



Advisory Committee Meeting Minutes
Thursday, February 3, 2022
Zoom Video/Audio Conference – 7:00 pm

Pursuant to Chapter 20 of the Acts of 2021, Scituate Advisory Committee Members held the February 3, 2022 meeting via Zoom Video and/or Audio (Dial-in for those with only phone access). All participants participated remotely.

Committee Members Present: Jamie Gilmore; Chair, Missy Seidel, Elise Russo, Jerry Kelly, Dan McGuiggin, Patrice Metro, Michael Westort, Lincoln Heineman and Lynda Ferguson

Committee Members Not in Attendance:

Also in Attendance: James Boudreau, Town Administrator; Nancy Holt, Finance Director/Town Accountant; Seth Pfeiffer, SCTV Facilitator; Karen Joseph, Town Planner; Patricia Lambert, Planning Board Member; Ann Burbine, Planning Board Chair; Kyle Boyd, Director of Planning & Community Development; Ellen Gasper, Petition Article Speaker

Mr. Gilmore called the meeting to order at 7:00 p.m.

Mr. Kelly made a motion to accept the agenda which was seconded by Mr. McGuiggin and voted unanimously in favor (7-0) by roll call vote; Mr. Gilmore-yes, Ms. Seidel-yes, Ms. Russo-yes, Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Ferguson-yes, and Ms. Metro-yes

Mr. Gilmore called for a motion to accept the minutes of the January 27, 2022 meeting which was made by Ms. Metro seconded by Ms. Russo. The minutes were voted in favor (7-0) by roll call vote; Mr. Gilmore-yes, Ms. Seidel-yes, Ms. Russo-yes, Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Ferguson-yes and Ms. Metro-yes.

Review of FY 2023 Departmental Budgets

Dept. 175 – Planning

Ms. Joseph noted the establishment of new neighborhood district in Greenbush last year and working with it this year. She noted other projects in Greenbush and that she addressed directives of the Planning Board during the year. She also stated she completed site inspections, recorded decisions, participated in the Design Review Team and provided assistance to other departments. She also informed members that Scituate was awarded a Comprehensive Planning

Award for the 2021 Master Plan. She listed multiple other accomplishments including updating the subsidized unit inventory and updated the outdated fee schedule. Ms. Gilmore asked about the part-time position request and whether it was to be supported. Ms. Joseph said that it was not being supported this year due to the other personnel requests received by the Town Administrator. She said it was a part-time position to be shared with Conservation for 20 hours per week to ensure conditions were being enforced. Mr. Gilmore asked if there would be fines attached with this and Ms. Joseph said yes. She noted that last year there was about \$3,000 in fines generated last year.

Ms. Metro asked about the \$8,000 in projected revenue. Ms. Joseph replied that it was filing fees which had been updated this year to be more consistent with other towns. Ms. Metro asked the range of fees which Ms. Joseph confirmed the range was between \$250-\$1,000. Mr. Gilmore thanked Ms. Joseph and her team for all of their work. Mr. Gilmore asked that she keep the request for additional personnel in her budget.

Review of Non-Monetary Articles – Zoning & Related General Bylaws

Amend Section 440.5 – Business Districts

Ms. Joseph stated that this article would add the words ‘VCN’ into the business districts. This is housekeeping to address outdoor dining for breweries which are only in business district.

Amend Section 620.3 – Setback and Yard Requirements

Ms. Joseph stated this article would change the setback in the R03. She reported that based on the concerns raised at the Planning Board workshop, this article will not be going forward to annual town meeting this year.

Amend Section 610.1 – Lot Area and Width Requirements

Ms. Joseph stated the article proposed that as of April 11, 2022 all lots would require that a 50 foot circle set out from the building would not cross the property line to address rat tail lots. She said that due to comments from the workshop, the Planning Board was considering different language including changing it from 50 feet to a smaller dimension such as 25 or 30 feet as suggested by the Zoning Board of Appeal Chair to avoid causing residents to seek variances. Ms. Russo asked about the Zoning Board’s concern about granting variances. Ms. Joseph responded that due to the shape and topography, residents might be able to provide a good argument for a variance.

