

BOARD OF SELECTMEN – TOWN OF NATICK

PUBLIC MEETING MINUTES

REGARDING POTENTIAL MEDICAL MARIJUANA FACILITY IN NATICK

NATICK HIGH SCHOOL AUDITORIUM

June 21, 2017

7:00 PM

PRESENT: Chairman Jonathan Freedman, Vice Chair Susan G. Salamoff, Clerk Richard P. Jennett, Jr., Michael J. Hickey, Amy K. Mistrot

ALSO PRESENT: Town Administrator Martha L. White, Police Chief James Hicks, Director of Public Health James White, Director of Community and Economic Development Jamie Erickson, Prevention & Outreach Program Manager Catherine Sugarman, Town Counsel Brandon Moss, Executive Assistant Trish O'Neil

Chairman Jonathan Freedman called the meeting to order at 7:08 p.m.

DISCUSSION AND DECISION

Discussion Regarding Potential Medical Marijuana Retail Facility:

Mr. Freedman explained that several companies have contacted the Town over the past few months about establishing a registered medical marijuana dispensary in Natick. However, none had identified a viable location, but one has recently done so that conforms to the Town's Zoning Bylaws. Representatives of this company have met with Town Officials and as part of their state application, the company must receive a letter of nonopposition from the Board of Selectmen, one of many steps required to receive state and local approval, in order to move forward. If a company were to receive state approval, approval would then be required from the Planning Board and the Board of Health. Mr. Freedman indicated that tonight's conversation is held to gather information from the involved Town Departments and from Town Residents, discussing no specifics of any one proposal nor taking any action – the Board will simply listen in order to help determine what steps should be considered going forward. The focus tonight is to be medical marijuana, not recreational, and, in any case, the recreational marijuana law is currently in flux in the state legislature. Mr. Freedman introduced all of the participants at the table as listed above, and invited Mr. Erickson to be the first to speak.

Mr. Erickson reiterated that many interested parties have approached the town. In 2014, the Town adopted zoning governing medical marijuana dispensaries with a bylaw currently on the books outlining where a dispensary may be located in Natick, including a certain distance from residential property and in the regional central overlay district, i.e., Route 9 and Speen Street around the Sherwood Plaza area. One company has a location under agreement and is seeking a "Letter of Nonopposition" from the Board as required by the state. If they were to acquire that, the company would then have to apply for a special permit from the Planning Board that would involve a rigorous review process, to include site access, lighting, landscaping, effects on the proposed area, etc. There is, however, no application currently in front of the Planning Board.

With no questions offered by the Board Members, Town Counsel Brandon Moss was invited to speak. Attorney Moss explained that two ballot questions in 2012 allowed for the approval of a medical marijuana industry in Massachusetts and that the law deferred the authority to the State Department of Public Health as to how these facilities should be set up. Thus far, fewer than 10 facilities have received their registration certificates. There are three types of medical marijuana dispensaries: 1) cultivation, 2) retail, and 3) a combination of numbers 1 and 2. The Attorney General would not allow for the banning of medical marijuana dispensaries but state law now requires a Letter of Nonopposition from the local licensing authority in order for an application to move forward. The current process imposes a one-year time period for a dispensary to get everything up and running, with the burden on the dispensary to obtain its provisional certificate of registration. If this is not done within one year of application, the facility must start at the beginning, reapplying and paying all fees again. The 2016 ballot question set the groundwork for a nonmedical marijuana industry in Massachusetts and provided for the establishment of a state Cannabis Control Commission (CCC), which, though it does not yet exist, is to issue regulations regarding nonmedical marijuana by July 1, 2018. If regulations are not issued by then, a medical marijuana dispensary will be able to engage in nonmedical operations until such time as those regulations are issued. Local authorities

cannot prohibit a nonmedical marijuana facility from operating in an area in which a registered medical marijuana dispensary is operating. Ms. Salamoff asked for clarification. Attorney Moss stated that under current state law, if a medical facility is approved and the state has not issued its regulations by July 1, 2018, then a medical facility can engage in nonmedical business activities. And a nonmedical entity can operate if a medical entity is operating. Though registered medical marijuana dispensaries are nonprofit, communities can, under state law, negotiate Host Community Agreements, in which the community can arrange for payment. Mr. Hickey asked if there is any appeal mechanism for these entities if they cannot secure a Letter of Nonopposition. Mr. Moss said that there is currently no recourse – if this were the case, the entity would be advised by the state to get a letter from a different community. Ms. White asked if allowing a medical marijuana facility would inevitably lead to allowing recreational marijuana, and Mr. Moss stated that allowing a medical facility will open the door for recreational marijuana.

