

Truro Select Board Meeting
Tuesday, August 27, 2019
Truro Town Hall Select Board's Chambers

Select Board Members Present: Janet Worthington, Chair; Susan Areson, Maureen Burgess, Kristen Reed, Robert Weinstein

Present: Town Manager Rae Ann Palmer; Assistant Town Manager Kelly Sullivan-Clark; Town Counsel Katherine Laughman

Chair Janet Worthington called meeting to order at 5:00 p.m. An additional private party was filming the meeting. Philip O'Brien said he was recording the meeting for an independent documentary.

PUBLIC COMMENT

Four speakers came forward for public comment. Bill Golden read a statement from One Truro regarding ways to fill vacancies on boards. Michael Holt, representing a group of citizens planning to participate in the Global Climate Strike, presented information on an after-school event open to the public at the Truro Elementary School on September 20, 2019. Peter Manso asked for guidance about licensing for pot farms and was informed that he would have a chance to speak during the portion of the meeting dealing with the Host Community Agreement. Marilyn Adams sought a follow-up on sign postings at surveillance cameras in Town. Ms. Palmer said the Town is working on a policy for the new camera system, monitored by the Police Department.

SELECT BOARD ACTION

Lower Cape Housing Institute

Andrea Aldana, Director of Housing Advocacy from the Community Development Partnership, presented information on the 2019 Lower Cape Housing Institute and invited the Board members to attend it. This year there will be six sessions offered on Wednesdays from October 2nd through November 6th at the Eastham Public Library. The free training is designed for elected and appointed municipal leaders and for Town staff. Truro has been well represented in the past. Ms. Aldana encouraged participation by at least ten Truro members this year. Registration for all or just one session is available online at www.capecdp.org under the "Upcoming Events tab."

Host Community Agreement

Town Counsel Katherine Laughman was present to discuss the Host Community Agreement (HCA) for the High Dune Craft Cooperative that she has been working on with Coop representatives, Town Manager Rae Ann Palmer, and Select Board members Robert Weinstein and Maureen Burgess. The High Dune Coop cannot proceed with state licensing without the HCA with Truro. Attorney Laughman explained the main portions of the HCA for Longnook Artisan Growers, Outer Cape Cannabis Connection, Out There Grown, and Pure Joy Farm. The growers will contribute community impact fees to the Town based on their gross sales: 1% the first year; 2% the second year and 3% years 3-5. Because it is for a cooperative, the agreement

covers the individual operations as well as the whole organization. The community impact fee schedule has a 5-year term. At the end of this period there can be a renegotiation, she said. The applicant will make semi-annual payments. There will be an independent audit reported to the Town. Non-financial provisions include: preference for local hires, payment of local taxes, land classification, security at local and state levels, inspections by Town agents, community impact concerns, protocol in cases of three complaints within a two-week period, and steps for procuring an independent mediator if needed. There remained only one provision that still needed to be negotiated, regarding the proposed distances for determining abutter properties. The Town proposed 600 feet, but the Coop recommended a distance of 300 feet for residential districts and 450 feet for commercial districts. Select Board members Burgess and Weinstein had recommended discussing the issue with the entire Select Board and the High Dune Craft Cooperative before making a decision on the distances.

Attorney Laughman said that the remainder of the agreement concerned permitting regulations, energy, water, waste and pests and environmental best practices, and submission of an annual report. There is language on odor control, an area that might need further discussion. No direct sales to customers are allowed at this time. Direct sales regulations are still under consideration at the state level. Because this could become an allowed activity, the Truro HCA has a provision that any requests for direct sales be submitted for Select Board approval. The Town will submit the required certification to the Cannabis Control Commission but does not promise to act upon any other approvals that are required. The HCA is intended to last as long as the cooperative operates in Truro with the exception of the community impact fee provision which has a five-year limitation. There is a sunset clause that would necessitate renegotiation if licenses and certification are not obtained in a two-year period. Annual reporting is required.

