



Ad Hoc Retail Marijuana Committee (Town Council Sub-committee)

Members

Hope Cahan
Claudia King
Aaron Svedlow

Staff

Ethan Croce
Nathan Poore

Draft Meeting Minutes

Thursday, March 7, 2019– 9:00 am
Large Conference Room, Town Hall

1. Call to Order

The meeting was called to order at 9:00 am with members Cahan and King present and Svedlow absent.

2. Update on current State legislation and next steps

Councilor King described the history of the Ad Hoc Marijuana Committee, the reasoning behind the committee's formation, and the reasoning behind the moratoria that were enacted in Falmouth over the past two years. Through 2018, Falmouth had moratoria in place since the statewide adult use legalization vote in 2016. The moratoria were put in place to prevent the unregulated proliferation of retail marijuana stores and social clubs and to give the Town time to consider whether it wanted to allow any of the different types of marijuana businesses in town. Prior to the recent 2018 changes to the statewide marijuana laws, absent the adoption of moratoria or ordinances to specifically prevent marijuana businesses, municipalities would have been forced to allow marijuana establishments to open. Now, due to recent changes in state law, the regulatory landscape has been completely reversed whereby marijuana establishments are prohibited by default until and unless they are expressly permitted by a municipality. This change in state law has removed the urgency around the original concerns of marijuana business proliferation. In addition, the recent statewide changes have resulted in statewide prohibitions on marijuana social clubs.

In light of these statewide changes, and the removal of the urgency around adopting marijuana ordinances, Councilor King posed the question as to whether the Ad Hoc Marijuana Committee still has an important role to fulfill, whether the Committee should continue or be disbanded, and whether marijuana policy and ordinances should be addressed like any other policy issue the Council considers and prioritized, or not, as part of the Council's summer work plan.

Councilor Cahan is interested in learning about whether municipalities can regulate

testing of marijuana and mentioned concerns around marijuana additives, including butane, and THC levels. Ethan said that municipalities can typically regulate more stringently than the State unless the State preempts their ability to do so. He said that some of Councilor Cahan's concerns around testing may very well end up being addressed by the State but that the State is still in the process of finalizing its licensing procedures. It is impossible to know when the State will be finished setting up its licensing process but it seems as if it will likely not be before summer 2019 and perhaps even longer. Councilor King said that the lack of clarity and finality around what the State is doing has been one of the challenges for the Committee. Ethan agreed it makes sense to be cautious about not wasting resources duplicating efforts that the State may already be making.

Ethan said there are two areas where the new municipal opt-in protections of state law do not apply: Medical marijuana caregivers and personal adult use. Municipalities cannot prohibit or limit the number of caregivers in a community and caregivers are allowed to grow up to 30 mature plants and 60 immature plants. If caregivers want to sell out of their home, however, they would be required to apply to the Board of Zoning Appeals to establish the use as a home occupation and the BZA could impose any conditions it felt might be warranted. Regarding personal adult use, generally speaking, municipalities may not regulate the home cultivation of marijuana for personal adult use. However, municipalities may adopt regulations limiting the total number of mature marijuana plants that may be cultivated on any one parcel of land as long as the regulation allows for the cultivation of three mature marijuana plants, 12 immature marijuana plants and an unlimited number of seedlings by each person 21 years of age or older who is domiciled on the premises. Representative Pierce has, in the past, attended Marijuana Committee meetings and advocated for regulating this in some fashion.

Councilor King wondered what the pitfalls would be of allowing growing of marijuana in a barn for several other people not living on-site. Councilor Cahan thought that there could be an odor issue and that compost can cause an odor. She thought that if someone is growing for 20 other people that starts to look like a commercial operation that could have negative impacts on a neighborhood. Councilor Cahan admitted that this type of regulation would be hard to enforce however. Councilor King also agreed it would be hard to enforce and said this would be especially true with indoor growing operations. She wondered what other towns are doing in this regard.

Councilor Cahan suggested that the Ad Hoc Marijuana Committee report back to the full Council with an update. She suggested that the Committee may want to consider a name change and a change in the committee's charge. Councilor King said another option would be to wait until summer to consider (re)establishing the committee with a new charge. Councilor Cahan likes the idea of keeping the

committee and to continue investigating current issues in conjunction with the State's ongoing work around licensing and regulations. She wondered how hemp is regulated and wondered if it would be confusing if someone wanted to open a hemp store. She said that the federal Farm Bill now allows the legal growing of hemp. She suggested a proposed name change to the Cannabis and Hemp Committee. Nathan questioned what the motivation might be to start regulating hemp or if this was more for information gathering purposes. Councilor King wondered if it was appropriate and reasonable to have a committee that simply stays up to date on a pending issue. This would be more of a broad charge and less specific.

Nathan expressed a concern he has voiced in the past about permitting marijuana establishments at the local level when marijuana is still illegal at the federal level. He is concerned about potential liability to the Town and to staff related to permitting or licensing marijuana establishments that are considered illegal federally. He said if the Town wants to allow these types of businesses he may be suggesting that a third party assume all licensing/permitting responsibilities instead of staff. He thought this permitting entity could potentially be the Town Council, the Town Attorney, or another third party. His concern is that he does not want to put either employees or the Town at risk.

Councilors Cahan and King agreed to report back to the Council with an update to include a recommendation that the Committee continue to meet with a new name and new charge of continuing research and becoming educated on the issue and, if appropriate, bringing potential recommendations back to the Council. Also the Committee should mention that there is specific interest in limiting or prohibiting off-site grows in a specific fashion to-be-determined.

3. Adjourn

The meeting adjourned at 10:45 am.