

PLANNING BOARD  
148 Peck Street  
Rehoboth, MA 02769  
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Christopher Cooper, Chairman  
Robert Moitozo, Vice Chair  
Edward Bertozzi  
Tomas Ennis  
William Costa Sr.  
Michael Costello  
Leeann Bradley – Town Planner

**Meeting Minutes  
February 21, 2018  
Town Offices  
148 Peck Street  
Rehoboth, MA 02769  
7:00 PM**

RECEIVED  
18 APR 23 AM 8:29  
OFFICE OF THE TOWN CLERK  
REHOBOTH, MA

Present: Christopher Cooper, Robert Moitozo, Tomas Ennis, William Costa Sr., Michael Costello,

Town Planner – Leeann Bradley

Absent: Edward Bertozzi

Mr. Cooper began the meeting with the Pledge at 7:05p.m.

**Form A**

1. Johnson – 218 New St. – 18-04A - Neither the applicant or their representative was present. The Form A is for a conveyance of land, Parcel A, to an abutter. Mr. Moitozo felt it was pretty straightforward.

Mr. Ennis motioned to endorse the Form A.

Mr. Costa seconded the motion. Motion passed.

**Public Hearings**

**New Business**

1. 2017 Annual Report - The Planning Board had no concerns.

Mr. Costello motioned to accept the 2017 Annual Report.

Mr. Costa seconded the motion. Motion passed.

2. Discussion – General Bylaws – Article III, Section 1 – Number of Planning Board Members –

Mr. Costello brought this matter forward as it is hard to get members on any board, especially if they have to run for election. He suggested they put on the warrant they change the bylaw from 7 members to 5 members with 2 associate members. The Planning Board asked for this to be on the next agenda for further discussion. Mr. Moitozo feels this is something Mr. Bertozzi should be involved in.

3. Discussion – Green Energy Committee – Carol Panofsky – Ms. Carol Panofsky was present. She began by stating that at the last Board of Selectman meeting they established a Green Energy Committee. They appointed her as chairwoman. The first order of business will be to seek Green Community designations under the state. In 2008 the state of Massachusetts passed a Global Warming Solutions Act. They set targets for the reduction in energy use and the increase in renewable energy. Along with passing that act, they created some implementation strategies and one of them was to set up the idea for the green community. It is a way to encourage the different cities and towns in the state to meet some of the targets set forth in the Global Warming Solutions Act by offering perks such as grant opportunities. Over 200 cities and towns have done it. Rehoboth is surrounded by towns that are currently going through the process. There are 5 criteria that need to be met and she believes the Planning Board has already passed two of them. Ms. Bradley mentioned the wind and solar bylaw. Ms. Panofsky noted one of the criteria is the “as of right of sighting” of wind and solar facilities. Another is an expedited permitting process, which would also be under the Planning Board. The increase of renewable energy and energy efficiency of municipal facilities such as the town office, schools, the public safety building and so on, is another criteria.

Mr. Costello noted that in terms of efficiency, the 36 street lights in Rehoboth will all be replaced with LED lighting courtesy of National Grid. They are trying to lower the consumption by doing that. Ms. Panofsky asked him to keep the data of the current lighting consumption in relation to the LED lighting as that is information will be needed. He stated he has all that data. He also added National Grid is looking at the Highway Department building as well as the Public Safety Building to install energy saving lighting.

Ms. Panofsky went on to state that part of the process is probably working with Mass Save which will do audits for all the buildings in town. They will create a reduced energy plan for the town. Another criteria is to commit to replacing current town vehicles with more fuel efficient vehicles. The last criteria is the adoption of a building code that tries to increase the energy efficiency of new construction.