Robert Weinstein thanked Town Counsel, the Town Manager and members of the Coop for the work on the HCA. He discussed the help provided by the Cannabis Control Commission. He said Truro was one of two communities working on licensing growers in residentially zoned areas. He said there are statutory regulations offering guidance on distances. Susan Areson asked that Ms. Laughman explain the next steps.

Attorney Laughman said the Community Host Agreement is the first step in getting a license from the state. She said there are about 100 pages of regulations for state licensing. Once the HCA is completed, a company can begin the state licensing process. Additionally, a company needs to obtain a Special Permit from the Town. The local land use boards have the ability to address local issues.

Kristen Reed asked if the HCA should be more specific about when the annual report is expected from High Dune Craft Cooperative. Susan Areson asked if a public hearing is required for the HCA, but Attorney Laughman said that the Select Board meeting was sufficient.

David Neskey asked when the Town would sign the first agreement. Attorney Laughman said there is no timeline; the Select Board can take as much time as it wants, but approval of the HCA

was the matter under consideration at the meeting. Ms. Palmer said the next step is to go to the state for a license before the Cooperative comes back to Truro for special permitting.

Chair Worthington opened discussion about the distance from abutters, the question that had remained undecided. Slides depicted property with a 300-ft. buffer for abutters and included abutters to the abutters compared to a 600 foot buffer around the subject site at 1 Noons Heights Rd. Another slide depicted a 300-ft buffer and a 600-ft. buffer for 23 Old Bridge Rd.

Peter Manso came forward to ask why abutters have not been provided with these diagrams or the draft HCA. Attorney Laughman discussed the impact of the larger number of properties involved when the abutters to abutters are included in a 600-ft. buffer.

The comparison slides were displayed for 12 Longnook Rd. Christopher Clark asked about the center of the subject properties. Ms. Palmer explained that the area begins from the perimeters of the properties, not the planting area or center of the lot. Ms. Worthington asked for someone from the Cooperative to address the issues of odor and proximity to neighboring properties. Attorney Michael Fee, representing the Cooperative, said cannabis releases terpenes when it is in flower. This causes odor during the growing season, but it is limited to late fall. Some people find the odor pleasant and others find it unpleasant. He said the subcommittee had grappled with the odor issue the most. There is already a nuisance bylaw in existence that allows the Town to investigate and take action. He said the Coop is interested in solving problems with their neighbors, but they want to avoid lawsuits from those who have philosophical differences with the growers, not because they are genuinely impacted by the enterprise. Attorney Fee explained how the Coop arrived at their preferred buffer distances of 300 in the residential districts and 450 ft. in the commercial district.

While working on the HCA, Robert Weinstein said he had had been comfortable with the 300ft. buffer for abutters, with abutters to the abutters included. He commented that the 450-foot proposal for the Winkler property was not unreasonable. He said that the Board of Health and ZBA still decide on what is permissible, but the Town is trying to avoid objections from those who are not abutters or abutters to the abutters.

Peter Manso said there were two factors that had not been included. One was the National Seashore property. The other was consideration was for prevailing wind in the residential zones. Marcia Hakala also was concerned that prevailing winds could carry the odor, which is carried in an oval form, she said.

Maureen Burgess asked Town Counsel about differentiating between residential and commercial zones. Attorney Laughman said that because this is not a zoning bylaw, spot zoning does not come into play.

Janet Worthington said she favors the 600 ft. buffer. Susan Areson said she agreed that 600 feet. for both commercial and residential zones was reasonable. Kristen Reed suggested that the

number of complaints might be increased to 6 if the buffer was increased to 600 ft. Robert Weinstein said he was willing to agree to the 600 ft. buffer, but he wanted to hear from the Cooperative. He worried that there is no test for odor. He mentioned that some cannabis plants have more odor than others. Maureen Burgess said she could support the 600 ft.

