

## Selectmen's minutes of meeting February 1, 2021

Members present: Brian O'Rourke, George Riley, Mark Newman, Joanne Grybosh, Dolores Harasyko, all by remote

Called to order at 7:00 p.m.

Remote participation information provided for the public.

Tabling items 1 & 2 until later in the meeting.

Item 3 is to discuss the suggestion of a possible Cannabis moratorium as requested by a town resident. Brian explained that town residents requested a moratorium on any cannabis operations. He reviewed this request with town counsel. Town Counsel responded that there was a deadline of Dec. 31, 2019 to adopt such a moratorium. Some town's adopted short term moratoriums. Sandisfield did not act on this therefore there is no moratoriums. Per Town Counsel without that in place the Selectmen are obligated to hold a public hearing within 65 days of receipt of a special permit application. At this time the process to adopt a moratorium would require a bylaw, which will require the same amount of time and procedure as any bylaw.

Mr. Greenwell from 157 Town Hill Road is very concerned about cultivation businesses and is concerned with large cultivation businesses without the town having bylaws. He would like to move forward with a moratorium until the bylaws are complete. He is making a request for a moratorium. He has reviewed the planning boards draft bylaws and wants them in place before any facility is approved. The town appears to be very close to a bylaw and would like a 3-6 month moratorium and put any applications on hold. Brian responded that a moratorium would take as long as the bylaw process. We missed the opportunity to file a moratorium.

Town Counsel confirmed that in order to now adopt a moratorium it would be the same timeline as the cannabis bylaw. He also stated that since we don't have a moratorium we have to hold a public hearing within 65 days of receipt of the application for a special permit. Since the subdivision took place before a bylaw or moratorium the property is exempt from future bylaws.

Leslie Garwood feels the bylaw process was stalled, she would like to see when the bylaw was submitted for a vote. She wants the residents to have a vote in the special permit process that it is not just the selectmen that vote. Brian responded that the legalization of cannabis for adult use was voted on by ballot in 2017, 2018 and passed by two thirds. Every ones voice counts but they have to follow the letter of the law. Leslie asked how to have input, Brian responded in writing, by email, through the planning board. George stated that the planning board and selectmen have been working on the bylaw. The Selectmen have made changes based on input from residents, he feels that all concerns have been addressed. He also pointed out that as of this date we have not received an application from anyone.

Ed Brozman questioned whether an entity could submit a special permit application until the HCA was signed. Per Town Counsel we do not have that requirement. This company entity is looking

for a special permit for greenhouses. Ed responded that his group has questions on the HCA. Brian said that is not on the agenda for this topic.

Paul Gaudette from the planning board does not feel that the selectmen have met the residents concerns. They are in total opposition. They have submitted 2 drafts, it has been batted back and forth, it has gone to BRPC. He stated nothing is being done by the selectmen. Brian stated that we have only received one draft of the cannabis bylaw from the planning board, we do not have the one Paul is talking about which is for a total ban. Brian stated that he hopes the bylaw will be ready for the annual town meeting.

Brian read aloud an email to SAMA which will require the following for the special permit application. They are:

1. Completed site plan showing set backs, cleared area, elevations, wetlands, etc.
2. Traffic study
3. Odor mitigation system and specifications
4. Drip irrigation system
5. Grading and drainage plan
6. Design and plans for the 5,000 sf processing building
7. Greenhouse type/style/design
8. Security controls and plan
9. Lighting plan
10. Visual screening, plantings, and fence height/style (possibly will be on site plan?)
11. Proposed plan and schedule including description of how fertilizing and watering will work.
12. Growing plan/schedule including description of how fertilizing and watering will work. We had many questions about pesticide runoff and surrounding well impacts.
13. Proposed plan for volume of production and potential revenue based on today's market dollars.

Brian felt it prudent to read all these so that everyone understands that they are not just passing this through.

Bill Taylor wants a committee to address this business and research other towns.

Cindy Deloy said the planning board had 2 drafts, what happened to the 2<sup>nd</sup> draft.

Town Counsel responded that if there was a second bylaw for a complete ban it would have to have been voted on at an annual town meeting and placed on the ballot for the annual town election, none of which has happened. It would also have required a public hearing by the planning board. Then this type of bylaw would have had to be approved by the Attorney General. The State Statute was passed in 2017 which allowed towns ample time to produce a bylaw. The Attorney General will not allow for an extension for a moratorium. We have to follow the law and provide a hearing 65 days from receipt of the application.

Any project with approved usage would then have an 8 year freeze on that usage.

Per Paul Gaudette the property was subdivided not a subdivision.

Ed Brozman asked about the 13 points Brian read aloud being a public document, Town Counsel responded that it is and will be in the minutes.

Brian reiterated that the HCA is not the special permit.

