

ZONING COMMISSION MEETING

MONDAY, JUNE 22, 2015

TOWN HALL 7:00 P.M.

Present: Chairman Don Truskauskas, Joseph Marzullo, Alternate Member Daniel Thurston, Alternate Member Lynne Steincamp, Alternate Member Michelle Rewenko, Land Use Coordinator Polly Redmond, Zoning Enforcement Officer David Perkins and Town Atty. Michael D. Rybak

Absent: David Mathes, Anne Marie Buonocore and Todd Ouellette

PLEDGE OF ALLEGIANCE

1. OPEN MEETING – ESTABLISH QUORUM.

Chairman Truskauskas called the meeting to order at 7:00 p.m. All members present are seated.

2. APPROVE MINUTES OF PREVIOUS MEETING: 6/8/15

D. Thurston **motioned** to approve the minutes of the previous meeting with the following amendments:

Page 3, paragraph 1, line 1 to read: "Atty. Michael Rybak submits a copy of a newspaper article (Exhibit A3) published in today's..." Same paragraph, line 10 to read: "...Producer Questions & Answers for Applicants. Atty. Rybak states the reason he **added these** to the record..." and line 11 to read: "...because when he saw there was a two million dollar bond, he notes this is still **illegal under federal law and...**" Page 4, paragraph 3, line 2 to read: "...believe, contrary to Atty. Byrne's opinion, **for whom he** has the greatest respect, that local zoning regulations..." and line 3 to read: "...are preempted, or local zoning prohibition is preempted, because regulation to the **nth degree is...**" Page 5, paragraph 2, line 6 to read: "...whether **the town** wants to get into the business..." Page 7, paragraph 1, line 4 to read: "...medical marijuana facilities and he reminds the commission that every regulation can **entail** a degree of..."

3. PUBLIC COMMENT.

None.

4. CYNTHIA KASEY – INFORMAL DISCUSSION FOR USE OF PROPERTY, 21 BURLINGTON ROAD, AS AN ART GALLERY.

Cynthia Kasey, owner of Local Lore, LLC, is present and distributes an information packet on her business and intent for use of the property. The Harwinton Assessor lists the property as 15 Burlington Road that includes lots 15, 17, 19, 21 & 23). The property, located in a Retail Service zone, was previously used as a furniture refurbishing shop and before that, a gift shop. Ms. Kasey proposes to open a studio with art gallery having hours of operation Wednesday through Friday, 11:00 a.m. to 6:00 p.m. and Saturday and Sunday hours 10:00 a.m. to 5:00 p.m. She also proposes to hold art parties every other Saturday from 7:30 p.m. to 10:00 p.m. with tickets purchased in advance and limiting the number of attendees to ten. If desired, bottles of wine can be purchased at the local liquor store next door and brought to the party, much like the sip n paint events being held throughout the state. A children's art party is proposed for the last Sunday of each month from 1:00 p.m. to 5:00 p.m. and which at times may be held outdoors. These events would not be limited to ten children but will be more of a drop-in event. The retail shop will include handmade jewelry, quilts and apparel, handmade equestrian items, handmade soaps, etc. and local prospective vendors will include New England Country Comforts, Lavender Fields, Taglewood Pottery, Morning Mist Alpacas, Lamothes Sugar House and The Pottery Spectrum. ZEO Perkins believes the proposed activity to be a permitted accessory use to the retail use of the property and suggests that a parking plan be presented with the application for a Change of Use. Ms. Kasey notes that the property owner, Brett Stone, is paving the parking lot and adding additional parking behind the Liquor Lady package store. Ms. Kasey will return to the 7/13/15 Zoning meeting with an application and sketched parking plan.

5. DISCUSSION/POSSIBLE DECISION - COMMISSION-INITIATED PROPOSED ZONING REGULATION AMENDMENTS ADDING DEFINITIONS OF MEDICAL MARIJUANA DISPENSARY FACILITY AND MEDICAL MARIJUANA PRODUCTION FACILITY AND TO PROHIBIT THE USE OF MEDICAL MARIJUANA DISPENSARIES AND MEDICAL MARIJUANA PRODUCTION FACILITIES IN ANY ZONE. (PUBLIC HEARING CLOSED 6/8/15.)

