

TOWN OF MILLVILLE
RESULTS
SPECIAL TOWN MEETING
INCLUDING RECOMMENDATIONS



MONDAY, APRIL 30, 2018

MILLVILLE ELEMENTARY SCHOOL

7:00 P.M.

COMMONWEALTH OF MASSACHUSETTS
TOWN OF MILLVILLE

RESULTS OF SPECIAL TOWN MEETING
MONDAY, APRIL 30, 2018 – 7:00 P.M.

Meeting called to order at 7:32 PM.

In Attendance:

Town Administrator: Jennifer Callahan

Board of Selectmen: Joseph Rapoza, Chairperson; Jennifer Dean Wing; Thomas Houle;
Erica Blake; Andrew Alward

Finance Committee: Paul Ouellette, Chairperson; Brian Pacheco; Michael Foster;
Aubrey Buono; Michael DiCecco

Town Counsel: Brian Riley

Town Clerk: Diane Lockwood

Registered voters in attendance: **214**

ARTICLE 1: CONVEYANCE OF REAL PROPERTY – FORMER TOWN HALL.

To see if the Town will vote to transfer the care, custody, management and control of one or more parcels of Town-owned property within the Longfellow Municipal Center, being the land and building thereon formerly known and used as Town Hall, more particularly described as a portion of Assessors Map 123, Parcel 134, from the board or officer currently having such care, custody, management, and control thereof for the purpose for which said parcels are currently held, to the Board of Selectmen for the purpose of disposition by sale, lease, or otherwise; and further, to authorize the Board of Selectmen to sell, convey, transfer, or lease all or a portion of said land together with any and all buildings and improvements thereon owned by the Town, any such disposition to be on such terms and conditions as the Board of Selectmen may deem necessary or appropriate in the best interests of the Town, which may include the reservation of easements and restrictions; and further, to authorize the Board of Selectmen to negotiate, enter into and execute any and all documents or agreements as may be necessary and appropriate therefore, or to act in any manner relating thereto. *Submitted by: Board of Selectmen & Town Administrator*

Explanation: This article seeks authorization of Town Meeting to formally grant the Selectmen authority to transfer the former purpose of the Town Hall building to proceed in manner to pursue other options to rehabilitate, sell or change purpose of building used as former Town Hall. The Town will not be able to seek RFPs to redevelop, sell or rehabilitate building via private or not for profit entities until Town Meeting grants the Board of Selectmen to proceed. Passage of this article requires a 2/3rds majority or unanimous vote.

Selectmen Recommend: 5-0 Finance Committee: 4-0

Motion made by: Jennifer Dean Wing 2nd: Erica Blake

Town Meeting Vote: **Article passed** - declared a two-thirds vote by Town Moderator

ARTICLE 2: MEDICAL MARIJUANA & MARIJUANA ESTABLISHMENTS BYLAW.

To see if the Town will vote to amend the Zoning Bylaws to add a new Medical Marijuana and Marijuana Establishments Bylaw as follows:

1. Deleting in its entirety *Section 100-104 "Definitions."*, *"Off-Site Medical Marijuana Dispensary (OMMD) and "Registered Marijuana Dispensary (RMD)"* and replacing with

definitions for "Marijuana Cultivator", "Marijuana Establishments", "Marijuana Products", "Marijuana Product Manufacturer", "Recreational Marijuana Retailer", "Registered Marijuana Dispensary(RMD)", "Off-Site Medical Marijuana Dispensary (OMMD)."

2. *Deleting Article III Section 100-303 "Temporary Moratorium on Medical Marijuana Treatment Centers" and Section 100-304 "Temporary Moratorium on Recreational Marijuana Establishments"* and replacing with a new Article III, Section 303 "Medical Marijuana and Marijuana Establishments" in its entirety.

3. Deleting Section 100-302 Schedule of Use Regulations (C), (12) and (13) and replacing them with the following new uses as (12), (13), (14), (15), (16), (17), (18) accordingly.

Schedule of Use Regulations				
	Outlying Residential	Village Residential	Village Center District	Commercial Business
Marijuana Establishments and any other type of licensed marijuana-related business				
Marijuana Cultivator	N	N	N	SP
Medical Marijuana Dispensary	N	N	N	SP
Marijuana product manufacturer	N	N	N	SP
Recreational Marijuana Retailer (RMR)	N	N	N	SP
Marijuana testing facility	N	N	N	SP
Marijuana transportation or distribution facility	N	N	N	SP
Any other type of licensed marijuana-related business	N	N	N	SP

Article III §100 – 303.1 Medical Marijuana and Marijuana Establishments

Article III §100 – 303.2 Authority, Purpose, and Intent

These provisions are enacted pursuant to General Laws, Chapter 40A, Section 5, and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution. It is recognized that the nature of the substance cultivated, processed, and/or sold by marijuana establishments may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the Millville residents, the general public, patients seeking treatment, and customers seeking to purchase marijuana for recreational use. The Medical Marijuana and Marijuana Establishments bylaw is therefore necessary to advance these purposes.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, 105 CMR 725.000, and M.G.L Chapter 94G, Marijuana Establishments will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulation as established by the Massachusetts Department of Health (DPH) and to provide retail sales of marijuana for non-medical use in a manner that meets or exceeds state regulations.

