

# Town of Sandisfield

Select Board

November 22, 2021

Minutes for Select Board Work Session with Town Counsel held on Monday, November 22, 2021 at 6:00p.m. at the Town Hall Annex, 66 Sandisfield Road, Sandisfield, MA

Members present: George Riley, Alex Bowman, Steve Seddon, Kevin Flynn, Jonathan Silverstein by remote

Called to order at 6:00PM

## **1. Discuss the process for negotiating a Host Community Agreement and Special Permit for Berkshire Mountain Cannabis.**

Alex discussed that retail is different from cultivation because retail has the potential to add a local 3% excise tax that is unrestricted, as opposed to the impact fee, which according to the CCC guidelines can be used for reasonably related costs. George explained that the previous HCA made it clear that it was known that the actual costs would be difficult to determine, and that both parties agreed that the 3% was an acceptable amount.

Alex mentioned the ongoing litigation in Haverhill with Stem regarding impact fees and state legislation that may change how the HCAs are enforced. Alex discussed how it seems unfair to pave roads on the other side of town with an impact fee.

Jonathan agreed that there have been a few bills that were discussed at the state level, but none have yet made it to law. He also stated that KP Law is representing Haverhill in the Stem case.

Alex asked Jonathan if there was any template that KP uses across all their towns as a basic starting point. Jonathan said there were basics, but there was also the ability to add extra constraints specific to the applicant and location in the HCA that may not be applicable to the special permit hearing which is primarily assessing how the project meets zoning bylaws.

Jonathan suggested that we nominate a single board member to handle the negotiation as it is difficult to negotiate in open session. The selected member would then be responsible for bringing any terms back to the full board for final approval.

Alex nominated George. Alex and Steve voted yes, George abstained.

George summarizes a point from Jonathan noting that the Impact Fee in a Special Permit may be unreliable, whereas the excise tax is fairly reliable. Alex believes there may be significant unknown impacts from Berkshire Mountain Cannabis. While Alex agrees to keep the language the same, he believes the difference between the Impact Fee and Excise Tax should be more clearly written. George prefers to keep the Impact fee as well, and suggests they communicate with the town that this is not a reliable form of revenue. Alex mentions that other towns and cities in Massachusetts have determined there to be no impact with these types of businesses. George notes that Lee, MA received an impact fee only for the first year from Canna Provisions.

George requests Jonathan provide a template for an HCA for retail to determine whether the Select Board is comfortable with this type of business. Jonathan will have a discussion with George to go over some language in the HCA and create a draft to send to the Berkshire Mountain Cannabis applicant.

Steve notes that someone needs to reach out to the applicant in order to make sure that they have put down a retainer to pay for legal expenses. George confirms that Jonathan will get in touch with the applicant.

George announces the Select Board is not going to set a hearing date until after negotiations with the applicant have concluded. Once negotiations are settled, the hearing date will not be for several weeks because it must be posted in a newspaper 14 days prior to the hearing date.

Meeting adjourned at 6:29pm

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George Riley

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Alex Bowman

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Steve Seddon