

Informational meeting re: proposed marijuana cultivation facility

Monday, September 18, 2017, 7:00 p.m.

Plainfield Town Hall

Meeting objectives: To provide an opportunity for Plainfield residents to learn about the marijuana cultivation facility proposed for 27 Broom Street, and to gather input for the proposed Host Community Benefit Agreement under consideration with the operators.

Agenda

- Welcome: meeting purpose and scope
- Presentation: Mass-Medi Spa, proposed operator of facility
 - Questions and answers
- Presentation: Draft Host Community Benefit Agreement (attached)
 - Questions and answers and input

The attached document is a DRAFT of a Host Community Benefit Agreement for discussion purposes at this meeting. It is based on a draft submitted by Mass Medi-Spa to the Selectboard, and revised by town counsel based on questions from the Selectboard in preparation for this meeting. These agreements are common between towns and operators of marijuana facilities and many examples can be found online from other towns.

This draft has not been executed and the Selectboard has not discussed its language directly with Mass Medi-Spa. We are seeking input from residents before we do so, in an effort to make sure that we are fully representing the town's interests when those discussions take place.

If you have any questions prior to the meeting, or if you have questions you would like to ask at the meeting but are unable to attend, please contact Selectboard member Winton Pitcoff at winton@pitcoff.com or 413-634-5728.

HOST COMMUNITY BENEFIT AGREEMENT

BETWEEN
MASS MEDI-SPA INC. AND
THE TOWN OF PLAINFIELD, MASSACHUSETTS
FOR THE SITING OF A REGISTERED MARIJUANA CULTIVATION
FACILITY

This Host Community Benefit Agreement (“HCBA”) is entered into this _____ day of _____, 2017 by and between Mass Medi-Spa, Inc., a Massachusetts not-for-profit corporation formed under MGL c.180 et seq. with a principal office address of 84 Polpis Rd. Nantucket, Massachusetts, 02554, (“MMS”) and the Town of Plainfield, a body politic acting by and through its Select Board, with a mailing address of 304 Main St, Plainfield, Massachusetts 01070, (“TOWN”). The HCBA pertains to the siting of a Registered Marijuana Dispensary (“RMD”), being a facility which cultivates, manufactures, delivers, transports, and supplies marijuana in Plainfield, Massachusetts.

WHEREAS, MMS has applied to the Massachusetts Department of Public Health (“DPH”) for a license to operate a RMD in the Town of Plainfield,

WHEREAS, MMS wishes to locate a RMD Cultivation facility in Plainfield in accordance with regulations issued by the DPH and the TOWN,

WHEREAS, MMS proposes to provide certain benefits to the TOWN in the event that it obtains a final certificate of registration from the DPH and all state and local approvals to operate the Cultivation facility in Plainfield and does so operate, and

WHEREAS, the Town has issued a Letter of Non-opposition regarding MMS’s application for registration with DPH,

THEREFORE, in consideration of the above, MMS and the TOWN enter into this Host Community Benefit Agreement in accordance with MGL c. 44, §53A, and any other enabling authority, on the following terms:

1. MMS shall pay the Town a HOST COMMUNITY FEE in the amount of _____ dollars (\$_____) per year . Said payment shall be paid in equal quarterly amounts by MMS upon and during its operation of a Cultivation Facility in Plainfield.

2. MMS shall pay a COMMUNITY DONATION to the TOWN as follows:

In the first year of operation of a Cultivation Facility in Plainfield, the COMMUNITY DONATION to the TOWN shall be **\$20,000**, due by July 1 following the start of operation of the Cultivation Facility.

In the second year of operation of a Cultivation Facility in Plainfield, the

COMMUNITY DONATION to the TOWN shall be **\$22,500**, due by July 1.

In the third year of operation of a Cultivation Facility in Plainfield, the COMMUNITY DONATION to the TOWN shall be **\$25,000**, due by July 1.

In the fourth year of operation of a Cultivation Facility in Plainfield, the COMMUNITY DONATION to the TOWN shall be **\$27,500**, due by July 1.

In the fifth year of operation of a Cultivation Facility in Plainfield, the COMMUNITY DONATION to the TOWN shall be **\$30,000**, due by July 1.

3. The combined HOST COMMUNITY FEE and COMMUNITY DONATION payments to the TOWN shall be known as the “MMS Payments” and in no event shall the MMS Payments from MMS exceed **\$XXXX** in any given calendar year
4. The Purpose of this Agreement is to provide funds to the TOWN to use to address any impacts on public health, public safety, or public services, or any other effects or impacts that the Cultivation Facility may have in Plainfield. However, the TOWN may use the above referenced monies in its sole discretion, as determined by the Select Board.
5. This Agreement shall terminate at the time that any of the following occurs:
 - a) The Town notifies MMS of the TOWN’S termination of this Agreement for Just Cause. [Just Cause shall be defined as: MMS purposefully or negligently violates any laws of the Commonwealth with respect to the operation of the Cultivation Facility, and such violation remains uncured for 90 days; MMS fails to make payment to the TOWN as required under this Agreement, and such failure remains uncured for 90 days]; or
 - b) MMS ceases to operate a Cultivation Facility in the TOWN.
6. MMS commits that all real property taxes (including municipal betterment assessments and land use service fees) owing for the property on which the Cultivation facility is located will be paid when due, and in no event shall MMS apply for a reduction or elimination of property taxes due to MMS’s not-for-profit status. MMS further commits that if the property is transferred to a tax-exempt entity, MMS will pay to the TOWN a payment in lieu of taxes (PILOT) equal to any real property and other taxes and fees from which the transferee/owner would be exempt based on not-for-profit status.
7. MMS shall not assign, sublet or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the TOWN, and shall not assign any of the monies payable under this Agreement, except by and with the written consent of the TOWN. This Agreement is binding upon the parties hereto, their successors, assigns

and legal representatives.

