

## SPECIAL OPEN PLANNING COMMISSION MEETING

MAY 6, 2020

### MEETING HELD ELECTRONICALLY DUE TO COVID-19 RECOMMENDATIONS

**Commissioners present: Derek Babcock (Chair), Donna Romanak, Mike Koshar, Joe Wooding, Georgette Peterson, Annie Davidson-Funke (Alternate)**

**Other Attendees: Brian Knotek (Attorney), Ken Detloff, John O'Connell, Phil Pitts, Christopher Passmore, Phil Sanborn, Kyle Holland, Ted Swanson, Troy McLaughlin, Judith Daniels, Bradley Cole, Jude Samson, Clayton Robison**

Meeting called to order by Derek at 6:00 PM. Roll call was taken by Georgette; all commissioners present.

Donna made a motion supported by Joe: **To Approve the Agenda** All in favor. Motion carried.

Joe made a motion supported by Donna: **To Approve the Minutes of the April 1, 2020 Meeting.** All in favor. Motion carried. Mike made a motion supported by Donna: **To Approve the Minutes of the April 9, 2020 Special Meeting.** All in favor. Motion carried.

#### PUBLIC COMMENT

Kyle Holland said the PC has been tasked with developing rules surrounding local ordinances He added that his team proposes a temporary ordinance which would cover the gap. He said this had been forwarded to Derek and Brian and it came from his attorney so Brian will address it. Brian said he spoke with the attorney and asked for permission to talk with Kyle tomorrow and then he will talk to the attorney. Kyle said he wanted to make it clear that a proposal was made.

Georgette asked Derek if he has received any complaints since the last meeting. Derek said he had not but had received some comments and questions. Brian added that Phil Sanborn sent something. Phil responded that it was about stacking and asked if stacking will be addressed. He said that additional stacking licenses must go through the PC and, if so, there is an issue with Item 18 of the Proposed Ordinance. Ken said he had a question on Kula Farms submission and asked if it addressed the Police power or was it more on zoning. Derek told Ken he would forward it to him and Brian said it was just received this afternoon and he will be making comments after reviewing it.

#### OLD BUSINESS

The Police Power Ordinance was sent to the Township Board with the PC's recommendation and the Board sent it back to the PC for more clarification. Derek said after thinking about and discussing it, he did not think we should have a limit on the Recreational Grow licenses. Mike asked how there would be control then and Derek said there would be more control and asked if there is a need to have a number there. He also said Processing Facilities are at 6 and wanted to go to 10. Georgette said she disagreed with not having a limit and talked about the density. Mike said trees can't be cut down and Georgette added the topography can't be changed. Joe said we have to judge individually. Mike asked Brian if we have any legal stance and Brian said yes. He said several growers are applying for added stacked licenses; they are all going to convert MM to Adult Use. He said it will be considered an expansion of their Plan which will require an updated site plan and the PC could recommend denial to the Township.

He added that in Article 13, special use permits was vague, convoluted and messy. If somebody comes in with speculation, the criteria is there. Mike said in order to deny, we need factual information and Brian responded in the affirmative. Mike asked how you can prove with facts where it is dense and under existing licenses, they can grow without limitations and there have never been limitations. He added, if they want another license to be stacked it has nothing to do with the PC; it has to do with licenses. We want to limit acreage or lot coverage. Brian replied, when they go to the PC and go through all the criteria; the clarification needed relates to stacking and it is his obligation to write that up. Mike said he has no problem with stacking unless the area is being overrun; adding that he wants to be sure we are covered. Brian said you want to have the ability to address these things. Georgette asked about spreading out the approved licenses over a couple years and said she is opposed to unlimited. Derek said we should do it right and, after thinking about it and discussing it, he had a number of 100.

Joe made a motion, supported by Donna:

**To make unlimited grow licenses and put the PC under full control.**

Discussion took place. Mike asked if we do unlimited, are they going to convert MM to recreational? Mike said if we left it at 80, we know some will fall off; some won't be renewed and asked if these will go back into the pool. Derek said yes but not with the same number; for example, if #13 fell off, he could not reissue the same number, so it would be the next number in line. He said right now, it's so there is no rhyme or reason. Georgette asked Derek who he was having discussions with and his reply was with Annie. He said we are starting to get an influx of people wanting to stack. Georgette asked how the Township has benefited by this. Joe said we will get the new fire station. Donna said from the fees. Derek asked if her house value had gone up, to which she replied she didn't know and Derek said, it definitely had. Mike said we need to revisit all this. Brian said on the Police Power Ordinance, the Board has to initiate to revisit, and we could put in a recommendation of how often we want to revisit it. Mike said we could put in a review for 1 year, then go to 6 months. A roll call vote was then taken on the motion. Joe voted yes; Mike, Donna, Derek and Georgette voted no. Motion failed.

