

BOROUGH OF WATCHUNG

PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

Special Meeting MINUTES November 16, 2020

OFFICIAL MINUTES Adopted December 15, 2020

Chairwoman Tracee Schaefer called the Special Meeting to order at 6:00 p.m. Board members present were Mr. Al Ellis, Mayor Keith Balla, Mr. Donald Speeney, Ms. Ellen Spingler, Mr. Steve Pote, Mr. Paul Fiorilla and Mr. Troy Sims. Also present were Francis P. Linnus, Esq., Board Attorney, Thomas J. Herits, Board Engineer, Mr. Mark Healey, Board Planner and Theresa Snyder, Board Clerk. Ms. Pennett arrived at 6:30 pm.

Chairwoman Schaefer read the statement indicating the meeting was being held in compliance with N.J.S.A. 10:4-6 of the Open Public Meetings Act, the Municipal Land Use Law requirements, and the recording of the Minutes as required by law. She also stated that in order to comply with the executive orders signed by the governor, and in an effort to follow best practices recommended by the CDC, the meeting was being held virtually for all board members, board professionals, the applicant, the applicant's professionals, interested parties and members of the public. The Board members identified themselves for the record. She then led the flag salute to the American flag.

DISCUSSION

Mr. Healey explained that he made the recommended changes to the following:

Section #13- concerning commercial site along the Route 22 corridor.

Section #14- the wording for driveway calculations

Section #5, page 30- Incorporating bike lanes in the Borough

Madam Chair shared with the Board that Mr. Healey had received a call from the Board of Adjustment Chairman, Dan Cronheim, concerning the inclusion of cannabis to the Master Plan Reexamination Report. She continued that it is not the Planning Board's prevue to make determinations about this, it is the responsibility of the Mayor and Council. However, she thought it was very important that it be addressed in the Master Plan. She complimented Mr. Healey for his well-written comments.

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Mr. Healey read his comments into the record as follows: “In the recent election the state’s voters backed a ballot question that amended the state’s constitution to legalize the sale and use of cannabis.

The current draft of the state legislation contains a number of provisions addressing the manner in which local municipalities may regulate the growing, distribution and selling of cannabis. In essence, municipalities have three options:

- *Municipal Regulation:* A municipality may adopt regulations governing the times of operation, location, manner, and number of cannabis establishments, distributors, or delivery services. The municipality may also adopt an ordinance imposing a municipal of tax up to 2% of the receipts.
- *“Opt-out” Ordinance:* A municipality may prohibit the operation of cannabis growing, distribution and/or selling establishments within the municipality. Such an ordinance must be adopted within 180 days of the adoption of the legislation.
- *Do nothing:* Failure of a municipality to enact an ordinance within 180 days would:
 - Make the growing, cultivating, processing, and selling and reselling of cannabis by a cannabis grower, cannabis processor, cannabis wholesaler, or cannabis distributor shall be permitted uses in all industrial zones of the municipality
 - Allow cannabis retailers as a conditional use in all commercial zones or retail zones, subject to meeting the conditions set forth in any applicable zoning ordinance or receiving a variance.

If a municipality does not “opt-out” within 180 days, the municipality must wait 5 years to adopt an “opt-out” ordinance.

The Borough should explore the first two options and adopt associated ordinance(s) – i.e., decide to regulate cannabis in some way (e.g., permit in certain zones subject to appropriate time, place and manner restrictions) and/or prohibit cannabis growing, processing wholesaling, and/or distributing in the Borough. Further, it would appear that the Borough could do a “hybrid” of the first two options – e.g., allow certain types of cannabis businesses (e.g., the growing and processing) but prohibit (or “opt-out”) of other cannabis business such as retailing. The Planning Board believes that some combination of the first two options should be adopted as they provide the

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Borough with control on how cannabis should be regulated or prohibited in the Borough. The Board believes this would be preferred to the “do nothing” option where those decisions are decided solely the State.”

Mr. Linnus agreed with Mr. Healey’s interpretation of the law.

Mr. Speeney was in support of the Borough making a decision about the incorporation of cannabis. He suggested that the language used in the Master Plan be broad in order to support the Council as they have full charge.

Mayor Balla agreed with Mr. Speeney’s comments. The Borough should have control, and he believed it was in the best interest of the Borough to regulate these types of businesses.

Mr. Linnus explained that legally the process would be for the Borough Council to generate an Ordinance which would then be presented to the Planning Board for review, comments and consistency with the Master Plan.

In response to Board comments, Mr. Healey explained that the language of the Statute does not say how a town can regulate. It just says a town can regulate. The Borough can regulate it as any other land use. However, if the Borough does nothing, it will automatically be a permitted use without restrictions. This also may prevent the Borough’s ability from taxing it. He suggested the Borough Council take action either way.

The Board concluded their comments and changes for the Master Plan Reexamination Report. They would move toward tentative approval and scheduling the Master Plan public hearing.

On motion by Mr. Speeney, seconded by Mr. Pote, the Board approved the inclusion of a cannabis statement in the Master Plan Reexamination Report based on the following roll call vote:

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Roll Call:

Ayes: Ms. Spingler, Mr. Ellis, Councilman Martino,
Mayor Balla, Mr. Speeney, Mr. Pote
Mr. Fiorilla, Mr. Sims and Chairwoman Schaefer

Nays:

Not Eligible:

Abstain:

Absent:

Ms. Pennett-due to late arrival

On motion by Madam Chair, seconded by Ms. Spingler, the Board gave tentative approval for Master Plan Reexamination Report based on the following roll call vote:

Roll Call:

Ayes: Ms. Spingler, Mr. Ellis, Councilman Martino,
Mayor Balla, Mr. Speeney, Mr. Pote
Mr. Fiorilla, Mr. Sims and Chairwoman Schaefer

Nays:

Not Eligible:

Abstain:

Absent:

Ms. Pennett

Chairwoman Schaefer explained to the Board that the next step will be for Ms. Snyder to gather dates to hold a special hearing for the public adoption of the Master Plan Reexamination Report. She complimented Mr. Healey for an incredible job on the Master Plan Reexamination Report.

There were no comments from the public.

ADJOURN

The Board unanimously voted to adjourn the meeting at 6:37 pm.

Respectfully Submitted,



Theresa Snyder
Board Clerk