Peter Manso said that abutters had been overlooked as third entities in the agreement. He asked if the Town was liable if an abutter brought a lawsuit against a cannabis grower. He asked who would indemnify abutters' property if it was negatively impacted. Town Counsel said that the Town would not indemnify the abutters' property. If someone were to sue the Town, there is a provision in the agreement that the Coop would cover the Town's legal costs, she said.

Attorney Fee said the Cooperative would agree to the 600 ft. buffer but would want the number of complaints that could trigger an investigation increased from three to six. The only other provision was for odor control technology. He said that there were problems with requesting that the Coop grow only low-odor plants because the growers need to meet market demands. Any restriction on the type of plant that they grow was not acceptable. If they have a nuisance complaint, the Cooperative would be willing to employ whatever abatement the mediator requested, but he was against the provision that cedar chips be required from the start.

Maureen Burgess reviewed the provision stating the number of complaints needed to trigger the mediation process. Even if one person came to the Board of Health, they would still have the ability to request an intervention that included an inspection. Town Counsel clarified that there are a few avenues for addressing complaints. One is according to the bylaws and anything specifically imposed upon the operation through a Special Permit. The Zoning Enforcement Official would investigate even for one person. The Health Agent could investigate a complaint that is a Board of Health matter. The other avenue of mediation for what is considered a private nuisance is to proceed with legal action. The Host Community Agreement provision for complaints does not have an impact on any of those three mechanisms, Attorney Laughman said.

Attorney Laughman said that expanding the number of complaints does not necessarily correlate with the expanded number of properties considered as abutters. She said there will be a Site Plan Review by the Planning Board and a Special Permit hearing by the Zoning Board of Appeals that will afford abutters two opportunities to be heard about how the permits for the Cooperative would be conditioned. She said the state regulations for security are very strong.

Ms. Palmer reported on the number of abutters that changed with the larger buffer. Susan Areson considered delaying a Select Board decision on the Host Community Agreement until the next meeting to give members of the community more time to digest what was presented. Kristen Reed said that the HCA provides abutters with a process for addressing complaints. Maureen Burgess said it would be okay to spend more time before coming to a decision.

Robert Weinstein offered some amendments: change "3 written complaints" to "6 or more written complaints" and in odor control technology (page 9) change "shall" to "may" in

accordance with Attorney Fee's request that advance provisions not be mandated. The buffer distance would be set at 600 feet. Mr. Weinstein reiterated that this is a contract, not a regulation or zoning bylaw. The interests of the citizens are being protected by the Cannabis Control Commission in the HCA, he said.

Christopher Clark came forward to ask that community members have time to examine the agreement before the Select Board makes a decision. He compared property in the Seashore with less density of abutters with the other locations. Michael Fee reminded the public that the subcommittee had worked on the Host Community Agreement before bringing it before the entire Select Board, who decides whether or not to approve the agreement. Chair Worthington was concerned that citizens were not comfortable with moving forward with the agreement.

Debra Hopkins said the public voted twice in favor of the cannabis growing business. She said the Cooperative wants to get started. She urged the Board to approve the agreement now so that the growers can move forward. Robert Weinstein said that the Board does not release draft documents to the public for their input. The Select Board is the body that generates and approves contracts. He repeated his amendments for doubling the number of complaints needed to trigger an investigation and mediation and a change in language from "shall" to "may" to indicate that odor control technology may be employed but was not mandated.

Ms. Palmer mentioned that the draft agreement had, in fact, been posted since Friday as a part of the agenda materials for the meeting. She also mentioned that current scheduling would make September 24th the next Select Board meeting to continue the discussion. The Cooperative needs to submit their license request to the state, she said.

Peter Manso wanted it noted for the record that he, as an abutter to the Longnook Rd. Coop site, had not been notified of this meeting.