Article 1 §100 – 104 Definition Additions

Any term not specifically defined herein shall have the meaning as defined in MGL c.94G, § 1 and the Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use Marijuana.

1. Marijuana Cultivator: an entity licensed to cultivate, process, and package marijuana, to deliver marijuana to marijuana establishments, and to transfer marijuana to other marijuana establishments, but not to consumers.
2. Marijuana Establishment: a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailers, or any other type of licensed marijuana-related businesses.
3. Marijuana Products: Products that have been manufactured and contain marijuana or an extract of marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use of consumption, including without limitation edible products, beverages, topical products, ointments, oils, and tinctures.
4. Marijuana Product Manufacturer: an entity licensed to obtain, manufacture, process, and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments, and to transfer marijuana and marijuana products to other

marijuana establishments, but no to consumers.

5. Recreational Marijuana Retailer (RMR): an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell, or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.
6. Registered Marijuana Dispensary (RMD): a use operated by an entity registered and approved by the MA Department of Public health in accordance with 105 CMR 725.00 and/or the Cannabis Control Commission (CCC) in accordance with MGL c.94I, and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. A RMD shall explicitly include facilities which cultivate and process marijuana and related products. The cultivation and processing of medical marijuana in accordance these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.
7. Off-Site Medical Marijuana Dispensary (OMMD): A registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered Qualifying Patients or their personal caregivers in accordance with provisions of 105 CMR 725.000 and/or MGL c.94I.

Article III §100 – 303.4 Application Requirements

A special permit may be granted by the Planning Board for Medical Marijuana and/or a Marijuana Establishment if an application containing the following is submitted for consideration by public hearing process:

1. The name and address of each owner of the facility/operation;
2. Copies of all documentation demonstrating appropriate application status under state law, or registration or license, issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the facility;
3. Evidence that the Applicant has site control and the right to use the site for a facility in the form of a deed or valid purchase and sale agreement, or, in the case of a lease, a

notarized statement from the property owner and a copy of the lease agreement;

4. A copy of a host community agreement approved by the Board of Selectmen in accordance with MGL c.94G, §3(d).
5. A notarized statement signed by the organization's Chief Executive Officer and corporate attorney (if any) disclosing all of its designated representatives, including officers and directors, shareholders, partners, members, managers, or other similarly situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all individual persons associated with the entity as set forth above;
6. In addition to what is normally required in a Site Plan pursuant to Article X, § 100.1001, details showing all exterior proposed security measures for the premises, including lighting, fencing, gates, and alarms, etc., which seek to ensure the safety of employees and patrons and to protect the premises from theft or other criminal activity.

Article III §100 – 303.5 Use Regulations

The following regulations shall apply to uses under this section:

1. No marijuana shall be smoked, eaten, or otherwise consumed or ingested on the premises, unless done so pursuant to an on-premises consumption establishment approved by the voters and licensed by the CCC pursuant to MGL c.94G, §3(b) ;
2. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall a facility be open to the public, nor shall any sale or other distribution of marijuana occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m. The special permit granting authority shall be the Planning Board;
3. Marijuana plants, products, and paraphernalia shall not be visible from outside the building in which the marijuana establishment is located. No outside storage is permitted;
4. All business signage shall be subject to the requirements promulgated by the Massachusetts Cannabis Control Commission and the requirements of Article V § 100.501 of the Millville Zoning Bylaw.

Article III §100 – 303.6 Locational and Physical Requirements

1. All aspects of a Marijuana Establishment, RMD, OMMD, or RMR relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
2. No outside storage of marijuana, related supplies, or education materials is permitted.
3. Ventilation – all facilities shall be ventilated in such a manner that:
 - a. No pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere; and
 - b. No odor from marijuana or its processing can be detected by a person with an unimpaired or otherwise normal sense of smell at the exterior of the Marijuana Establishments, RMD, OMMD facility or RMR

Article III §100 – 303.7 Restrictions and Prohibitions

The proposed uses shall not be located within seven-hundred and fifty (750) feet of the following, as measured from the building and/or area actively used:

1. A building containing another Marijuana Establishment, RMD, OMMD, or RMR except for facilities that are owned or leased by the same operator; or
2. A public or private elementary school, middle school, secondary school, preparatory school, licensed daycare center, or any other facility in which children commonly congregate in an organized ongoing formal basis; or
3. A public library; or
4. A Playground or Park

Article III §100 – 303.8 Signage

The proposed use shall not display on-premises signage or other marketing on the exterior of the building or in any manner visible from the public way, which, in the opinion of the Special Permit Granting Authority, may promote or encourage the use of marijuana or other drugs by minors.