Ms. Panofsky stated that as soon as the town qualifies for the designation, the town gets a rather significant amount of money up front to help do additional things for the town. She added the lowest grant in the past year was for \$125,000.00 and the largest was \$300,000.00 and that went to a town that already had some solar farms and had already met other criteria. She feels the fact that Rehoboth has already met some of the criteria is a good sign. Ms. Bradley asked about solar farms and if they are full “as of right sighting”? She noted the Planning Board requires a special permit for large scale solar projects. To qualify to be a green community does it have to be complete “as of right sighting” where you are required to obtain a special permit. She recalled Mr. David House coming before the Planning Board and he stated that Rehoboth would not be eligible to be a green community due to the wording in the solar bylaw. She stated it is “as of right sighting” in the industrial zone. Ms. Panofsky has spoken to Mr. House and got the feeling he thinks Rehoboth has met the criteria. She will check in with him again. She went on to note that the state is divided into 4 regions and each region has a designated coordinator for all the towns in their region. That individual will be able to evaluate our bylaws and see if anything is needed. Ms. Panofsky is still recruiting people for the committee if anyone wants to join. It would be great to have a member of the Planning Board join. Mr. Cooper stated that after the election they re-organize the board and make appointments to various sub-committees. That would be a good time for the Planning Board to appoint somebody to the Green Energy Committee. There was no further discussion.

## Old Business

1. Zoning Bylaw Recodification – Update – Ms. Bradley stated she is still working on the changes and has not yet finished it. It will be on the next agenda.

2. Recreational Marijuana Bylaw – Update – Discussion with Chief Trombetta – Mr. Cooper gave a brief history of what they are trying to discuss tonight. He began by stating that about 4 years ago the use of medicinal marijuana was passed in the state of Massachusetts both at a state and town level. At that time it was restricted to the industrial zone in Rehoboth by the Planning Board. About 1 ½ years ago there was another ballot question on the use of recreational marijuana in the state. It again passed at the state and local level. By passing at the local level it means the town of Rehoboth cannot prohibit such institutions in the town. It is not an option. At the time that the measure passed the Planning Board put a temporary moratorium on establishments that would sell recreational marijuana in effect until the end of 2018 to allow for further studies at the state and local level.

A short time ago the state came back and said the town has had enough time to conduct their studies and as such, they will not honor a moratorium past the mid-point of this year. The reason they are having this discussion is because they want to get a bylaw on the books before the next town meeting so when the moratorium is lifted the town will have some regulations for these establishments in town. Mr. Cooper noted they are allowed to limit the number of these establishments in town. The bylaw would be very specific about the zoning districts they would be allowed in.

When this topic is discussed two main issues come up. Public safety is a main concern. Mr. Cooper stated this is why Chief Trombetta has been asked to attend the meeting tonight to hopefully guide the board in that conversation. The other “other side of the coin” issue is that establishments like this create revenue for the town. Mr. Cooper is hoping they can discuss this tonight and get some language on the books so they have some rules when the moratorium is lifted later this year. Mr. Cooper asked Chief Trombetta if there are specific concerns with an institution like this being in Rehoboth and are there better or worse places for it to be located.

Chief Trombetta began by stating that from the police department perspective it falls within the same category as the new pharmacy in town. There are controlled substances there and it's not unusual for pharmacists to be the subject of robberies while they are open, and burglaries when they are closed. He added he owners have good set up and have met with the police department. They have done their homework. He feels the state has made requirements that a potential business owner would need to comply with, such as an alarm system, surveillance etc... He feels the part of the law that concerns him is the licensing, and allowing retail marijuana shops. He added it was emphasized that towns can't be over restrictive. The problem in Rehoboth is there isn't a lot of business space to begin with. If there was a stand-alone building there are not a lot of places to look at. Mr. Costello noted the problem is that some districts have mixed uses. Chief Trombetta wonders if the Planning Board has the authority to state Route 6 is the area these establishments are allowed in. Is that considered being over restrictive? Rehoboth would be obligated to allow one retail shop in town.

Mr. Cooper added that the state statute now states that they can't be over restrictive and the limit is 20% of the total liquor stores in towns but that number can't be less than 1. One retail shop would meet the obligation.

Chief Trombetta does not feel a business like this creates a hazard. It may present something else for them to keep an eye on but no greater than keeping an eye on the pharmacy. There are tight controls in place as far as the sales go. It is similar to alcohol sales. He is not sure it will present a nuisance or a hazard. Some people may not be happy with it in certain locations. The state will

probably be very tight in the enforcement of these shops. The police department will do their part to make sure they are in compliance. He feels the thing everybody needs to keep in mind is that it was approved by the voters in the state and the town of Rehoboth. He feels the best thing to be done at this point is exactly what they are doing. Have an area that they think it would be reasonable.

Mr. Costello noted they would have to reclassify their commercial areas. Mr. Cooper stated they created the business overlay district which is basically Route 44 and Route 6.