Mr. Freedman clarified by stating that if no state regulations are developed for nonmedical marijuana by July of 2018, then the proverbial door is open, and asked if that would apply if the Town were to adopt a more permanent ban on these facilities. Attorney Moss stated that a moratorium or ban would prevent a facility from opening, and some communities have used both a moratorium and a ban. A moratorium or ban would trump the lack of regulations by the July 2018 deadline. Ms. Mistrot asked if a moratorium would affect only recreational and not medicinal marijuana and Attorney Moss said it would be specific to the nonmedical use of marijuana.

James White provided an overview from the Public Health Department perspective. Following the favorable statewide vote in 2012, Natick formed a working group consisting of the Director of Public Health, the Chief of Police, the Town Administrator, the Director of Community & Economic Development, and Town Counsel which was to determine how to make sure the wishes and concerns of Natick residents were addressed. In the spring of 2013, the Town adopted a temporary moratorium until June of 2014. In 2014, the Town was informed that an outright ban would not be allowed and decided that local regulations were the best way to go. The Board of Health does have the authority to adopt regulations when none exist. The regulations were compiled and vetted through the working group, Town Counsel, and Counsel for the Massachusetts Association of Health Boards. The final product is a combination of several models and can be found on the Town's website on the Board of Health page.

Mr. Hickey inquired about local regulations for recreational marijuana. Attorney Moss stated these would be separate and apart from regulations related to medical marijuana but that it is important to ensure that the Town has regulations relating to recreational marijuana in order to maintain local control. Mr. Freedman asked for clarification as to whether the Board of Health has the authority to create regulations that pertain to nonmedical marijuana. Attorney Moss responded affirmatively that the Town should have its own regulations in addition to whatever regulations the state might adopt, and that once state regulations are created, they may or may not trump local regulations, but if no regulations are compiled by the state by July of 2018, then Town regulations would dictate what happens. Mr. Hickey suggested then that the best practice might be for the Town to have something in place even if it predates nonmedical state regulations. Attorney Moss agreed, stating that the Town may want to consider a temporary moratorium through the end of 2018 in order to allow for time to review and digest any regulations put in place by the state and to allow time to plan out a course of action, giving an example of one community that has put in place a moratorium until six months after state regulations are issued, or December 30, 2018, whichever comes last.

Chief Hicks stated that his concerns were around safety and security, including such things as the safety of the facility itself and the surrounding area, the type of security that is employed, ensuring that point of sales transactions are done face-to-face since those purchasing are required to be registered, having access to the facility at any time, both during construction and once in operation, requiring a video camera security system with unlimited access for monitoring and investigatory purposes, ensuring that the product is stored and secured correctly, monitoring how and to what location the product is delivered, etc., and, in general, ensuring that there is strict adherence to local and state regulations. All of these and more have been included in the Board of Health regulations.

Ms. Sugarman was asked about her thoughts about the potential impacts of a medical marijuana facility and what considerations the Town should be aware of in terms of prevention, education, outreach, etc. Ms. Sugarman stated that it is important to find a balance between medical needs and benefits and protecting the community. She noted that the Board of Health regulations are very prevention oriented and that the developing and implementing such regulations is a wise move. Other states have provided very clear limits on the amount of THC in marijuana, the types of edibles that are made available, the types of packaging that are used, clear identification of a serving size, how long it will take for the product to have an effect, etc., and it was her hope that dispensary employees work hard at educating customers as to the risks and effects and that the dispensaries closely adhere to state and local regulations. With more legal access to a substance, statistics have shown that

rates of use increase across all age groups, so there is a need to consider the concentration of outlets and their locations, and to communicate clearly, especially to our youth, that medical cannabis is strictly for specific uses and age groups and that being a medical product makes it no less risky to try. Ms. Sugarman stated that public safety implications need to be considered and that access to support, treatment services, and prevention education is crucial.

Ms. Mistrot asked how making recreational marijuana available legally would affect public health and safety but Mr. Freedman, recognizing the importance of the question, asked that the meeting remain focused on medical marijuana. Mr. Jennett asked what impacts there have been on surrounding communities that have medical marijuana facilities and growing facilities in terms of safety. Chief Hicks replied that in his interactions with other Police Chiefs, the jury is still out. Registered medical marijuana dispensaries are highly regulated through a long and arduous registration process and clientele can purchase only in the confines of a very strict environment, so the Chiefs are less worried about the facilities and more worried about cultivation and delivery of the product from a lawful standpoint, i.e., delivery to clientele with medical cards by people who are not affiliated with a registered dispensary, which is illegal in the Commonwealth – only a registered dispensary may deliver. Mr. Jennett inquired about grow facilities and whether those could be prohibited while still allowing a dispensary. Attorney Moss stated that this prohibition would again involve the “Siting Profile,” a mandatory part of the registration process where a facility would indicate its intent to be involved in cultivation, retail, or a combination of the two, and, again, refusal to provide a Letter of Nonopposition would put a hard stop on the approval process since that is an absolute requirement in the registration process.