8. MMS shall comply with all laws, rules, regulations and orders applicable to RMD's and the registration and operation of a Cultivation Facility, and the obligations of this Agreement, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the performance of such work. MMS agrees not to assert or seek exemption as an agricultural use under the provisions of G.L. c.40A, §3 from the requirements of the TOWN's Zoning Bylaws.
9. Any and all notices, or other communications required or permitted under this Agreement shall be in writing and delivered postage prepaid mail, return receipt requested; by hand; by registered or certified mail; or by other reputable delivery services, to the parties at the addresses set forth on Page 1 or furnished from time to time in writing hereafter by one party to the other party. Any such notices or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, the day after deposit with such delivery service.
10. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal or unenforceable by any court of competent jurisdiction, then the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
11. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to conflict of laws principles, and MMS submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.
12. This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiation and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.
13. This Agreement shall have a 5 year term, beginning upon the start of operations of the proposed Cultivation Facility. The parties may negotiate an extension of the term of this Agreement, but MMS shall not be required to cease operations at the termination of this Agreement, unless for Just Cause as defined in Paragraph 4, and all payments called for under paragraph 1 and 2 (the Host Community Fee and the Community Donation), shall continue in perpetuity until such negotiations are finalized and an agreement is executed.
14. The obligations of MMS and the TOWN recited herein are specifically contingent upon the following:

- a) Upon MMS obtaining a certificate of registration for operation of a Cultivation Facility in Plainfield from the DPH,
 - b) Upon MMS obtaining any and all local permits and approvals necessary for construction and operation of a Cultivation Facility in Plainfield, and
 - c) MMS constructing and operating a Cultivation Facility in Plainfield.
15. This Agreement does not affect, limit, or control the authority of TOWN boards, commissions, and departments to carry out their respective powers and duties to decide upon and to issue, or deny, applicable permits and other approvals under the statutes and regulations of the Commonwealth, the General and Zoning Bylaws of the TOWN, and applicable regulations of those boards, commissions, and departments, and to enforce said statutes, bylaws, and regulations. The TOWN, by entering into this Agreement, is not thereby required or obligated to issue such permits and approvals as may be necessary for the RMD Cultivation Facility to operate in the TOWN, or to refrain from enforcement action against MMS and/or the facility for violation of the terms of said permits and approvals or said statutes, bylaws, and regulations. Further, MMS agrees that it shall pay peer review/consulting fees of outside consultants deemed necessary by a TOWN board, commission or department for review of an application for any such permit or approval, in accordance with MGL c. 44, §53G.
16. MMS shall provide to the TOWN the name and relevant contact information of the person designated by MMS to act as on-site manager of the Cultivation Facility. Such person shall satisfy the criteria set forth in 105 CMR 725.030, and as otherwise required by the laws of the Commonwealth. MMS shall provide written notice to the TOWN within ten (10) days of any such designation. Further, MMS shall coordinate with the TOWN's Police Department in the development and implementation of required security measures, under 105 CMR 725.110 and otherwise, including in determining the placement of exterior security cameras. MMS will maintain a cooperative relationship with the Police Department, including but not limited to periodic meetings to review operational concerns and communication to the Police Department of any suspicious activities on the site of the Cultivation Facility.
17. MMS will endeavor to hire qualified TOWN residents as employees to the extent consistent with law and with the requirements of MMS's business. MMS will endeavor in a good faith, legal and non-discriminatory manner to use local vendors and suppliers where possible.
18. This Agreement applies solely to the operations of a Cultivation facility in accordance with the DPH license and certificate of registration, and this Agreement shall not be construed as approval by the TOWN for retail sales by MMS. If, during the term of this Agreement, it becomes permissible under Massachusetts law for MMS to sell or distribute marijuana at the RMD for purposes other than those initially authorized by the DPH license, the parties shall renegotiate the terms of this

Agreement, including (but not limited to) increasing the amount of the payments to be made to the TOWN, in recognition that the additional purposes of the RMD may have greater impacts and effects on the TOWN, with an understanding that any such renegotiation will need to comply with Massachusetts law. In no case shall the payments be reduced from the amounts specified in Paragraph 2 of this Agreement unless necessary to comply with laws or rules enacted or amended by the Commonwealth of Massachusetts, or unless the parties amend the Agreement, as provided herein.

19. MMS agrees that it will become an active member of the TOWN's business community, and shall, as it deems appropriate or desirable, contribute to charitable and civic endeavors in the Town of Plainfield.

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Executed on the date first stated above.

MASS MEDI-SPA INC., by

JEFFREY C. ROOS, as President

TOWN OF PLAINFIELD
By its Select Board