Mr. Costa stated that currently medical marijuana is in the industrial district. He feels it makes sense to keep them both together in the same zone which is very small.

Mr. Costello asked if the board would be inclined to have any restriction on separation of this with a school area. Mr. Cooper stated that is covered in the state statute. It cannot be allowed within a certain distance from a school.

Chief Trombetta feels the regulations are tight and if they are inclined to stay in the Route 6 area with the retail end of the medical use, he does not feel it is not unreasonable since they are only talking about 1 shop. He added that whatever the Planning Board decides, the police department can work with. He asked if this issue falls on the shoulders of the Planning Board only.

Mr. Cooper stated the crafting of the bylaw falls on the Planning Board. It has to be approved at town meeting. If a retail shop were to come into town they would have to go through full approval with the Board of Selectmen, the Planning Board and the Board of Health and others.

Chief Trombetta asked if the application and licensing fees stay in the town. The board confirmed it did and the fee amounts are determined by the Planning Board.

Mr. Costello asked if the Planning Board has the ability to regulate the actual way they do business with regard to alarms or cages in the front similar to a gun shop. His concern is that it's a cash business only, and is a potential spot for robberies.

Chief Trombetta stated any place with a large amount of drugs or money at a business is a potential hot spot for a robbery or a burglary.

Mr. Costa noted that pharmacies have a license to have drugs in their possession. Do the applicants that come in to sell recreational marijuana have to get a license also to distribute?

Mr. Cooper stated yes, it's a state issued license. He added this is not something people enter into lightly. The licensing fees are enormous.

Ms. Bradley asked about home delivery. She added she knows a few other Town Planners that have questions about that. She wonders if that is another aspect of public safety that Chief Trombetta would be concerned with.

Chief Trombetta has not heard anything on that. He imagines it can't be delivered like a pizza and would be problematic. He feels the biggest problem would be if it is delivered to your house the sale is being made at your house and not the place of business.

Mr. Ennis noted there are provisions for a marijuana establishments operating under a retail "delivery only" license. You don't go in and buy it, you have it delivered to the people who are buying it from the establishment. He feels it could be prohibited. He also added they would need security in the vehicles almost like a Brinks delivery.

Chief Trombetta added if they had an establishment on Route 6 you would be getting people all over, versus delivering in the town of Rehoboth. Mr. Costello asked about influx from Rhode Island. Ms. Bradley asked if it's legal in Rhode Island. Mr. Ennis stated not yet. If a Rhode Island identification is shown can they buy in Massachusetts? Chief Trombetta stated it's legal in Massachusetts but you don't have to be a Massachusetts resident to buy it. He asked if there would be a workshop type of meeting to work on the language of the bylaw. He offered whatever resources the police department can provide. He has a few supervisors who are well read on the law itself and offered their assistance with the language. Chief Trombetta asked to keep the police department posted. The Planning Board thanked him for his input. Ms. Bradley stated she would

Speak to town counsel regarding security for the delivery aspect but feels the planning board needs to decide where the establishments should be. Mr. Costa feels the medical and recreational marijuana should be in the same location. Mr. Costello feels Route 6 is the ideal spot. Mr. Cooper likes the business overlay option. It is very visible and there are businesses up and down that strip and it is lighted around the clock. Mr. Ennis feels Route 44 would have more police presence than Route 6. Mr. Cooper asked what the difference between marijuana retail shop and a pharmacy where opioids are sold.

Ms. Bradley reminded the board they do not have much time. Mr. Cooper suggested everyone read over material and at the next meeting they can discuss it and vote on it and go from there. The board agreed.