Article III §100 – 303.9 Findings

In addition to the findings required under Section VI § 100.606, and all other applicable sections of this Bylaw, the Special Permit Granting Authority shall find that the proposed use:

1. Meets all of the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will as proposed be in compliance with all

applicable state laws and regulations;

2. If the proposed use is a Registered Marijuana Dispensary (RMD) or an Off-Site Medical Marijuana Dispensary (OMMD), complies with 105 CMR 725.00 and approved regulations of the MA Department of Public Health;
3. Will provide copies of registrations and licenses and a copy of a signed Host Agreement issued by the Board of Selectmen with the Town of Millville, in accordance with M.G.L Chapter 94G and subsequent regulations, to the Building Commissioner prior to the issuance of a Certificate of Occupancy;
4. Is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
5. Provides a secure waiting area;
6. Provide adequate security measures to ensure that no individual participant will post a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is adequately secured in enclosed, locked facilities;
7. Will provide an energy use plan to the Planning Board to demonstrate best practices for energy conservation and ensure there are no undue impacts on the natural environment. To this end, will also provide an electrical system overview, proposed energy demand and proposed electrical demand off-sets and proposed water system and utility demand;
8. Adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses.

Article III §100 – 303.10 Limitation on number of RMRs

The number of Marijuana Retailers (RMRs) that shall be permitted in the Town of Millville is limited to two establishments, which is greater than 20% of the number of off-premises alcoholic beverage licenses issued by the Town.

Article III §100 – 303.11 Transfer or Discontinuance of Use

1. A Special Permit granted under this Section is non-transferable and shall have a term limited to the duration of the applicant's ownership or leasing of the premises as a Marijuana Establishment, RMD, OMMD, or RMR.

2. Those granted Special Permits by the Millville Planning board must adhere to all licensing requirements concurrent with the Cannabis Control Commission Regulations 935 CMR 500.00.450 Marijuana Establishment License: Grounds for Denial of Renewal Applications, Suspension and Revocation.
3. A RMD/OMMD shall be required to remove all material, plants, equipment and other paraphernalia:
 - a. Prior to surrendering its state issued licenses or permits; or
 - b. Within six months of ceasing operations; whichever comes first.

Article III §100 – 303.12 Eligibility

Schedule of Use Regulations				
	Outlying Residential	Village Residential	Village Center District	Commercial Business
Marijuana Establishments and any other type of licensed marijuana-related business				
Marijuana Cultivator	N	N	N	SP
Medical Marijuana Dispensary	N	N	N	SP
Marijuana product manufacturer	N	N	N	SP
Recreational Marijuana Retailer (RMR)	N	N	N	SP
Marijuana testing facility	N	N	N	SP
Marijuana transportation or distribution facility	N	N	N	SP
Any other type of licensed marijuana-related business	N	N	N	SP

Article III §100 – 303.13 Severability

If any section or portion of this Bylaw is ruled invalid by a court of competent jurisdiction, such ruling will not affect the validity of the remainder of this bylaw.

Article III §100 – 303.14 Conflict with Other Laws

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

Article III §100 – 303.15 Penalties

Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as allowed by applicable law, or take any action in relation thereto. *Submitted by: Town Planner & Town Administrator*

Explanation: Since the state-wide Marijuana Petition was approved by voters in 2016, in order to provide local controls over potential businesses in Millville, the Town must approve new bylaw(s) and zoning requirements regarding the accepting of marijuana retail sales and cultivation businesses. While the Town could seek a prohibition bylaw, this would require both a 2/3 vote at a Town Meeting and a majority vote at a Town Election. The financial benefits from future retail or cultivation businesses could be substantial with a local designated 3% retail tax, 3% host agreement and property tax collections. Passage of this article requires a 2/3rds majority or unanimous vote.

Selectmen Recommend: 5-0 Finance Committee: 4-0

Planning Board: 3-0

Motion Made By: John Hadley 2nd: Jackie Lima

Town Meeting Vote: **Article passed** - declared a two-thirds vote by Town Moderator

ARTICLE 3: SUPPLEMENTAL FUNDING – OVERRIDE. To see if the Town will vote to raise and appropriate or transfer from available funds, a supplemental sum or sums of money deemed necessary to defray expenses for all Town departments for the Fiscal Year beginning July 1, 2018 and ending June 30, 2019; provided, however, that the amounts appropriated hereunder shall be expressly contingent upon approval of the voters of a Proposition 2½, so called, override ballot question in accordance with General Laws Chapter 59, §21C(g), or take any other action in relation thereto. *Submitted by: Finance Committee, Town Administrator & Finance Director*

Explanation: The Town is facing a structural deficit of over \$950k due to continued use of one time revenues to fund increases to the school budget. The Town will not be able to meet its legal requirement of providing a balanced budget and will have exhausted most of its one time revenues. This Article is part of a strategic financial plan to right-size the budget and reset the tax rate to effectively address the problem of an ongoing operational deficit, provide for a responsible balanced budget and avoid state receivership. Passage of this article requires majority vote.

Selectmen Recommend: 4-1 Finance Committee: 4-0

Motion Made By: Joseph Rapoza 2nd: Thomas Houle

Town Meeting Vote: **Article Failed** by secret ballot Yes Vote: **88** No Vote: **121**

Motion to dissolve warrant was made and seconded. Meeting adjourned at 9:20 PM.

Respectfully submitted,



Diane C. Lockwood, CMC

Town Clerk

Notary Public, Justice of the Peace