Atty. Rybak reminds the commission that a well worded resolution is required and must be thought out carefully by the commission. Commissioner J. Marzullo reads a prepared statement which remains on file in the Land Use office. Commissioner D. Thurston states that the goal is to look to the future and whether a medical marijuana facility would be appropriate for Harwinton. The town is limited in its space for commercial establishments where these facilities would be allowed and he believes other services for other types of goods in these zones would serve Harwinton residents better. Commissioner L. Steincamp states her belief that this is a gray legal area and that prohibiting medical marijuana facilities could prove to be expensive for the town if challenged. She believes it unlikely that an applicant will apply to open a production or dispensary facility in Harwinton and suggests a “do nothing” approach. She encourages Commissioners to read the State of CT Regulation of the Department of Consumer Protection concerning Palliative Use of Marijuana and reminds them that the marijuana dispensed is not loose-leaf and that medical marijuana is actually rarely smoked but that other forms such as pills and vapors are used and she likens it to patients going to a CVS with a prescription. She states that she has spoken with the Mayor of South Windsor, where a dispensary is located, and the mayor told her there are no problems associated with that business. Commissioner Rewenko expresses concern with the bills before legislature to get approvals for this. There are issues with Connecticut’s budget and she believes this could be attractive for the state to make marijuana legal recreationally. She states that Harwinton must be proactive and that the Commission is looking out for the good of the town. She would like to keep the integrity of the town and not open the doors to what could come if medical marijuana facilities that are allowed in town turn into recreational marijuana facilities. Commissioner Thurston states that if this commission decides not go through with implementing prohibition, they would be negligent if they did not address the issue of what the rules would be for establishing where in town such a facility could be placed and not establish Zoning Regulations for either type of facility. He believes it is safe to say that these facilities would impact the town’s police resources. Chairman Truskauskas poses the question of if the town were to allow medical marijuana facilities, where would they go? There is limited commercial space in town and with the location of the school being within 1000 feet to some of those Retail Service and Light Industry zones that would limit those areas from being used. Other commercial/retail zones are within residential zones and/or residential properties. He states that with more licenses being handed out by the state, now is a good time to present this proposed regulation.

Atty. Michael Rybak states that a number of Connecticut towns have now adopted distance regulations for medical marijuana facilities. The Zoning Commission first considered implementing a Moratorium on applications for medical marijuana facilities to see what court cases might arise, to which there have been none so far. The Zoning Commission now must deal with implementing a Zoning Regulation even though it is unlikely that an application for such a facility will come before this commission. The Harwinton Zoning Regulations are permissive and medical marijuana dispensaries are so close to being a pharmacy that such an application would fall under that special permit use category. He explains that the Zoning Commission can approach the possibility of imposing a distance regulation of 1000 feet from churches, schools, etc. or another approach is an outright prohibition. He reminds the commission that medical marijuana is still federally illegal. He cautions the commissioners on how to word the prohibition they are proposing.

Commissioner Marzullo questions that if medical marijuana use became a recreational use, would a pharmacist be allowed to distribute? Atty. Rybak states that the commission should be aware of “creeping” uses. Once medical marijuana is brought in, it can become recreational distribution in the same building and a town may not be able to halt this because it is an established business. He questions why CVS is not being the distributor of medical marijuana and the answer may be that monies collected cannot be put into an FDIC bank.

Commissioner Thurston states that even though medical marijuana is federally banned, that position can change in the future with Atty. Rybak stating, yes, legal doctrines change over time. Commissioner Thurston states that if medical marijuana shows to become a problem down the road, the federal government may begin to prosecute these facilities.

Atty. Rybak states that it is good to have this discussion. He suggests that each commissioner, if it is their position, can draft their own wording on support and reasons for this proposed Zoning Regulation to prohibit, forward them to Land Use Coordinator Redmond, who can put them together in format and present at the next Zoning meeting.

Chairman Truskauskas recuses himself from the following matter concerning complaints. J. Marzullo is acting chairman.

6. COMPLAINTS/ENFORCEMENT ACTIONS.

Jessica Genovese, 109 Scoville Hill Road, is present and reads her seven complaints for activities taking place on 5/19/15, 6/10/15, 6/11/15, 6/12/15, 6/15/15, 6/17/15 and 6/18/15 at 99 Scoville Hill Road, property owned by Don Truskauskas. Activities are described by Mrs. Genovese as operating Autumn Contracting and Excavating from the residential property and the possibility of an employer entering the property early in the morning with a personal truck and leaving in an Autumn Contracting truck and returning in the late afternoon. Complaints remain on file in the Land Use office. Zoning Enforcement Officer Perkins reminds the commission and Mrs. Genovese that the matter is still in court and that no further enforcement actions can be taken until the matter has been heard by a judge.

7. ANY OTHER BUSINESS.

None.

8. CORRESPONDENCE.

None.

9. INVOICES.

ZEO David Perkins submits his invoice in the amount of \$292.50 for the period covering 5/26/15 to 6/22/15. Reports are attached.

10. ADJOURN.

J. Marzullo motioned to adjourn the meeting at 8:45 p.m., seconded by L. Steincamp. Motion passed unanimously.

Respectfully submitted,

Polly Redmond, Land Use Coordinator