

**Wellfleet Selectboard Meeting  
Work Meeting  
Tuesday, October 15, 2019 at 2:00pm  
Town Hall Basement Hearing Room**

**Select Board Members Present:** Chair Janet Reinhart; Helen Miranda Wilson; Kathleen Bacon; Justina Carlson; Michael DeVasto

**Also Present:** Dan Hoort, Town Administrator; Michael Hurley, Police Lieutenant

**Call Meeting to Order**

Chair Reinhart called the meeting to order at 2:05pm

**Announcements, Open Session and Public Comment**

- Wilson announced that, according to Representative Peake and Chris Schillaci of the Department of Marine Fisheries, the Cutler Bill (with regard to aquaculture licenses) is being returned to the Massachusetts Aquaculture Association (MAA) for study and will not be acted on October 29.

**Discussion of Selectboard's Policy on Marijuana Establishments**

Hoort provided an updated draft of the policy to the Board. Bacon said she was fine with the proposed policy, saying that Hoort took the Board's concerns and vetted them with KP Law. She said she was not sure where this left a licensed agent with regard to edible products or a café. Reinhart said this was a matter that the Board could discuss.

Wilson said she would like to have an additional section that says edibles are not permitted. She said she was unsure if that could be in the policy if it could be limited. Hoort said this policy was just for a Host Community Agreement (HCA), for someone who wants to sell or grow marijuana in Town. He said that if there are restrictions or language the Board would like to add, he would talk to Town Counsel about them.

Carlson said the annotated comments from the lawyers were great. She reviewed their delineation of the plan, which she said was important because 1) the Board had gotten itself into an agreement with a set of applicants and then those people left the company; and 2) that if the Board was going to deny any agreement they would need to have "objective criteria". Carlson said using the lawyer's checklist of criteria in the application would serve the Board well when issuing HCAs. Reinhart asked Carlson to read the list of objective criteria. Carlson read the following:

- Knowledge and understanding of licensing procedures
- Prior cannabis experience or relevant experience of management team.
- Quality of business plan
- Proposed development timeline
- Parking and traffic management
- Financial commitments and other inducements to the Town
- Geographic diversity in proposed locations
- Provides opportunity for women-owned or minority-owned businesses, economic empowerment/social justice applicants.

Reinhart said it was a good idea to have this information included.

Wilson noted that some of these items are good and some of them are already covered in what is provided in the text of an HCA, so they should not be repeated. She said some of the criteria were none of the Board's business, that they are for the Zoning Board of Appeals (ZBA) to use for their determinations. The items that Wilson was referring to, that are between the applicant and the ZBA, are:

- Evidence of compliance with local zoning
- Security Plan
- Traffic and parking plan
- Proposed building design and signage
- Plans for external nuisance mitigation (light, noise, emissions, odor, debris, solid waste disposal)

Wilson said that the Security Plan was between the applicant and the State. She said that the "business summary of proposed business" should include the necessary information, and that the Board can deem if it is sufficient or not. Wilson suggested having just the business summary and the text summarizing the presentation be provided to the Board. She was also unsure if the Board can ask for "Non-monetary inducements, incentives or other benefits to the municipality."

Wilson, in reference to the list Carlson read, was unsure if the Board could require the following:

- Knowledge and understanding of licensing procedures
- Prior cannabis experience or relevant experience of management team.

Reinhart said the Board just wants to know that the applicant has thought about their plan, and it is not a fly-by-night idea. Carlson said the Board did not have to reject the application if the applicant did not meet all of the criteria. She said the business summary of the proposed business is very vague, and the Board should require a more in-depth business plan.

DeVasto agreed with Carlson. He said that, while there are items that are under the ZBA's jurisdiction, the Board could still ask to see them. Reinhart said she would like to know if applicants have been to other boards such as the ZBA and the Planning Board before coming to the Selectboard. She said she liked the criteria being in the policy. DeVasto said he would like to see financial projections also.

DeVasto asked if the Board could require all such businesses to be open 10 months of the year, saying he was concerned about having a lot of dispensary owners in Town who make all their money during 3 months of the year and then leave. Wilson noted that the draft policy already states "The Town will give priority to applicants that commit to be open a minimum of ten months of the year."

Wilson said it is important that the Board understand that this is about giving priority, not a yes or no. She then read the policy's paragraph stating "Further, if the Selectboard determines that an applicant's business plan does not sufficiently meet the priorities...the Board reserves the right to decline to enter into a Host Community Agreement." saying that the Board should be able to look at the big picture of their priorities when deciding on whether or not to issue an HCA.

Reinhart said it is up to the ZBA to look at the site plan and provide approval, prior to an applicant coming to the Selectboard. Bacon agreed with Reinhart about the process. She said the draft policy with Carlson's comments with regard to a business plan takes the ambiguity out of a business summary. Bacon also agreed with DeVasto's comment about seeing the businesses open 10 months of the year.

