



**TOWN OF BARNSTABLE
TOWN COUNCIL/BOARD OF HEALTH
JOINT WORKSHOP ON MARIJUANA
MARCH 22, 2018**



A quorum being duly present, Council President Eric Steinhilber called the March 22, 2018, Joint Workshop on Marijuana with Town Council and the Board of Health to order at 7:00 p.m. in the Hearing Room of Town Hall, 367 Main St., Hyannis, MA.

An announcement was made by President Steinhilber regarding the meeting being televised live and questioning if anyone was actively taping the session to please make their presence known. This session is recorded and broadcast on Channel 18.

PRESENT: Britt Beedenbender, James Crocker, Jr., Debra Dagwan, John Flores, Jessica Rapp Grasseti, Paul Hebert (7:10 pm), Matthew Levesque, Paul Neary, Paula Schnepf, Eric Steinhilber, James Tinsley, Jr., Philip Wallace. **ABSENT:** Jennifer Cullum

BOARD OF HEALTH: PRESENT: Paul Canniff, Junichi Sawayanagi (7:40 pm)

President Eric Steinhilber welcomed the Board of Health and the entire panelists.

The Pledge of Allegiance was led by President Steinhilber followed by a moment of silence.

President Eric Steinhilber introduced the Moderator Maureen O'Shea, a Research and Strategy Professional and Community Volunteer from Cape Cod Community College.

Maureen O'Shea explained currently the Town of Barnstable has a moratorium on retail marijuana which is in place until December 31, 2018. The Town Council needs to contemplate regulating or banning the sale of retail marijuana after the moratorium ends. She noted there will be an overview of the regulations from the Town's Attorney Ruth Weil and a consideration of the financial tax impacts from Mark Milne, Town Finance Director. She added a panel will feature a numbers of speakers, with a number of questions from members of the Town Council, and the Board of Health. This is the beginning of the community conversation. Maureen O'Shea invited Ruth Weil, Town Attorney to give her overview of the regulations.

Ruth Weil, Town Attorney, noted there was a lot more information available, as she had placed the latest guidance from the Cannabis Control Commission (CCC) in the folders provided to Council. Ruth Weil, Town Attorney mentioned her condensed overview was to frame the discussion of our esteemed panel. She noted it was not meant to be a definitive study of the law. She explained the timeline implementation for adult cannabis usage. On, November 8, 2016, question # 4 passed state-wide by a majority but was defeated in the Town of Barnstable by a vote of 12,432 Yes 13,463 No; the significance of that vote will become clear later on due to the different regulatory functions if you voted yes or no. On, April 27, 2017, the Town Council put in place the temporary moratorium which was still in effect until December 31, 2018. She mentioned Governor Baker signed the legislation which revised the initial petition article which had a few ambiguities to be corrected or amplified. Governor Baker also has further legislation that is pending before the legislature to clarify several other points. She added this area is evolving with final draft regulations happening on March 7, 2018 and will be published on March 23, 2018 She noted the Cannabis Control Commission can take applications starting April 1, 2018 but there are many steps before an application can be submitted.

Ruth Weil, Town Attorney explained the crux of tonight's discussion was what the legislative options are: a complete ban of marijuana establishments for adult use. Barnstable voted against question # 4: Town Council can adopt a complete ban without having to go to the ballot. She mentioned those communities that voted in favor have a two-step process: legislative body has to approve a ban and then it has to go to the ballot. This ban is only available until December 31, 2019 and if that does not take place then the Towns will be precluded from banning it. She discussed the Attorney General's Office recommends any zoning ordinance, involving recreational marijuana that the municipality passes both general and a zoning ordinance, if the municipality only wants to do one it has to be a zoning ordinance. She noted the second option instead of a complete ban is to limit the amount of marijuana establishments and type of facility. She added we can establish local licensing procedures but cannot conflict with state law and cannot bar transportation or marijuana products. Agricultural exemption under Chapter 40A Section 3 does not apply for marijuana. She said it can be regulated in a different way but not legally exempted like other agriculture uses. Personal use of marijuana has an exemption and it cannot be subject to municipal regulation, except where there are law enforcement elements. If the Town allows marijuana establishments, then the Cannabis Control Commission is required by law to engage in a licensing process. Applicants will need to demonstrate that they have a community outreach meeting within the last six months, have executed a host agreement with the municipality and once application is complete, the municipality will be notified and be given an opportunity to confirm that the proposal location is compliant with all ordinances and regulations.

