personally would not like to live next door to a farm with an eight foot fence.

Statement by Drake Cook – Farms usually have a fence around their growing area to keep deer and rabbits out.

Questions by Amy Rolnick – She understood from a previous meeting that among the State requirements was that there would be a security system which would sound an alarm at the Police Station. She wanted to know if that was correct. Drake Cook stated that was correct. Ms. Rolnick also asked if there had been a study of how that would affect policing needs into the future. Chair Sollog does not have a study on that to hand to her. He cannot imagine what the actual effect is going to be. Her next question was did they know what the water requirements 200,000 square feet of canopy

would need. Mr. Herridge has some calculations on water and power use. The State of California has an issue with black market marijuana in Maricopa County, and their rivers are being drained due to the water diversion. California has calculated how many people are growing marijuana in the hills by measuring the height of the rivers. They have calculated six gallons of water per day per plant. 400 plants per acre would be 1,000 gallons of water per plant over a one-hundred and eighty day season. For indoor cultivation, water usage would be three to five gallons of water per day per kilowatt of light used. One kilowatt of light will be used for 25 square feet. That means that for an acre of canopy that would require 1,742 kilowatts per acre, requiring 8,700 gallons of water per day. More discussion was had regarding the number of 2 shipping containers vs. a 200,000 canopy.

Statement by Peter Burgess – His perception is that there is a group of people who are petitioning the Town for the right to grow marijuana commercially. Mr. Burgess strongly objects to the growing of marijuana in residential areas. He believes the fencing will not be attractive, and he's also concerned with the mention of security lighting and the smell of the plant when it achieves maturity. He is urging the Board to consider the potential of the bylaw to permanently alter the appearance of the Town, and the wellbeing of its inhabitants.

Statement by Daniel Holt – He feels there is a basic conceptual difficulty around this bylaw which is that it appears to be written to facilitate the development of a new industry. This is Truro's opportunity to regulate the industry. If there is no bylaw passed, then there will be no regulation and the growers will be able to grow without any of the kinds of limits which are being discussed.

Statement by Stephanie Rein – She is an organic farmer and a member of the High Dunes Craft Cooperative. In order to survive, and pay her mortgage, she holds several jobs. Her interest in adding cannabis is to diversify her crop list and maintain her family farm. By supporting local cannabis businesses with a focus on community, Truro's future will also be supported.

Statement by David DeWitt – He's had the pleasure of growing in California, and wanted to speak about that. The numbers which Mr. Herridge brought up during his research in using California as an example is like comparing apples to oranges. Truro's environment is 100 percent different than California's. Our humidity levels reduce the need for a lot of water. There are so many variables in growing cannabis that to try to pinpoint one item is almost impossible. The genetics of each plant dictates how the plant needs to grow. A tropical variety would need much more water per day than a variety borne out of the mountains in the Afghanistan region. The amount of space needed to grow a plant also varies on the plant. Cape Cod will be a tough environment and they will not be able to come close to the canopy held in California, Colorado, or Washington. The CCC is mandating that led lighting be used for indoor growing which means the energy used will be much less. By using the led technology, the yield will also be dramatically lower. Mr. Herridge informed the audience of where he got his figures from.

Statement from Elaine Reilly – She wants people to remember that Truro is an agricultural town which has become a residential town.

Statement from Andrew Smith – He thinks his property is 600 feet from one of the proposed sites. His latest worry is the smell. He went online to research whether controlling the smell outdoors is possible.

It appears there is equipment available to control the smell indoors. Mr. Smith feels the distance to residential properties needs to be brought into consideration. He is worried about the potential loss of property value and the change in the character of the Town.

Question by David Neskey – Where does the Board stand on the bullet points proposed by the High Dunes Craft Cooperative. Chair Sollog stated that the Board has been trying to compromise with the Cooperative to find a place where they agree and where the Town is protected. Mr. Neskey asked that if a special permit is issued, abutters will need to be notified. Chair Sollog confirmed that was correct. Mr. Neskey asked if there would be background checks on the people involved in the growing of the marijuana. Chair Sollog said that the Cannabis Commission has a series of requirements, of which background checks are included.

Statements by Ann Greenbaum – She advised that if the Town does not pass a bylaw, the industry will move forward. She feels that the Town needs to come up with a bylaw that strikes a balance between supporting the farmers and protecting Truro. In listening to some of the conservation, it's clear that there is so much that the Town does not have exact information on that the Town should go back to specifics to look at creating something that supports the industry getting started. She feels that the proposal for canopy size is larger than what was discussed early on and perhaps that canopy size should be reduced and build in "rolling growth".

Statement by Regan McCarthy – She is in agreement with much of what Ms. Greenbaum just said. She thinks this is an extraordinary opportunity for the Town to bring in a new wave of income generation in to the Town, and to figure out how to make it benefit all. We should not allow nostalgia impede our thinking. She is struck by how much we do not know, for example; wastewater management, the accuracy of the figures presented by Mr. Herridge, what does a square foot of canopy look like, will residential properties face the potential proliferation of other commercial demands of use in residential districts. She is asking for a fact sheet that voters will be able to read, that answers such questions.