Robert Weinstein moved to approve the Host Community Agreement with the High Dune Craft Cooperative with the two amendments: raise the number of complaints to 6, and change the language for odor mediation technology from "shall" to "may." Kristen Reed seconded, and the motion carried 5-0.

Kristen Reed expressed her respect and appreciation for the citizens' participation at the meeting but said that it was the Select Board's obligation to make the decision on the Host Community Agreement.

Meeting Schedule

Rae Ann Palmer suggested holding the next work session on Walsh Property process at 2 p.m. on September 10, 2019, taking a break around 4 p.m. before the 6 p.m. Community Conversation about Storm Preparedness at the Community Center. The next regular meeting will be held on September 24, 2019. She asked the Board to consider a schedule change to one work session and one regular meeting each month depending upon business for regular meetings.

CONSENT AGENDA

- A. Review/Approve and Authorize Signature: None
- B. Review and Approve Select Board minutes – August 13, 2019

Kristen Reed moved to approve the Consent Agenda as printed. Robert Weinstein seconded, and the motion carried 5-0.

SELECT BOARD REPORTS/COMMENTS

Robert Weinstein thanked his colleagues and the Town Manager for maintaining their composure at this evening's difficult meeting. Maureen Burgess gave her liaison report from the Charter Review Committee on an effort to make Planning Board an appointed body. An Ad Hoc committee with representatives from the Select Board and the Planning Board will work on development of the Accessory Dwelling Unit (ADU) zoning bylaw, she said. Ms. Burgess asked about ringing the Town Hall bells in support of the Global Climate Strike at 11 a.m. on September 20th. Ms. Palmer said the bells are not functioning properly at this time. Maureen Burgess said she has asked the Truro Meeting House if they would do bell ringing there. She said there that the Cape Cod Commission had sent a notification about grant money from the sales Cape & Islands license plates. It is available to non-profits for a number of purposes. The Town Manager said she was also looking into these micro and major grants for Truro. Susan Areson noted the 20th anniversary party for the Library on Thursday. Kristen Reed requested a proclamation for the upcoming Global Climate Strike. She said that First Citizen's Bank is offering several attractive options through their credit union for buying lots, financing and building ADUs. Janet Worthington discussed Cape-wide rat problem that has reached Truro. She requested that the Health Agent come to speak about rat precautions and the spread of the EEE virus. Ms. Palmer said there are already postings on the Town website about EEE and rats.

TOWN MANAGER'S REPORT

Town Manager Rae Ann Palmer clarified that the Charter Review Committee will be researching other Cape towns to compare appointed and elected Planning Boards. The Charter Review Committee has not yet decided on proposing a Planning Board membership change at Town Meeting. Ms. Palmer said she has been busy with finishing the summer season, planning for fall, and getting ready for interviews to fill vacant positions.

NEXT MEETING AGENDA

Ms. Palmer reviewed the September meetings:

- September 10: Work Session on Walsh Property Process at 2 p.m. and the Community Emergency Preparedness Forum at 6 p.m.
- September 24: Regular Meeting

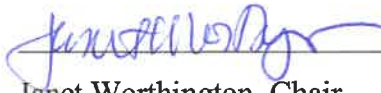
ADJOURNMENT

Robert Weinstein moved to adjourn. Kristen Reed seconded, and the motion carried 5-0. The meeting was adjourned at 7:26 p.m.

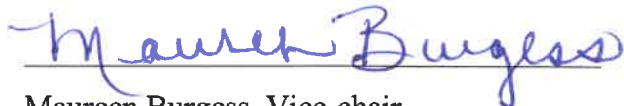
Respectfully submitted,



Mary Rogers,
Secretary



Janet Worthington, Chair



Maureen Burgess, Vice-chair



Susan Areson



Kristen Reed, Clerk



Robert Weinstein

Public Records Material of 8/27/19

1. Lower Cape Housing Institute PowerPoint presentation
2. Draft Host Community Agreement with High Dune Craft Cooperative
3. 2019 Select Board Meeting Schedule