Amend Zoning and General Bylaws – Marijuana

Ms. Joseph noted there would be a series of articles to address the zoning for marijuana establishments. First, the medical marijuana bylaw may be deleted and replaced due to changes in state regulations since its original adoption. A new bylaw for recreational marijuana would be proposed. A third article would address the temporary ban which is expiring. A fourth and fifth article would remove the permanent ban in the zoning bylaws and general bylaws. All of these articles were in response to town meeting’s referral to the Planning Board of petition articles at the October 2021 special town meeting for further study. She noted that marijuana is a legal land use and that the Planning Board needs to regulate legal land uses and it is better for experts to

write it and not have it come forward as a citizen petition. She informed members that there will be a PowerPoint presentation at the next Planning Board hearing with maps showing where these establishments could be sited in the town. She noted the meetings they had conducted with the public, the Police Chief and FACTS Coordinator Annmarie Galvin and that they had continuously incorporated concerns raised by individuals. She noted the marijuana establishments cannot be in residential areas but can be in business districts but not within a certain radius of certain religious, substance abuse recovery centers, daycares, school and other type entities.

Mr. Kelly asked if beer and wine establishments are also limited in such a manner and Ms. Joseph said no. She also stated that the number of retail marijuana establishments cannot exceed two as the minimum number is 20% of the liquor licenses in a community. Ms. Russo asked what actually constituted a marijuana establishment. Ms. Joseph said they were allowing seven different types of marijuana establishments and all require host agreements. Ms. Metro asked for confirmation if it was limited to two of any of the seven establishments and Ms. Joseph replied no it was only two retail establishments. Mr. Kelly asked for confirmation that this limit did not apply to medicinal to which Ms. Joseph replied yes. Mr. Gilmore asked to confirm that there is no limit to the number of businesses and Ms. Lambert confirmed.

Mr. Heineman joined the meeting.

Mr. Heineman asked if the limit of two establishments was the Planning Board's choice. Ms. Joseph said it was in the state regulations. Mr. Heineman asked for confirmation as to why the limit was only two. Ms. Joseph responded that the Planning Board thought two was appropriate in the Town. Mr. Heineman asked how many liquor licenses the town had now and Ms. Lambert responded nine. Mr. Heineman asked why the establishments were not allowed in North Scituate business district and the harbor and Ms. Joseph responded that they were allowed and directed him to the appropriate area of the proposed bylaw.

Mr. Westort joined the meeting.

Ms. Joseph noted they had been making changes to the draft language based on the comments received from the workshop. Ms. Metro asked for clarification on the delivery operator and transporter in certain districts and Ms. Joseph stated she would check on that issue as it was unclear in the draft. Mr. Heineman asked about other changes that had been made and Ms. Joseph responded with some other changes that had been made. Mr. Gilmore asked about other districts and Mr. Gilmore asked if liquor stores were limited to these same districts and Ms. Joseph said no. Mr. Gilmore noted there were three main business areas so there should be three establishments allowed. Ms. Joseph said economics would dictate where these establishments set-up business. Ms. Ferguson asked about the definition of educational facilities if it was just a school or other educational area such as a karate studio. Ms. Joseph responded that it is only schools.

Ms. Metro asked how someone would obtain a special permit. Ms. Joseph said the applicant would need to get a host agreement from the Select Board, a license from the Cannabis Control Board and then come to the Planning Board to apply. Ms. Metro asked who the experts were that

wrote the bylaw. Ms. Joseph noted that they worked with a pro bono attorney, Valerio Romano. Ms. Lambert said they had been approached by another attorney and incorporated their input. Ms. Metro asked about Town Counsel and Ms. Joseph replied that all the materials have been provided to Town Counsel and she would attend the next Planning Board hearing. Mr. Kelly praised Ms. Joseph and the Planning Board for all their work on the subject.

Ms. Metro asked for confirmation that it is a maximum of two retail establishments and any number for the other six types of establishments which was provided. Ms. Lambert noted that each one has to have a host agreement with the Select Board. Ms. Metro asked how much would be paid to the town in the host agreement. Ms. Lambert said it was up to 3% that goes to the town for substance abuse remediation and up to 3% of local excise tax to the town. Ms. Metro asked about courier services and how that is tracked. Ms. Lambert said it is similar to state tax collected by a restaurant. Ms. Lambert noted that Marshfield was up and running at a great speed. Ms. Seidel asked if revenue projections would be provided at the next meeting. Ms. Joseph said they were not recruiting businesses only addressing legal land uses. If a project were too come forward then revenue could be assessed at that time for that project. Ms. Lambert said the Commonwealth's estimated growth is \$72M for cannabis and \$58M for liquor. Ms. Ferguson noted that there were already establishments in Marshfield and Norwell so there may not be the consumer demand to generate significant revenue.