Ms. Laughman tried to answer the question of whether any residence could grow marijuana. Anyone who would qualify to grow will also have to qualify under a state license. If a craft cooperative is the only State license category that is allowed to grow in the residential district then you would have to be part of that cooperative in order to grown on your residential parcel. This proposal does not open up the residential district to marijuana cultivation as a separate use category. There is a separate use category that's not linked to a craft cooperative, and that's been proposed only in the Route 6 district (with a special permit and a license from the state).

Statement from Kathy Ho. It is her understanding that in the state of Massachusetts there is no limit, state-wide, to the amount of licenses to be given out. She has some concern about sculpting the bylaw around just a single co-op. A co-op from another location could come to Truro, rent property to grow marijuana, but not share the same assumed values Truro residents have. She asked if a provision could be placed in the bylaw that growers would have to use organic fertilizer. She is also concerned about the wastewater and the run-off from fertilizers.

Statement from Chris Clark – At the beginning of the discussion tonight (and throughout the meeting) it's been mentioned that the town needs a bylaw "or else". He is not sure of the timeline. Is the Special

Town Meeting date set in stone? Will all the issues be resolved by that date? He doesn't understand why he's heard that if a bylaw isn't done soon then "all hell is going to break loose".

Ms. Laughman began by explaining the nuance of the Massachusetts Land Use Law. Unless you specify a particular use in the table of use regulations it would not ordinarily be deemed an allowed use within the community. This is not the case with marijuana uses. Marijuana uses are deemed allowed unless a town opts out of a specific ballot process and bylaw process. What happens with communities which do not put in place specific regulatory zoning that calls these uses out by their specific categories is that you default to what the underlying zoning is in your community. You have to find a use classification which most closely fits the proposed use. The issue now is that the CCC is accepting license applications for all of these uses and the applicants are looking to the towns to see where these uses are allowed. You can't tell them that you haven't passed a bylaw, that it's prohibited in the community, you need to look to your underlying zoning. The failure to pass a zoning bylaw doesn't mean you're prohibiting the use, it simply means you have a broader set of areas in which these types of uses could potentially locate. The Town doesn't have specific regulatory controls with respect to the impacts of those uses.

Mr. Clark asked someone to clarify why there's an urgency. Mr. Laughman responded that the Town has a craft cooperative that would like to engage in this use and they are ostensibly allowed to do that under State licensing and you cannot tell them it's not allowed. If a bylaw is not passed the co-op can grow 100,000 square feet of canopy anywhere in the town.

Town Manager Palmer got up to speak. There was an article presented at the April Town Meeting that proposed a moratorium. As part of that process in preparing that article there was much discussion between the craft cooperative and the Select Board. One of the agreements that was part of that discussion was that the Town would try and move a bylaw into place in the Fall.

Question from Jan Worthington – She has a question for the co-op regarding the last bullet point "use of residence for processing in residential districts". Does that mean that each site is going to have a residence attached to it, or does it mean that if you have a site of land that's being farmed that you would transport the plants to a residence to process and manufacture them?

Michael Fee, representative of the High Dune Craft Cooperative, got up to answer Ms. Worthington's question. The language on that last bullet was developed in response to the original ad-hoc committee's proposal which lumped together residential and motel uses and stated that growing cultivation could not take place in those two lumped together categories. The reality for the co-op members is that most of them have residences on their farm parcels. In some of these residences they plan to conduct activities to extract from the flower the active ingredient in the plant. Some of these manufacturing processes may take place in a residence in an allowed grow site, in a residential district. The site plan review process and the special permit process will be specific to each parcel. The special permit issued by the ZBA will only allow distinctly defined activities in each of the parcels. Mr. Fee does not believe the bylaw that the High Dunes Craft Cooperative is proposing will allow a grower operating in a residential district to take his/her product someplace else to process it. That processing would have to take place in the residence, on the parcel, where the product is grown.

Question by Maureen Burgess – She asked if the Board had determined that they will not be the special permitting board, that the special permitting will be issued by the ZBA. Chair Sollog answered that he thought the ZBA would be issuing the special permits. The Board has not had a chance to discuss that item. Ms. Burgess would prefer to see the Planning Board handle the special permits.

Several points by Daniel Holt – He wished to preface the points by saying that he hopes the Planning Board will be able to put together a bylaw that will pass, and he thinks it would be great to find a way to do this so that the farmers of Truro have option to viably grow in a way that is harmonious with the non-farmers.