Ms. Salamoff asked how many registered medical marijuana dispensaries exist in the state of Massachusetts. Attorney Moss believed it to be 10 or fewer. Chief Hicks stated he thought 10 were licensed but only 8 were currently operating. Mr. White stated that he knew of some grow facilities not far from Natick, one in Franklin and one in Medway.

Ms. Mistrot asked if providing a Letter of Nonopposition would open the door for recreational marijuana without further action. Attorney Moss stated that allowing a medical facility will open the door for recreational marijuana. However, if Natick does not issue a Letter of Nonopposition, July 1, 2018 will come and go with no impact. If a Letter of Nonopposition is issued and a facility is registered in Natick and state regulations are not adopted by July 1, 2018, then that registered facility may engage in nonmedical activities unless a moratorium or ban is put in place.

Ms. Mistrot asked those present on the panel how they would feel, in their roles in service to the Town, if the introduction of medical marijuana were to develop into the availability of medical marijuana. Mr. White stated that the main concern of the Board of Health is prevention, especially youth prevention, and that his main worry would be a lack of state regulations and guidelines, resulting in no real control, noting though that there are things that the Town can do to protect itself, such as instating a moratorium until the direction in which the state goes is known. Ms. Sugarman agreed with Mr. White, noting that community norms are a particular area of concern – there has been a decline in the use of marijuana among the youth and her interest would be in sustaining those declines. She also tagged community messaging about the potential risks of marijuana use among young people as very important and noted the significance of communicating in words and actions the risks one is taking with the choice to use. Chief Hicks agreed with both Mr. White and Ms. Sugarman and added that from a law enforcement point of view, and understanding that the Commonwealth has voted to legalize recreational marijuana, it is still a Schedule I Drug and harder to regulate than medicinal marijuana in that it opens the door for anyone to come in and buy. Also of concern are data received from other states regarding increased instances of operating under the influence. Overall, the Chief thought that the introduction of recreational marijuana would increase public safety concerns.

Mr. Hickey asked if a Host Community Agreement could stipulate that allowing a registered medical marijuana dispensary would not evolve into recreational marijuana. Attorney Moss stated that the language in the statute states that a recreational marijuana establishment can operate in any area that a medical marijuana dispensary is authorized to operate. When Mr. Freedman questioned the definition of “area,” Attorney Moss stated that this was vague, but that the conservative answer would be the zoning district.

Mr. Freedman opened the meeting for questions from the public.

Jeffrey Rosenberg of Everett Street stated that he has been using medical marijuana for migraines and glaucoma for two years and it has been of significant benefit – even his eye doctor has seen improvement. He suggested that the Board reach out to people in the community who have dispensing physicians in the area. Mr. Rosenberg

sees Uma Dhanabalan, M.D. on Central Street in Natick who, he said, has done a lot of outreach and education regarding medical marijuana. In the past, Mr. Rosenberg had to drive to the dispensary in Brookline, which was quite an inconvenience for him. He expressed his wish to see this endeavor move forward. Mr. Freedman, sensing that Mr. Rosenberg may have the perception that the Board of Selectmen was against the idea of a registered dispensary in Natick, assured him that that was not the case, that the Board was here to listen and learn and that no decision has been made. Mr. Freedman asked Mr. Rosenberg to stay after the meeting to collect contact information from him.

David Mangan of Precinct 9, a registered pharmacist, stated that he was in full support of a medical marijuana facility, though he did vote against recreational marijuana. He asked if the transfer of a medical marijuana facility license would require approval. Attorney Moss said that it would require approval by the Department of Public Health, but that he had seen some special local regulations that make it nontransferable. Mr. Erickson stated that under the zoning bylaw, the required special permit could only be transferred with approval of the Planning Board in the form of an amendment. Mr. White stated that any dispensary would have to meet Board of Health standards and would have to go through the Planning Board review process, in which case it could be transferred as long as the state has approved the transfer. Mr. Mangan asked about the monetary interest to the Town. Attorney Moss stated that that would be subject to discussion between the Town and the dispensary – some towns have flat fees, some require a certain percentage. Mr. White stated that there will be annual Board of Health permit fees. Attorney Moss stated that since these facilities are nonprofit, they pay no sales tax but are required to pay property taxes. Mr. Mangan asked at which point in the process taxes would be applied and Attorney Moss said he would have to look into that. Mr. Mangan suggested reviewing the criteria of the Board of Registration of Pharmacies and applying those, indicating that many medical marijuana dispensaries have invested in products without hallucinogenics like THC.