Leslie Garwood has 2 big issues regarding the size of the operation and the location.

The selectmen want to move on to item 4 and vote on the HCA. Paul Gaudette has more questions. George responded that we have had an extensive discussion last week and this week. He reiterated that the HCA does not obligate the town to grant the special permit.

Paul stated that he thought the HCA allowed for time for the bylaw to be voted on. Brian responded that is incorrect. Paul stated that if the selectmen voted against the HCA it would allow for more time by the bylaw. Town Counsel stated that there isn't a lot of case law on this subject, there is only one way to prohibit cannabis, the selectboard would have to unilaterally vote it down.

Brian asked if there are any concerns with this particular HCA. Roger Brown Chair of finance is very much in favor of the HCA. He would be disappointed if the board would delay this opportunity, he encourages the board to approve it.

Mr. Greenwell discussed the maintenance for their driveway off of Town Hill Road and Abby Road. Their intention is to keep the 2 lots separate. Brian explained that we as a town have an obligation to keep Abby Road to the dirt road specs, it is an open town road.

Leslie Garwood questioned the percentage of revenue allowed by the state statute. Town Counsel responded that there are no state statutes regarding how to calculate the impact that is why the HCA specifies the percentages and business terms. It is a negotiation process to develop the HCA.

Carl Nett would like everyone to have one question at a time so everyone can ask their questions. He would like to see a minimum payment to the town. Town Counsel responded that there is a cap of 3% on income revenues. Carl is in favor of moving forward with the HCA.

Cindy Deloy is more concerned that we are moving forward with the special permit, how can we fine them for not meeting the smell factor. Brian reiterated that there is no application at this time and when and if there is there will be specific verbiage regarding odor control.

Paul Gaudette thinks the CCC would enforce the violations. Town Counsel responded that the towns bylaws and the HCA would respond to violations.

Motion by Mark, second by Brian, passed unanimously to accept the Host Community Agreement between the Town of Sandisfield and SAMA Productions LLC.

Roll Call vote: Brian, yes, George, yes, Mark, yes

Philip Blume in to request permission to use the DPW building on Feb. 22, 2021 for a Community Outreach Meeting for a proposed marijuana cultivation and product manufacturing establishment at 68 Sandisfield Rd. Brian asked Town Counsel if this requires a vote or can we just grant permission.

Mark stated that all town buildings are currently closed to the public due to Covid. Phil would have to hold an outside meeting such as SAMA did.

Phil stated that there is also a zoom call that will happen at the same time.

Town Counsel stated that the CCC is allowing a virtual outreach meeting that has to be voted on by the board.

Motion by Brian that the meeting should be virtual by zoom, second by Mark, passed unanimously. Roll call vote, Brian, yes, George, yes, Mark, yes

Joanne Grybosh has been working with the Town of Great Barrington on senior transportation. Sandisfield will be receiving an agreement for a once a week service. Cost will be the same as before. Nina Carr from the COA thanked Joanne for her continued work on this. Nina asked Joanne to email her with information as she receives it, Joanne agreed.

Update on P O Boxes, Joanne has submitted a request to the Post Master and will follow up next week.

Discussed the Town Audit. Roger Brown suggested that we should began an audit. Roger stated that the last audit was 5 years ago. We have money in the budget. He feels we should follow up on the previous audit.

Motion by Brian, second by George, massed unanimously to move forward with the audit process. Joanne will reach out to Scanlon and Assoc. Roll call vote, Brian, yes, George, yes, Mark, yes

Motion by Brian, second by George, passed unanimously to appoint Joanne Lazarowitz Olson to the Special School AdHoc committee. Roll call vote, Brian, yes, George, yes, Mark, yes

Motion by Brian, second by Mark, passed unanimously to appoint Mary Bredenfoeder as a part time police officer, Roll call vote, Brian, yes, George, yes, Mark, yes

Future agenda items:

Mail boxes

Review and discuss draft bylaw presented by George Riley for Cannabis

Job postings for Asst. Clerk and Treas. Asst.

Post to hire website consultant

Special Permit Hearing for the general store

Topics not reasonably anticipated by the Chair:

John Burrows questioned the Energy Aggregation Program. George responded that we signed a 3 year rate agreement with Colonial Power Group. John noticed that his bill has gone up and the supplier on the bill is actually First Power. George will follow up.

Carl Nett has 2 items. One is regarding the School Committee minutes of meetings. They are not being posted in a timely manor. Also there are no minutes of meetings of executive sessions. He will follow up with the school committee.

He has been looking for the model policy document for the budget policy, he has not been able to find it in addition to the budget spreadsheet.

Meeting adjourned at 8:50 p.m.

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Brian O'Rourke

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George Riley

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Mark Newman