



Town of Hampden
Planning and Development Committee
Wednesday August 1, 2018, 6:00 pm
Municipal Building Council Chambers
Minutes

Attending:

Committee/Council

David Ryder - Chair
Dennis Marble
Ivan McPike
Terry McAvoy
Mark Cormier
Stephen Wilde

Staff

Karen Cullen, Town Planner
Myles Block, Code Enforcement Officer
Jim Chandler, Town Manager
Chief Rogers, Public Safety Director

Public

Ryan Murdock
Valerie Webster
Matthew Davidson

Chairman Ryder called the meeting to order at 6:00 pm.

1. Minutes for the June 20, 2018 meeting – **Motion** to approve as submitted made by Councilor Marble; second by Councilor McAvoy; carried 5/0/0.
2. Committee Applications: None
3. Updates:
 - a. MRC/Fiberight: CEO Block reported that construction is continuing and is going well. Town Manager Chandler reported he had attended the recent MRC meeting during which the Board held executive sessions with Craig Stuart-Paul of Fiberight. Those discussions regarded the construction delays and solid waste diversion until the plant opens. Fiberight said they were attempting to increase the hours the construction is occurring at the site to minimize delays. CEO Block said he would check the Planning Board Order to see if there are limits on construction hours. *[Ed. note: there are no limitations on hours of construction in the Board Order.]*
 - b. Staff Report: Planner Cullen reported that nothing new has come in over the last few weeks but there will be a couple of applications submitted on Monday.
4. Old Business: None.
5. New Business:
 - a. Proposed amendments to the Mobile Home Park Ordinance. Planner Cullen led a discussion on the proposed changes to align the Town's ordinance with the state regulations regarding separation of mobile homes within a park. The main points of the discussion were:

- non-certified mobile homes are those built prior to the institution of HUD certification, which was in 1975
- non-certified mobile homes are only allowed within a mobile home park
- the Town inspects homes when sold, and at various times other than that as well
- staff is not aware of the history on the reasoning for the difference in spacing requirements between town and state
- the ordinance also requires separation between a mobile home and any utility structure, and the state requirements have a separation between a mobile home and a community building.

Motion by Councilor Marble to refer to Town Council for a public hearing the proposed amendment to the Mobile Home Park Ordinance as drafted by the Town Planner to replace Section 8.3.18 of the ordinance.

- b. Recent changes to state laws regarding medical marijuana and adult use marijuana. Planner Cullen led a discussion about the changes to the adult use marijuana laws, particularly regarding home cultivation. The key points of the discussion were:
- The town has the authority to limit the number of mature marijuana plants that can be grown on a single property provided this limitation does not infringe on the right of any individual to grow 3 mature marijuana plants, 12 immature marijuana plants, and an unlimited number of seedlings for personal use.
 - State law allows adults to grow on one of the following: the property where they live (where they are domiciled), a property the person owns but they do not live on (e.g. a vacant parcel), or a property owned by someone else provided there is a written agreement between the land owner and the person growing and caring for the marijuana plants.
 - Concern regarding a “community” marijuana cultivation operation within a residential area.
 - Staff, including public safety, recommends the limit of mature marijuana plants to 9, which equates to 3 adults, in addition to the number allowed per adult age 21 or over per state law.
 - There are concerns with the potential for properties with multi-family residential buildings to have many more mature plants than most properties.
 - This proposed ordinance applies equally to all properties in town, regardless of zoning district.
 - Potential to have all marijuana regulations in a separate marijuana ordinance.
 - This only applies to cultivation by adults age 21 or over for their personal use.
 - After discussion, decided to not pursue an emergency ordinance to deal with this, just move forward with the (permanent) ordinance.

Motion by Councilor Marble to refer this proposed ordinance to limit the number of mature marijuana plants that can be cultivated on a property as written and discussed tonight to the Town Council for public hearing to be set; second by Councilor McAvoy.

Councilor comments: Councilor Wilde said he feels we are moving a little fast on putting an ordinance in place. Recognizing the complexity of the marijuana laws, he's not sure if we're doing the right thing with this ordinance if we don't have all the facts yet.

Motion carried 5/1/0.

The committee then turned its attention to the proposed ordinances regarding medical marijuana caregiver retail stores. Planner Cullen summarized the issue: the state legislature has recently enacted two amendments to the medical marijuana laws, one which is now in effect which allows towns to regulate registered caregivers, and the other which is a comprehensive overhaul of the laws which won't become effective until 90 days after the current session adjourns. Between these two there is left a gap that allows registered caregivers to open a retail store to sell their medical marijuana to any qualified patient in any location that allows retail sales, without town knowledge. The Maine Municipal Association has recommended that if concerned about this, municipalities can enact a moratorium on these retail stores until we have the necessary information to make informed decisions about how to regulate them (if at all). Staff does have concerns about this use, and recommends the adoption of such a moratorium, but in a two step process.

The first step would be for Council to adopt an emergency ordinance under the Town Charter to prohibit these retail stores, which would become effective immediately and would expire 60 days later. Adoption requires a unanimous vote by members present at the Council meeting. It is recommended that this be done August 6.

The second step would be to adopt a moratorium ordinance under state statute, which would be done after a public hearing and would become effective 30 days later. It would expire 180 days later unless extended or repealed prior to that date.

Discussion ensued, the main points were:

- The changes in state law have removed the patient limit for registered caregivers and replaced it with a maximum number of mature marijuana plants and immature marijuana plants.
- At this point we are waiting for the state to rewrite the rules that go with the medical marijuana laws, and we do not know what the best way to regulate caregiver retail stores is.
- Public attendee Matthew Davidson stated he is not interested in opening a caregiver retail store; his main concern is to enhance the ability of small family farms and small businesses in the medical caregiver market to thrive before the recreational marijuana market is opened.
- Councilor Wilde believes this is a moot point, that nobody can open such a retail store now anyway.
- Staff is recommending the emergency ordinance and moratorium in order to avoid have a caregiver medical marijuana retail store open which then becomes a nonconforming use.

Motion by Councilor Marble that on the basis of staff recommendation, we refer to Town Council for August 6, 2018 an emergency ordinance regarding caregiver medical marijuana retail stores; seconded by Councilor McAvoy; carried 5/1/0. [Ed. note: this ordinance will be processed under the Town Charter, Section 214.]

Motion by Councilor Marble to refer to Town Council a moratorium ordinance regarding caregiver medical marijuana retail stores for a public hearing to be set; seconded by Councilor McAvoy; carried 5/1/0. [Ed. note: this ordinance will be processed under 30-A MRSA Section 4356.]

6. Zoning Considerations/Discussion: None.
7. Citizen Initiatives: None.
8. Public Comments: Valerie Webster of 1325 Carmel Road North, directly across the street from Matthew Davidson's property where registered caregiver marijuana is being grown. The greenhouses are now up and she is concerned about the value of her property due to odors, traffic, and safety. Ms. Webster said she is asking for help when it comes to the commercial aspect of marijuana cultivation. Chairman Ryder said this will be discussed later when we have the information needed from the state.
9. Committee Member Comments: None
10. Adjournment: **Motion** to adjourn the meeting at 7:01 pm made by Councilor Marble, seconded by Councilor McAvoy; motion carried 6/0/0.

Respectfully submitted by
Karen Cullen, Town Planner