3. Eastwood Estates – construction observations – northern slope – Mr. Andy Glines, civil engineer from Fuss & O'Neill was present. He stated Fuss & O'Neill is under contract with the Planning Board to conduct a peer review and construction inspections for Eastwood Estates. He began by stating that on one of the previous inspections it was observed that the northern slope between Skyla Way and a northern abutting property appeared to be steeper than what was originally depicted on approved plans. The applicant was asked to provide more survey information from Insite Engineering for Fuss and O'Neill. It was concluded that the existing topography along the stone wall along the northern property line was higher than what was originally depicted on the approved plan set. The approved plan set according to the bylaws only included a 2' contours and it's not uncommon for existing conditions surveys before property is developed and have some discrepancies in the survey information. Mr. Glines feels that in this case the existing topography didn't include or was required to include spot grades along the base of the wall. The additional survey information that was provided basically included some spot grades there. He added here is a 1.4 contour along the base of the wall and is basically right up against the wall. It wasn't initially depicted on the approved plans. Insite also confirmed the proposed road is in fact where it was originally located with the proper elevations. Due to a couple of additional feet of elevation difference between the northern edge of the road and the stone wall that slope is steeper than what they originally thought it would be. They conducted a few inspections and met with the applicant/contractor and Mr. Costello, and suggested a couple of options. The current option that they asked Insite Engineering to look into and design was a rockery wall in combination with erosion control plantings to help stabilize the slope. The intent here is to maintain the maximum 3:1 slope for that whole area. The areas that can be graded at 3:1 will improve the rockery wall with crushed stone and geotextile backing to prevent soil or sediment from migrating through the base of the large boulders. Mr. Glines recommended planting the top of the wall with low growing evergreens to help stabilize the area and also eventually help esthetics of the wall in that area. He understood the board discussed this at the last meeting and asked if they had any other questions or concerns. Mr. Glines stated he was at the meeting tonight to help optimize opinion on those issues.

Mr. Moitozo stated a big concern was putting a boulder wall too close to the road. He could not speak for the rest of the board but personally he will not accept that. He added the boulders are a foot off the road and there is no place to put snow. He feels it should be 5' to 6' or more away from the road. Mr. Costello stated they can't do that. Mr. Moitozo stated they could but it won't be cheap. Mr. Costello stated he doesn't want to be responsible for the wall. Mr. Moitozo stated if the boulders are set back he won't be responsible and doesn't think the town should have liability for the wall. Mr. Costello gave an example of a stone wall on Route 118 that is less than a foot off the road. The wall is on town property. He does not feel the wall will be a problem since it's in a sub division and people will not be speeding. Mr. Moitozo is concerned about snow removal. Mr. Costello explained how he would have the plow driver clear the sub division.

Mr. Glines asked Ms. Bradley about the northern abutter having concerns about the existing trees, and the tree canopy impacting the roots of existing trees. He noted pushing the wall further north would cause more impact to the root zone of those trees and building along the property line is not something the neighboring abutter would like when trying to keep the stone wall.

Mr. Ryan DuVally came before the board and stated if 4' or 5' off the road makes the board more comfortable he feels it will not be a drastic difference to the plan. He added they have 12 feet from the edge of the berm to the property line. He feels the maximum difference is maybe 5 to 5-1/2'. Even at 5' off the roadway they can still keep a 36" to 42" inch high wall. It would probably be no more than 4' high, and still maintain 3:1 wherever they need to. The wall may need to be a little bit longer but he feels it will not need to be drastically higher. If that's what it takes to satisfy the concerns of the board he has no problem with that from his stand point.

Mr. Moitozo stated even at 5' off the pavement he would be much happier. Mr. DuVally thinks this is feasible. Mr. Costello feels he will have a problem going with 5'. Mr. Glines agreed with Mr. Costello. Mr. Costello suggested putting rocks inside the slope similar to rip rap with groundcover around it. Mr. Glines feels the rockery approach could still be implemented at a slope as opposed to a vertical placement. Mr. Costello stated he has put many of these in before. They look nice and serve the purpose.

Ms. Bradley asked Mr. DuVally about street trees being a concern with abutters. He stated that he wants to keep the trees. There was no further discussion.

This project will be on the next agenda where the applicant will show more detail on the plans per tonight's discussion.

#### Minutes

1. January 3, 2018                      2. January 17, 2018

Mr. Ennis motioned to approve the above minutes.

Mr. Costa seconded the motion. Motion passed.

#### Invoices

1. W.B. Mason – office supplies - \$32. 77

2. W.B. Mason – office supplies - \$72. 95

3. Fuss & O'Neill – Idlewoods Estates - \$380.75

   The Preserve - \$421.50

   Eastwoods Estates - \$993.07

Mr. Costello motioned to submit payment for the above invoices.

Mr. Ennis seconded the motion. Motion passed.

#### Adjournment

Mr. Costa motioned to adjourn at 8:45pm

Mr. Costello seconded the motion. Motion passed.

Respectfully Submitted

  
Christopher Cooper, Chairman

  
Robert Moitozo, Vice-Chairman