- Minimum lot size. He's seen 1.5 acres and has heard 2 acres mentioned. He feels it's important to have a minimum lot size.
- Discussion of the number of parcels that would be permitted for the craft co-op. He has heard the number five and feels that is reasonable.
- In regard to the question regarding the issuance of a special permit and doing a site plan review, would there be specific criteria that would have to be taken into account during the process but he thinks they should be spelled out.
- It would be good to require that if a grower steps up in their licensed tier (for example from tier 2 to tier 3) that they would need to have additional site plan review.
- He has heard discussion about the size of buildings, the ratio of buildings to lot size, and drawing a distinction between a metal structure and greenhouses. From the standpoint of people who are concerned about the appearance of these locations, could they encourage structures that look like what non-farmers think look like farm structures (for example, greenhouses and barns).
- He's concerned about light pollution from nighttime security. He doesn't know how you achieve acceptable security without security lights at night. Chair Sollog has heard that the use of infrared lighting would be acceptable. Downward shaded lighting would still be required. Mr. Holt urges the Board to include some protections from light pollution for neighbors.
- While he is not against fences, there are ways to make them appear acceptable by growing vegetation on them. Requirements for screening should be included.
- He does not know enough about the odor or how to control it. That is something which could be a significant detriment to neighbors.
- He's heard mention of trying to harmonize new buildings with the community and he feels that would be good to include.
- When it comes to the special permits, would they be transferrable if they sold their lot. He thinks the special permits should be non-transferrable. Chair Sollog confirmed that the CCC already makes the permits non-transferrable.
- There should be a "trigger-clause" where if someone's license expires or is not renewed that they then lose their special permit.

Statement by Peter Staaterman – He is a member of the High Dune Craft Cooperative. He is in that category of owning a farm which is surrounded by residences. The farm goes back to the 1750's. In terms of what they may do on the property regarding cannabis, the current areas which people can see which they are growing in would not be used. He has a large piece of property at the top of his hill which is extremely wooded, and you cannot see neighbors from there. That is the area he would designate as a potential growing area for the business, if they get into it.

Secondly, Mr. Staaterman questioned the suggestion of having to put up a performance bond. From a business perspective, it does not seem fair or logical. Under the CCC there is a provision which states that if the business collapses, you must have put aside funding to be able to remove all of what you put in place. Ms. Laughman stated that the funding has to do with the destruction of any plants that would be remaining after a business closes.

Thirdly, under the State law, each adult in a household can grow six plants. Mr. Staaterman is currently growing eleven plants and he's been calculating his water usage. He is consuming about .87 gallons per plant, per day.

Mr. Staaterman also wished to comment about the 100,000 square foot canopy. The State says that a cooperative can grow a maximum of 100,000 square feet. That does not mean that they are going to do that from day one. He believes a lot of the issues revolve around the fact that the Board is trying to set up rules for farmers who haven't had growing areas in residential spots. His recommendation to the Board would be to set up a new property classification, which would apply to farms.

Question by Jane Clark – She would like to know what the Planning Board's next steps are. Chair Sollog stated that the next step is to close the public hearing. The Board will then deliberate, with all the information they have gathered, to write this bylaw. Ms. Clark asked if the whole Board will be involved, or a small group. Chair Sollog stated it will be a Planning Board meeting. Once written, it will be recommended to the Board of Selectmen.

Question by Chris Clark – He'd like to know if the Board would accept written comments to contribute to the deliberations. Chair Sollog agreed in the affirmative. However, once the public hearing is closed, the comment period is closed as well, and the public hearing will be closed at the end of this meeting. Ms. Laughman offered that the Board could vote to continue the public hearing to their next meeting (to accept written opinions) and then close the public hearing at the beginning of that next meeting.

Question by Skip Hakala – The "movable containers"; would it be possible to have them in an industrial area vs. a residential area.

Chair Sollog polled the Board to see if they would like to continue the public hearing.

Mr. Kiernan made a motion to continue the public hearing to a date certain, Tuesday, August 28th, 2018 at 12:00pm at Town Hall.

Ms. Tosh seconded the motion.

So voted; 7-0-0, motion carries.

Reports from Board Members and Staff

Interim Town Planner Bardi handed out a letter received from Mr. Winkler in response to the Board's request from their July 25, 2018 public hearing that he submit a letter stating his compliance with his commercial site plan approval. Chair Sollog read the letter aloud. The Board would like to conduct a site visit. Interim Town Planner Bardi will confirm with Mr. Winkler for availability.

Interim Town Planner Bardi then handed out two decisions from the Board's August 8, 2018 meeting where they rescinded the subdivision plan for Rose Hill and denied a site plan approval for White Sands. She requested the Chair to sign both.

Chair Sollog asked if minutes of this meeting would be provided. Interim Town Planner confirmed in the affirmative.

The next meeting will be held on Tuesday, August 28th, 2018 at 12:00pm at Town Hall.

Mr. Herridge made a motion to adjourn the meeting at

Mr. Roderick seconded the motion.

So voted; 7-0-0, motion carries.

Respectfully submitted, Noelle L. Scoullar

Noelle L. Scoullar
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