Ms. Russo asked who put the moratorium in place and Ms. Joseph responded town meeting. Ms. Russo asked if this would open the town up to marijuana establishments. Ms. Lambert stated the Planning Board was addressing the land use. Ms. Joseph stated there was currently a permanent ban in Scituate against these establishments in Scituate. She also stated that the articles need to go in order to ensure the zoning is in place in case the moratorium is lifted. Ms. Ferguson asked why the lifting of the ban is on the same town meeting as the zoning changes. Ms. Joseph stated the Planning Board is responding to town meeting's direction to refer the October 2021 Special town meeting petition articles to them. Ms. Seidel noted the zoning bylaw changes requires a 2/3rds vote and the general bylaw only requires a majority vote. Mr. Heineman noted that the ban needs to be lifted in both the general bylaws and the zoning bylaws. Ms. Holt noted the zoning bylaws appear first in the warrant and then the general bylaws. Ms. Metro echoed Ms. Ferguson's concerns that the lifting of the ban and the zoning bylaw amendments are at the same town meeting.

Ms. Joseph noted there is another public hearing and the Planning Board would be willing to come back before the Advisory Committee with updates. She stated the hearing would be an in-person hybrid meeting and ZOOM participation will be allowed. Ms. Seidel asked if there was an ability to delay the lifting of the ban so the risk of the ban being lifted without updated zoning bylaws in place could be avoided. Mr. Heineman asked the reasoning behind the multiple articles. Ms. Joseph replied that the way the current bylaw is written it would not be feasible based on her discussions with Town Counsel.

Mr. Westort asked why an establishment would be banned within 500 feet of a substance abuse center when some persons use marijuana is used to offset those addictions. Ms. Lambert said this recommendation was expressed during the meetings and they incorporated these concerns. Mr. Gilmore asked how many people were at the workshop. Ms. Lambert said at least 20 in the

room and maybe another 50 on ZOOM. Ms. Joseph noted she relays any comments received to the Planning Board members.

Mr. Gilmore recognized Mr. Bob Delorenzo of Hickory Lane. Mr. Delorenzo asked for clarification if the zoning did not pass and the ban is lifted would the existing bylaw stay in place. He noted that the existing bylaw bans recreational marijuana establishments and only allows marijuana recovery centers. He asked about the special permit availability in certain areas and if a traffic study is required. Ms. Lambert replied that the Planning Board requires a traffic study for every project. Mr. Delorenzo asked if the growing requirement of 10,000 SF required contiguous lots and Ms. Lambert stated they could refuse the permit.

Mr. Gilmore recognized Conor Doherty of 603 Country Way. Mr. Doherty responded to Mr. Westort's comment about the restriction of 500 feet from an addiction recovery center stating the addiction rate to marijuana is on the rise. He noted that putting a facility in town may not be the revenue generator when it can be sourced nearby.

Amend Section 800 – Nonconforming Structures and Uses

Ms. Joseph said this article would be sponsored by the ZBA.

Review of Petition Article – Wind Turbine

Ms. Gasper of 120 Gilson Road stated she is ½ mile away from the wind turbine and she has been in her current home since she was 16 years old. She noted she is a supporter of clean energy and the importance that the public health of all residents be protected. She noted that since 2012 the residents have been adversely affected by the industrial turbine including the operation outside normal business hours to which other establishments are required to adhere. She noted that the negative impacts felt from the wind turbine by residents have been shared with the Board of Health, Select Board and the Police Department. She noted that the Select Board had agreed to curtail the wind turbine operation at night during summer months. She noted that the town does not allow operation of lawn services at some times during the day but this invasive noise and vibration producing turbine is allowed to operate at all times. She stated that key materials relevant to the operation of the turbines were not provided during the permitting process. She noted that the state nuisance law and town zoning bylaws are in place to protect the public health of the residents.

She expressed frustration that town officials had not addressed these issues with the nuisance law and/or the zoning bylaws. She stated the proponents have put forward this article to address the harm that is being experienced by residents which is a priority over revenue. She noted some health related issues including anxiety, heart arrhythmia, depression and other health issues documented from wind turbines. She stated three other communities, Falmouth, Plymouth and Kingston, have declared wind turbines sited in their communities as public health nuisances and all of those were sited farther away from residents than in Scituate. She informed members that the town should apply the state nuisance law but town officials have refused based on the existing contract. She noted that if the wind turbine was declared as a public nuisance then the Town would not be required to pay any damages to Scituate Wind LLC for cessation of operations.