David Coffey of Precinct 2 stated that a hard look needs to be taken at medical marijuana as a legitimate medical alternative. Indicating that he had been prescribed opioids for pain, which he did not want to take, he obtained a medical marijuana card and has found that the product has aided tremendously in pain management, without the side effects of opioids. He also expressed interest in having an easier way to fill his prescription. He stated that obtaining a medical marijuana card is a very expensive undertaking, and the process is very regulated. And prescription filling is thoroughly tracked – one cannot go from one dispensary to another to fill prescriptions. He urged the Board to consider, with proper safeguards, allowing a dispensary to operate in Natick.

Bruce Snow, a former Town Meeting Member, expressed hope that the Town would not issue any medical marijuana license. He stated that voters passed three initiatives, one in 2008, one in 2012, and one in 2016, all of which violate the state and federal constitution. He stated that former Attorney General Martha Coakley said there was a major constitutional problem with the medical marijuana law but that it was beyond her power to declare a law unconstitutional. He stated that Chapter 3 of the Articles of the Constitution of the Commonwealth says that each branch of the legislature has authority to acquire an opinion from the Supreme Court and he urged the Town to require the Justices to render an opinion on these three medical marijuana laws.

Thirty-year-old Alvin _____ of Marion Street has had serious back problems since the age of 27 for which he has been prescribed Vicodin, Aleve, and other medications, none of which worked to control his pain. Physical therapy did not help either. He indicated that he stopped all medications and decided to consider medical marijuana. In order to obtain a card, all of his medical records had to be provided and the process itself was rigorous. In the beginning, he had to drive to Salem, an arduous trip with his existing back pain, to procure medical marijuana. He then visited Dr. Uma Dhanabalan in Natick. Alvin stated that has had great relief from the medication and this has allowed him to recover and focus on strength training. He recognized the concerns related to young people using recreational marijuana but suggested that a moratorium on medical marijuana will not prevent anyone from acquiring chemicals. He urged Natick to set an example for other communities.

Susan _____ of Precinct 10 stated that her concern involves the legacy we will leave to our children, that this decision requires sober, prudent consideration, and that in opening the door to recreational marijuana, the Board needs to be very careful. She stated that there are already existing medical marijuana dispensaries in Massachusetts that are available to people, but there is information that is scientifically based that it is detrimental. Susan stated that the introduction of medical marijuana is the first step to allowing recreational marijuana. She closed with “recovery involves a lifetime.”

Adrienne Walker of Cottage Street stated that she knows people who suffer from chronic illness and pain and questioned why we do not simply allow them access to what they need. She stated that 65% of our community voted in favor of medical marijuana, and that people should be able to get the treatment they need without driving

for hours to obtain it. Ms. Walker stated that people obtaining this medication are adults, ages 21 and up, and should be allowed to obtain it in a safe, secure way. It is also revenue generating for the Town, and she expressed confidence that parameters can be established around these facilities. Attorney Moss stated that any agreement between the Town and a facility would involve a contract in which the Town can list protocols and parameters that will allow the Town the control it wishes to have.

Lee Smith stated that he has a company and has worked in the industry both here and in Colorado. He stated that children are acquiring marijuana now through the black market and that the only way to drive out the black market is through a business entity. He indicated that there are stiff penalties in place for any facility that diverts its cannabis to the black market – it is actually a felony.

Sandra Sidney stated that she is more or less in favor but inquired about dispensary regulations for tracking from seed all the way to the consumer. Mr. White stated that this is already a part of the state regulations – tracking is required.

Ms. White asked if Board of Health permitting would require a public hearing. Mr. White stated that that would not necessarily be the case, that it would typically be done in-house.

Mr. Hickey asked if any states are dealing with both medical and recreational marijuana simultaneously. Chief Hicks stated he did not know the answer to that question but would make inquiries. Ms. Sugarman stated that it was her understanding that the black market may still exist due to high tax rates for medical marijuana facilities, and that Massachusetts may be in a unique position in that it may be the first state to provide and opt-out process for recreational marijuana – in other states, once recreational marijuana has passed, communities are given the option to opt in to allowing the sale of recreational marijuana.

Ms. Salamoff stated that further conversations would be had regarding policy and Mr. Freedman confirmed that future discussions would be held regarding what the Town's next steps will be.

Mr. Freedman thanked the public, Town Officials, Town Counsel, and Board Members for attending.

ADJOURNMENT

On a motion by Ms. Mistrot, seconded by Mr. Jennett, the Board unanimously voted on a roll call vote to adjourn the Board of Selectmen's Meeting at 9:08 p.m.



Richard P. Jennett, Jr., Clerk

June 21, 2017 Board of Selectmen Meeting Minutes Approved by the Board of Selectmen on June 26, 2017

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No documents were distributed during this meeting.