

DRAFT – NOT APPROVED

**Licensing Review Committee Meeting
March 1, 2018**

A meeting of the Licensing Review Committee was held on Thursday, March 1, 2018 at 8:30 a.m. The meeting followed all the guidelines of the Open Meeting Law.

In attendance: Ben Franco (Co-Chair); Bernard Greene (Co-Chair); Lea Cohen; Anne Meyers; Peg Senturia

Absent:

Also present: Tracey Michienzi (Paralegal); Patty Correa (First Assistant Town Counsel); Zack Carlton (Town Counsel Intern); Austin Faison (Assistant Town Manager); Pat Maloney (Health); Dr. Swannie Jett (Health); Francisco Torres (Planning); Ashley Clark (Planning); Captain Todd Cantor (Fire); Jennifer Dopazo Gilbert (Attorney for NETA); Amanda Rossitano (NETA); Garret Hauck (Interested Person); Donelle O'Neal (Interested Person)

Ms. Michienzi announced that the meeting would be audiotaped to assist with preparation of minutes. The Committee agreed.

I. Approve Minutes of the February 8, 2018 Meeting

The minutes of the February 8, 2018 meeting were unanimously approved with changes.

II. Discussion and Possible Vote Regarding Local Regulation of Recreational Marijuana

The discussion began with a discussion of the proposed zoning by-laws. Francisco started by discussing the most recent written comments received from members of the public.

Ana Otero wrote in her comment about her concern that the extensive buffer zones favor a small number of large stores. She also voiced her concern that these large stores will take away from the character of Brookline. Francisco said that they discussed the various regulations with Ms. Otero and how those regulations were determined. She also asked how concerns by the public about a particular business would be handled. Anne Meyers asked how the current online complaint system works. Currently, any online requests are triaged by IT and sent to the appropriate department. There could be a marijuana violation form that could be created with the help of IT. Ms. Meyers asked what exists for the current medical marijuana dispensary. First Assistant Town Counsel Patty Correa said that there was not currently any sort of online form, but there has not been a need as, to her knowledge, there have been no online complaints about the medical marijuana dispensary received through the existing complaint mechanism. Amanda Rossitano told the Committee that individual departments will come to them if

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there are any complaints or issues and they would work together to make sure that they are resolved. Co-Chair Ben Franco told the Committee that he is confused as to what the concerns to be raised are. He commented that other commercial establishments are not subject to special complaint forms on the existing online platform, but rather the individual with the complaint would select the type of complaint and report it that way. He doesn't think that anything special needs to be created for marijuana businesses. The rest of the Committee agrees. First Assistant Correa says that it seems that BrookOnline already has a mechanism for getting concerns to the appropriate departments. Ashley Clark from the Planning Department said that the goal should be to alleviate the burden of calls directly to the Police Department. Mr. Torres told the Committee that he is happy to discuss this with IT. Dr. Jett said that once the regulations are finalized it could be helpful for the website to inform residents how to voice concerns.

The Committee then turned its attention to the comments submitted by Scott Gladstone as a representative of Precinct 16. Scott Gladstone discussed the concerns of the residents in his precinct. He indicated in his e-mail that the Precinct 16 residents are mixed in their opinions. He wrote that marijuana should be restricted to general business districts and not be permitted in local business districts. There is also reference to the existence of a BEEP program in this area but it will be moving from there. Ms. Clark said that this is a good example of how businesses come and go in areas and the decisions made today should not be made while trying to anticipate how long something else will exist in a certain area or what will move in.

Mr. Torres then updated the Committee about the Zoning By-Law Committee's meeting, which took place the prior evening. He said that it had three comments on the Zoning article.

Its first comment was that it believes that the ZBA and Select Board should have more flexibility with respect to the buffer zone and the cap. First Assistant Correa said that the cap and buffer zone cannot be fluid, because the Cannabis Control Commission needs parameters for its own license application decision-making. She said that there can be language that says "unless the Zoning Board determines that there is no adverse impact at that location and issues a special permit for the location." Co-Chair Franco states that he understands the efficiency versus certainty. He is not certain that what the Committee has put forth is a problem and is happy keeping it as it is right now. Lea Cohen acknowledged that the buffer zone could be an issue depending on the availability of sites for businesses.