Mr. Gilmore asked Ms. Kasper to provide her notes in writing so the Advisory Committee could further study them. Mr. Gilmore stated he thought studies had been done in the past. Ms. Kasper said the first study was done by the developer with consultant of their choice. She noted that the testing has been for compliance and that the data can be made to be compliant. Mr. Gilmore asked if the studies provided a sound microphone in the homes and Ms. Kasper replied no. She also stated the microphone was at ground level and the bedroom windows are on the second floor.

Mr. Kelly stated that he also lives near the industrial turbine but the prevailing winds do not cause him to experience the adverse effects and that he supported the proponents in their concerns that the wind turbine is a nuisance. Mr. Westort asked if it was testing above the allowable limits. Ms. Kasper stated that the testing is not being done in the worst conditions and it has tested as non-compliant at the closest neighbor. Mr. Westort noted the town has a contract with the operator and noted more homes were being built near the turbine. Mr. Westort asked if one of the neighbors received funds and Ms. Kasper stated no that trees were installed to mitigate the effect of the turbine. She also stated there was an alternative site for the turbine but it was conservation land and therefore not pursued.

Ms. Russo stated that she hears the wind turbine at her home and that it is a nuisance. Ms. Kasper noted the October 15, 2018 Board of Health meeting at which her neighbor, Mr. David Darté made a presentation about the impact of the wind turbine. Mr. Kelly noted that the Sierra Club had stated concerns about the operation of wind turbines close to residential areas in southeastern New England.

Ms. Metro asked what they could do about the issue. Mr. Gilmore said they would make their recommendation and then it will be up to the voters at town meeting to see if they support the article which would request the Select Board to shut down the turbine. Mr. Gilmore noted it is a new article on an old problem and the new information provided by Ms. Kasper needs to be evaluated and the members are obliged to hear from the town officials as well.

Mr. David Darté stated that in 2013 there were over 20 families that went to the Board of Health with health issues. He said that people are affected differently by the wind turbine and that hundreds of complaints have been filed over the years. He noted that in other communities turbines had been shut down as nuisances and not due to non-compliance. He also informed members that infrasound is not regulated and is not able to be heard by the ears but the vibrations can be felt. He said the fact that the Select Board incurred penalties to shut down the turbine during the summer months is an admission that it is a nuisance.

Other Business

Mr. Kelly noted that the Plymouth County Retirement Association handles the administrative services, investment and pensions of \$1.5B. Mr. Kelly said the administrative services was the issue. Mr. Kelly stated that the Plymouth County Retirement Association appear to be weak and the investment is too simple and they are incurring costs for investments that are unnecessary and there does not appear to be any professional investment managers. He noted that the state retirement board is handled by the PRIM Board. He expressed concern about the performance

results as there are not appropriate benchmarks against which to be measured. He noted the Tufts University median should be used and he could not find any reference to it in their documents. He asked Mr. Heineman if there were alternatives to the Plymouth County Retirement Association but Mr. Heineman had departed the meeting.

Mr. Gilmore asked Mr. Boudreau for his comments. Mr. Boudreau stated that he was not sure the Town could migrate to the state system. Mr. Boudreau stated it is an elected retirement board that is not required to have any experience. He noted there was a pension reform initiative to put everyone in one system and it failed. Mr. Kelly asked the total liability of Scituate and Ms. Holt replied \$114M. Mr. Gilmore asked Mr. Boudreau to prepare the options available to the town other than Plymouth County Retirement Association.

Ms. Holt updated members that she had spoken with Select Board member Karen Canfield and she was working with the Charter Review Committee Chair to see if they could come before the Advisory Committee at a future meeting. Ms. Holt reviewed the other housekeeping non-monetary articles. Ms. Russo asked about the water treatment plant and Ms. Holt said it was on the FY23 recommended capital plan and the Select Board voted at their last meeting to fund it as a debt exclusion. Mr. Gilmore requested the remaining non-monetary articles including the Charter Review Committee recommendations be scheduled for the February 17, 2022 meeting.

Ms. Metro made a motion to adjourn the meeting which was seconded by Mr. Kelly at 9:18 p.m.; the Committee voted unanimously in favor (8-0) by roll call vote; Mr. Gilmore-yes, Ms. Seidel-yes, Ms. Russo-yes, Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Ferguson-yes, Mr. Westort-yes and Ms. Metro-yes.

Respectfully Submitted,

Nancy Holt
Recorder