Hoort said that, once the policy is approved, he intends to create a checklist for applicants to follow. Carlson said she was in favor of the 10-month requirement, however the Board has already approved 5 and was unsure of where that leaves the Board. Reinhart said Hoort's checklist would be a way for applicants to know the Board's expectations of them as a business in Town.

Wilson said she wanted Counsel to look at the line "The Town will give priority to applicants with connections to the Outer Cape." She was unsure if the Board had that authority. Hoort said he has asked Counsel and was awaiting a response.

DeVasto suggested asking for a written commitment from the applicant to stay open for 10 months. Hoort said the requirement for providing a written commitment could be in the HCA.

Reinhart said the State does not have any requirements about being a year-round business, that it is left up to the localities. DeVasto said the use of the word "priority" means nothing to the applicant.

Wilson said the criteria list gives the Board discretion and flexibility. She said the applicant has to be able to be more preferable than another applicant. Reinhart said there was a lot of back and forth happening and that the bottom line was that the Board would prefer the businesses to be open 10 months a year. Hoort said he would find out if the Board could require this or not. Hoort suggested saying that the Town will give "highest priority", rather than just priority. There was further discussion.

Reinhart asked about having a review of HCAs after 1 or 2 years. Bacon agreed that 1 year is ample. Wilson said 2 years because of the State's guidelines. Hoort noted that the HCA is a 5-year agreement, but once an HCA is approved a business has 2 years to get up and running.

Hoort noted that the group for Old Wharf Road has until July 2020. Bacon said she is concerned about the group taking space next to Dunkin' Donuts. Bacon said she heard that of the applicants who have been granted an HCA by the Town, one at the Old Bank (on the corner of Main St and Route 6) and the South Wellfleet General Store, have been licensed by the State. Reinhart asked Bacon where she got this information; Bacon did not respond.

Carlson said the Board had a responsibility to make sure the applicants were good stewards of the community and she wanted to have a process to follow if they are not. Hoort said he would ask Counsel. She noted that people might congregate at the businesses if there are no marijuana retail establishments in their own towns. There was further discussion about what to do in the event there is congregating on the business properties.

Lt. Hurley said that the business owner could call the Police Department and could ask the customer to be removed if they were acting in an inappropriate manner. He also noted that consumption is not allowed on the properties. He noted that “protective custody” is only for someone who is under the influence of alcohol. He said an individual could be sent to the hospital in protective custody if under the influence of a substance other than alcohol. Hurley said it was up to the State to change that law.

Carlson asked about limiting the number of establishments in Town. Wilson noted it is in the draft policy, stating “Pursuant to Article VII, Section 46 of the Wellfleet General Bylaws, the Selectboard has the discretion to limit the number of adult use Retail Marijuana Establishments in the town already in existence in the town and/or in the surrounding area.”

DeVasto asked if there was language requiring the applicants to go to the ZBA prior to coming to the Board. Bacon said it could be in the check list; Hoort agreed but said that if the Board would like this to be a requirement, it should be in the policy. Reinhart said she did not think this should be a requirement. Hoort reviewed the Board’s changes.

Hoort said he would reach out to all current HCA holders and ask for an update. Carlson asked about public safety issues, such as if there are nuisance customers or neighbor complaints about an establishment. Hoort said the Town does not have the authority to pull the license, that the State does, and if there was a bad actor in the community, the Town would contact the State. Bacon said it looks as if Provincetown will have the first establishment open, providing an example of what might take place.

There was further discussion. Reinhart asked the Board their opinion on cafes. DeVasto said he was in favor of them. Carlson said she was in favor of them but wanted to take things one step at a time.

Reinhart asked their opinion on edibles: Bacon said she wanted edibles if it was only for prescription purposes. Reinhart was not in favor. DeVasto said there are edibles of all different potencies all over, currently, and that the State will control the amount of CBD or THC in an item and have the items be properly labeled. He stated that the potency in Colorado is very low. DeVasto said he did not think the Board could tell an establishment to sell edibles or not, but that the State would regulate the products. Wilson agreed with Bacon but said it is very hard to judge how it will affect different people; she said there should be no restriction. Carlson said it is safer for the State to regulate the production, than people making edibles themselves. There was further discussion. Hoort said he would check with KP Law on all of the concerns addressed.

- Carlson moved to approve the draft policy with the recommended amendments.
- Bacon seconded, and the motion carried 5-0.

### **Adjournment**

- Bacon moved to adjourn.
- DeVasto seconded.

Meeting was adjourned at 3:43pm.

Public Records Materials: 1) Draft policy from KP Law