Joe made a motion, supported by Donna to:

**To recommend to the Board to have 100 licenses and to revisit the number every 6 months.**

All in favor. Motion carried.

There was a comment that the only way to have a processor license is to have a MM license. Derek said processing facilities are small and usually in a pole barn and take nothing more to have. He said 6 are already taken and there are no more available right now. The ones that are operating are Kula Farms, Dragonfly on 215 and the one on M43. Mike said you can't tell who has a processing plant. Derek said he would like the number to go up to 10 and review yearly. Mike said he thought it should be reviewed every 6 months. Mike made a motion, supported by Joe:

**To recommend to the Township Board increasing Processing Licenses to 10 and review along with the grow licenses every 6 months.**

Roll call vote was taken and all Commissioners were in favor. Motion carried,

Brian asked about stacking and wanted to know if the PC intention was that anyone applying for added Marijuana Licenses be based on the changes.

Mike made a motion supported by Georgette:

**To recommend to the Township Board that if a MM stacking license is applied for that it could only be done at their yearly Special Use Permit time only.**

Discussion followed. Brian said there are a lot that have already applied that will not have to wait for their renewal. A roll call vote was taken . All in favor. Motion carried.

#### NEW BUSINESS/ PUBLIC HEARING

Brian asked what if they wanted to stack Adult Use Licenses and the motion that was just voted on. Derek said his thought is converting should be seamless. Brian said if MM is converted, they will need to come back to the PC because it is an expansion of their Plan. Derek said he didn't think a Public Hearing would be needed. Mike asked if when MM is converted to Adult Use, are the numbers of plants the same. Derek asked Kyle who responded that he didn't think it was available for A & B licenses but a Class C MM of 1500 plants converts to 500 Adult Use. Georgette asked Dan Higgs if he knew about A & B licenses and his reply was MM license A is as Adult Use license B. So, Class A MM of 500 plants would be 100 Adult Use; Class B of 1,000 MM plants would be 500 Adult Use. Derek said that by State Law, if you have 3 Class C, you can't convert all 3, you have to keep 1 MM. Dan said he didn't know of that requirement. Brian said he understood that it is only MM that can convert. Dan said in the Emergency Rules on Proposal 1, in order to Qualify, it's only Class A. Derek said if a grower wants to convert 3 or more it would require a SUP. Georgette said if 2 were converted it would be 1,000 plants. Derek said it depends and said if Chris has 2 Class A licenses, he would be decreasing. Dan said any MM Class A would convert to B. Kyle said regarding the concept of conversion that he was unclear of what the State allows. He added there may be parties out there who have no intent of converting. He said we have 3 Class C and may want to increase, and we are not occupying all that we can. Brian said if the request is not in before the adoption of the Ordinance, they will have to wait and asked what would trigger a Public Hearing. Derek said we would go by Ken's Plan, for example if they added a significant square footage to a building and after they've gone through EGLE, it could be changed. He said Ken is our main resource. Brian asked if there any circumstances that we would require a Public Hearing; asking would an increase of so many plants trigger a Public Hearing. Joe asked would it make a difference if it doesn't. Derek said Ken did a good job on this. Ken said the Ordinance that he sent also includes other amendments for winery, truss making, trucking and so forth. He said there is an additional piece that reviews site plans. He said the vast majority in the past year did not comply. He noted there are 3 in play. Number 1 is Police Power. Number 2 is Special Use. Number 3 is the Site Plan Ordinance. Ken added that a Site Plan has natural features and the information must be on all the Site Plans once Numbers 1 and 2 are adopted. He said he knows there's a question of density and to him the ultimate control is to decrease the amount of property that it can be grown on so the setbacks have been increased. He said the other way is to limit the number of licenses. He said he gets nervous when he hears that we have ultimate control and a rejection must have a measurable use or ground water contamination or too much ground water is being used. He added that he sees himself as an expert witness in a court room. He said there has to be something that is fact or rational; adding that it can't be I feel we have too many and you have to nail it down. Derek said if you look at #18 specifically, it talks about that.