Mark Milne, Director of Finance, explained we have not fully developed the cost of regulating, enforcing, educating, as well as other costs of such a program for the Town of Barnstable. He added he would be speaking about the revenue opportunities which are include in the law. He discussed Chapter 64N section 3 of the general laws allow for the community to adopt a local sales tax under this program. He explained a component of the law was a host agreement which allows for up to 3 percent tax of the retail sales of the organization. He noted the host agreement can last up to 5 years after which it expires. He noted the host agreement is the second opportunity for income for the Town although it has a sunset clause built in to it. He added third component is that the Town can adopt civil penalties, similar to the civil penalties the Town has for alcoholic beverages. He said the fourth or last component was the state fund, where all the state revenue generated by this program is placed. He explained the state fund once it pays for all its costs of regulating; enforcing; licensing, etc. any remaining dollars are available for revenue sharing with local communities with grants for school systems, law enforcement, and police training. He mentioned that there might be employment opportunities which may have a financial impact on the Town. He reiterated tonight they were focused on the tax and host agreements opportunities.

Councilor questions and comments:

Understand after 5 years the host agreements expire does that mean there are no more revenue opportunity? [Yes in the form of a host agreement as they expire one cannot charge anymore but the assumption is the tax will take over the responsibility of covering the costs of enforcement, licensing, regulation, etc.] The second question regarding the revenue sharing from the state fund – you must be a participant community to share in the dollars [Yes] Hosts agreements could be renegotiated, according to the act language [If the host agreement did not recoup the 3 percent of the sales dollars within the first 5 years then perhaps then it can be renegotiated to get up to that 3 percent, the key point is the municipality has to document all costs associated with the host agreement which is a public document. The Town will need to verify and prove the Town incurred these costs] By documenting it, it sounds like it is 3 percent of a fund, reality is we are documenting money spent by the Town so we are recapturing what we spent [Exactly] So there is no 3 percent surplus of taxes. [That is correct] [Town can charge up to 3 percent and 100 percent of that money will come back to Barnstable, the State charges 10 percent which would be part of the fund once all costs are paid] [The Acts of 2017, Chapter 55 the Cannabis Control Commission has been tasked to look at alternative basis for calculating the tax. for other than tax; could be based on volume, weight, and or THC level. We could be moved off a sales tax and be based on some other component than the tax itself.]

Maureen O'Shea introduced the panel: Henri Rauschenbach, Consultant/Lobbyist representing significant interests in Health Care and Energy; Michael O'Keefe, Cape & Island District Attorney's

Office and has been prosecuting cases for 30 years; Will Luzier, Political Director of the Marijuana Policy Project of Massachusetts; Lieutenant John Murphy, Barnstable Police Department; Spencer Knowles, RegulateCapeCod.org co-founder; and Stephanie Ellis, Barnstable School Committee Vice Chair.

Henri Rauschenbach mentioned 91 Town or municipalities voted against legalizing marijuana. He added this new business would help communities with year-round good paying jobs. He wondered did the Town make the right choice to stay of out or should they embrace the new business.

Michael O'Keefe noted he was against the ballot question regarding marijuana and felt along with the entire health community this was a bad idea primarily for our youth. He added the new directive from the Attorney General of the United States was that marijuana was going to remain illegal.

Will Luzier, explained he was the campaign manager for Question # 4 and works for the Marijuana Policy Project. He said the Marijuana Policy Project was an organization out of Washington D.C. which has been working on marijuana law reform for 21 years. He added Barnstable can choose to capitalize on this use or see others capitalize on this use.

Lieutenant John Murphy, Barnstable Police Department, read aloud from a letter dated July 2016 from the Massachusetts Chiefs of Police Association who opposed the legalization of marijuana in Massachusetts. He had questioned how to regulate and how to test for marijuana in one's system.

Spencer Knowles, RegulateCapeCod.org, discussed the facts that marijuana use was not going away and what the best way to legalize and regulate the plants. He felt the need to look ahead when the product is safe, tested, and taxed.

Stephanie Ellis, School Board, said she certainly sees a role for medical marijuana but she added that is not the conversation tonight. She mentioned, marijuana use can affect the prefrontal cortex, drop intelligence levels by eight points, and the impairment of an adolescent is still evident one year later. She added the buffer zone of 500 feet was not enough.

Councilor questions and comments:

Where is the medical marijuana zoned allowed in the Town [Industrial Park, in the Attucks Way area, Precinct 1]. Did the Town receive any applications for medical marijuana facilities? [No serious proposals or inquiries] As a practical perspective where do we go with the next step? [Educate Council with a tour of facilities, industries and leaders] Marijuana can be a dangerous should it be legalized? [There is a process to ban all retail marijuana establishments, personal use cannot be regulated by the Town.]

President Eric Steinhilber mentioned out of respect for the voters of Barnstable and the discussion we had here tonight at the June 7th meeting he would bring an agenda item forward to ban retail sale of marijuana. He invited the other Councilors who supported retail sales of marijuana in Barnstable to present their information to start the process for approval of retail sales of marijuana in Barnstable.

VOTE: ADJOURNMENT:

Upon a motion duly made and seconded it was

VOTED TO ADJOURN:

Adjourned at 9:00 PM

Respectfully submitted,

Janet E. Murphy
Assistant Town Clerk/Town of Barnstable