The second comment was that the Zoning By-Law Committee feels that Route 9 is a good location for multiple businesses and that the buffer zone could unnecessarily restrict the ability of multiple businesses to site there. First Assistant Correa asked the Planning Department whether establishing a special zoning district there is a possibility. Ms. Clark said that Planning was steering away from an overlay district because it did not want to create an appearance of favoring one area over another. She recommends site plan review. Garret Hauck told the Committee that every location is going to be different and have a different set of pros and cons.

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The Zoning By-Law Committee believes that marijuana retailers should be allowed in the O zones, because it believes that Route 9 is an appropriate place for the siting of retail establishments, which is prohibited by the current proposed zoning use table. The Committee decided to keep the proposed use table as is.

The last comment was that the Zoning By-Law Committee believes that vape shops that sell paraphernalia should be included in the buffer zone. Mr. Torres said that he did not agree with that but wanted to present it to the Committee as an option. Ms. Clark said that the same comment was made during public comment. The concern appears to stem from the number of smoke shops that have opened in the Town. First Assistant Correa said that there is no license to operate as an accessory shop. The smoke shops are zoned as a retail use. Some of the smoke shops have expressed interest in getting a marijuana retail license.

Mr. Torres then walked the Committee through the changes that the Planning Department has made to the zoning by-law warrant article. He said that he consulted with Polly Selkoe and Kara Brewton in the Planning Department and they made suggestions as to form so that the form conforms to that of the existing zoning by-laws. The definitions have been removed from the use table and are being placed in the definitions section. The definitions have changed. First Assistant Correa elaborated on the definitions and their removal from the zoning use table. There was a discussion of mixed uses. Retail is a principal use. The cap is on the retailers only.

There was a discussion of proper ventilation of social consumption locations. First Assistant Correa explained that there is a proposed special permitting pre-meeting that would allow the different departments to weigh in on the plans of the applicant and that can be one of the requirements that a department could propose.

There was a discussion on the designation of social consumption operators. They can be either mixed use or primary use under the Cannabis Control Commission's draft regulations. The difference is how much of the revenue is from marijuana. It is likely that a bakery where everything is infused would be considered primary use, while the restaurant with only a few items containing marijuana would be considered mixed use.

The Committee then turned to reviewing the licensing warrant article. There was a discussion of the cap language that was approved at the prior meeting. Mr. Torres asked if the cap language should be the same as in the proposed zoning by-law. First Assistant Correa said that it should. She also asked if the cap includes social consumption. She recalled that pursuant to previous discussions the cap was intended to include social consumption operators because the idea was to make sure a cap is in place if the voters voted to accept social consumption in Brookline. There was then a discussion of a separate cap for each type of use. After much discussion, the Committee came up with the following caps broken down by type of retailer:

Storefront Retailer: 5

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Delivery Only Retailer: 2
Social Consumption – Primary Use: 2
Social Consumption – Secondary Use: 5

VOTED: To include the foregoing caps for consideration by Town Meeting.
(Unanimous)

Pat Maloney from the Health Department asked if the Health Department can require an ID scanner under the current regulations. First Assistant Correa said that Health could make that recommendation for a condition on a license in connection with a license application.

VOTED: To authorize First Assistant Correa to file the proposed marijuana warrant articles with changes as discussed. (Unanimous)

III. Next Steps

First Assistant Correa will make the changes and submit the warrant articles for consideration at the May Town Meeting.

IV. New Business

There is no new business.

V. Schedule Next Meeting

The next meeting will be scheduled as needed.

Adjourned 9:55 AM

Materials List
(Items distributed at the 3/1/18 Licensing Review Committee Meeting)

Item 1: Agenda for 3/1/18 Meeting (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 2: Draft Minutes for the March 1, 2018 Meeting (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 3: Draft Zoning By-Law Warrant Article (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 4: Draft Marijuana Establishment Warrant Article (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 5: Draft Motion regarding the Cap on the Number of Select Board Licenses for Marijuana Retailers (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 6: Draft Prosecution and Enforcement Article (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 7: February 5, 2018 E-mail from Scott Gladstone to Francisco Torres RE: Recreational Marijuana Q&A office hours (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)

Item 8: E-mail from Ana Otero to Francisco Torres and Alan Price RE: Questions and Comments regarding marijuana zoning by-law (Available through Town Counsel's Office and included within the Minutes Binder of the License Review Committee)