Christopher Passmore commented regarding the overall discussion and said you can't say we feel like it's enough. He said 73% of the Township voted to opt in; we are not a Township of anti-marijuana. Annie referenced the Zoning Ordinance, 3<sup>rd</sup> page, #19 regarding processing facilities have to be in an AG

district. We have to review stacking better. She added that Georgette and Mike address the density and Mike talks about 215 where there are 12 licenses n 8 acres. Kyle responded to the question about what the hurry was and said it is the growing season and all Township income will be lost. He added that a temporary plan is needed. Danny said he appreciated that the PC is starting to look at density and that we are expanding processing to 10. He said he would like to see that be 1 per grower. Ted Swanson said he would like to see the side and rear setbacks increased. Phil Sanborn said there are those in the Township who have never had Site Plans approved and they should have to follow the new Ordinances. He added that the decisions made earlier need to be put in paragraph 18. Annie said there is confusion about zoning ordinances and the 2003 Zoning Ordinance is in effect. Ken said after that there are SUP's being allowed. He said the problem is that whoever was responsible for adding Amendments didn't do it. Phil addressed Annie saying he wasn't certain of the answer. He said the Zoning Ordinance he sees on the Web Site says draft and asked if it is in effect. Georgette stated that in the 2018 vote, Arlington Township voted down Adult Use Marijuana. Kyle said if the Township doesn't opt in, the Township won't get any money for sure. He said with Adult Use, once the obligations have been met, the Township will then get some money and not opting in produces a zero number. Mike said we need to not think about the money and think about the people who voted it down. Danny said that \$10-20 million is supposed to be set aside in the first two years for clinical trials and MRA must repay the State's general fund for startup costs.

A motion was made by Joe, supported by Donna:

**To close the Public Hearing and Return to the Regular Meeting.**

All in favor. Motion carried.

Donna asked if on Section 18, we can add in our usual conditions and Derek said we could. Mike said in regards to zoning, he would like setbacks to be increased to 100 feet from the property line and 200 feet from the nearest occupied house. Derek asked for justification and Mike said traffic. Ken said it's in a Commercial Zone and you could have any kind of business. Joe said he didn't see how this would be different from other businesses and he would recommend people have a place to wait inside. Georgette said that was a good idea. Ken said we would have to see if that worked and asked can requiring setbacks so there is no place in the Township that it could be. The setback is property line to property line and not structure to structure. Derek said we only have 2 of them and Mike said he is trying to get ahead of it and if he had a house across the street, he wouldn't want to see that. Ken asked if he would require that of a restaurant to which Mike replied, you can have a church and a restaurant next to each other; not like marijuana.

Mike made a motion, supported by Georgette:

**To Increase Setbacks to 100 Feet From Property Line to Property Line and 200 Feet From Property Line to Nearest Occupied Residence in the AG District.**

Roll call vote was taken: Mike and Georgette voted Yes. Donna, Joe and Derek voted No. Motion failed. Derek said we will look into that more next week.

Re: SUP renewal for 51661 28<sup>th</sup> Ave./Green Standard LLC

Derek and Mike looked at the Plan and went to the Site on Friday. They reported that everything matches the Plan and the use fits the area. There were complaints of lights which were only temporary and now there is only 1. The hoop houses did not make it through the snowstorm, and they are not going back up. Mike said they are talking about buying the nearest house. Derek said they have met criteria, including those added and there are no issues.

Mike made a motion, supported by Georgette:

**To recommend to the Township Board renewal of the SUP with the following conditions: Hours of operation will be from sunrise to 10:00 pm; generators will be used only during construction and only during daylight hours; no external lighting; dust control plan will be in place; and a new Site Plan will be provided within 30 days without hoop houses.**

All in favor. Motion carried.

Motion made by Georgette, supported by Donna:

**To hold a Special PC Meeting on Wednesday, May 13, 2020 at 6:00 PM to discuss the proposed Zoning Ordinance and updates to the Police Power Ordinance.**

All in favor. Motion carried.

#### PUBLIC COMMENT

Christopher Passmore said he thinks the delay in getting the Ordinance is a good idea to get it right. He added, however, those that haven't participated in a problem are going to suffer financially.

Annie set sitting on licenses is an issue and noted that we have an entity who applied in December of 2018 with 10 grow licenses and 1 processing license and have not done anything with them to date. She said they haven't even gotten the Road Commission approval yet. She added that we cannot allow these people to take out these licenses and keep others from getting them. Kyle responded to Annie saying that in Illinois there is an obligation to use the license within 6 months or it is rescinded. Ted added that he agreed with Annie and Kyle and noted that it is important to abide by the standards. He said that we want everyone to succeed but it must be done right. He said he would appreciate something be done with those just sitting on licenses. Derek agreed that we should do something, and Mike noted that we started implementing rules for that.

Meeting adjourned at 8:53 PM

Respectfully submitted,

Georgette Peterson